

Sec. 126.4 Shipments by or for United States Government agencies.

(a) A license is not required for the temporary import, temporary export, or permanent export, of any defense article, including technical data, when:

(1) The import or export is by a U.S. Government department or agency, solely for its official end-use and the defense articles will not be provided to any foreign person; and

(2) the exporter completes an EEI in accordance with paragraph (i) of this section .

(b) A license is not required for the temporary import, temporary export, or permanent export, or of any defense article, when:

(1) The import or export is for a U.S. Government agency, solely for its official end-use and the defense articles will not be provided to any foreign person; and

(2) the exporter completes an EEI in accordance with paragraph (i) of this section , and

(3) the exporter obtains a letter from the department or agency disclosure authority identifying any restrictions on the release of the item(s) or stating that no restrictions apply.

(4) the defense article(s) is provided pursuant to a contract between the exporter and the U.S. Government;

(5) the export is done via:

(i) The US Postal Service, or

(ii) U.S. freight forwarders registered with the Directorate of Defense Trade Controls

(iii) eligible licensed customs brokers who are subject to a background investigation and have passed a comprehensive examination administered by U.S. Customs and Border Protection.

(c) A license is not required for the performance of a defense service for a U.S. Government agency when:

(1) the service is provided pursuant to a contract between the exporter and the U.S. Government;

(2) the service is performed solely for the benefit of the U.S. Government and the defense services will not be provided to any foreign person, and

(3) the exporter obtains a letter from the department or agency disclosure authority identifying any restrictions on the performance of the defense service or stating that no restrictions apply.

(d) A license is not required for the temporary import, temporary export, or permanent export of any defense article, including technical data, for or on behalf of a U.S. Government agency for an end-use in support of any cooperative project agreement under the provisions of section 27 of the AECA which meets the all of the following requirements:

- (1) the exporter is under contract to the U.S. Government agency,
- (2) the exporter, the foreign consignee(s), and foreign end users are named in the cooperative project agreement, and
- (3) the exporter has completed an EEI in accordance with paragraph (i) of this section , and,
- (4) the exporter obtains a letter from the department or agency disclosure authority identifying any restrictions on the release of the item(s) or stating that no restrictions apply.

(e) A license is not required for the performance of any defense service for or on behalf of a U.S. Government agency for an end-use in support of any foreign assistance authorized by law and subject to control by the President by other means which meets the all of the following requirements:

- (1) the exporter is under contract to the U.S. Government agency.
- (2) the exporter has completed an EEI in accordance with paragraph (i) of this section , and,
- (3) the exporter obtains a letter from the department or agency disclosure authority:
 - (i) identifying any restrictions on the release of the item(s) or stating that no restrictions apply, and
 - (ii) identifying the foreign consignee(s), and foreign end users

(f) A license is not required for the permanent export of any defense article, excluding technical data, or the performance of a defense service on defense articles of a foreign government at the direction of the U.S. Department of Defense in support of a Cross Servicing Agreement when:

- (1) The written directive of the Department of Defense meets all of the following requirements:
 - (i) the exporter and individual contact name claiming this exemption is identified;
 - (ii) the reason for the export is explained;
 - (iii) the defense article or defense service (scope and duration, not more than one year, are defined) to be exported is specifically identified;
 - (iv) the foreign recipients are completely identified, and

- (2) Technical data shall not be transferred and training shall not be provided to any foreign person, and
- (3) The export does not require Congressional certification (See § 123.15), and
- (4) The exporter has completed an EEI in accordance with paragraph (i) of this section, and
- (5) The export is not to a country proscribed in § 126.1 of this subchapter.

(g) A license is not required for the temporary import, temporary export, or permanent export, or of any defense article, including technical data, when:

- (1) the exporter is supporting a contractor providing defense articles to a U.S. Government agency in accordance with section b, though the subcontractor is not directly contracted with the U.S. Government, and
- (2) the export is solely for the benefit of the U.S. Government and will not be provided to any foreign person, and
- (3) the exporter completes an EEI in accordance with paragraph (i) of this section , and
- (4) the exporter obtains a letter from the department or agency disclosure authority identifying any restrictions on the release of the item(s) or stating that no restrictions apply.

(h) A license is not required for the temporary import, temporary export, or permanent export, or of any defense article, including technical data, when:

- (1) the export is to a contractor providing intelligence, operational, or other support to overseas operations of the U.S. Government and will not be provided to any foreign person, and
- (2) the export is in support of the contract with the U.S. Government, and
- (3) the exporter completes an EEI in accordance with paragraph (h) in this section , and
- (4) the exporter obtains a letter from the department or agency disclosure authority identifying any restrictions on the release of the item(s) or stating that no restrictions apply.

(i) An Electronic Export Information (EEI) must be filed in the Automated Export System (AES) as required under Sec. 123.22(c) of this subchapter. The Internal Transaction Number (ITN) must be properly annotated on shipping documents and, in addition, shipment documents (bill of lading or commercial invoice) will

include the following statement: “Property of (insert USG Agency or Service). Property will not enter the trade of the country to which it is shipped. No export license required per CFR Title 22, section 126.4. USG POC: (insert name & phone number).” Shipment documents should be presented to the appropriate CBP officer at the time of import.

(j) This section does not authorize any department or agency of the U.S. Government to make any export or certify use of an exemption under this section which is otherwise prohibited by other administrative provisions or by any statute. Likewise, these exemptions do not apply when a U.S. Government agency acts as a transmittal agent on behalf of a private individual or firm, either as a convenience or in satisfaction of security requirements.

(k) The approval of the Directorate of Defense Trade Controls must be obtained before defense articles previously exported pursuant to this exemption are permanently transferred (e.g., property disposal of surplus defense articles overseas) unless (i) the transfer is pursuant to a grant, sale, lease, loan or cooperative project under the Arms Export Control Act or a sale, lease or loan under the Foreign Assistance Act of 1961, as amended, or (ii) the defense articles have been rendered useless for military purposes beyond the possibility of restoration.

(l) Use of exemptions under this section require that the user properly register in accordance with Part 122 of this regulation and be eligible in accordance with §§ 120.1(c) and (d) of this subchapter.

(m) Exporters may use only U.S. freight forwarders who are either registered with the Directorate of Defense Trade Controls or eligible licensed customs brokers who are subject to a background investigation and have passed a comprehensive examination administered by U.S. Customs and Border Protection.