

**SUPPORTING STATEMENT FOR
Explosives Responsible Person Questionnaire – ATF F 5400.13A/5400.16**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is charged with enforcing Title XI of the Organized Crime Control Act of 1970 (the Act) and the implementing regulations contained at 27 CFR, Part 555. Subtitle C of Public Law No. 107-296, the Safe Explosives Act, enacted November 25, 2003, amended the Act to require that certain persons file an application for an explosives license or permit with ATF. This requirement also mandates the inclusion of specific information about responsible persons, and those who are authorized to handle explosives in the course of their duties. Further, 18 U.S.C. § 843(h) requires the Secretary to conduct background checks on persons whose descriptions are forwarded to ATF as required by this Chapter. This information will help ensure compliance with the provisions of 18 U.S.C § 842(i), which prohibits certain persons from possessing explosive materials.

This information collection is in accordance with the above provisions of law and ensures that persons newly hired by or otherwise added to explosives operations, are not prohibited under 18 U.S.C. § 842(i) from possessing explosive materials. 27 CFR § 555.57 requires that all persons holding ATF explosives licenses or permits as of May 23, 2003, must report identifying information about their responsible persons and possessors of explosives to ATF. Subsequent changes to their list of persons must also be reported. Further, Section 555.57 requires that copies of these reports be retained in the licensees or permittees' required records, for the period specified in 27 CFR § 555.121.

ATF requests approval to make the following changes to OMB 1140-0074:

New form – Explosives Responsible Person Questionnaire (ATF Form 5400.13A/5400.16). The information collected on this new form was previously part of the Application for Explosives License or Permit (ATF F 5400.13/5400.16), which is a separate IC. The format follows that of other ATF background check forms, including requiring the individual applicant to certify that they are not prohibited.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Persons who have the power to direct the management and policies of a Federal Explosives License or Permit pertaining to explosive materials must complete the Explosives Responsible Person Questionnaire - ATF Form 5400.13A/5400.16. The completed form must be submitted to

ATF and will be used to determine if the person who provided the information, is qualified to be a RP in an explosives business. ATF personnel will review the completed ATF Form 5400.13A/5400.16 in order to validate the identity of a RP, and verify that they are not prohibited from shipping, transporting, receiving, or possessing explosive materials.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

ATF Form 5400.13A/5400.16 will be available on the ATF website and the respondent can download and print the form for completion. The form can be submitted via mail, or electronically by fax (304-616-4401) or email (FELCFAX@atf.gov) to the Federal Explosives Licensing Center (FELC) for processing. The wet signature requirement remains in place primarily because the FELC accepts signed forms. However, in addition to mailing a written and signed form to the FELC, responsible persons (RP) also have the option of completing, scanning, and electronically/ digitally signing (if they possess the capability) their application. Once signed, these notices can be printed and faxed or emailed to the FELC for processing. The use of electronic /digital signature and the implementation of e-submission capability eliminates the need for mail-in notification. The form must have the applicant's signature and must be submitted with a photograph and fingerprint card for processing. The photograph and fingerprint card do not need to be resubmitted if they were previously submitted and ATF has them on file.

While ATF does not currently accept electronic fingerprint cards directly from explosives applicants, ATF does scan and transmit fingerprint cards electronically to the FBI for processing. While ATF has no policy prohibiting electronic submission of fingerprint cards or its other industry forms, technical and funding barriers currently limit the Bureau's capacity to implement a fully electronic filing option for more than just a handful of industry forms. ATF has prioritized those applications with the broadest usage for full electronic conversion. The fingerprint card is used on a limited basis in comparison to other industry forms being embedded with full electronic signature and submission capability. ATF will research options and feasibility of other electronic submission capabilities for this collection, pending funding availability.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item A.2 above.

ATF uses a uniform subject classification system to identify duplication and to ensure that any similar information already available cannot be used or modified for use for the purpose of this information collection.

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

There is no significant impact on small business or other private entities.

6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The collection must be conducted to ensure that prohibited persons do not have access to explosives and is necessary for compliance with 18 U.S.C. § 843(h).

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances associated with this IC. Respondents must provide the requested information as required by explosive laws.

8. If applicable, provide a copy and identify the date and page number of publication in the *Federal Register* of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in

response to these comments. Specifically address comments received on cost and hour burden.

Describe 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.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The 60-Day Notice was published in the Federal Register on May 15, 2023 (88 FR 31032). The comment period ended on July 14, 2023. The 30-Day Notice was published in the Federal Register on July 20, 2023 (88 FR 46813). The comment period ended on August 21, 2023. All comments received during the notice periods received a response.

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

No government funds will be used as payment or for gifts to respondents.

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

Responses are kept in a secured location. ATF employees with suitable security clearance will process submitted ATF Form 5400.13A/5400.16. Confidentiality is not assured.

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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Questions about an individual's criminal history, immigration status, and mental state are asked, in order to ensure that the provisions of existing explosives legislation are effectively enforced.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to**

base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. General, estimates should not include burden hours for customary and usual business practices.

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

ATF estimates that there are 11,875 respondents associated with this information collection request. As such, the total annual responses are 11,875. We estimate that each respondent will spend approximately 20 minutes completing this form. The total annual burden hours associated with this request is 3,958.

Estimated Annualized Respondent Cost and Hour Burden

Activity	Number of Respondents	Frequency	Total Annual Responses	Time Per Response	Total Annual Burden (Hours)
	11,875	1	11,875	20min	3,958
Unduplicated Totals	11,875	1	11,875	20min	3,958

Hourly rate source citation or you may enter a footnote:

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include,**

among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

The initial cost associated with this IC is \$15.00 for a photograph and \$50.00 for fingerprinting, which is equal to \$65.00 per first time respondent. Therefore, the cost for this collection is \$771,875.00 (\$65.00 x 11,875 for first time respondents).

However, photographs and fingerprint cards are not required with subsequent submissions. Therefore, subsequent submissions of this IC would have no public costs since all applications can be submitted electronically by fax or email to ATF for processing.

14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

The annual cost to the Federal government is \$120,000.

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

ATF currently processes approximately 95,000 explosives background checks per year, 1/8th of those are for responsible persons. Thus, the current number of respondents is estimated to be 11,875 ($1/8 \times 95,000 = 11,875$). The estimated time per respondent to complete the form was updated to 20 minutes as the form is similar in length and format of other ATF background check forms that have that same estimated time. The annual burden hours were updated based on the estimated respondents and estimated completion time.

16. For collections of information whose results will be published, outline plans for tabulations, and publication. Address any complex analytical techniques that will be used.

Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The results of this collection will not be published.

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

ATF requests authorization to avoid displaying the expiration date on the form for this IC for several reasons. Printing the expiration date on the form will increase Government costs to replace form inventories that become obsolete when a new expiration date for this IC. Use of the current version of the form for this IC can continue unchanged through several Office of Management and Budget renewal cycles. Additionally, it would be costly to maintain a substantial inventory of forms to meet the demand of the explosives industry if the expiration date is printed on the form.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

This collection of information employs no statistical methods.