

SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION

Statement of Political Contributions, Fees, and Commissions Relating to Sales of Defense Articles and Defense Services

OMB No. 1405-0025

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 various types of reports. 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 Defense Trade and DDTC.

DDTC's review of license authorization 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, re-transfers, and re-exports;
- Whether law enforcement concerns have been adequately addressed; and

- Whether appropriate offers or agreement of payment, or payment, of political contributions, gifts, commissions, and fees, have been adequately reported.

In accordance with section 39 of the AECA, the Secretary of State must require, in part, adequate and timely reporting of political contributions, gifts, commissions and fees paid, or offered or agreed to be paid in connection with the sales of defense articles or defense services licensed or approved under AECA sections 22 and 38. Pursuant to ITAR § 130.9(a), any person applying for a license or approval required under section 38 of the AECA for sale to the armed forces of a foreign country or international organization valued at \$500,000 or more must inform DDTC, and provide certain specified information, when they have paid, offered to, or agreed to pay, (1) political contributions in an aggregate amount of \$5,000 or greater; or (2) fees or commissions in an aggregate amount equaling or exceeding \$100,000. Similarly, ITAR § 130.9(b) requires any person who enters into a contract with the Department of Defense under section 22 of the AECA, valued at \$500,000 or more, to inform DDTC and provide the specified information, when they or their vendors, have paid, or offered or agreed to pay, in respect to any sale (1) political contributions in an aggregate amount of \$5,000 or greater; or (2) fees or commissions in an aggregate amount equaling or exceeding \$100,000. In order to sufficiently report information pursuant to § 130.10, respondents must collect information pursuant to §§ 130.12 and 130.13.

2. DDTC uses the information provided by applicants to meet the mandate described in item 1 above. This information is currently used in the review of license applications and requests for other approvals to ensure compliance with defense trade laws and regulations. DDTC also utilizes the information submitted to prepare and submit statutorily-mandated reports to Congress pursuant to section 36 of the AECA. The information collected through this collection will also be made available, upon request, for utilization by Congress and U.S Government agencies in accordance with the AECA.

3. When this information is submitted via a request for a DDTC license or other approval, this information must be submitted in the same format as the parent request. For example, since requests for DDTC licenses regarding unclassified materials are made electronically, information submitted pursuant to this collection, but in support of the license application, must also be submitted electronically. Applicants submitting information pursuant to § 130.9(b), section 22 of the AECA, may provide the information via paper copy.

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

5. Export control laws and regulations are applicable equally to large and small entities. The burden imposed on applicants by this collection is directly correlated with the amount and type of business conducted by these entities, rather than the size of such entities.

6. The AECA and the ITAR established the frequency of information collection. The information required for the proper assessment of a proposed defense export to the armed forces of a foreign country or to international organizations valued in an amount of \$500,000 or more 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.

Elimination of this collection would also hinder Congressional oversight of arms exports since DDTC utilizes this information to generate and submit statutorily-mandated reports to Congress.

7. Applicants may have to report information to the Department more often than quarterly because approval is required on a case-by-case basis related to licenses and approvals, or sales, of defense articles and/or services. Many applicants must maintain records in accordance with §130.14 of the ITAR, which requires applicants to maintain records for a minimum period of five years following the date of the report for which they pertain.

8. The Department published a 60 day notice in the Federal Register 87 FR 11674, soliciting public comment and no comments were received.

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

10. A privacy impact assessment (PIA) for DDTC's electronic system was conducted in 2021 and can be viewed at <https://www.state.gov/privacy>. DDTC's system of records notice (SORN), State-42, was recently updated and information entered or transferred into DECCS will be covered under the relevant SORN and PIA.

The following ITAR sections describe DDTC's policy regarding the disclosure of information:

- § 126.10,
- § 130.15, and
- § 130.17.

11. This information 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 that is required for reporting political contributions, fees and commissions concerning defense trade 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). DDTC expects to receive 450 responses annually from about 57 respondents. DDTC estimates the burden for each response to be approximately 60 minutes. Based on this information DDTC estimates the annual hour burden for this collection to be 450 hours. According to the Department of Labor's Bureau of Labor Statistics, the average hourly wage (weighted) for a "Compliance Officer" is \$69.72¹. This was calculated by multiplying the average hourly wage (\$34.86) by 2 to account for overhead costs. Therefore, DDTC estimates the annual hour-cost burden to applicants to be \$31,374 (450 annual burden hours x \$69.72).

13. DDTC believes there are no monetary costs to applicants associated with submitting this information collection.

14. DDTC utilizes this information to generate and provide statutorily-mandated quarterly reports to the Department of Defense, which includes this information in its reports to Congress. One employee (GS-13 or equivalent) spends approximately 3 days per quarter gathering information to be included in DDTC's quarterly report. Based on an average hourly rate of \$58.01², DDTC estimates the reporting requirements associated with this collection cost the Federal Government approximately \$5,569 per year for this employee. This was calculated by multiplying 3 business days (24 hours) by 4, the frequency of reporting, and then multiplying that total by the average hourly rate (24 x 4 x \$58.01). Another employee GS-14 or equivalent spends 5 hours per week to conduct oversight and

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

² <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2022/general-schedule/>

quality control on the information. Based on an average hourly rate of \$68.55³, DDTC estimates the reporting requirements associated with this collection cost the Federal Government approximately \$17,823 per year for this employee. This was calculated by multiplying 5 hours a week by 52 weeks, and then multiplying that total by the average hourly rate (5 x 52 x \$68.55). The total cost to the Federal Government for the collection is \$22,392.

15. DDTC updated its burden estimates as a result of agency adjustments. The hour burden reported in question 12 was reduced from 500 hours to 450 hours. The hour-cost burden was reduced accordingly. This updated estimate was made based on reviewing more recent DDTC data. This decrease is consistent with DDTC's overall burden as the number of annual responses has decreased across all licensing and authorization-related collections in recent years.

16. DDTC will submit statutorily-mandated reports to DOD for submission to Congress based on the information received through this collection. Applicants should review ITAR § 130.17, 22 U.S.C. 2779(d), and 22 U.S.C. 2776(a) (7) and (b) (1) for more information.

17. The Department of State requests approval to not display the OMB expiration date. Many submissions made pursuant to this collection in relation to exports under section 38 of the AECA are submitted via DDTC forms approved through other collections, including the DSP-5. Displaying this collection's expiration date on those forms would result in two expiration dates on one form. The presence of two expiration dates could result in more confusion than benefit to the public. For submissions made pursuant to this collection in relation to section 22 of the AECA, there is no form on which to provide an expiration date.

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.

³ <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2022/general-schedule/>