

Directorate of Defense Trade Controls (DDTC)

Guidance for Iraq and Afghanistan Cases

(Revised 7/22/08)

It is the policy of the Department of State to expedite all requests for exports directly supporting our coalition efforts in Operation Iraqi Freedom (OIF) in Iraq and Operation Enduring Freedom (OEF) in Afghanistan. To ensure these priority operations are fully supported, the Department will ensure only requests directly related to OEF/OIF operations are afforded this expedited review. Licenses that may undergo OEF/OIF expedited review are limited to those that provide:

- Defense articles and services to forces or organizations deployed in Afghanistan and Iraq;
- Defense articles and services to forces or organizations within 90 days of a scheduled deployment.

Licenses requesting OEF/OIF expedited handling not meeting these criteria will be returned without action for resubmission by the applicant as a routine license.

Application Submission

Cases meeting the OIF/OEF criteria stated above must be clearly marked so as not to delay processing. For D-Trade and DSP-119 cases, the Transaction ID should begin with the letters "OIF" or "OEF," as applicable. These cases will automatically be expeditiously routed to the appropriate licensing division/licensing officer. All requests must note OIF or OEF in the first line of purpose block (Block 20 for the DSP-5; Block 23 for the DSP-73 and DSP-61). Note: Applicants using the OIF/OEF transaction identifier in instances where the case is found not to meet the criteria stated above will have their cases returned without action. The applicant will be notified to resubmit the case without OIF/OEF in the Transaction ID.

Hard copy submissions should have a bright color cover sheet indicating that the case is for OIF or OEF and direct the case to the appropriate licensing Division based on the U.S. Munitions List (USML) category, as noted below:

T2C: USML Categories VI, VII, XII, XIII, XVI, XVIII, XX, and XXI

T3D: USML Categories IV, V, IX, XIV, and XV

T4M: USML Category XI

T5Z: USML Category VIII

T6F: USML Categories I, II, III, and X

Supporting Documentation – The following documentation must be included in OIF/OEF requests:

- A transmittal letter fully explaining the transaction.
- A complete copy of the contract or purchase order applicable to the proposed export.
- An end use and end user statement from the foreign purchaser.
- For licenses in support of U.S. government contracts, a letter from the appropriate service or agency identifying the specific export to be an urgent requirement in support of OIF or OEF.
- For exports to coalition partners, a letter from the partner government confirming the transaction and that it is in support of OIF or OEF.
- A copy of product specifications/descriptive literature that clearly details the commodities requested for export.
- DSP-83s:

- **DSP-83s are required for all exports of significant military equipment regardless of country of ultimate destination. This requirement now includes the governments on Iraq and Afghanistan.**

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Re-export Requests Under General Correspondence.

Requests to re-export USML controlled defense articles under ITAR §123.9 to coalition partners in Iraq and/or Afghanistan will be considered for expeditious handling. To qualify for this consideration, the request must clearly demonstrate

that the re-export is for equipment to U.S. and/or coalition forces or supporting contractors currently deployed in Iraq or Afghanistan or for forces scheduled to deploy within 90 days.

Supporting documentation must include the following:

- A transmittal letter fully explaining the transaction and identifying the original license number under which the articles were exported.
- A copy of the purchase order, contract, or letter of intent from the new ultimate end user.
- End use statement from the ultimate end user identifying the transfer as an urgent OIF/OEF requirement.
- A copy of product specifications/descriptive literature clearly detailing the commodities requested for export.
- A DSP-83 if the transfer includes SME.
- Certification, as required under ITAR §126.13, if the applicant is a U.S. Person. Requests from foreign entities **do not** require §126.13 certification.

Export of Fully Automatic Weapons to Private Entities

DDTC has a longstanding policy of not authorizing fully-automatic weapons to private entities, but has made an exception with regard to the activities of private security companies in Iraq and Afghanistan. The preference is for these weapons to be exported temporarily on DSP-73s, although DSP-5s will be considered only when the security company is, itself, a foreign person as defined in ITAR §121.16. For fully-automatic firearms proposed for export to a non-Iraqi Government (private) end-user in Iraq, DDTC requires: (1) justification for the number of weapons being requested, with particular attention to follow-on licenses requesting additional quantities; (2) end-user assurances using the example provided below; (3) a letter from the government or international organization responsible for the contract, stating it will send an inventory report of the fully-automatic weapons to DDTC within five days of the weapons arrival in Iraq, and account for the ultimate disposition of the weapons upon completion of the mission/termination of the

contract. When a DSP-5 is used, the license must be accompanied by a DSP-83 executed by the parent government of the foreign person.

Supporting documentation for the export of USML Category I, Firearms, must include those items listed above, and all serial numbers must be listed in Block 20 of the application.

SAMPLE LETTER

Kevin Maloney
Director, Licensing
Directorate of Defense Trade Control
U.S. Department of State
2401 E. Street
Washington, DC 20522-0112

RE: End Use and Retransfer Assurances for DSP-5 License Application

Dear Director:

I, **(Name of Authorizing Company Official, Title, and Company)**, on behalf of **(Name of Company)**, provide the following assurances to the United States Government. **(Name of Company)** is performing contract **(Number of Contract/Purchase Order)** for the **(Name of the Contracting Activity, e.g., U.S. Department of the Army, Project and Contracting Office (PCO))**, Iraq. In conjunction with the same, **(Name of Firm Exporting Commodities)**, is supplying to **(Name of Company)**, the firearms to perform the aforementioned contract as set forth in **(Name of Firm Exporting Commodities)** export license application.

(Name of Company) certifies and assures the United States Government that it will comply with the following conditions and end-use and retransfer assurances, as a requirement for **(License Number)** being issued and for the use of the firearms in Iraq by **(Name of Company)**.

1. Title for the firearms will pass to **(Name of Contracting Office or Activity, e.g., the Department of the Army, as represented by the U.S. Army PCO)**, immediately upon the firearms arriving in Iraq.
2. **(Name of Company)** will not take possession of the firearms until the **(Responsible Government Activity, e.g., U.S. Army PCO)** conducts an inventory of the firearms. A signed and dated copy of the inventory will be provided to the U.S. Department of State, Directorate of Defense Trade Controls.

3. The firearms on the license are for the exclusive use of **(Name of Company)** personnel performing security duties under the **(Applicable Government Contract, e.g., U.S. Army PCO contract)** only.
4. No other end-use or retransfer of these articles is allowed without first obtaining written approval from the U.S. Department of State, Directorate of Defense Trade Controls.
5. **(Name of Company)** will be responsible for maintaining security control and possession of the firearms at all times during the duration of its security duties and will have in place a security program to protect the firearms.
6. During the duration of its contractual duties, **(Name of Company)** will be responsible to make sure that no party or person involved in security duties who is ineligible to participate in or benefit from U.S. defense trade transactions under United States law or applicable U.S. regulations will gain access to or be in the possession of these firearms.
7. Any loss or destruction of the referenced firearm(s) will be reported immediately in writing by **(Name of Company)** to: the Iraq Government; American Embassy, Baghdad; the U.S. Department of State, Directorate of Defense Trade Controls; **(the Designated Contracting Office or Activity, e.g., U.S. Army PCO)**; and the U.S. exporter. The report must include type, make, model and serial number of the firearm(s) with explanation of the circumstances surrounding the loss or destruction of the firearm(s), as well as the name, date of birth and citizenship of the last person to have control of the firearm(s).
8. After completion of the contractual duties, **(Name of Company)** shall transfer all firearms to the Department of the Army, U.S. Army PCO or designated activity. **(Name of Company)** will provide to the Directorate of Defense Trade Controls a copy of the receipt for the firearms from the Department of the Army, U.S. Army PCO or designated activity. The receipt will contain a complete list of the firearms, with type, make, model, and serial number.

Under the penalties of perjury provided by law, I declare that I have examined this document, and to the best of my knowledge and belief, it is true, correct, and complete.

(Authorizing Signature and Title)