

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT SUBMISSIONS**

**Authority to Export Defense Articles and Services Sold Under the Foreign
Military Sales Program
OMB No. 1405-0051
DSP-94**

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.*) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130), has the principal missions of 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 thereof which are covered by the U.S. Munitions List.

Under the AECA, the President is charged with the review of munitions license applications and technical assistance and manufacturing license agreement requests to determine, *inter alia*:

- Whether the transactions are consistent with 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.

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 11958, as amended. These regulations are primarily administered by the Deputy Assistant Secretary of State for Defense Trade and the Directorate of Defense Trade Controls, Bureau of Political-Military Affairs.

In accordance with §126.6(c) of the ITAR, for the permanent export of unclassified defense articles and technical data sold under the Foreign Military Sales (FMS) program of the Arms Export Control Act, the foreign diplomatic mission or authorized freight forwarder presents the form entitled “Authority to Export Defense Articles Sold Under the Foreign Military Sales Program” along with the Department of Defense Letter of Offer and Acceptance to the U.S. Customs and Border Protection (CBP) upon export.

2. DDTC uses the information provided by applicants to meet the mandate described in item 1 above. As appropriate, such information may be shared with other U.S. Government entities.
3. The signed DSP-94 and supporting documentation are submitted by the exporter directly to CBP at the time of export. The form is currently available for submission only in hardcopy, although it can be downloaded for use from the DDTC Web site (www.pmdtcc.state.gov).
4. The Department of State collects information from industry to carry out its various statutory and interagency mandates as set out under Item 1, above. The Department is working to identify any unnecessary duplication of reporting, and if it exists, will take steps to minimize or eliminate it.
5. Export control law and regulations are designed to safeguard U.S. Government foreign policy and national security interests and to further world peace. The law and regulations are applicable equally to large and small businesses or entities. Only freight forwarders authorized by a foreign diplomatic mission are required to complete the “Authority to Export Defense Articles Sold Under the Foreign Military Sales Program” (Form DSP-94).
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 defense trade exports are consistent with 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 services and related technical data. The ITAR requires maintenance of records for a minimum period of five years from the expiration of the license or written approval.

8. The Department has published a notice in the *Federal Register* (76 FR 38450) in accordance with 5 CFR 1320.8(d) soliciting public comments on this collection and notifying the public that this collection has been submitted to OMB for review and approval. No comments were received during the comment period.

9. Not applicable. 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/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 §126.10 of the ITAR, which describes protection of confidentiality given to respondents' information. Other than provisions for confidentiality or nondisclosure included in the Freedom of Information Act, the ITAR, or other Federal regulations, no promises of confidentiality have been made to the respondent.

11. Not applicable. Form DSP-94 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 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 2,500 responses are expected from 250 respondents. Frequency of response is on occasion. The estimated time that the respondent devotes to each submission is approximately 30 minutes. Consequently, it can be reasonably assumed that the cost to industry in terms of money, time, and other resources is minimal. The estimated annual hour burden is 1,250 hours.

13. There are no anticipated additional costs to respondents.
14. Form DSP-94 is not submitted to DDTC for review, although it does receive a copy of the form at the time of initial shipment. The DSP-94 is presented to CBP upon export.
15. There are no changes or adjustments in Items 13 and 14.
16. Not applicable. Publication of the relevant information is not anticipated.
17. DDTC is planning to display the expiration date for OMB approval of the information collection on the form.
18. Not applicable. 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

Not applicable. This collection of information does not employ statistical methods.