

## **SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION**

### **Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data**

**OMB No. 1405-0003**

**DSP-5**

#### **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 123 of the ITAR, any person who intends to permanently export unclassified defense articles or unclassified technical data must obtain DDTC approval prior to export. “Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data” (Form DSP-5) is the licensing vehicle typically used to obtain permission for the permanent export of unclassified defense articles and related unclassified technical data covered by the USML.

2. DDTC uses the information provided by applicants in this information collection to meet the mandate described in item 1 above. Form DSP-5 is used initially by DDTC to analyze the proposed export for foreign policy and national security considerations. Depending on the complexity of the proposed export, the application is forwarded to other U.S. Government agencies for further review and recommendations. Discontinuation of the DSP-5 would make it extremely difficult to meet statutory and regulatory requirements concerning the control of commercial defense trade.

The DSP-5, when approved, signed, and dated by an official of DDTC, serves as the applicant’s notification and authorization for the permanent export. If the form were eliminated, it would hamper regulatory and enforcement oversight functions because DDTC would not have a mechanism to process export and temporary import license applications.

At U.S. ports, U.S. Customs and Border Protection (CBP) officials utilize the information collected by Form DSP-5 to monitor outbound shipments. Prior to export, the approved exporter will file their relevant information into CBP’s electronic system(s). This information, which is readily available to exporters with an approved license, will allow CBP to validate and decrement the license. CBP may delay shipments that are thought to be defense articles and the relevant information is not entered into CBP’s electronic system(s). If it is determined that the item(s) in question are covered by the USML, the item(s) will be detained or seized. If the shipment is seized and it is determined that Form DSP-5 was not submitted and approved, the shipper may be fined and/or charged with a crime.

The information collected with this form is also used to comply with statutory congressional notification and reporting requirements. For example, pursuant to section 36(a) of the AECA, 22 U.S.C. 2776(a), a quarterly report is submitted to Congress for export authorizations of major defense equipment valued at one million dollars or more along with the total value of all defense articles and defense services licensed for each foreign country and international organization. Similarly, pursuant to section 655 of the Foreign Assistance Act, 22 U.S.C 2415, an annual military assistance report is transmitted to Congress documenting export authorizations, indicating the commodity and values by foreign country.

3. Pursuant to ITAR §123.1, the DSP-5 must currently be submitted electronically via the electronic licensing subsystem (D-Trade) of the Defense Trade Application System, DDTC's Web-based electronic form system. Upon implementation expected late 2018, respondents will submit the DSP-5 via the Defense Export Control and Compliance System (DECCS)—DDTC's new electronic case management system. Respondents will access DECCS through DDTC's website.

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 exporters are required to complete the "Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data" (Form-DSP-5), and only when permanently exporting unclassified defense articles or related unclassified 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 export request 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 export defense articles and/or services and related technical data. The ITAR requires maintenance of records for a minimum period of five years from the expiration of the license or written approval.

8. The Department has published a 60 day notice in the Federal Register soliciting public. **83 FR 8312, dated February 26, 2018.** One comment was received. One company responded Block 4 on the DSP-5 causes confusion as exports often leave from ports other than the port listed on the DSP license. The Department will consider removing this field on the Single Form once implemented.

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-5 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 proposed export is already available to respondents 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 26,253 annual responses are expected from 1,405 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately one hour. The estimated annual hour burden is 26,253 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 \$44.94 per hour (\$32.10 average wage x 1.4 multiplier). Therefore, the estimated annual burden hour cost to respondents is \$1,179,810 (26,253 annual burden hours x \$44.94).

13. There are no anticipated additional costs to respondents.

14. Processing the 26,253 responses DDTC received during CY 2016 accounted for approximately 63% of its \$8.9M million licensing budget. The estimated annual cost to the Federal Government is \$5,607,000 for reviewing these export 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 2,748, the previously estimated number of registrants who export defense articles, to 1,405, the most recent estimate, adjusting the total annual responses from 53,170 to 26,253. The adjusted numbers accord with the trend of annual increase in defense trade activity, but the reduced number of license applications submitted as a result of Export Control Reform. As a result, the total annual hours requested for this collection has been adjusted from 53,170 to 26,253. 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. As for the form DSP-5, there is one small change based on public comment, block 4 will be removed from the form.

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.