

**U.S. Department of State
DIRECTORATE OF DEFENSE TRADE CONTROLS**

**Guidelines for Completion of a Form DSP-5
Application/License for Permanent Export of
Unclassified Defense Articles and Related Unclassified Technical Data**

These guidelines are provided to assist registered applicants in accurately completing the Form DSP-5 permanent export license application in compliance with the International Traffic in Arms Regulations (ITAR, 22 CFR 120-130). For requests seeking authorization to employ a foreign national in the United States, you must, in addition to these guidelines, also refer to the supplementary instructions and sample Non-Disclosure Agreement that is provided on the Directorate of Defense Trade Controls (DDTC) Web site (www.pmdtcc.state.gov).

The submission of a complete and compliant application will provide DDTC with the necessary information to perform a timely review. It will also assist other government agencies in their review when DDTC deems it necessary to seek their recommendation. Any application that does not meet the regulatory requirements or provide adequate details/documentation may be Returned Without Action (RWA'd).

Prior to completing this form determine:

- That you are registered with the Department of State, DDTC. An applicant who is not a manufacturer or in the business of exporting defense articles may seek an exception to registration (see 22 CFR 122).
- The designated ITAR-empowered official (see 22 CFR § 120.25) authorized to sign the request.
- That all the required documentation (see 22 CFR § 123.1) is available for submission.
- Applicant qualifies under all of the eligibility conditions listed in the basic certification statement (22 CFR § 126.13), can satisfy the eligibility requirements per 22 CFR §§ 120.1(c) and (d), and where applicable, is in compliance with the requirements of 22 CFR § 127.1(c).
- That the U.S. Munitions List (USML, 22 CFR 121) covers the commodity(s) for which an export approval is being sought. Should a doubt exist, see 22 CFR §§ 120.3, 120.4, and 120.6 and DDTC's Web site (look for "CJ Guidelines") for assistance on commodity jurisdiction procedures.

Required Information. Any information that is required by DDTC to be submitted with the application must be included at the time of the submission. All required information must accompany an electronic submission, **UNLESS IT IS GOVERNMENT CLASSIFIED**. Classified information must be submitted under separate cover (referencing the electronic submission) in accordance with U.S. Government requirements. Attachments may include:

- Purchase orders, letters of intent, and, when not verified on these documents by the foreign party, a document from the foreign party that states end use and end user (signed originals are to be maintained by the applicant).
- Descriptive literature and/or technical data.
- Precedent approvals. The case number is mandatory when the request is for an unshipped

balance of a previously approved license.

- Letter of explanation. This should only be submitted when the information cannot be included in the application form or attachment and is necessary to add to the contents of the submission.
- A Form DSP-83, Nontransfer and Use Certificate, when applicable. The signed original must be retained by the applicant and made available to DDTC, upon request.

General Instructions:

1. All blocks must be completed.
2. No defense articles (hardware and technical data) may be re-exported or transferred, in its original form or incorporated in another article, to any other country or to a national of any other country or to another end use without the prior written approval of the Department of State.
3. **Hardware** applications require a **separate application** for each country of ultimate destination. **Technical Data** applications may be requested for multiple countries of destination. See DDTC's Web site for a listing of countries by State geographic regions.
4. End Use and End User. The applicant must seek written confirmation from the foreign purchaser before applying for a license. The license application must include from the foreign customers a written statement regarding the specific end-user and end use. This information may be included in the purchase order/contract or in a separate document. When the end use and end user confirmation is provided in a separate document, the document must identify the referenced purchase order/contract.
5. All applications for license must include the complete name and address of all U.S. consignors/freight forwarders and all foreign consignees and foreign intermediate consignees involved in the transaction. This information is required in accordance with 22 CFR § 126.13(b). Applicants must also identify all persons performing brokering activities (22 CFR 129) in connection with the proposed transaction. This information should be provided in an attachment unless otherwise identified (e.g., in Blocks 18, 20 or 21). Port Directors of U.S. Customs and Border Protection will permit only those U.S. consignors or freight forwarders identified on the license to make shipments and only when the applicant's registration is valid and only to those foreign consignees identified on the license.
6. Applications for Significant Military Equipment (SME) require an electronic copy of an original fully executed Form DSP-83 (e.g. signed by all parties, to include applicant certification) at the time of application. All classified articles and any item preceded by an asterisk (*) in 22 CFR § 121.1 are SME.
7. Form DSP-83, Non-Transfer and Use Certificate. In any instance when a copy of a Form DSP-83 is provided to support an export application, the applicant must retain the original of the DSP-83, regardless of the final outcome of the request (approval, denial, return without action) and it must be made available to DDTC immediately upon request.
8. Prior Approval/Prior Notification (See 22 CFR § 126.8). All applications for license to satisfy the requirements of 22 CFR § 126.8 must include a statement in Block 20. An application for a license to

export Significant Military Equipment (SME) meeting the requirements of 22 CFR § 126.8 must include in Block 20 the DDTC license number or other approval granting the prior approval.

9. Firearms and firearms ammunition applications. In addition to required documentation (e.g., purchase order) an import permit issued by the foreign government of the recipient country is generally required to accompany any request for export of firearms and firearms ammunition. In those instances where a foreign government does not issue import permits, a statement must be made on the application in Block 20, after having received written verification from your foreign purchaser, that such import permits are not required by the importing country. Attach the document from the foreign purchaser with your request. Prior to submitting your application for firearms and ammunition, you are advised to review the special guidelines provided by DDTC relating to acquiring a license for firearms and ammunition. (On DDTC's Web site, look for "Firearms Guidelines").

10. Applications for employment in the United States of foreign nationals. A DSP-5 must be approved by DDTC before any foreign national employed in the United States can have access to ITAR controlled technical data. Specific guidelines for completion of these requests are provided on the DDTC Web site.

Specific Instructions/Guidelines:

***Block 1. Date Prepared.** The date the application is prepared is automatically entered (month/day/year). The date is updated each time the application is opened unless the application is digitally signed.

***Block 2. PM/DDTC Applicant/Registrant Code.** Enter your Applicant/Registration code (e.g., M-2278). Do not include the numbers indicating the month and year the registration will expire. Please note that it is not appropriate for a broker to be an applicant for export license or agreement. Brokers who are seeking licenses should also be registered as exporters/manufacturers. Ensure your registration is valid. No application will be processed unless your registration is current, or you are exempt from registration (see 22 CFR 122). When there is no registration code available, STOP. Apply for registration (to include a renewal) or seek relief from registration prior to making any submission. Prior to contacting DDTC you may wish to review information regarding registration on DDTC's Web site and read 22 CFR 122, also available on the DDTC Web site.

Note: Registration is a requirement of the Arms Export Control Act. Requests for registration are submitted to DDTC. A registration code is the number assigned by DDTC to manufacturers and exporters. This number is unique to your company.

***Block 3. Country of Ultimate Destination.** Select the country or countries where the end-item will ultimately be sold/exported/located (22 CFR § 123.9).

Notes:

1. Hardware application: A separate application is required for each country of ultimate destination. Select the country where the end-item will ultimately be sold/exported/located. The application provides for identification of other intermediate destinations that the defense article(s) may make. The country identified in Block 3 must be the final destination of the defense article(s), to include the

country or nationality of the individual(s) that assumes ultimate control/ownership. Blocks 3 and 14 must identify the same foreign destination.

2. **Technical Data application:** More than one foreign country may be selected in Block 3. For applications involving technical data, if the transfer takes place in a country other than the country(s) in which the technical data will ultimately reside, enter the country(s) where the transfer will take place in Block 18. Blocks 3 and 14 should identify the country(s) of ultimate destination or nationality of the individual(s) that will assume ultimate control/ownership. In an effort to expedite review and taking into account foreign policy considerations by country or region, applications should be submitted for each distinct geographic region (e.g., Africa, East Asia, South Asia, Europe, etc.). You may wish to consider a separate request when you believe the country or commodity is sensitive. All countries/parties to the export must be identified in the application.

***Block 4. Probable Port of Export from U.S.** Provide the known or expected U.S. port from which the defense articles will be exported. See 22 CFR § 123.22 for instruction on changing a port of export after a license is issued.

Block 5. Applicant's Name and Address. Check the appropriate field indicating applicant business (Government, Manufacturer, and Exporter). State the applicant's complete name and address, including ZIP code. If a subsidiary is applying for a license, provide the registered company's (the entity that has been assigned the DDTC Applicant Code) name, address and telephone number in Block 5. Check the "Subsidiary" box and then click on the "Add Subsidiary Information" button to enter the subsidiary name, address and telephone number. State the complete telephone number, including the area code.

Block 6. U.S. Government Personnel Familiar with Commodity. Check one or more of the appropriate boxes. The individual shown in this field must be an employee of an appropriate U.S. Government entity (i.e., the military service or agency most familiar with the defense article/defense program). It cannot be an employee of DDTC. This information will assist in the processing and review of your request.

***Block 7. Applicant Contact.** List individual(s) familiar with the transaction who can respond to questions from DDTC staff or from other government agencies. The individual(s) should be prepared to answer procedural and/or technical questions. You may list more than one individual and provide their areas of expertise (e.g., John Doe – technical, Andrew Heart- regulatory/process). Please do not list an individual who is not familiar with the transaction and thus unable to respond. Do not list U.S. Government personnel.

Block 8. Description of Transaction. While Block 8 (a) and Block 8(d) are mandatory, Block 8(b) and Block 8(c) can provide substantial background information on previous approvals and denials that will ensure adequate and timely processing of your request. Information that the defense article was approved to the country on your current application, for example, may eliminate the need for DDTC to seek interagency recommendations.

***Block 8(a).** This application represents. Select one: ONLY completely new shipment or ONLY the unshipped balance and provide the license number(s).

Notes:

1. A request may not be for both a completely new shipment and an unshipped balance -- it must be

one or the other.

2. Unshipped Balance. Select when you have an existing license and not all the articles on the license have been shipped. Also, the quantities, commodities, and values listed in Blocks 9, 10, 12 and 13 must reflect only the actual unshipped balance from the previous license. If nothing was shipped on the initial license, so state with a confirmation statement that the contract remains in effect.

Block 8(b). This application has related license numbers. Select and provide the related license number(s).

Block 8(c). This application is in reference to an agreement. Select and provide agreement number(s).

***Block 8(d)**. Commodity is being financed under. Select all that apply and provide case number(s). If available, enclose a copy of the Letter of Offer and Acceptance (LOA) or other documentation to support your application.

Note: When a license or agreement (Approved, Disapproved or RWA'd) is identified, providing a copy, including the Department of State response (proviso letter), with your application may expedite the review.

***Block 9. Quantity**. State the quantity (e.g., number/amount) of each end item, major component and system that is identified in Block 10 (e.g., 100 AN/XYP Radios, 2 M-16 Rifles). Then select the appropriate unit type in the "Unit Type" field. Select terms such as "lot" only when deemed appropriate (e.g., when another unit of measure does not apply). "Lot" is generally used for minor components or parts; however, even when appropriately using this option, an itemized list may be required.

***Block 10. Commodity**. Select whether the defense article(s) to be described in this block are "Hardware" or "Technical data." If appropriate, both, boxes may be selected. The commodities must be described in detail (e.g., part number 1162-02 - trigger rubber gasket; AN/XXX-1 communications system).

Notes:

1. Hardware: List each defense article, including in the description the product name and the manufacturer, if appropriate. Also include the part/model number, military nomenclature and federal stock number, all the specific details of any modification, and any other details that would assist in clarification/identification of the listed defense articles. The applicant should also seek to determine if any of the defense articles are Significant Military Equipment (SME), requiring a Form DSP-83 Nontransfer and Use Certificate and, in the case of components and parts, whether the items are major or minor. Systems, end items, and major components and major parts must always be itemized. Lack of detail and incomplete or misleading descriptions can result in unnecessary processing or your request being Returned Without Action (RWA). (For definitions of an end-item, component, part, accessory, attachment, system, etc., see 22 CFR § 121.8).

2. Technical Data: Identify the technical data to be exported, the end item or system it relates to, and the type of data contained in the documentation (e.g., drawings, schematics, blue prints, briefings, proposals, etc.). If you are exporting a specific document or proposal state the exact title of the document to be exported.

3. Significant Military Equipment (SME): If the defense articles being requested for export have been determined to be SME (see 22 CFR § 120.7) a copy of a properly completed and signed original DSP-

83 must accompany the license application submission and the original must be retained by the applicant.

***Block 11. U.S. Munitions List (USML) Category and Commodity Code.** The USML, 22 CFR § 121.1, will assist you in identification of the category and sub-category for the commodity(s) stated on your application (e.g., Aircraft – VIII (a), Military Radio – XI (a)(4)(iii)). If more than one commodity is identified in Block 10, list the USML category and DDTC Commodity Code for each commodity.

***Block 12. Value.** For electronic submissions, enter a unit price and click on the “Calculate” button to automatically enter the dollar value of the commodity in Block 10 for the number of items listed in Block 9. Example: If a quantity of two (2) was entered in Block 9, and a unit price of \$2,000 for an AN/RBM-10 Radio was entered in Block 12, when the “Calculate” button is clicked, \$4,000 will be automatically entered into the value field. For paper submissions the applicant must do the calculation. The commodity and value should reflect those stated on the purchase order.

Notes:

1. A value must always be stated even if the goods are being provided to the customer at no charge.
2. The value of hardware should reflect the selling price for each line item without supplementary costs such as packing and freight. Value for technical data cannot be identified as \$0 but rather should reflect reproduction, processing costs, and/or contract cost. Please note that the U.S. Customs and Border Protection, Automated Export System (AES) will not accept “\$0” as a value.
3. When hardware or technical data are being provided as a part of a previously approved defense service, providing the agreement number or a letter of explanation is necessary. Also, if the hardware is in furtherance of an approved agreement, the applicant should verify that the hardware, including the value, was included in the agreement. If not, it may be necessary to amend the agreement before making the request.

***Block 13. Total Value.** The value must be in U.S. dollars. This value is the combined value of the line item totals for all the commodities listed in Block 12. For electronic submissions the total value in U.S. dollars is automatically entered. For paper submissions the applicant must perform the calculations.

Block 14. Foreign End User. Enter the complete name and address of the foreign end user(s). If the request is for technical data and for multiple destinations, provide the complete name and address of the foreign end user in each country. If the application is for hardware, the foreign end-user must be in the country identified in Block 3. If the request is for technical data, the foreign end-user in each country must be identified stating the complete name and address. DDTC will not accept post office boxes or other general or imprecise addresses without a letter of explanation/justification. The end user is the entity that will take final possession of the commodity, regardless of foreign purchaser(s) and foreign intermediate consignee(s).

Note: Incomplete, imprecise addresses or use of post office boxes may result in your request being RWA'd.

Block 15. Manufacturer of Commodity. When there are multiple manufacturers of the commodity identified in Block 10, provide the name and address of each manufacturer, to include the applicant and unknown, if applicable. When the applicant is the only manufacturer, select “Same as Block 5.” When all of the manufacturers are “Unknown” and the request is for the export of parts, components,

accessories and attachments, select “Unknown.” When selecting unknown, the applicant must exercise due diligence to determine the manufacture, such as requesting the source to provide the name(s) of the manufacturer(s).

Notes:

1. It is recommended that the applicant seek to determine, when the source is a manufacturer, that the manufacturer is registered with DDTC as required by the Arms Export Control Act.
2. The applicant is also responsible for ensuring, at the time of export, that all parties to the transaction are eligible to engage in exporting. For example, relief from identifying the manufacturer(s) is granted by DDTC to assist an applicant who, at the time of submission, was unable to determine exactly who the specific manufacturer(s) of the minor components and parts would be, does not relieve the applicant from ensuring that the transaction does not involve persons who have lost their licensing privileges.

Block 16. Foreign Consignee. Select same as Block 14 or enter the complete name and address of the foreign purchaser who will receive the shipment for storage, modification, or for incorporation into another end-item, and for subsequent forwarding to the foreign end-user (Block 14). Do not use post office boxes or other general or imprecise addresses. The foreign purchaser may also be in a country other than the foreign end-user. Ensure that the application provides adequate details regarding the transaction and all the parties involved, paying particular attention to clarification of their roles (including engagement in brokering activities, as defined in 22 CFR 129) when the parties are various, in different countries, and when the goods are not for a foreign government end use or end user.

Block 17. Source Commodity. When there are multiple sources of the commodity, provide the name and address of each source, to include the applicant and manufacturer(s) if applicable, from whom the commodities were procured. When the source is only the applicant, select “Same as Block 5.” When the source is the same as the manufacturer(s) select “Same as Block 15.”

Block 18. Foreign Intermediate Consignee. If there is no foreign intermediate consignee, select “None” or provide the full name and address of the foreign intermediate consignee(s) and their role in the transaction. Do not use post office boxes or other imprecise addresses. Also, do not include banks or common carriers unless they are involved in the transaction (e.g., brokering 22 CFR 129) or the Letter of Credit specifies that the bill of lading state that they are a party to the transaction (“To Order of [insert name of bank]).”

Notes:

1. The foreign intermediate consignee (e.g., the person who will receive the goods for onward movement to the foreign purchaser or foreign end-user, testing, etc.) may or may not be in the same country as the foreign purchaser or foreign end-user.
2. Foreign intermediate parties involved in the transaction include freight forwarders, customs brokers, agents or representatives, and brokers as defined in 22 CFR 129.

Block 19. Seller in United States. Identify who is actually selling the commodity(s) identified in Block 10. When there are multiple sellers, provide the name and address of each seller, to include the applicant, manufacturer and source if applicable, from whom the commodities were purchased. If the only seller is the applicant, select “Same as Block 5”; if the only seller is the manufacturer, select “Same as Block 15”; and if the only seller is the source, select “Same as Block 17.”

Note: When completing these fields, do not use post office boxes or other general or imprecise addresses.

***Block 20. Specific Purpose for Which the Material is Required, to include Specific Program/End Item.** Select at least one. Provide a concise account of the specific purpose of the requested export. Simply stating, "For use in production of military aircraft" or "for resale" is inadequate. Information provided in this block is important in determining the outcome of your request, both in the length of time need for assessment and the determination made.

Note: Specific details regarding users and use(s) for which the defense articles are being exported are critical to a U.S. Government determination. The specific details in this block should provide rationale for the review and final determination. Examples are:

- "For production of the AN/APR-100 radar in accordance with DOS approved agreement AG 123-99"; or
- "The radar will be used in the F-020 fighter aircraft by the Govt. of Spain"; or
- "For test and evaluation by the foreign consignee for use on the TR tank, in support of NATO contract EC-0023-1A, see AG-999-01."

Block 21. U.S. Consignor and/or Freight Forwarder. If the U.S. consignor and freight forwarder is ONLY the applicant select "Same as Block 5." If there are multiple entities, to include the applicant, identify each by providing their the name and address. A U.S. consignor and/or freight forwarder is the entity(s) who will participate in the delivery to the foreign intermediate/consignee/end user/ foreign purchaser, or common carrier (e.g., Federal Express, UPS, SYZ Airlines, etc.) of the commodity(s) identified in Block 10. You may list all freight forwarders who are anticipated to handle the export, provided the intending freight forwarder is under contract to the applicant or has been identified by the purchaser to handle the shipment. If a freight forwarder becomes involved in the transaction after approval by DDTC, you may request an amendment to your license. Do not attempt to make the export using a freight forwarder that is not identified on the license or your shipment may be detained by U.S. Customs and Border Protection.

***Block 22. Applicant's Statement.** Enter the name of the individual who will digitally sign the license application, and check the boxes that apply to this application.

Note: The individual whose name is typed in this field must be an empowered official (see 22 CFR § 120.25) and must sign the application. Signing an application "for" another company or person is a violation of the ITAR. The individual signing the application must meet the criteria stated in 22 CFR § 120.25. The individual must have responsibility for ensuring compliance with all the facts stated in the request, including seeking all the required certifications on the license form as well as all other provisions of the ITAR and must be able to state:

- that they are a responsible official empowered by the applicant to certify that the conditions of 22 CFR § 126.13 and 130 have been met, and
- that the applicant and other parties to this export are eligible to seek a license or are making a request for an exception to policy and have attached evidence of such a request, and
- that they are a United States citizen, or lawfully admitted to the United States for permanent residence, or an official of a foreign government.

Certifications:Eligibility Certification 22 CFR § 126.13 (Select one):

Before signing or transmitting the application, you must qualify under all of the eligibility conditions listed in the basic certification statement, and satisfy one of the citizenship conditions. Otherwise you are not eligible to apply for a license. If the second or third box is selected, you must also provide the required certification as an attachment.

22 CFR 130 Statement (Select one):

If the total value of the license exceeds the thresholds stated in 22 CFR 130, you must also complete the statement on contributions, fees, and commissions. If the third or fourth box under this 22 CFR 130 certification is selected, you must also provide as an attachment the information required under 22 CFR § 130.10.

Note: Applicants are advised that, per 22 CFR § 127.1 (c), other requirements related to debarment, suspension, or ineligibility of parties to the transaction might apply.

Block 23. License to be sent to. FOR PAPER SUBMISSIONS ONLY. Select “Hold for Pick-up” or provide the complete name, address and phone number. DO NOT ENTER “SAME AS BLOCK 5” in this block.