

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

**Written Assurances for Exports of Technical
Data under License Exception TSR
EAR Section 740.6
OMB Control No. 0694-0023**

A. Justification

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

Section 15(b) of the Export Administration Act (EAA) of 1979, as amended, authorizes the President and the Secretary of Commerce to issue regulations to implement the EAA including those provisions authorizing the control of exports of U.S. goods and technology to all foreign destinations, as necessary for the purpose of national security, foreign policy and short supply, and the provision prohibiting U.S. persons from participating in certain foreign boycotts. Export control authority has been assigned directly to the Secretary of Commerce by the EAA and delegated by the President to the Secretary of Commerce. This authority is administered by the Bureau of Industry and Security through the Export Administration Regulations (EAR). The EAA is not permanent legislation, and when it has lapsed due to the failure to enact a timely extension, Presidential executive orders under the International Emergency Economic Powers Act (IEEPA) have directed and authorized the continuation in force of the EAR.

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 EAR require in Section 740.6 that exporters obtain letters of assurance from their importers stating that technology or software will not be reexported or released to unauthorized destinations that are subject to controls for national security or foreign policy and nuclear non-proliferation reasons. The importer, in making these assurances acknowledges his/her requirement to comply with the EAR.

**WRITTEN ASSURANCES FOR CERTAIN
DESTINATIONS AND COMMODITIES**

U.S. exporters are required to obtain letters of assurance from their foreign importers stating that they will not export or reexport technology or software to destinations outlined in Section 740.6 (a) (1) (i) through (iii) unless they have received prior authorization from BIS.

In many respects the written assurance requirement of License Exception TSR (Technology and Software under Restriction) provides greater security for the protection of U.S.-origin technology and software that becomes incorporated into foreign products. The importer is put on actual notice that he/she may not export or reexport the foreign-produced direct product of the technology or software originating in another country to destinations in Country Groups D:1 or E:2 without prior BIS approval. The written assurance also provides the importer's consent to those controls.

The written assurance from the importer constitutes a means of enforcing violations of the EAA and implementing the EAR. The written assurances also provide useful evidence against firms that have violated the laws. (An assurance is a collection of representations that become legally binding on a firm because the use of the License Exception TSR is conditioned upon the written assurance). Furthermore, in any judicial test of limits of the lawful extraterritorial reach of U.S. law, the representations made by an importer in a written assurance would be factors supportive of U.S. jurisdiction. In addition, actual notice is a sound aid in the quest for compliance by foreign firms.

The License Exception TSR: Technology or software under restriction is an exception license established by BIS to permit exporters to export and reexport without the requirement to submit a license application or reexport request. The establishment of license exceptions permits the undelayed free flow of items from the U.S. and thereby aids in our competitive standing in world trade. However, some technology or software exported under the license exception TSR has certain characteristics such that their unrestricted export and reexport would be contrary to U.S. foreign policy and national security interests. The requirement of the letters of assurance provides a measure of security and compliance with the established policy.

BIS conducts reviews at the offices of U.S. exporters. Export documents are examined for compliance with the EAR. This includes the search for Shipper's Export Declarations that indicate TSR shipments and the required letters of assurance. BIS, in cases of export violations, will also examine these records for compliance. The only alternative to requiring these letters would be the requirement for a license application. However, this would result in delays in exporting or reexporting the data and possible loss of sales to foreign competition.

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 written assurances are obtained by the exporter and kept in their files. BIS is not aware of any technology which could be adopted to further reduce the collection burden.

4. Describe efforts to identify duplication.

The information is not duplicated elsewhere. Each collection provides information concerning specified details of individual export or reexport transactions. This information is not available from any other source other than from the respondent.

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

This information must be adhered to by all affected parties regardless of the size of the business. Anything less than the complete information required would not assure the necessary control of exports as required by the EAR.

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

If this information were submitted less frequently, there would be violations of the EAR and possible diversion of controlled items.

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 collection to be conducted in a manner inconsistent with the guidelines in 5 CFR I 320.6.

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 February 12, 2007, pp. 6518-6519. No comments were received.

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.

Section 12(c) of the Export Administration Act of 1979, as amended, provides for the confidentiality of information. In Supplement No. 2 to part 736, the EAR state that information obtained for the purpose of consideration of or concerning license applications, as well as related information, will not be made available to the public without the approval of the Secretary of Commerce.

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.

There are 258 burden hours associated with this collection. Based on an analysis of 2005 Census export data, approximately 500 written assurances are obtained annually by U.S. exporters from their foreign importers. Each written assurance requires approximately 30 minutes for the foreign importer to complete and involves 1 minute of recordkeeping by the U.S. exporter.

$$500 \times 31 / 60 = 258 \text{ hours}$$

The annual cost to the respondent is approximately \$6,450. This is based on an average wage of \$25 per hour.

$$258 \times \$25 = \$6,450$$

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 #12 above).

Not applicable.

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

There is no cost to the Federal Government.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

The number of respondents has been increased from 200 to 500 (hours increased from 104 to 258) based on an analysis of 2005 Census export data. This increase is due to increased U.S. exports of technical data covered by the written assurance requirement.

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

There are no plans to publish this information for statistical purposes.

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.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

Not applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.