

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 mission(s) 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 Defense Trade Controls.

DDTC reviews license applications and technical assistance agreement 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. The “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 U.S. Munitions List (USML).

Section 405 of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act) (Pub. L. 109-347) required agency participation in the International Trade Data System (ITDS) for all Federal agencies that have oversight of imports and exports. Industry respondents must transmit relevant shipment data to U.S. Customs and Border Protection (CBP) electronically, as opposed to providing hard copy licenses at U.S. ports.

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 Form DSP-5 would make it extremely difficult to meet statutory and regulatory requirements concerning the control of commercial defense trade.

The Form 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, 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 by DDTC, the shipper may be fined and/or charged with a violation or 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), DDTC is required to submit a quarterly report 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, DDTC is required to submit an annual military assistance report to Congress documenting export authorizations, indicating the commodity and values by foreign country.

3. The Form DSP-5 may be submitted electronically via DDTC's case management system The Defense Export Control and Compliance System (DECCS). Respondents may access DECCS through DDTC's website, <https://www.pmddtc.state.gov>.
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 defense services and related technical data. The ITAR requires registrants to maintain records for a minimum period of five years from the expiration of the license or written approval.

8. The Department published a 60-day notice in the Federal Register (89 FR 37273) soliciting public comment, no comments were received.

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/defense 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 §120.21 of the ITAR, which outlines limitations on, and requirements to, disclose licensing information. No promises of confidentiality have been made to the respondent. The Department has also issued a System of Records Notice, Munitions Control Records, State-42, 87 FR 6224 (Feb. 2, 2022) describing under what circumstances information is shared.

11. Form DSP-5 does not solicit any information 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 16,845 annual responses are expected from 1,668 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately one hour, therefore the hour burden for this collection is 16,845 hours.

According to the Department of Labor’s Bureau of Labor Statistics, the average hourly wage (weighted) for a “Compliance Officer” is \$77.10¹. This was calculated by multiplying the average hourly wage (\$38.55) 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 \$1,298,749.50 (\$77.10/hour x 16,845 hours).

13. There are no anticipated additional costs to respondents.

14. Processing the 16,845 responses DDTC received during CY 2023 cost DDTC approximately \$3,831,256. This figure is broken down further in the chart below.²

Role	Average Hourly Wage	Hours Spent/Week	Average Annual Cost
Analyst Processing, Review, and Response	\$ 64.06 <i>(average salary, Washington, DC GS-13 or equivalent)</i>	800	\$2,664,896
Analyst Processing, Review, and Response	\$ 37.15 <i>(average salary, Washington, DC GS-9 or equivalent)</i>	400	\$772,720
Supervisory Review	\$ 75.70 <i>(average salary, Washington, DC GS-14, GS-15 or equivalent)</i>	100	\$393,640
Average Annual Cost:			\$3,831,256

15. The number of responses has been adjusted from 19,210 to 16,845. 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 and the removal of Categories I, II, and III from the USML. The revised response number was taken directly from the DDTC database in DECCS, while the reduced number of license applications accords with the aforementioned reasons. As for the Form DSP-5, the changes are listed in Appendix A ‘Summary of Changes’.

16. DDTC will not publish the information collected.

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

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/salary-tables/pdf/2019/DCB_h.pdf
https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/DCB_h.aspx

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.