

**SUPPORTING STATEMENT U.S.
Department of Commerce
Bureau of Industry and Security**

**Requests for Special Priorities Assistance
OMB Control No. 0694-0057**

A. Justification

1. Explain the circumstances that make the collection of information necessary.

This information is necessary to support the President's priorities and allocations authority under Title I of the Defense Production Act of 1950, as amended (50 U.S.C. § 4501 *et seq.*), and additional priorities authorities under the Selective Service Act of 1948 (50 U.S.C. § 3816), as implemented by the Defense Priorities and Allocations System (DPAS) regulation (15 C.F.R. part 700). The purpose of this authority is to ensure the timely delivery of products, materials, and services to meet current national defense requirements. The definition of “national defense” in section 702(14) of the DPA provides that this term includes “homeland security,” “emergency preparedness activities” conducted pursuant to section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. § 5121 *et seq.*), and “critical infrastructure protection and restoration.”

Persons may request Special Priorities Assistance (SPA) when placing rated orders with suppliers, to obtain timely delivery of products, materials, or services from suppliers, or for any other reason under the DPAS, in support of approved national defense programs. The Form BIS-999 is used to apply for such assistance.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information is used by the Office of Strategic Industries and Economic Security (SIES), Bureau of Industry and Security, Department of Commerce and the four DPAS Delegate agencies: the Department of Defense (DOD) and its associated agencies, the Department of Energy (DOE), the General Services Administration (GSA), and the Department of Homeland Security (DHS), to provide Special Priorities Assistance (SPA). The information is also used by DOD, DHS, and DOE as the Determination agencies in accordance with Section 202 of Executive Order 13603 to provide SPA.

Although the DPAS is designed to be largely self-executing, problems do occur from time-to-time. Such problems include assistance in obtaining timely deliveries of items needed to satisfy defense requirements, locating a supplier, resolving production or delivery conflicts between multiple rated orders, verifying the urgency and determining the validity of rated orders, or

authorizing the use of the DPAS authority on contracts or purchase orders to obtain items not automatically included under the DPAS. SPA can be provided for any reason in support of the DPAS. In addition, SPA can be used to request DPAS rating authority.

Use of Form BIS-999 serves to structure the information concerning DPAS rating requests and DPAS problems so that it can be presented in writing to the appropriate DPAS Delegate agency and SIES officials for assistance and resolution. Each item of information requested is needed to enable these officials to take appropriate action to resolve DPAS rating requests and DPAS problems on a case-by-case basis. The information requested includes identification of the sponsoring government agency, government program or end-product, the involved parties (customer, supplier, etc.), contract or purchase order information, description of the items required, use of the items, current shipment schedule, and description of problem and urgency of requirement.

The Section 515 Information Quality Guidelines apply to this information collection and comply with all applicable information quality guidelines, i.e., OMB, Department of Commerce, and specific operating unit guidelines.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The use of automated systems for recordkeeping and data retrieval by many business entities facilitates the generation of necessary information. Form BIS-999 is currently available via the Internet from the BIS website (<http://www.bis.doc.gov/index.php/other-areas/strategic-industries-and-economic-security-sies/defense-priorities-a-allocations-system-program-dpas>) and can also be downloaded as a PDF file, filled out, and transmitted electronically as an attachment to an e-mail.

4. Describe efforts to identify duplication.

Applicants are the only known source of this information. There is no similar information available.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

All business entities keep records of their transactions and most of them, both large and small, have integrated defense rated order recordkeeping built into their general recordkeeping systems. The information required to be provided on Form BIS-999 is readily available to the application from these records. Therefore, the additional burden on a smaller entity is minimal, and the overall burden is further minimized by computerized recordkeeping.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

A request for SPA is voluntary and is made only when the person wants assistance. SPA enables DOD, DOE, GSA, DHS, and SIES to properly implement delegated responsibilities under the Defense Production Act, the Selective Service Act, and the DPAS in support of approved national defense programs.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances that require the information collection to be conducted in a manner inconsistent with the guidelines in 5 C.F.R. § 1320.6.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The notice requesting public comment was published in the Federal Register on 2/7/2024, (89 FR 8363). No public comments were received.

BIS consults with Technical Advisory Committees (TACs) consisting of members outside the agency, who are leaders in the industry, to discuss with BIS current policies and standards both with the government and the public. ECRA states that the TACs advise the Under Secretary of Commerce for Industry and Security on controls under the Export Administration Regulations.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There is no plan to provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The following information is stated on the form: “All company information furnished related to this application will be deemed BUSINESS CONFIDENTIAL under Sec. 705(d) of the Defense Production Act of 1950 [50 U.S.C. § 4555] which prohibits publication or disclosure of this information unless the President determines that withholding it is contrary to the interest of the national defense. The Department of Commerce will assert the appropriate Freedom of Information Act (FOIA) exemptions if such information is the subject of FOIA requests. The unauthorized publication or disclosure of such information by Government personnel is prohibited by law. Violators are subject to fine and/or imprisonment.”

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

The total annual public burden is estimated to be 11 hours. This is based on 30 minutes of burden for each of 22 annual responses. It is estimated that the average annual cost per response will be \$20. This is based on an hourly salary of \$40 per hour and 30 minutes per response. \$20 per response X 22 responses = a total annual cost of \$440.00.

13. Provide an estimate of the total annual cost burden to the respondents or record- keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

Not Applicable.

14. Provide estimates of annualized cost to the Federal government.

The annual cost of this survey to the Federal Government is estimated to be \$12,320. This is estimated as a GS-15 at \$70 per hour X 8 hours per response X 22 responses = 12,320.

15. Explain the reasons for any program changes or adjustments.

BIS has updated the BIS form 999. BIS is working to updating the Defense Priorities and Allocations System (DPAS) regulations and the BIS Form 999 is in the Appendix of the DPAS regulations.

The citation in the top paragraph is updated from "50 U.S.C. App. 4455(d)" to "50 U.S.C. § 4555(d)."

Block 1.a is updated to include a field for country. BIS can currently receive applications from persons located outside of the United States. This change inserts a field for an Applicant to provide the country in which the Applicant resides.

Block 1.b is updated to include a field for country and an email address. This change inserts a field for an Applicant customer, if not an end-user Government agency, to provide the country in which the Applicant customer resides as well as an email address for the Applicant customer.

Block 3 is updated to include "manufacturer" as part of the description of the item. This change is needed when the item the Applicant is requiring assistance with is not manufactured by the

Applicant's supplier listed in Block 4.a. This may occur, for example, if an Applicant is procuring the item through a distributor.

Block 4.a is updated to include a field for the country of the applicant's supplier. Applicants may procure items that they need assistance with through foreign suppliers. For example, foreign applicants may request assistance with an item manufactured in the United States that they acquire through a foreign distributor. If an applicant is requesting DPAS rating authority, BIS requires the country information of the supplier listed in Block 4.a to ensure that the appropriate entities are authorized to place priority rated contracts and orders with suppliers physically located in the United States.

Block 8 is updated to remove the information listed in the parentheses now that electronic signatures are available.

Block 9.g is updated to remove specific references to the Department of Defense or foreign requests to allow for flexibility for each Determination Department request process.

Page 3 of Form BIS-999 titled, "INSTRUCTIONS FOR SUBMITTING FORM BIS-999" is updated for ease of understanding and consistency with 15 CFR part 700, including the changes made by this final rule, and the delegations to the Delegate Agencies from the Department of Commerce. The Office of Strategic Industries and Economic Security's email address is also added as an option on how to submit Form BIS-999.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information is considered business proprietary and is not to be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

BIS believes that adding an expiration date to this form is not feasible. Anyone seeking SPA needs to fill out a Form BIS-999, whether it is a U.S. Government agency like DOD or DHS, a U.S. company in receipt of a rated order from the U.S. Government, or even a foreign government seeking DPAS assistance. While the DPAS is administered by Commerce, DOD is by far the largest user of the DPAS. DOD estimates that it places 300,000 DPAS rated orders each year, resulting in 400,000 or more additional rated orders that are "flowed down" through the supply chain. The other users of the DPAS (primarily DHS, but some other U.S. Government agencies and foreign governments) have about 500 rated orders per year in total. If there are instances where an SPA request is needed, it is highly likely that will come from a DOD-sourced DPAS rated order (the request could come from DOD itself or one of their contractors). DOD also has an office devoted to DPAS issues and compliance. DOD maintains the Form BIS-999 on their websites for ease of use given their heavy use of the DPAS

authority.

18. Explain each exception to the certification statement.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.