

# SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSIONS

## Brokering Prior Approval (License) OMB No. 1405-0142

### 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 of such items.

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 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 129 of the ITAR, U.S. and foreign persons who wish to engage in ITAR-controlled brokering activity of defense articles and defense services must first register with DDTC. Brokers must then submit a written request for approval to DDTC and must receive DDTC's consent prior to engaging in such activities unless exempted.

2. DDTC uses the information provided by respondents to meet the mandate described in item 1 above. As appropriate, such information may be shared with other U.S. Government entities. This information is currently used in the review of the brokering request submitted for approval and to ensure compliance with defense trade statutes and regulations. It is also used to monitor and control the transfer of sensitive U.S. technology.

3. Currently, there is no option of electronic submission of this information. Submissions are made via hardcopy documentation. Applicants are referred to ITAR part 129 for guidance on information to submit regarding proposed brokering activity. Upon implementation of DDTC's new case management system, The Defense Export Control and Compliance System (DECCS), a DS-4294 may be submitted electronically. Applicants will be able to access the DS-4294 from DDTC's website, complete it online, and submit it via the Internet.

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 law and regulations are designed to safeguard U.S. Government foreign policy and national security interests and to further world peace. The law and regulations are applicable equally to large and small businesses or entities.

6. The AECA and the ITAR establish the frequency of information collection. The information required for the proper assessment of a proposed brokering activity request is reviewed on a case-by-case basis and is specific to the transaction under consideration. Monitoring brokering activity ensures its consistency with U.S. foreign policy, national security, and international arms

embargoes. It would be extremely difficult to monitor and control arms brokering adequately without the required information, or if it were provided less frequently.

7. Respondents may be required to report information to the Department more often than quarterly because they need approval on a case-by-case basis for brokering activity. Also, the ITAR requires that respondents maintain records for a minimum period of five years from the expiration of a license or written approval.

8. The Department published a 60 day notice on October 16, 2018 in the *Federal Register* (83 FR 52298) soliciting public comment. One comment was received but it was determined to be non-responsive.

9. No payment or gift has been or will be provided to any respondent.

10. A privacy impact assessment (PIA) was conducted in 2016 and can be viewed at <https://www.state.gov/privacy>. This collection of information is covered under STATE-42, Munitions Control Records, which is also published on <https://www.state.gov/privacy>. Respondents to this collection may review ITAR § 126.10, which describes DDTC's policy regarding the disclosure of information.

11. This collection 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 required 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 170 annual responses are expected from 170 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately 2 hours. The estimated annual hour burden is 340 hours. According to the U.S. Department of Labor Bureau of Labor Statistics website ([www.bls.gov](http://www.bls.gov)), the weighted wage rate category for a "Compliance Officer" is estimated to be \$48.15 per hour (\$34.39 average wage x 1.4 multiplier). Therefore, the estimated annual burden hour cost to respondents is \$16,371 (340 annual burden hours x \$48.15).

13. There are no anticipated additional costs to respondents.

14. The 170 responses received by DDTC during CY 2017 accounted for approximately 0.08% of its budget of \$29 million. The estimated annual cost to

the Federal Government was \$23,200 for reviewing these applications. This estimated figure was determined by identifying the estimated increase in submissions since the last reauthorization of this collection, and comparing the resulting figure to the overall budget.

15. The number of respondents has been adjusted from 100 to 170, the most recent estimate. Total annual responses have been adjusted from 100 to 170 due to an increase in the number of Brokering Licenses requested from Industry. Consequently, total annual hours requested have been adjusted to 340.

16. The Department will not publish the information collected.

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

18. The Department of State does not seek any exception to the certification statement.

#### **B. Collections of Information Employing Statistical Methods**

This collection of information does not employ statistical methods.