

MEMORANDUM CIRCULAR NO. 21-16

Series of 2021

SUBJECT : GUIDELINES ON RECORDKEEPING FOR STMO AUTHORIZATION HOLDERS

WHEREAS, pursuant to Section 8 of Republic Act No. 10697, otherwise known as the Strategic Trade Management Act (STMA), the Strategic Trade Management Office (STMO) is created as a bureau under the administrative supervision of the Department of Trade and Industry (DTI) to serve as the executive and technical agency of the national government for the establishment of the management systems for the trade in strategic goods;

WHEREAS, under Section 9 (g) of the STMA, the STMO has the power and function to ensure and operate end-use/ end-user controls and establish compliance checks and exercise authority to enter premises for such purposes; and,

WHEREAS, under Rule V, Section 3 of the STMA Implementing Rules and Regulations, all persons engaged in the business involving strategic goods are required to keep at their principal place of business in a secure manner, the details of which will be provided in a guideline to be formulated by the STMO, for a period of ten (10) years from the date of completion of the transaction, all records, in both hard copy and electronic copy, of the transaction and/or books of accounts, business and computer systems and all commercial and technical data related to the transaction.

NOW, THEREFORE, this Circular is hereby issued for the information, guidance, and compliance of STMO and all covered persons.

1. SCOPE

1.1 Covered Persons

- a. Global Authorization, Individual Authorization, Governmental End-Use Assurance (GEUA Certificate), General Authorization holders who are engaged in the export, import, transit, transshipment, re-export, reassignment of strategic goods, and provision of related services; and,
- b. Any person as may be required by the STMO.

1.2 Records to be Retained/ Preserved

- 1.2.1 The covered person shall maintain accurate, complete, and consistent records of all the strategic trade transactions, which shall be readily available during audits. Record refers to any document or file (physical or digital) pertaining to strategic trade management;

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1.2.2 All pertinent records such as books of accounts, business transactions, and all commercial and technical data related to the particular transaction and shall indicate the following details:

- a. Full description of each strategic item, units of quantity and value of each item, export control classification, and date of shipment, the name and address of the parties in the transaction or activity;
- b. The end-user and end-user of the strategic goods or related services;
- c. The date of the transaction or activity; and,
- d. Other details as may be required by the STMO.

1.2.3 To verify the compliance of records relevant to strategic trade transactions, the following documents shall be kept both in hard copy and electronic copy, and made available during audits, if applicable:

- a. STMO Registration and Authorization, with supporting documents;
- b. Documents and reports submitted in compliance with the conditions of the Registration or Authorization;
- c. Contracts (with STMA compliance clauses);
- d. Memoranda;
- e. Accounting and financial records;
- f. End-user statement/certificate (mandatory for global authorization holder);
- g. Invoices, purchase orders, and other sales/purchase records;
- h. Export declaration;
- i. Invitations to bid;
- j. Bills of lading, air waybills, packing lists, and other transport/delivery records; and,
- k. Business communication records (call or email with suppliers, customers, freight forwarders, agents).

1.2.4 In addition to the above section, covered persons required to implement and maintain an Internal Compliance Program (ICP) and/or Technology Control Plan (TCP) shall retain records pertaining to the requirements prescribed under STMO Guidelines on ICP Set-up.

1.3 Retention Period. Covered persons shall keep at their place of business in a secure manner, all records enumerated under the preceding paragraph, if applicable, for ten (10) years from the date of completion of the transaction.

1.4. Personnel Responsible for the Recordkeeping Compliance. The Person Responsible for STMA Compliance submitted during the STMA registration shall implement effective systems and procedures to ensure the integrity, readability, and security of the records according to this Circular. He or she shall serve as the focal person in all matters relating to recordkeeping compliance.

2. INSPECTION OF RECORDS

2.1 Responsible Authority. The STMO, with the assistance of other agencies (as necessary), shall conduct assessments and audits to the covered person for any of these purposes:

- a. ICP Pre-Authorization Audits;
- b. ICP Post-Authorization Audits;
- c. Compliance Audits; or,
- d. Other lawful reasons, as determined by STMO.

2.2 Request of Records. Any records shall be made available for inspection to any authorized official or employee of STMO.

2.3 Authority to Conduct Inspection. The STMO, at any given time, may investigate the authorized person's premises wherein the records are being kept for the purposes provided in Paragraph 1 of this Section.

3. RECORDKEEPING MANAGEMENT AND COMPLIANCE

3.1 Principal Place of Storage

- a. For physical records or hard copies: All records shall be placed in a secure and accessible area where the records can be conveniently retrieved when needed. Indexing technique shall be used for documents, by proper filing in alphabetical order, or it can be done by control number or by date of issuance. Proper disposal shall be maintained with appropriate documentation.
- b. For electronic records: All records shall be captured clearly and correctly and filed to allow efficient search and retrieval of documents during audits of the recordkeeping system. Documents shall be kept in a retrievable form and location. Ensure that the document management system has sufficient capacity to support the effective management of records. Maintain a backup system and implement safety measures that will help recover information in case of system failure. Properly dispose of hard drives and other portable media devices for document safety and prevent illegal reproduction of records.

3.2 Recordkeeping Procedures

- a. Covered persons shall develop recordkeeping standards providing the following measures:
 - i. Specify who can access the documents, which documents can be accessed, how, and where the documents will be retained;
 - ii. Review records for accuracy, check the quality of the records, and perform internal audit and maintenance of the records;
 - iii. Ensure that there is a detailed log on each file or record; and,
 - iv. Specify retention requirements in contracts with distributors, brokers, and forwarders.

- b. The procedures shall allocate responsibilities for recordkeeping among personnel within the transaction and consider developing training/awareness/refresher programs to ensure that the personnel involved can effectively manage records.

3.3 Records Management System. This refers to a systemic and efficient control of the creation, maintenance, tracking, and destruction of records electronically or physically. The records management system shall provide the following methods:

- a. The covered person shall create a management system designed to control and preserve records' safety and integrity;
- b. The records management system shall feature easy access/ retrieval for any particular transaction;
- c. The covered person may use an ERP-based, photographic, photostatic, or other appropriate systems that can accurately and legibly reproduce the records (whether paper or electronic). The system shall satisfy all the following requirements:
 - i. The system must be capable of reproducing all records on paper;
 - ii. The system shall record and be able to reproduce all marks, information, and other characteristics of the original record, including both obverse and reverse sides of paper documents in legible form;
 - iii. When displayed on a viewer, monitor, or reproduced on paper, the records must exhibit a high degree of legibility and readability;
 - iv. The system must preserve the initial image (including obverse and reverse sides of paper documents) and record all changes, who made them, and when they were made. This information must be stored in such a manner that none of it may be altered once it is initially recorded;
 - v. The covered person shall establish written procedures to identify the individuals who are responsible for the operation, use, and maintenance of the system, and for inspection and quality assurance of records in the system; and,
 - vi. Upon request of the STMO, the covered person shall provide, during the course on inspection, the records, the equipment, and if necessary, the responsible personnel for locating, reading, and reproducing any record in the system.

3.4 Disposal of Records. If a particular record already reached the ten (10) year retention requirement in the STMA, the covered person may dispose of the said record based on its existing policy, rules, or procedures.

4. OTHER PROVISIONS

4.1 Failure to Produce Records. The STMO may issue a Warning Letter and Order for Corrective Action against the covered person who failed to produce/ provide the required records, provided that said person has acted in good faith and is not a repetitive violator. Recurring and willful violations shall result in administrative and/or criminal liabilities, as provided under the STMA.


4.2 Assistance for Companies. The STMO may guide the covered persons in establishing the measures, conditions, or requirements provided in this Circular. Covered persons are advised to contact the STMO Policy and Enterprise Relations Division (PERD) through stmoinfo@dti.gov.ph.

This Circular shall take effect immediately.
30 April 2021, Makati City.

Recommending Approval:


ATTY. JANICE S. DIMAYACYAC
Director III

Approved by:


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