

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSION**

**Application/License for Permanent/Temporary Export or Temporary Import
of Classified Defense Articles and Related Classified Technical Data**

OMB No. 1405-0022

DSP-85

A. Justification

1. The Directorate of Defense Trade Controls (DDTC), Bureau of Political-Military Affairs, U.S. Department of State, in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*), the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130), and associated delegations of authority, has the principal missions of promulgating regulations for the import and export of defense articles and defense services; taking final action on license applications and other requests for defense trade transactions via commercial channels, ensuring compliance with the statute and regulations, and collecting information for various types of reports that are submitted to Congress. By statute, Executive Order, regulation, and delegation of authority, DDTC is charged with controlling the export and temporary import of defense articles, the provision of defense services and the brokering thereof which are covered by the U.S. Munitions List (USML).

The statutory authority of the President to promulgate regulations with respect to the export and the temporary import of defense articles and the provision of defense services was delegated to the Secretary of State by Executive Order 13637, as amended. These regulations are primarily administered by the Deputy Assistant Secretary of State for Defense Trade and DDTC.

DDTC reviews license applications and technical assistance and manufacturing license agreement requests to determine, *inter alia*:

- Whether the transactions further U.S. foreign policy objectives, national security interests, and world peace;
- Eligibility of parties (*e.g.*, applicants, consignees, end-users) to participate in U.S. defense trade;

- Appropriate end-use of commodities subject to U. S. Government approval of munitions exports and transfers;
- Whether law enforcement concerns have been adequately addressed; and
- Whether appropriate offers or payment of political contributions, gifts, commissions, and fees, have been adequately addressed.

In accordance with Part 123 of the ITAR, any person who intends to permanently export, temporarily export, or temporarily import classified defense articles or related classified technical data must first obtain DDTC authorization. “Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data” (Form DSP-85) is the licensing vehicle typically used to obtain permission for the permanent export, temporary export, or temporary import of classified defense articles and classified technical data covered by the USML.

2. DDTC uses the information provided by applicants to meet the mandate described in item 1 above. Form DSP-85 is used initially by DDTC to analyze the proposed transaction for foreign policy and national security considerations. Usually, it is staffed to other Federal Government agencies for further evaluation. Discontinuation of the DSP-85 would make it extremely difficult to meet statutory and regulatory requirements concerning the control of commercial defense trade.

Licenses for the export or temporary import of classified defense articles and classified technical data are forwarded by DDTC to the Defense Security Service of the Department of Defense in accordance with the provisions of the National Industrial Security Program Operating Manual. DDTC forwards a copy of the license to the applicant for his/her information. The Defense Security Service and U.S. Customs and Border Protection will use the information supplied on the DSP-85 to validate and decrement licenses prior to shipment. Shipments may be delayed if they are thought to be defense articles and the relevant information has not been provided to DSS and/or CBP.

The information collected with this form is also used to comply with Congressional notification and reporting requirements. A quarterly report is submitted to Congress for export authorizations of major defense equipment valued at one million dollars or more, and an annual report is transmitted to

Congress of all export authorizations, indicating the commodity and values by foreign country.

3. The DSP-85 is an export authorization request that involves transfer of classified material. As the electronic licensing system operated by DDTC is unclassified, the technical means of enabling electronic transmission of the DSP-85 form is under review. In the meantime, an online-fillable version of the form is available from the DDTC website. Respondents may enter data electronically, print the completed form, and then mail it to DDTC.

4. The Department of State is unaware of any other U.S. Government requirements that would cause U.S. industry to duplicate this reporting requirement.

5. Export control laws and regulations are designed to safeguard U.S. Government foreign policy and national security interests and to further world peace. The laws and regulations are applicable equally to large and small businesses or entities. Only registered entities are required to complete the “Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data” (Form DSP-85) and only when temporarily or permanently exporting or temporarily importing classified defense articles and classified technical data.

6. The AECA and the ITAR established the frequency of information collection. The information required for the proper assessment of a proposed permanent or temporary export or temporary import of classified defense articles and technical data is reviewed on a case-by-case basis and is specific to the transaction under consideration. Absent this reporting requirement, it would be extremely difficult for DDTC to meet its legally mandated responsibilities to ensure oversight of defense trade exports in furtherance of foreign policy objectives, national security interests, and world peace.

7. Respondents may have to report information to the Department more often than quarterly because they need approval on a case-by-case basis when seeking to permanently or temporarily export or temporarily import classified defense articles, including technical data, and/or services.

8. The Department has published a 60 day notice in the Federal Register soliciting public comments. **83 FR 8312, dated February 26, 2018.** No comments were received.

9. No payment or gift has been or will be provided to any respondent.
10. Respondents are engaged in the business of exporting or temporarily importing defense articles/services or brokering thereof, have registered with DDTC pursuant to the ITAR (22 CFR Subchapter M), and correspondingly use the ITAR in the regular course of business. Thus, respondents would be familiar with §126.10 of the ITAR, which outlines limitations on, and requirements to, disclose licensing information. No promises of confidentiality have been made to the respondent.
11. Form DSP-85 does not solicit any information regarding questions of a sensitive nature or matters commonly considered private.
12. The Department of State has reason to believe that the information that is required for the DSP-85 is already available to U.S. industry in some form due to other needs and requirements (e.g., business transactional records, tax records, quality assurance and productivity, and legal issues posed by other federal laws). An estimated 419 annual responses are expected from 100 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately 30 minutes. The estimated annual hour burden is 210 hours. According to the U.S. Department of Labor Bureau of Labor Statistics website (www.bls.gov), the weighted wage rate category for a “Compliance Officer” is estimated to be \$44.94 per hour (\$32.10 average wage x 1.4 multiplier). Therefore, the estimated annual burden hour cost to respondents is \$9,437 (210 annual burden hours x \$44.94).
13. There are no anticipated additional costs to respondents.
14. Processing the 419 responses received by DDTC during CY 2016 accounted for approximately 1.0% of its \$8.9 million licensing budget. The estimated annual cost to the Federal Government is \$89,000 for reviewing these applications. This estimated figure was determined by identifying the percentage constituted by these submissions of the overall DDTC licensing caseload.
15. The number of respondents has been adjusted from 153, the previously estimated number of registrants who export or temporarily import classified defense articles, to 100, the most recent estimate, adjusting the total annual responses from 530 to 419. As a result, the total annual hours requested for this collection has been adjusted from 265 to 210. The revised respondent number is a

more accurate figure taken directly from the DDTC database, while the reduced number of license applications accords with the decrease in defense trade licensing.

16. DDTC will not publish relevant information.

17. DDTC will display the expiration date for OMB approval of the information collection on the form.

18. The Department of State does not seek any exception to the statement, “Certification for Paperwork Reduction Act Submissions,” of DS-83-I.

B. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.