

SUPPORTING STATEMENT
U.S. Department of Commerce
Bureau of Industry and Security

License Exception, Humanitarian Donations
OMB NO. 0694-0033
Supplement No. 2 to Part 740

A. Justification

1. Explain the circumstances that make the collection of information necessary.

Section 15(b) of the Export Administration Act (EAA) of 1979, as amended, authorizes the President and the Secretary of Commerce to issue regulations to implement the EAA including those provisions authorizing the control of exports of U.S. goods and technology to all foreign destinations, as necessary for the purpose of national security, foreign policy and short supply, and the provision prohibiting U.S. persons from participating in certain foreign boycotts. Export control authority has been assigned directly to the Secretary of Commerce by the EAA and delegated by the President to the Secretary of Commerce. This authority is administered by the Bureau of Industry and Security through the Export Administration Regulations (EAR). The EAA is not permanent legislation, and when it has lapsed due to the failure to enact a timely extension, Presidential executive orders under the International Emergency Economic Powers Act (IEEPA) have directed and authorized the continuation in force of the EAR.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

Section 7(g) of the EAA, as amended by the Export Administration Amendments Act of 1985 (Public Law 99-64), exempts from foreign policy controls exports of donations to meet basic human needs. Therefore, a license exception is necessary for donations to embargoed countries.

Exporters must retain records described in section 740.12(b)(7) of the regulations. These records should describe the nature and function of the donative program. They should include:

- a. The donor's identity and past experience as an exporter of goods to meet basic human needs. A project of this nature should be undertaken by donors whom the BIS can be assured are experienced in, and have knowledge of all restrictions of exports to the embargoed countries.

- b. A specific list of past and current countries to which the donative programs have been and are being directed, as well as any countries to which such programs are now planned, with particular reference to donative programs in embargoed destinations.
- c. A description of the types of projects and commodities involved in the donative programs. The Humanitarian License Exception provides for freely donated goods. BIS must know that the commodities are only those that are essential to human needs such a medical supplies, food, clothing, and shelter, and other commodities listed in Supplement No. 2, Part 740 of the Export Administration Regulations.
- d. A description of the specific class(es) of beneficiaries of particular donated goods intended to be exported under the license. BIS must know that the beneficiaries of these donations are people who are significantly deprived of some basic human need. Typical of this group are children (especially orphans), the sick or handicapped, women heads of households, etc. There are also those who are temporarily vulnerable because of floods, drought, or warfare.
- e. A description of the arrangements to ensure proper distribution of the donated goods. The U.S. must be assured that the commodities are not diverted for use by those who will not use them to meet basic human needs. Acceptable arrangements to meet this requirement would be a description of the on-site monitoring of the distribution of the goods.
- f. Information concerning the source of funding for the donative programs and the projected annual value of exports under the license. The free donations must come from U.S. private and charitable organizations and may not be supported by funds from governments or other politically motivated entities who may influence the distribution of the goods.

The Section 515 Information Quality Guidelines apply to this information collection and comply with all applicable information quality guidelines, i.e., OMB, Department of Commerce, and specific operating unit guidelines.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

BIS does not plan to collect this information from the public. This information must be retained by the exporter.

4. Describe efforts to identify duplication.

This information is not available from any other source other than from the respondents.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The burden cannot be minimized for small entities. Only complete information as required will assure the proper disposition of the commodities exported.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The collection requirement is already at the minimum level necessary to provide guidelines for the export of these donations. Any further reduction would effectively undermine the ability of the Department of Commerce to monitor donations to embargoed destinations.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The notice requesting public comment was published in the Federal Register on September 22, 2006, Vol 71 No. 184, p. 55422. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There is no plan to provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Section 12(c) of the EAA provides for the confidentiality of information obtained from the respondents in the licensing process.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

This collection of information consists of approximately two respondents. The annual recordkeeping burden is estimated to be 10 hours. This is based on an average time of five hours annually for each of the two respondents. The total annual burden is estimated to be 10 hours.

13. Provide an estimate of the total annual cost burden to the respondents or recordkeepers resulting from the collection (excluding the value of the burden hours in #12 above).

The estimated cost to the public is \$250 annually. This is based on 10 hours for generation and maintenance of records (5 hours x 2 respondents annually) at \$25 per hour. Since no special equipment is required for this activity, there are no capitalized costs associated with this collection of information.

14. Provide estimates of annualized cost to the Federal government.

Because the records are maintained by the donors and not automatically required to be submitted to BIS, there is no annual cost to the Federal Government.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

There is no change in the estimated annual public burden hours since the last review.

16. For collections whose results will be published, outline the plans for tabulation and publication.

There are no plans to publish this information for statistical purposes.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.