

SUPPORTING STATEMENT
OMB Control No. 1505-0164
Reporting, Procedures and Penalties Regulations

A. JUSTIFICATION

1. Circumstances Making the Collection of Information Necessary.

The Office of Foreign Assets Control (OFAC)'s Reporting, Procedures and Penalties Regulations set forth in 31 CFR part 501 are implemented pursuant to the Trading With the Enemy Act (50 U.S.C. App. 1-44), the International Emergency Economic Powers Act (50 U.S.C. 1701 - 1706), the United Nations Participation Act of 1945 (22 U.S.C. 287c), and other laws. The collections of information relevant to this request are contained in §§ 501.601 through 501.605, 501.801, and 501.804 through 501.807, and pertain to the operation of various economic sanctions programs administered by OFAC under 31 CFR chapter V.

Section 501.601 relates to the maintenance of records and § 501.602 relates to demands for information relative to any transaction or property subject to the provisions of 31 CFR chapter V. Section 501.603 imposes reporting requirements pertaining to blocked property and retained funds. This information is required by OFAC to monitor compliance with regulatory requirements, to support diplomatic negotiations concerning the targets of sanctions, and to support settlement negotiations addressing U.S. claims. Section 501.604 requires the filing of reports for compliance purposes by financial institutions where a funds transfer is not required to be blocked but where processing the transfer would nonetheless violate or facilitate a transaction that is prohibited under other provisions in 31 C.F.R. chapter V. Section 501.605 requires reporting of information pertaining to litigation, arbitration, and other binding alternative dispute resolution proceedings in the United States to prevent the intentional or inadvertent transfer through such proceedings of blocked property or retained funds. Sections 501.801, 501.804, and 501.805 relate, respectively, to license requests; rulemakings; and records requests. Section 501.806 sets forth the procedures to be followed by a person seeking to have funds released at a financial institution if the person believes that the funds were blocked due to mistaken identity. Section 501.807 sets forth the procedures to be followed by a person seeking administrative reconsideration of his, her, or its designation or of a vessel as blocked, or who wishes to assert that the circumstances resulting in the designation or blocking no longer apply.

2. Purpose and Use of the Information Collected.

The information collected is used by OFAC to implement blocking, licensing, compliance, and enforcement measures pursuant to 31 CFR chapter V. OFAC has used information reported on blocked and rejected funds transfers to enhance compliance with U.S. sanctions and to support diplomatic negotiations concerning the targets of sanctions and to support settlement negotiations addressing U.S. claims. Information submitted in applications for specific licenses is used by OFAC to determine whether to authorize particular transactions that would otherwise be prohibited under 31 CFR chapter V. It would be impossible to authorize such exceptions without requiring those parties requesting them to submit the basic facts supporting their requests. Without the ability to make such exceptions from the broad prohibitions contained in 31 CFR chapter V, OFAC would not be able to exercise reasonable discretion in administering economic

sanctions programs.

3. Consideration Given to Information Technology.

Many license applications and requests for interpretive guidance regarding the scope of general licenses are submitted to OFAC using OFAC's on-line application system. Information collected from U.S. financial institutions related to blocked, rejected, and certain authorized transactions is also collected increasingly by automated, electronic, and computerized means. Certain information is required to be submitted via approved forms, for example, annual reports required under § 501.603(b)(2) are submitted via form TD-F 90-22.50.

4. Duplication of Information.

Generally, the information that OFAC requires pertains to individual transactions and is not available other than through a specific report. Each individual report of information provided is of a limited nature, separate, and unique. Thus, there is no duplication of records. Each item is based upon a new occurrence pertaining to a designated entity or blocked transaction.

All U.S. persons, however, are required to make individual reports on assets that they have blocked within 10 days from the blocking and are also required to report on an annual basis all blocked property under their control. The annual report is not merely a duplicate of the information previously reported. Because various authorized or otherwise legal transactions can occur throughout the year affecting the amount of particular blocked assets, such as generally authorized debits for administrative fees, generally authorized crediting of interest earned, or judicial decrees transferring certain terrorism-related assets, only through annual reporting, only through the annual reporting requirement can OFAC be apprised of the actual status of blocked property. Current information is required for the purpose of the Department of the Treasury's congressionally mandated annual report on terrorist assets as well as for U.S. national security and foreign policy purposes concerning negotiations with impacted countries.

5. Reducing the Burden on Small Entities.

The information collection may affect a limited number of small businesses or other small entities that hold blocked assets or engage in transactions prohibited, unless otherwise authorized, by the individual parts in 31 CFR chapter V. In the licensing area, the application procedures are simple, and the average time required to complete a license application is two hours. The recordkeeping requirement imposed by § 501.601 is minimal, because the records required to be maintained should already be maintained under standard business practices.

6. Consequences of Not Conducting Collection.

The information collected is used primarily by the Treasury Department for licensing, compliance, and enforcement purposes. This information is used to authorize transactions consistent with policy, and to prevent the unauthorized transfer through U.S. financial institutions of funds in support of targeted governments and persons. Without these collections of information, certain sanctions statutes and Presidential Executive orders, including provisions for authorizing certain otherwise prohibited transactions, cannot be implemented and enforced.

Generally, the information could not be collected less frequently. For example, the need for information required to request a specific license arises only at the time an applicant determines to engage in a transaction for which such a license is necessary. Persons availing themselves of certain general licenses may be required to file reports and statements in accordance with the instructions specified in those licenses. With regard to the individual and annual reports on the blocking of property, if the information were not collected or were collected less frequently, OFAC would have no means of tracking the compliance of U.S. persons with U.S. economic sanctions or the amounts of property currently blocked.

7. Special Circumstances.

- *Requiring respondents to report information to the bureau more often than quarterly;*

Respondents are required to report blocked property, rejected funds transfer information, and certain authorized activities on a transaction-by-transaction basis and blocked property information on an annual basis. Prompt reporting of individual blockings, rejected transfers, and certain authorized activities is necessary for OFAC to maintain effective compliance and enforcement.

- *Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*

OFAC requires that reports on blocked, rejected, and certain authorized transactions be submitted within 10 days of the blocking, rejection, or completion of the authorized transaction. A 30-day requirement would be insufficient for the foreign policy purposes underlying the economic sanctions. In addition, because OFAC frequently receives requests to unblock property shortly after it has been blocked, it is essential for the blockings to be reported to OFAC as soon as possible. OFAC requests for information in the enforcement context may require a response in less than 30 days when the information requested is needed immediately for OFAC to adequately enforce U.S. economic sanctions.

- *Requiring respondents to submit more than an original and two copies of any document;*

No such requirement exists.

- *Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*

Part 501 requires respondents to retain records for five years from the date of a restricted transaction or from the date that blocked property is unblocked. Under § 501.601, the requirement for five years of record retention beyond a transaction corresponds to the statute of limitations set forth in 28 U.S.C. 2462.

- *In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*

The information collections are not part of a statistical survey.

- *Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*

Not applicable.

- *That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use;*

OFAC will ensure that this information will not be publicly released except to the extent allowed by law. Information will only be released in accordance with the criteria for disclosure set forth in the Privacy Act, the Freedom of Information Act, and, as applicable, the Trade Secrets Act. Information about OFAC's privacy practices has been issued under OFAC's Privacy Act system of records notice: Treasury/DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (75 FR 61853).

- *Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

OFAC will ensure that this information will not be publicly released except to the extent allowed by law. Information will only be released in accordance with the criteria for disclosure set forth in the Privacy Act, the Freedom of Information Act, and, as applicable, the Trade Secrets Act. Information about OFAC's privacy practices has been issued under OFAC's Privacy Act system of records notice: Treasury/DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (75 FR 61853).

8. Consultations with Persons Outside the Agency.

With reference to the 2012 request for OMB approval, a copy of the Federal Register Notice of July 26, 2012, soliciting comments can be found at 77 FR 43903. OFAC received no comments.

In addition, OFAC has substantial contact with various individuals and entities seeking to comply with OFAC's regulations. Through these contacts OFAC is able to develop an appreciation of the impact of the information collections necessitated by economic sanctions. OFAC's Licensing Division is in daily contact with applicants for specific licenses under the various programs it administers. Licensing officers routinely discuss with applicants the information required to process their applications. Arrangements to minimize the burden to applicants, while allowing OFAC to make sound decisions, are constantly being negotiated. In addition, the Sanctions Compliance & Evaluation Division, which possesses substantial expertise in the area of banking and financial transactions, maintains similar contacts with financial institutions. Over 30 years of such daily contacts have streamlined procedures and assisted OFAC in obtaining a detailed understanding of the burdens its procedures impose on persons seeking to comply with OFAC requirements.

9. Payment or Gift.

No payment or gift will be provided to respondents.

10. Confidentiality.

OFAC will ensure that this information will not be publicly released except to the extent allowed by law. Information will only be released in accordance with the criteria for disclosure set forth in the Privacy Act, the Freedom of Information Act, and, as applicable, the Trade Secrets Act. Information about OFAC's privacy practices has been issued under OFAC's Privacy Act system of records notice: Treasury/DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (75 FR 61853).

11. Questions of a Sensitive Nature.

The collection makes no request for sensitive information of this type. In addition, a privacy impact assessment has been conducted for information collected under this request and a Privacy Act System of Records notice has been issued for this system under Treasury/DO .120 – Records Related to Office of Foreign Assets Control Economic Sanctions (75 FR 61853).

12. Burden of Information Collection.

A. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form.

From OFAC'S 2012 submission
(Not updated in this submission)

The likely respondents and record-keepers affected by the information collections contained in part 501 are financial institutions, business organizations, nonprofit organizations, individuals, and legal representatives. The estimated total annual reporting and/or recordkeeping burden is approximately 45,376 hours. The estimated annual burden per respondent/record-keeper varies from 30 minutes to 10 hours, depending on individual circumstances, with an estimated average of 1.08 hours. The estimated number of respondents and/or record-keepers is 42,086. The estimated annual frequency of responses: 1-12. Please see the chart below for a breakdown of the estimated responses, hour burdens, and costs below:

2012 Burden Estimates (Not updated in this submission)

FORM NUMBER	FORM NAME	RESPONSES	TIME (HOURS)	COST (DOLLARS)
TD-F 90-22.50	Report of Blocked Property	23,914	35,871	358,710
TD-F 93.04	TSRA License Application	1,859	1,859	18,590
TD-F 93.02	Report of Blocked	4,011	2,006	20,060

	Transactions			
TD-F 93.07	Report of Rejected Transactions	10,257	5,129	51,290
TD-F 98-22.61	Licensing Cover Sheet	2,045	511	5,110

2015 New Additional Burden Estimates

(Added pursuant to the 9/21/15 Cuban Assets Control Regulations (CACR) update)

The likely respondents and record-keepers affected by the additional reporting requirements in the CACR update are financial institutions, business organizations, nonprofit organizations, individuals, and legal representatives. The estimated total annual reporting and/or recordkeeping burden is approximately 2,010 hours. The estimated annual burden per respondent/record-keeper is 30 minutes. The estimated number of respondents and/or record-keepers is 2,010. The estimated annual frequency of responses: 1-12. Please see the chart below for a breakdown of the estimated responses, hour burdens, and costs below:

FORM NUMBER	FORM NAME	RESPONSES	TIME (HOURS)	COST (DOLLARS)
N/A	New report on unblocking property (515.570)	1,000	500	5,000
N/A	New report on unblocking property (515.584)	1,000	500	5,000
N/A	New report on operating accounts of Government of Cuba missions in the U.S. (515.586)	5	2.5	25
N/A	New report on persons receiving payments pursuant to 515.512(e)	5	2.5	50

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B. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.

From OFAC'S 2012 submission
(Not updated in this submission)

Of the 42,086 estimated responses, OFAC believes a great majority are processed quickly by individuals acting on their own behalf or by clerk-level administrators in large financial institutions. OFAC estimates the cost per burden hour of the anticipated 45,376 burden hours to be \$10 per hour, for a total cost of \$453,760.

2015 New Additional Burden Estimates
(Added pursuant to the 9/21/15 CACR update)

Of the 2,010 estimated responses, OFAC believes a great majority are processed quickly by individuals acting on their own behalf or by clerk-level administrators in large financial institutions. With respect to the first three reports, OFAC estimates the cost per burden hour of the anticipated 2,005 burden hours to be \$10 per hour, for a cost of \$10,025. With respect to the fourth report related to payments pursuant to 31 CFR 515.512(e), OFAC estimates the cost per burden hour of the anticipated 2.5 hours to be \$20 per hour, for a cost of \$50. The total estimated cost, therefore, is \$10,075.

13. Annual Cost to Respondents.

For larger financial institutions, there may be capital, operating, and maintenance costs associated with products such as interdiction software used to maintain compliance with U.S. sanctions laws. Nevertheless, any capital or operating costs associated with the actual collection of information to be submitted to OFAC are assumed to be minimal.

14. Cost to the Federal Government.

There is no cost to the U.S. Government attributable to this information collection effort that would not have been incurred without the paperwork burden.

15. Reason for Change.

From OFAC'S 2012 submission
(Not updated in this submission)

The estimated 42,086 annual responses cited in Item 12 represent a 13,041 annual response increase from the 29,045 annual responses currently approved collection for 31 CFR part 501. This is a program change due to agency discretion and is the result of an expected increase in the number of annual reports submitted pursuant to § 501.603 based on trends from the past 3 years and stems from an increased number of OFAC sanctions programs. The corresponding increase in total annual hours requested to 45,376 hours, cited in Item 12, reflects the additional hours expected due to the increase in § 501.603 annual reports.

2015 New Additional Burden Estimates

(Added pursuant to the 9/21/15 CACR update)

This submission is being made for revision purposes. Adjustments in the agency estimate were made to reflect recent changes in OFAC's Cuba regulations, 31 CFR part 515, increasing the number of reporting requirements. This adjustment resulted in an increase of 2,005 responses, an increase of 1,005 burden hours, and an increase in total estimated cost of \$10,075.

16. Tabulation of Results, Schedule, Analysis Plans.

Results will not be published.

17. Display of OMB Approval Date.

Not applicable.

18. Exceptions to Certification for Paperwork Reduction Act Submission.

There are no exceptions to the certification statement.