

# SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

## Request for Advisory Opinion OMB No. 1405-0174 Form Number DS-7786

### A. Justification

1. Why is this collection necessary and what are the legal statutes that allow this?

The Department of State's Bureau of Political-Military Affairs, Directorate of Defense Trade Controls (DDTC), has the principal missions of 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 various types of reports in accordance with the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130). 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, the provision of defense services and the brokering thereof is 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 the Directorate of Defense Trade Controls, Bureau of Political-Military Affairs.

Sections 126.9 (Advisory opinions and related authorizations) and 129.9 (Guidance) of the International Traffic in Arms Regulations (ITAR, 22 CFR 120-130) may be used by entities and individuals involved in the manufacture, export, temporary import, and brokering of defense articles and defense services to request an advisory opinion as to whether DDTC would be likely to grant a license or other approval for the export of a particular defense article or defense service to a particular country (§ 126.9(a)); for an interpretation of regulatory requirements (§ 126.9(c)); whether certain activity constitutes brokering under the ITAR (§ 129.9(a)); or for other guidance pertaining to brokering (§ 129.9(c)).

2. What business purpose is the information gathered going to be used for?

DDTC reviews the submitted information to:

- Determine whether it would likely grant a license or other approval for the export of a particular defense article or defense service to a particular country,
- Provide a response to a request for an interpretation of regulatory requirements,

- Provide a response as to whether certain activity constitutes brokering under the ITAR, or
- Provide a response to a request for other guidance pertaining to brokering.

3. Is this collection able to be completed electronically (e.g. through a website or application)?

Requests for advisory opinions are submitted through DDTC's electronic case management system: the Defense Trade Control and Compliance System (DECCS). DECCS can be accessed through DDTC's website.

4. Does this collection duplicate any other collection of information?

The Department of State is unaware of any other U.S. Government information collection that duplicates the request for an advisory opinion or brokering guidance.

5. Describe any impacts on small business.

Export control law and regulations are designed to safeguard U.S. foreign policy, national security interests and to further world peace. The law and regulations are applicable equally to large and small businesses or entities. Submitting a "Request for Advisory Opinion" is optional and applies to small businesses and small entities only when they are in the business of defense trade. Burdens have been minimized through development of clear guidelines for the submission of information.

6. What are consequences if this collection is not done?

This information is required for DDTC to provide advisory opinions to requesters on the proper assessment of a proposed export request, request for interpretation of a regulatory requirement, request for guidance on whether an activity constitutes a brokering activity, or request for other brokering guidance. Requests for advisory opinions and guidance are reviewed on a case-by-case basis and DDTC specific response to each request. Without this information collection the Department would not have a process of responding to requests pursuant to ITAR §§ 126.9 and 129.9.

7. Are there any special collection circumstances (e.g. responding in less than 30 days, excessive record retention, or requiring submission of proprietary trade secrets)?

There are no special circumstances associated with this collection.

8. Document the publication (or intent to publish) a request for public comments in the Federal Register.

The Department published a 60-day notice in the *Federal Register* (85 FR 18323) soliciting public comment on this information collection. One comment was received and determined to be irrelevant as it did not pertain to the information collection.

9. Are any payments or gifts given to the respondents?

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

10. Describe any assurances of privacy/confidentiality.

Respondents may review the Privacy Impact Assessment (PIA) for DDTC's electronic system (DECCS) on the Department of State's PIA webpage (<https://www.state.gov/privacy/pias/index.htm>). The System of Records Notice STATE-42, Munitions Control Records, is being revised to include this collection of information. Once approved, STATE-42 will be published in the Federal Register and on the Department's Privacy webpage (<https://www.state.gov/privacy/sorns/index.htm>).

Respondents to this collection may review ITAR § 126.10, which also describes DDTC's policy regarding the disclosure of information.

11. Are any questions of a sensitive nature asked?

The Department of State is not soliciting any information regarding questions of a sensitive nature or matters commonly considered private.

12. Describe the hour time burden and the hour cost burden on the respondent needed to complete this collection.

The Department of State has reason to believe that the information requested in an advisory opinion is already available to respondents as an aspect of their customary and usual business practices. An estimated 125 annual responses are expected from 125 respondents. The frequency of response is on occasion. DDTC estimates that each respondent will devote, on average, approximately two hours per response. The total hour-time burden is estimated to be 250 hours (2 hours x 125 responses).

According to the Department of Labor's Bureau of Labor Statistics, the average hourly wage (*weighted*) for a "Compliance Officer" is \$69.72<sup>1</sup>. This was calculated by multiplying the average hourly wage (\$34.86) by 2 to account for overhead costs. The total hour-cost burden for this information collection, based on the average weighted hourly wage listed above, is \$17,430 (\$69.72/hour x 250 hours).

13. Describe any monetary burden on the respondent needed to complete this collection.

There is no additional monetary burden for respondents.

14. Describe the cost to the Federal Government to complete this collection.

Conducting this collection costs DDTC approximately \$189,814 per year. This figure is broken down further in the chart below.<sup>2</sup>

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<sup>1</sup> Source: Bureau of Labor Statistics; Occupational Employment Statistics  
<https://www.bls.gov/oes/current/oes131041.htm>

<sup>2</sup> [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/DCB_h.pdf)

<b>Role</b>	<b>Average Hourly Wage</b>	<b>Hours Spent/Week</b>	<b>Average Annual Cost</b>
Analyst Processing, Review, and Response	\$62.41 <i>(average salary, Washington, DC GS-13 or equivalent)</i>	48	\$130,815
Analyst Processing, Review, and Response	\$30.39 <i>(average salary, Washington, DC GS-9 or equivalent)</i>	20	\$31,606
Supervisory Review	\$65.85 <i>(average salary, Washington, DC GS-14, GS-15 or equivalent)</i>	8	\$27,393
<b>Average Annual Cost:</b>			<b>\$189,814</b>

15. Explain any changes/adjustments to this collection since the previous submission.

DDTC has made minor revisions to Form DS-7786 since its last approval in order to streamline and simplify the collection of data. DDTC has expanded the instructions and broken out the requests into individual form blocks to more accurately identify the information required of respondents for each type of opinion or guidance.

16. Specify if the data gathered by this collection will be published.

DDTC does not plan to publish data submitted in response to this collection.

17. Explain the reasons for seeking approval to not display the OMB expiration date.

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

18. Explain any exceptions to the OMB certification statement.

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.