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Department of Commerce

Bureau of Industry and Security

15 CFR Part 702

[Docket No. 140501396-4396-01]

[RIN 0694-AG17]

U.S. Industrial Base Surveys Pursuant to the Defense Production Act of 1950

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed Rule

SUMMARY: This proposed rule would set forth the policies and procedures of the Bureau of Industry and Security (BIS) for conducting surveys to obtain information in order to perform industry studies assessing the U.S. industrial base to support the national defense pursuant to the Defense Production Act of 1950, as amended. Specifically, this proposed rule would provide a description of: BIS's authority to issue surveys; the purpose for the surveys and the manner in which such surveys are developed; the confidential treatment of submitted information; and the penalties for non-compliance with surveys. This rule is intended to facilitate compliance with surveys, thereby resulting in stronger and more complete assessments of the U.S. industrial base.

DATES: Comments must be received no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

FOR FURTHER INFORMATION CONTACT: Jason Bolton, Trade and Industry Analyst, Office of Technology Evaluation, phone: 202-482-5936 e-mail: jason.bolton@bis.doc.gov or Brad Botwin, Director, Industrial Base Studies, Office of Technology Evaluation, phone: 202-482-4060 e-mail: brad.botwin@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to authorities under § 705 of the Defense Production Act of 1950 as amended (DPA) (50 U.S.C. app. 2155) and § 104 of Executive Order 13603 of March 16, 2012 (National Defense Resources Preparedness, 77 FR 16651, 3 CFR, 2012 Comp., p. 225), the Bureau of Industry and Security (BIS) conducts studies that assess the capabilities of the U.S. industrial base to support the national defense. To produce these studies, BIS may issue surveys to collect detailed information related to the health and competitiveness of the U.S. industrial base from government sources and private individuals or organizations.

This proposed rule sets forth procedures intended to facilitate the accurate and timely completion of surveys issued by BIS to collect data for these studies. This rule sets forth in a single part of the Code of Federal Regulations the information about BIS's authority to conduct the studies, the authority to issue surveys to gather data in support of the studies, the purpose of the surveys and the manner in which such surveys are developed, the confidential treatment of submitted information, and the penalties for non-compliance with surveys.

Additionally, this rule explains BIS's procedures for verifying that the scope and purpose of the surveys are well defined, and assures that the surveys do not solicit data that duplicates adequate and authoritative data that is available to BIS from any federal or other responsible agency. A survey may require the submission of information similar or identical to information possessed by another federal agency but that is not available to BIS.

Based on requests it receives from U.S. Government agencies, BIS produces studies to develop findings and policy recommendations for the purpose of improving the competitiveness of specific domestic industries and technologies critical to meeting national defense and essential civilian requirements. These studies may require surveys to collect relevant data and assessments of that data and other information available to BIS.

BIS, in cooperation with the requesting agency, selects the persons to be surveyed based on the likelihood that they will have information relevant to a study. That likelihood is related to the person's association with the industry sector, material, product, service or technology that is the subject of the study. That association may be based on factors such as the person's role in

directly or indirectly providing, producing, distributing, utilizing, procuring, researching, developing, consulting or advising on, the industry sector, material, product, service or technology that is the subject of the study.

Whether a person's association with the industry sector, material, product, service or technology being assessed is proximate or remote does not determine whether that person's association is sufficient for inclusion in the survey. For example, information about a supplier of raw materials or components that is several transactions removed from the production of the product that is the subject of a study may be relevant to assessing the capabilities of the U.S. industrial base to supply the product to support the national defense. In such a situation, the supplier would be included in the survey. The nature of the person from whom the information is sought also does not determine whether that person's association with the industry sector, material, product, service or technology at issue is sufficient for inclusion in the survey. Surveys may require information from businesses organized for profit, non-profit organizations, academic institutions and government agencies.

To be useful, a study must be comprehensive, accurate and focused on the relevant industry sector, material, product, service or technology. Therefore, surveys may require information about employment, research and development, sources of supply, manufacturing processes, customers, business strategy, finances and other factors affecting the industry's health and competitiveness. To properly focus the survey on the industry sector, material, product, service or technology being assessed, BIS may request information about a corporation as a whole or information about one or more specified units or individual activities of that

corporation. The DPA provides both a civil remedy and criminal penalties that may be used when recipients of surveys do not supply the information sought.

BIS deems the information supplied in response to survey requests to be confidential and is prohibited by law from publishing or disclosing such information unless the Under Secretary for Industry and Security determines that withholding the information is contrary to the interest of the national defense. The authority to make this determination, which § 705(d) of the DPA gives to the President, has been delegated to relevant agencies, including the Secretary of Commerce, by § 802 of Executive Order 13603. The Secretary of Commerce re -delegated this authority to the Under Secretary for Industry and Security. The DPA provides criminal penalties for any person who willfully violates its prohibition on publication or disclosure.

Section by section description of the proposed rule.

This proposed rule would create a new part in Title 15, Chapter VII, Subchapter A of the Code of Federal Regulations to be designated as 15 CFR part 702. This new part would be devoted exclusively to BIS's collection of information under § 705 of the DPA (50 U.S.C. app. 2155). Placing the new part in Subchapter A would promote an orderly and logical regulatory structure because all other regulations implementing BIS authorities related to the DPA are contained in that subchapter.

Section 702.1

Section 702.1 would set forth a general description of BIS' authority to collect information needed to complete the surveys. The survey responses assist BIS in determining the capabilities of the industrial base to support the national defense and to develop policy recommendations to improve both the international competitiveness of specific domestic industries and their ability to meet national defense needs.

Section 702.2

Section 702.2 would implement the requirement to publish regulations found in § 705 of the DPA (50 U.S.C. app. 2155(a)) by requiring BIS personnel of appropriate competence and authority to ensure that before a survey is sent to any person for completion; 1) the scope and purpose of a survey have been established, 2) the scope and purpose are consistent with BIS's authorities under the DPA, and 3) the data requested by the survey does not duplicate adequate and authoritative data available to BIS from a federal or other authoritative source. A survey may require information that is similar or identical to information possessed by other federal agencies but not available to BIS. The section does not limit the factors that may be considered in deciding whether to conduct a survey nor does it modify or replace the requirements of the Paperwork Reduction Act. In addition, all surveys are reviewed by BIS and by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act before they are distributed. The OMB review process provides additional assurance that surveys are designed to collect only information deemed necessary to meet the scope and purpose of a study.

Section 702.3

Section 702.3 would address the confidentiality requirements imposed by § 705(d) of the DPA (50 U.S.C. app. 2155(d)) and, in accordance with that section, would provide two procedures by which the restrictions on disclosure in § 705(d) would be invoked. First, consistent with its current practice, BIS would deem all information submitted in response to a survey to be confidential. Second, a person submitting a response to a survey may request confidential treatment of the information submitted. Although the second procedure is likely to be redundant of the first, the statute prohibits disclosure if either the government deems the information to be confidential or if the person furnishing the information requests confidential treatment. BIS concludes that both procedures should be included in the regulations to be consistent with the statute. Additionally, § 702.3 would note that confidential information shall not be published or disclosed unless the Under Secretary for Industry and Security determines that withholding the information is contrary to the interest of the national defense. The statutory authority of the President to make this determination has been delegated to the Under Secretary for Industry and Security. This section also repeats the penalties that the statute authorizes for persons convicted of willfully violating the prohibition on disclosure.

Section 702.4

Section 702.4 would require timely, complete and adequate responses to surveys. Specifically, the section would require that survey responses be returned to BIS within the time frame stated on the initial distribution letter or other request for information. The section would treat a response as "inadequate" if it provides information that is not responsive to the questions asked or if it provides aggregated information when specific information was requested.

Section 702.4 would set forth the criteria by which BIS may grant either an exemption from complying with the survey requirement or an extension of time to comply. The grounds for granting an exemption or an extension are limited and generally result when BIS concludes that the survey recipient lacks information deemed relevant to the survey or when compliance with the requirement would be unduly burdensome.

Section 702.4 would make clear that the deadline for complying with a survey is not suspended by submitting a request for an exemption or extension of time to comply.

Finally, § 702.4 would provide that BIS may return responses that are incomplete or inadequate and specify a due date for a complete and adequate response.

Section 702.5

Section 702.5 would set forth the consequences of failure to comply with a survey or other request for information. These consequences are established by § 705(a) and (c) of the DPA (50 U.S.C. app. 2155(a) and (c)). If a person does not comply with a survey, BIS may serve a subpoena upon that person to compel compliance. If the person still does not comply, the government may apply to the U.S. district court in any district in which the person is found, resides or transacts business for an order requiring such person to comply. The district court has authority to punish any failure to comply with the order as contempt of court. Persons who are convicted of willfully failing to comply with a survey or other request for information may be fined not more than $10,000 or imprisoned for not more than one year, or both.

Section 702.6

Section 702.6 would define certain terms used in part 702.

The word "confidential" would be defined in terms of § 705(d) of the DPA, thereby distinguishing its use in this rule from its use in connection with the classification of information for national security purposes as set forth in Executive Order 13526 of December 29, 2009, Classified National Security Information (75 FR 707; 3 CFR, 2010 Comp., p. 298).

The definition of the term "person" would be based on the definition of "person" in § 702 of the DPA (50 U.S.C. app. 2152) with some additions. The DPA definition reads: "The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof." Use of the word "includes" in the statutory definition implies that the list following that word is not exhaustive. BIS concludes that the use of "includes" indicates that Congress recognized that the agency implementing the DPA would need discretion to identify the types of entities that would likely possess information relevant to the subject of each industrial base assessment to ensure a comprehensive collection of information.

This proposed rule would add "The Government of the United States, of the District of Columbia, of any commonwealth, territory or possession of the United States, or any department, agency or commission thereof." BIS has concluded that inclusion of the additional entities is within its authority under the DPA because the DPA definition prefaces the list of entities with the word "includes," and because inclusion of the additional entities is necessary to achieve the purpose of the statute.

Based on prior studies, BIS has observed that the U.S. Government makes a significant contribution to the industrial base, whether in research, technology development, testing, manufacturing, repair and overhaul, or trade development. As a result, the U.S. Government is a significant source of information regarding the industrial base. Similarly, it is plausible that the District of Columbia, commonwealths of the United States and other territories and agencies can be survey respondents, and therefore have been included to ensure the completeness of a survey sample and corresponding assessment.

The regulatory definition also would make clear that the term "corporation, partnership, association, or any other organized group of persons" is not limited to commercial, for-profit enterprises or publicly traded corporations.

The definitions of the terms "initial distribution letter" and "survey" each describe a document used in the data collection process. The definitions describe those documents based on the way they are used in current BIS practice.

Supplement No. 1 to part 702

Supplement No. 1 to part 702 would provide information that BIS believes would be helpful to persons who receive a survey. This information includes both a description of the survey and a glossary of terms.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches

that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a "significant regulatory action," although not economically significant, as that term is defined in of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*) unless that collection of information displays a currently valid OMB control number. This rule does not contain a collection of information that is subject to the Paperwork Reduction Act. This rule sets forth procedures related to BIS's administration of surveys pursuant to § 705 of the DPA (50 U.S.C. app. 2155). Individual surveys that are subject to the Paperwork Reduction Act will display a currently valid OMB control number.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute. However, under § 605(b) of the RFA, if the head of an agency certifies that a rule will

not have a significant impact on a substantial number of small entities, the RFA does not require the agency to prepare a regulatory flexibility analysis. Pursuant to § 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small entities. The rationale for that certification is as follows.

Impact

This proposed rule would set forth, in a single part of the Code of Federal Regulations, the Department of Commerce's authority under § 705 of the DPA "to obtain information in order to perform industry studies assessing the capabilities of the United States industrial base to support the national defense." Since the mid-1980s, BIS and its predecessor organizations within the Department of Commerce have conducted such studies and required survey responses based on the statute. Section 705 of the DPA authorizes the collection of the information. The statute also authorizes the issuance of subpoenas for the information and authorizes the United States district courts to issue orders compelling compliance with such subpoenas. It also provides criminal penalties for failure to comply with the government's requests for information. This proposed rule would not require any person to supply information that the person would not be required to provide pursuant to the statute.

This proposed rule would require that surveys issued by BIS pursuant to § 705 be responded to by the deadline set forth in the survey. The rule would publicly state BIS's existing internal policies and standards for the granting of both an extension of time to comply with the requirement and exemptions from compliance. To the extent that publication of these policies

and standards in the Code of Federal Regulations could be construed as a change in the burden on small entities or any other entities, the publication would have to be deemed as a reduction in burden because it facilitates access to the standards by all parties.

This proposed rule also would set forth the statutory standards for treating information submitted in response to a survey as confidential. It would reiterate the statutory penalties for failure to comply with a survey and for unauthorized release of information that § 705 requires to be treated as confidential.

This proposed rule would adopt the statutory definition of "person" but also add "[t]he Government of the United States, of the District of Columbia, of any commonwealth, territory or possession of the United States, or any department, agency or commission thereof" to the definition. The term "person" is used in the statute and in this proposed rule to represent those to whom the requirements of the statute and this proposed rule apply. BIS has historically interpreted the statute to apply to units of the U.S. Government (including the District of Columbia Government and the governments of the territories and possessions) and does not view this as a substantive change. For purposes of this certification, the addition is immaterial because the government bodies that would be added to the statutory definition by this proposed rule are not small entities under the definition provided in the Small Business Regulatory Enforcement Fairness Act of 1996.

Number of small entities.

Surveys are one-time exercises used to assess the state and/or capabilities of a particular industry sector or technology. Entities are selected for participation based on their role in, or

relationship to, the industry sector or technology being assessed. Information obtained during the course of any one assessment may be relevant to determining whether the current entity supplying that information is a small entity. However, the composition of survey respondents varies dramatically between industry studies due to the complexity of each industry sector or technology being assessed. Consequently, BIS is unable to draw from existing data to estimate the number of small businesses participating in future collections. Accordingly, BIS is unable to determine the number of small entities that would be affected by this proposed rule.

Conclusion.

Although BIS cannot predict the exact number of small entities that will be participating in any one survey, this rule would not impose a significant burden on any such small entities because it would not require any impacted entity to perform any action that it is not already required to perform pursuant to § 705 of the DPA.

List of Subjects in Part 702

Business and industry, Confidential business information, Employment, Penalties, National defense, Research, Science and technology.

Accordingly, the National Security Industrial Base Regulations (15 CFR Chapter VII, Subchapter A) are amended as follows.

1. Add Part 702 to read as follows:

Subchapter A—National Security Industrial Base Regulations

Part 702 -- Industrial base surveys – data collections

Sec.

702.1 Introduction.

702.2 Scope and purpose of surveys – avoiding duplicative requests for information.

702.3 Confidential information.

702.4 Requirement to comply with surveys or other requests for information.

702.5 Consequences of failure to comply.

702.6 Definitions.

Supplement No. 1 to Part 702 – **General Survey Information**.

Authority: 50 U.S.C. app. 2061 *et. seq*., E.O. 13603, 77 FR 16651, 3 CFR, 2012 Comp., p. 225.

§ 702.1 Introduction.

In accordance with 50 U.S.C. app. 2155, the Bureau of Industry and Security (BIS) may obtain such information from, require such reports and the keeping of such records by, make an inspection of the books, records, and other writings, premises or property of, take the sworn testimony of and administer oaths and affirmations to, any person as may be necessary or

appropriate, in its discretion, to the enforcement or the administration of its authorities and responsibilities under the Defense Production Act of 1950 as amended (DPA) and any regulations or orders issued thereunder. BIS's authorities under the DPA (50 U.S.C. app. 2061 *et. seq.*) include authority to collect data via surveys to perform industry studies assessing the capabilities of the United States industrial base to support the national defense and develop policy recommendations to improve both the international competitiveness of specific domestic industries and their ability to meet national defense program needs.

§ 702.2 Scope and purpose of surveys – avoiding duplicative requests for information.

(a) BIS will not send any survey to any person for completion unless the scope and purpose of the survey have been established, that scope and purpose are consistent with BIS's authorities under the DPA, and the data requested by the survey does not duplicate adequate and authoritative data already available to BIS from a Federal or other authoritative source.

(b) BIS personnel of appropriate competence and authority will ensure that the requirements of paragraph (a) are met.

(c) This section shall not be construed as limiting the criteria that BIS may consider in determining whether to proceed with a survey. This paragraph shall not be construed as replacing or in any way modifying the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*).

§ 702.3 Confidential information.

This section implements § 705(d) of the DPA.

(a) BIS deems all information submitted in response to a survey issued pursuant to this part to be confidential.

(b) Any person submitting information in response to a survey issued pursuant to this part may request confidential treatment of that information.

(c) The President's authority under the DPA to protect confidential information has been delegated to the Under Secretary for Industry and Security. The information described in paragraphs (a) and (b) shall not be published or disclosed unless the Under Secretary for Industry and Security determines that the withholding thereof is contrary to the interest of the national defense.

(d) Any person convicted of willfully violating the prohibition in paragraph (c) may be fined not more than $10,000 or imprisoned for not more than one year, or both.

§ 702.4 Requirement to comply with surveys or other requests for information.

(a) *Requirement to comply*. Every person who receives a survey or other request for information issued pursuant to this part must submit a complete and adequate response to BIS within the time frame stated on the initial distribution letter or other request for information. Survey response information that does not adhere to the survey question criteria or that contains

only aggregate information in place of specified information will be treated as inadequate and therefore noncompliant. BIS may exempt persons from this requirement for the reasons in paragraph (b) of this section, or grant extensions of time to comply as set forth in paragraph (c) of this section. Submitting a request to BIS for an exemption or an extension of time for completion does not suspend the initial deadline required by BIS (or any extended deadline subsequently granted by BIS). Thus, persons who request an exemption or extension of time are advised to proceed as if the response is required by the deadline until advised otherwise by BIS.

(b) *Grounds for* e*xemption.* (1) An exemption from the requirements of this section may be granted if the person receiving the survey or other request for information:

(i) Has no physical presence in the United States of any kind;

(ii) Does not provide, produce, distribute, utilize, procure, research, develop, consult or advise on, or have any other direct or indirect association with the materials, products, services or technology that are within the scope of the survey;

(iii) Has ceased business operations more than 12 months prior to receipt of the survey;

(iv) Has been in business for less than one year; or

(v) BIS determines that extenuating circumstances exist that make responding impractical.

(2) BIS may also grant an exemption if, based on the totality of the circumstances, it concludes that compliance would be impractical and/or that requiring compliance would be unduly time intensive.

(3) Existence of a pre-existing private non-disclosure agreement or information sharing agreement between a person and another party (e.g., customers, suppliers, etc.), does not exempt a person from the obligation to comply with and complete a survey. The authority to conduct the survey and comply with the survey is derived from the DPA, and that statutory obligation to comply supersedes any private agreement.

(c) *Extensions of time to complete*. A person who receives a survey or other request for information may request an extension of time to submit the complete response to BIS. BIS may grant such an extension of time, if, in its judgment, circumstances are such that additional time reasonably is needed, the extension would not jeopardize timely completion of BIS's overall analysis, and the person is making reasonable progress towards completing the survey or response to the other request for information. Generally, extensions will be for no more than two weeks. A person who receives a survey or other request for information may request successive extensions if the person believes that it continues to have a legitimate need for additional time to complete the survey. BIS will not grant extensions that would jeopardize the performance and timely completion of its industrial base assessments.

(d) *Procedure for requesting exemptions or extensions of time*. Requests for exemptions or extensions of time must be made to BIS at the telephone number, email address or BIS physical address provided in the initial distribution letter for a survey or in the other request for information. A request for an exemption must provide factual information and documentation

that are adequate for BIS to determine that one or more of the criteria stated in paragraph (b) or (c) are met.

(e) *Responses that are incomplete or inadequate*. BIS may return responses that are incomplete or inadequate to the person for prompt completion. BIS will specify the required period of time permitted for completion and submission of the revised survey.

§ 702.5 Consequences of failure to comply.

(a) *Civil*. If any person fails to comply with the requirements of § 702.4, BIS may issue a subpoena requiring that person to submit the information called for in the survey. In the case of contumacy or refusal to obey such a subpoena, the U.S. Government may apply for an order by the United States district court in a district where that person resides or transacts business that would compel the person to submit the completed survey.

(b) *Criminal*. In accordance with 50 U.S.C. app. 2155, any person who willfully fails to comply with § 702.4, may, upon conviction, be fined not more than $10,000 or imprisoned not more than one year, or both.

§702.6 Definitions.

The definitions in this section apply throughout this part.

Confidential. A description of information that is subject to the disclosure prohibitions of the DPA (50 U.S.C. app. 2155(d)).

Initial distribution letter. A letter that BIS sends to a person that has been identified by the U.S. Government as a supplier or customer of materials, products or services used for activities of the industry that is the focus of a survey. The letter describes the survey's primary objectives, how survey results will assist the U.S. Government, and the confidential treatment of the information submitted. The letter also provides BIS contact information.

Person. The term "person" includes: (a) An individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof;

(b) Any State or local government or agency thereof;

(c) The Government of the United States, of the District of Columbia, of any commonwealth, territory or possession of the United States, or any department, agency or commission thereof.

Note to the definition of "person" Paragraph (a) of this definition is not limited to commercial or for-profit organizations. For example, the term "any other organized group of persons" may encompass labor unions, academic institutions, charitable organizations or any group of persons who are organized in some manner. The term corporation is not limited to publicly traded corporations or corporations that exist for the purpose of making a profit.

Survey. A questionnaire or other request for information that collects detailed information and data to support both the assessment of a particular industrial sector or technology and the development of a corresponding study.

Supplement No. 1 to Part 702 – General Survey Information.

This supplement provides general information about surveys and the content of the typical survey. The content of this supplement is purely in example of a typical survey, and in no way limits the content that may appear in a specific Bureau of Industry and Security (BIS)-issued survey. Procedures and content vary from survey to survey, and as such, there is no set template to follow. Nonetheless, BIS is offering this information as a basic guide to some elements of a survey.

Survey structure.

Most surveys include the following sections: Cover Page; Table of Contents; General Instructions; Glossary of Terms; Organizational Information, and sector-specific sections.

- The cover page typically includes the title of the survey, its scope, an explanation of the legal requirement to comply, the burden estimate for compliance with the survey, the Office of Management and Budget (OMB) control number, and the survey date of expiration.

- The General Instructions section normally includes process steps necessary for a person's survey submittal. These include but are not limited to instructions for survey completion, survey support staff point-of-contact information, the name and address of the presiding BIS official, and instructions for both survey certification and submittal.

- The Glossary of Terms section explains terms contained in the survey. Terms contained in the survey may be unique to the subject matter of the industry assessment, and therefore may change in meaning from survey to survey. Therefore, it is important to follow the specific

instructions and defined terms contained in the specific survey you receive, regardless of any previous survey you might have completed.

- The Organization Information section requests information related to the person in receipt of the survey, including address information, the source level of response (e.g., facility, business unit, division, corporate consolidated, etc.), point of contact details, and other pertinent contact information.

The survey is generally organized in a question and answer format and is presented on an electronic survey system. Each survey is specially tailored to collect the specific information requested. Therefore, specific detailed information is what should be submitted in response to a survey requesting such information.

- For example, if we ask for a listing of your customers that order widget A, your response should not be a listing of your entire customer base. Only the information pertaining to customers' ordering widget A is responsive to that kind of question.

Also note that your reply to a survey request is compulsory, unless you meet the criteria for exemption set forth in the body of the regulation. Therefore, any non-disclosure agreements or similar agreements you may have with your customers or clients are not applicable to a survey's request for information. Compliance with the survey is required by the DPA. Accordingly, compliance with that statutory requirement is paramount to any private agreement you have with your customers or other parties.

In addition to the aforementioned sections, each survey contains sections tailored to the specific scope of the study, including but not limited to Facility Locations, Products and Services, Inventories, Suppliers and Customers, Challenges and Organizational Outlook, Employment, Operations, Financial Statements, Sales, Research and Development, and Capital Expenditures.

Examples of survey terms.

Certification: A section of the survey in which a person (an authorizing official) certifies that the information supplied in response to the survey is complete and correct, to the best of the person's knowledge.

Facility: A building or the minimum complex of buildings or parts of buildings in which a person operates to serve a particular function, producing revenue and incurring costs for the person. A facility may produce an item of tangible or intangible property or may perform a service. It may encompass a floor or group of floors within a building, a single building, or a group of buildings or structures. Often, a facility is a group of related locations at which employees work, together constituting a profit-and-loss center for the person, and it may be identified by a unique Dun and Bradstreet number.

Sole source: An organization that is the only source for the supply of parts, components, materials, or services. No alternative U.S. or non-U.S. based supplier exists other than the current supplier.

Survey template: The data collection instrument supplied by BIS to persons by which survey information is recorded and submitted to BIS. The survey is generally organized in a question and answer format and is presented on an electronic survey system.

Supplier: An entity from which your organization obtains inputs. A supplier may be another firm with which you have a contractual relationship, or it may be another facility owned by the same parent organization. The inputs may be materials, products or services.

Dated: February 24, 2015

Kevin J. Wolf

Assistant Secretary for Export Administration

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