



**Regarding the Document Entitled: “Idea for New  
Unlicensed-Commercial-Sale Background Checks”**

**September 18, 2019**

## **SUMMARY**

On September 18, 2019, [The Daily Caller](#)'s White House Correspondent, Amber Athey, published a story entitled "EXCLUSIVE: Here's The Document The White House, [Attorney General] Barr Are Using To Push Gun Control On Republicans".

In that story is a one-page document (entitled "Idea for New Unlicensed-Commercial-Sale Background Checks") reported to be "an idea sheet circulating among Republican members" to "shop legislation on expanding background checks consistent with the Manchin-Toomey" gun control bill and "expand background checks to include all commercially advertised unlicensed sales."

The "Idea" document proposes to extend background checks to all "advertised commercial sales, including sales at gun shows." Additionally, the "Idea" document discusses the creation of "licensed transfer agents", "commercial sellers, who [are not] a licensed dealer", and the implementation of two new forms ("Bill of Sale/Chain of Title" and "New Form/Certification").

## **COMMERCIAL SELLERS**

The "Idea" document states that "[m]any commercial sales are conducted outside of FFLs [Federal Firearms Licensees] without any background checks or record-keeping requirements." While FPC doubts the veracity of this statement, but even if that were in fact true, those individuals engaging in commercial sales without background checks or compliance with record-keeping requirements are already in violation of federal law.

[18 U.S.C. § 923\(a\)](#) makes it unlawful for an individual to "engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Attorney General."

Federal law defines the term "engage in the business of", as it pertains to dealing in firearms, as "a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms..." See [18 U.S.C. § 921](#).

## **FIREARMS POLICY COALITION**

When drafting the law, Congress specifically excluded a person who “makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.” Those who are licensed dealers are required to keep certain records as described in, e.g., [18 U.S.C. § 923\(g\)](#).

In 2016, the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) published a [guide](#), entitled “Do I Need a License to Buy and Sell Firearms? Guidance to help you understand when a Federal Firearms License is required under federal law”. Key points include:

- “Federal law requires that persons who are engaged in the business of dealing in firearms be licensed by ATF. The penalty for dealing in firearms without a license is up to five years in prison, a fine up to \$250,000, or both”;
- “A person can be engaged in the business of dealing in firearms regardless of the location in which firearm transactions are conducted. For example, a person can be engaged in the business of dealing in firearms even if the person only conducts firearm transactions at gun shows or through the internet”; and,
- “As a general rule, you will need a license if you repetitively buy and sell firearms with the principal motive of making a profit. In contrast, if you only make occasional sales of firearms from your personal collection, you do not need to be licensed.”

The ATF’s guide further expands on what it means to conduct business “with the principal objective of livelihood and profit”, stating that it means “the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.”

As a result, any of these purported “commercial sellers” the “Idea” document references are already required by law to maintain an FFL in order to sell firearms. Those who are devoting any time, attention, and labor to dealing in firearms as a regular course of trade are in violation of the law as written today and already subject to five years imprisonment and a \$250,000 fine, if the federal government wished to prosecute offenders.

# **FIREARMS POLICY COALITION**

## **LICENSED TRANSFER AGENTS**

The “Idea” document also discusses the creation of “licensed transfer agents.” However, any discussion as to where a “licensed transfer agent” may operate is not present. It is unclear as to why a “licensed transfer agent” is a necessity, given that individuals who engage in private party sales may use an FFL in order to conduct a transfer.

In addition to their licensed premises, federal law does not prohibit FFLs from conducting business temporarily at a gun show or event sponsored by any national, state, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms in the community, provided the location is in the state which is specified on the license and such conduct is allowed under state law.

Regardless of whether conducting business at their licensed premises or an approved off-site temporary location, the licensee is required to comply with the requirements of the [Gun Control Act](#) and its regulations. These requirements include a background check for any transfer that occurs.

Further, whenever an FFL is used for private party transfers, the FFL is required to conduct a background check before transferring a firearm to the buyer or recipient. In order to conduct a background check on an individual, the person acquiring the firearm must provide current government issued photo identification and complete [ATF Form 4473](#). See [ATF Publication “Facilitating Private Sales: A Federal Firearms Licensee Guide”](#).

Additionally, the licensee has to log a firearm into its acquisition and disposition record, which notates who the firearm came from and who the firearm was transferred too. Thus, any purported “need” to create a new class of “licensed transfer agents” is contrived.

## **New Forms & Back-Door Registry**

In addition to creating a new class of “licensed transfer agents”, the “Idea” document discusses the creation of two new forms. The first form, referenced as the “Bill of Sale/Chain of Title”, “would record details of the sale, including the identities of the buyer and seller, and be the seller’s responsibility.”

## **FIREARMS POLICY COALITION**

The second form, entitled “New Form/Certification”, “would be a certification from the FFL or transfer agent memorializing a successful background check, including the serial number, date, and confirmation code. (It could also include the seller’s identity).”

The “Idea” document fails to provide sufficient information as to the purpose of these new forms and why they should take the place of or be used in lieu of [ATF Form 4473](#), particularly if the private transfer is occurring at an FFL.

There is no need for the government to mandate yet another form to be completed for the transfer of a firearm, especially if the transfer is occurring at a licensee where there is already a record of the transfer. Further, practical experience shows that individuals who utilize an FFL for a private party transfer are given a receipt documenting the transaction.

The “Idea” document also states that “[s]ellers could retain these records...but many would be expected to...have the FFL or transfer agent store the records.” Such a scheme creates an additional regulatory burden on FFLs. Under current federal law, FFLs are required to store records of firearms transactions for a period of 20 years.

Adding a requirement that they store records from “commercial sellers”, who should have obtained their own license under current law, would only increase the workload for licensees. Additionally, it opens them up to potential issues regarding compliance, which could result in the revocation of their license.

The proposal also mentions that sellers would enjoy immunity if they are able to produce the aforementioned forms from their own records or those of a FFL or licensed transfer agent. This fails to account for instances where a licensee or transfer agent loses the form or goes out of business and ships all records to ATF, leaving the seller with no documentation pertaining to the transaction.

Presently, FFLs are required to maintain an acquisition and disposition record which memorializes who the firearm was received from and to whom the firearm was disposed. Additionally, licensees keep the [ATF Form 4473](#)s associated with those transactions. The ATF can “trace” firearms from the firearm manufacturer to subsequent FFL transactions. Were “private sales” no longer a reason for a firearm not to be in the possession of the last

## **FIREARMS POLICY COALITION**

person in the “chain of title,” subjecting private transactions to this type of record-keeping requirement would effectively mandate a back-door nation-wide firearm registry.

### **Enforceability**

Lastly, the “Idea” document states that the record-keeping requirements would be enforced by “civil penalties”. And the “Idea” document outright ignores, dismisses, or failed to consider that participation is predicated on all parties’ voluntary compliance with the law.

However, [18 U.S.C. § 1001](#) subjects people to serious criminal liability for, inter alia, anyone who “knowingly and willfully” “falsifies, conceals, or covers up by any trick, scheme, or device a material fact”, “makes any materially false, fictitious, or fraudulent statement or representation,” or “makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry”. A conviction for violating § 1001 can lead to a fine, imprisonment for up to 5 years, or both.

Federal law prohibits any form of registration (with the exception of firearms subject to the [National Firearms Act](#)). And without some database or registration of firearms to a particular person, there would be no way this scheme could be constitutionally enforced.

### **Conclusion**

The “Idea” document and gun control proposals contained therein are nothing more than awful, if not outright harmful, policies. [Passing laws to “do something” only ensures that bad policy will win the day](#). Moreover, the proposed gun control advanced by the document are non-starters and should be opposed for a variety of reasons. FPC strongly opposes these suggested gun control measures, “Universal Background Checks” (UBCs), and firearm/gun owner registration.

For more on the dangers and impacts of UBCs, see FPC’s Policy Brief, “*Universal Background Checks*” & *Burdening Access to Human Rights* at [FPCPolicy.org](#). To oppose UBCs and other such restrictions on human rights, people can send messages to President Trump, Leader McConnell, and other elected members using FPC’s Grassroots Action tools at [FPCAAction.org](#).

# **ATTACHMENT A**

**“Idea for New Unlicensed-Commercial-Sale Background Checks”**

## **Idea for New Unlicensed-Commercial-Sale Background Checks**

### **Background:**

- Under existing law, background checks are required for all firearms transfers through Federal Firearm Licensees (FFLs).
- Detailed information about the transfer is captured in Form 4473, which the FFL must maintain for 20 years.
- Many commercial sales are conducted outside of FFLs without any background check or record-keeping requirements.

### **Description:**

- Consistent with the Manchin-Toomey draft legislation, a background-check requirement would be extended to all advertised commercial sales, including sales at gun shows.
- Background checks would be conducted either through an FFL or through a newly-created class of licensed transfer agents.
- Licensed transfer agents would not carry firearm inventory but would be authorized by ATF to initiate background checks for private sales through the National Instant Criminal Background Check System (NICS)—including both (a) verifying the buyer's identity and (b) communicating with NICS.
- A commercial seller, who is not a licensed dealer and does not want an FFL or transfer agent to retain a Form 4473 (identifying the buyer), could go to an FFL or transfer agent to conduct a background check before completing transfer and generate two forms:
  - ***Bill of Sale / Chain of Title.*** This form would record the details of the sale, including the identities of the buyer and seller, and be the seller's responsibility.
  - ***New Form / Certification.*** This form would be a certification from the FFL or transfer agent memorializing a successful background check, including the serial number, date, and confirmation code. (It could also include the seller's identity.)
- Background checks would be conducted based on the same information as Form 4473.
  - If a denial occurs, a referral would be made to law enforcement.
  - If the transaction proceeds, the New Form (certification) would be generated and sent to the seller. The FFL or transfer agent would not retain any identifying information about the buyer. Therefore, the only documentation reflecting the identity of the buyer would be the Bill of Sale in the custody of the seller.
- Sellers could retain these records on their own, but many would be expected to choose voluntarily to have the FFL or transfer agent store the records.
- The record-keeping requirements would be enforced via civil penalties. Also, if a firearm were used in a crime, the seller would enjoy the same civil immunity as FFLs if he could produce the forms from his own records or from those retained by the FFL or transfer agent.



# **ATTACHMENT B**

**ATF Publication:**

**“DO I NEED A LICENSE TO BUY AND SELL FIREARMS?”**



# DO I NEED A LICENSE TO BUY AND SELL FIREARMS?

Guidance to help you understand when a Federal Firearms License is required under federal law.



The guidance set forth herein has no regulatory effect and is not intended to create or confer any rights, privileges, or benefits in any matter, case, or proceeding, see *United States v. Caceres*, 440 U.S. 741 (1979).

# Table of Contents

Introduction.....	ii
Key Points .....	1
Legal Framework .....	2
Gun Shows, Flea Markets, and Internet Sales .....	3
Guidance .....	4
Examples.....	7
Questions & Answers on Getting a Federal Firearms License .....	9

# Introduction

**The federal Gun Control Act (GCA) requires that persons who are engaged in the business of dealing in firearms be licensed by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).** Federal firearms licensees (FFL) are critical partners in promoting public safety because—among other things—they help keep firearms out of the hands of prohibited persons by running background checks on potential firearms purchasers, ensure that crime guns can be traced back to their first retail purchaser by keeping records of transactions, and facilitate safe storage of firearms by providing child safety locks with every transferred handgun and having secure gun storage or safety locks available any place where they sell firearms. A person who willfully engages in the business of dealing in firearms without the required license is subject to criminal prosecution, and can be sentenced to up to five years in prison, fined up to \$250,000, or both.

Determining whether your firearm-related activities require a license is a fact-specific inquiry that involves application of factors set by federal statute. This guidance is intended to help you determine whether you need to be licensed under federal law.

**Note that some states have more stringent laws with respect to when a state-issued license is required for selling a firearm. Please consult the laws of the state to ensure compliance.**

In addition, this guidance focuses on the question whether your firearm-related activities require you to obtain a license. There are other laws and regulations that govern the transfer of firearms—both between unlicensed individuals and from licensed dealers (e.g., unlicensed sellers may only lawfully sell to persons within their own state, and it is unlawful for either licensed or unlicensed sellers to sell firearms to persons they know or have reasonable cause to believe cannot lawfully possess them). **All persons who transfer firearms, regardless of whether they are engaged in the business of dealing in firearms, must ensure that any transfers are in compliance with federal, state and local laws.**

# Key Points

- Federal law requires that persons who are engaged in the business of dealing in firearms be licensed by ATF. The penalty for dealing in firearms without a license is up to five years in prison, a fine up to \$250,000, or both.
- A person can be engaged in the business of dealing in firearms regardless of the location in which firearm transactions are conducted. For example, a person can be engaged in the business of dealing in firearms even if the person only conducts firearm transactions at gun shows or through the internet.
- Determining whether you are “engaged in the business” of dealing in firearms requires looking at the specific facts and circumstances of your activities.
- As a general rule, you will need a license if you repetitively buy and sell firearms with the principal motive of making a profit. In contrast, if you only make occasional sales of firearms from your personal collection, you do not need to be licensed.
- Courts have identified several factors relevant to determining on which side of that line your activities may fall, including: whether you represent yourself as a dealer in firearms; whether you are repetitively buying and selling firearms; the circumstances under which you are selling firearms; and whether you are looking to make a profit. Note that while quantity and frequency of sales are relevant indicators, courts have upheld convictions for dealing without a license when as few as two firearms were sold, or when only one or two transactions took place, when other factors were also present.

If you have any questions about whether you need a license under federal law, we recommend that you contact your local ATF office (<https://www.atf.gov/contact/atf-field-divisions>) to evaluate the facts and circumstances of your particular case.

# Legal Framework

Q

## ***Who needs a Federal license to deal in firearms?***

A

Under federal law, any person who engages in the business of dealing in firearms must be licensed.

Q

## ***What does it mean to be “engaged in the business of dealing in firearms”?***

A

Under federal law, a person engaged in the business of dealing in firearms is a person who “devotes time, attention and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms.”

Under federal law, conducting business “with the principal objective of livelihood and profit” means that “the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.”

Consistent with this approach, federal law explicitly exempts persons “who make occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.”

Q

## ***Has ATF defined what it means to be “engaged in the business” of dealing in firearms?***

A

ATF has published regulatory definitions for the terms “engaged in the business” and “principal objective of livelihood and profit.” ATF’s regulation defining when a person is “engaged in the business” of dealing in firearms is identical to the language of the statute, though in the definition of “dealer,” ATF clarified that the term includes “any person who engages in such business or occupation on a part-time basis.”

# Gun Shows, Flea Markets, and Internet Sales



***What if I only sell firearms at flea markets, gun shows or over the internet?***



**A person can be engaged in the business of dealing in firearms regardless of the location in which firearm transactions are conducted. A person can be engaged in the business of dealing in firearms even if the person only conducts firearm transactions from a location other than a traditional brick and mortar store.**

Many licensed gun dealers conduct business at temporary locations such as qualified gun shows or events, and utilize the internet to facilitate firearm transactions. The question under federal law is not where firearm transactions are conducted, but rather is whether—under a totality of the circumstances—the person conducting those transactions is engaged in the business of dealing in firearms. The factors listed below apply to that determination regardless of where the firearm transactions occur.

The growth of new communications technologies and e-commerce allows sellers of firearms to advertise to an expansive market at minimal cost, and complete sales with minimal effort. While a collector or hobbyist may use the internet and other communication technology to sell a firearm without a license (provided that they comply with all other federal and state laws and regulations), those engaged in the business of dealing in firearms who utilize the internet or other technologies must obtain a license, just as a traditional dealer whose business is run out of a traditional brick and mortar store.



# Guidance

## A. Overview

### What activities require a dealer's license?

Federal law does not establish a “bright-line” rule for when a federal firearms license is required. As a result, there is no specific threshold number or frequency of sales, quantity of firearms, or amount of profit or time invested that triggers the licensure requirement. Instead, **determining whether you are “engaged in the business” of dealing in firearms requires looking at the specific facts and circumstances of your activities.**

**As a general rule, you will need a license if you repetitively buy and sell firearms with the principal motive of making a profit. In contrast, if you only make occasional sales of firearms from your personal collection, you do not need to be licensed.** In either case, all of your firearms transactions are relevant, regardless of their location; it does not matter if sales are conducted out of your home, at gun shows, flea markets, through the internet, or by other means.

*As a general rule, you will need a license if you repetitively buy and sell firearms with the principal motive of making a profit. In contrast, if you only make occasional sales of firearms from your personal collection, you do not need to be licensed.*

## B. Factors Identified by Federal Courts

Federal courts have identified several factors that can help you determine on what side of that line your activities fall. They include: whether you represent yourself as a dealer in firearms; whether you are repetitively buying and selling firearms; the circumstances under which you are selling firearms; and whether you are looking to make a profit. It is important to note that no single factor is determinative, and that the relative importance of any of the factors will vary depending on the facts and circumstances applicable to the individual seller.

*Relevant factors: whether you represent yourself as a dealer in firearms; whether you are repetitively buying and selling firearms; the circumstances under which you are selling firearms; and whether you are looking to make a profit.*

- *Are you representing yourself as a dealer in firearms?*

Perhaps the clearest indication of whether a person is “engaged in the business” of dealing in firearms can be found in what he or she represents to others. Some factors that may demonstrate that you intend to engage in the business of dealing in firearms include: representing yourself as a source of firearms for customers, taking orders, and offering to buy firearms to immediately resell. Your intent to engage in the business of

## Guidance (*continued*)

---

dealing in firearms can also be reflected by undertaking activities that are typically associated only with businesses—for example, creating a business entity or trade name for your firearms business, securing State and local business licenses to sell items that may include firearms, purchasing a business insurance policy or rider to cover a firearms inventory, commercial advertising, printing business cards, and accepting credit card payments.

- *Are you repetitively buying and selling firearms?*

As noted above, there is no specific threshold number of firearms purchased or sold that triggers the licensure requirement. Similarly, there is no “magic number” related to the frequency of transactions that indicates whether a person is “engaged in the business” of dealing in firearms. It is important to note, however, that even a few firearms transactions, when combined with other evidence, can be sufficient to establish that a person is “engaged in the business” of dealing in firearms. For example, courts have upheld convictions for dealing without a license when as few as two firearms were sold, or when only one or two transactions took place.

That said, courts have looked at both the quantity of firearms sold, as well as the frequency of sales, as relevant indicators. When combined with other factors, selling large numbers of firearms or engaging in frequent transactions may be highly indicative of business activity.

- *What are the circumstances under which you are selling firearms? Are you selling shortly after acquiring them? Repeatedly selling the same type of firearm? Or repetitively selling new firearms?*

In addition to the volume and frequency of firearms transactions, the timing and circumstances surrounding firearm transactions are also significant indicators of whether a person is engaged in the business. Repetitively selling or offering to sell firearms shortly after they are acquired; “restocking” inventory; repetitively acquiring the same type of firearm or a large quantity of the same type of firearm, and then reselling or offering to sell those firearms; and/or repetitively acquiring and reselling or offering to sell firearms in unopened or original packaging (or in new condition), are all factors which individually or combined may indicate a person is engaged in the business.

- *Are you looking to make a profit?*

As noted above, if you are repetitively buying and selling firearms “with the principal objective of livelihood and profit,” you must be licensed. Because the key is *intent* or *objective*, the courts have made clear that a person can be “engaged in the business” of dealing in firearms without actually making a profit. In determining that intent or objective, courts have looked to prices that an unlicensed seller charges for firearms to determine if the principal objective of the seller is livelihood and profit. In some cases, prices reflect appreciation in actual market value resulting from having held a

## Guidance *(continued)*

---

firearm as part of a collection, or reflect a profit intended to be used to acquire another firearm as part of a collection. As a result, the fact that a transaction results in a profit for the seller is not always determinative.

Finally, it is important to note that courts have found that you can buy and sell firearms “with the principal objective of livelihood and profit” even if your firearm-related activities are not your primary business. In other words, you can still be “engaged in the business of dealing in firearms with the principal objective of livelihood and profit” if you have a full time job, and are buying and selling firearms to supplement your income. ATF regulations specifically note that the term “dealer” includes a person who engages in such a business or occupation on a part-time basis.

### **Does a Curio and Relics Collector’s license (C&R license) allow me to be engaged in the business of dealing in firearms?**

The C&R license does not allow for the licensee to repetitively buy and sell firearms with the principal motive of making a profit. It does not matter if the firearms being bought and sold are curios or relics, or newer firearms. If a C&R licensee wishes to engage in the business of dealing in firearms, he or she must apply for a different type of license that allows this activity.

### **Do I need a license if I’m an auctioneer and simply auction guns for my customers?**

If you repeatedly conduct auctions for firearms that are first consigned to you for sale, and you intend to make money from those sales, you need a license. If, however, you simply offer auctioneer services without having the firearms transferred to you (for example, you are hired by the representative of an estate to travel to the location of the estate, assist the estate in conducting an auction, and the firearms remain the property of the estate until transfer to the buyer), you need not be licensed.

# Examples

While the determination of whether a person requires a federal firearms license is highly fact-specific, the following examples are provided to show how the factors identified by federal courts apply to common fact patterns. **Of course, the existence or absence of other facts not included in the examples may change the conclusion as to whether a person is engaged in the business and therefore must be licensed; hence, these examples are provided solely as general guidance.** For the purposes of these examples, assume that the sellers comply with all other relevant federal and state laws and regulations (for example, any unlicensed person makes only lawful sales to persons who reside in the same state).



Bob inherits a collection of firearms from his grandfather. He would rather have cash than the firearms, so he posts them all online for sale. He makes no purchases, but over the course of the next year he sells all of the firearms he inherited in a series of different transactions. Bob does not need a license because he is liquidating a personal collection.



Joe recently lost his job, and to finance his living expenses he has been buying firearms from friends and reselling them through an internet site. He has successfully sold a few firearms this way, and has several more listed for sale at any one time. Joe must be licensed because he is repetitively buying and selling firearms with the primary objective of profit.



Sharon travels to flea markets the first Saturday of every month, buying undervalued goods, including firearms. The last Saturday of every month Sharon rents a booth at the flea market and sells her items at market value for a profit. She hopes to make enough money from these sales to finance a trip to Italy next year. Sharon must get a license because she is repetitively buying and selling firearms with the primary objective of profit.



David enjoys hunting and has a large variety of hunting rifles. He likes to have the newest models with the most current features. To pay for his new rifles, a few times a year David sells his older weapons to fellow hunters for a profit. David does not need to be licensed because he is engaging in occasional sales for enhancement of his personal collection.



Lynn regularly travels to gun shows around her state, rents space, and sells firearms under a banner stating “liquidating personal collection.” Most of the firearms Lynn offers for sale she purchased from a licensed dealer in the prior weeks. Lynn is retired and hopes to supplement her income with the money she makes on the sales, although she has yet to turn a profit. Lynn must get a license because she is repetitively buying and selling firearms with a primary objective of profit.

## Examples *(continued)*

---



Scott has been collecting high-end firearms for years. In the six months before his son is about to enter college, Scott sells most of his collection in a series of transactions at gun shows, on the Internet, and to family and friends to provide funds to pay his son's college expenses. Scott does not have to be licensed, because he is liquidating part of a personal collection.



Debby has three handguns at home, and decides that she no longer wants two of them. She posts an advertisement in the local newspaper and sells the two handguns to a local collector. Debby does not need a license because she is not engaging in the repetitive purchase and resale of firearms as a regular course of trade or business.



Jessica enjoys shooting sports and frequently goes to shooting ranges and hunting clubs. To make some extra money, she buys firearms from a dealer who is willing to give her a discount, and resells them for a profit to acquaintances from the shooting ranges and hunting clubs. She has done this a few times a month for the last several months, and has been spreading the word that she has a source for other firearms. She passes out business cards with her name, phone number and email. Jessica must get a license because she is repetitively buying and selling of firearms with the primary objective of profit.



Doug regularly attends gun shows and rents a table to display firearms for sale. He gets firearms from a variety of sources, carefully logs each purchase into a book, and uses the purchase price to set a sales price that will realize him a net profit. Doug accepts credit card payments and typically sells multiple firearms at each of the gun shows he attends each year. He makes a substantial amount of money annually, and uses this money to live on. Doug must be licensed because he is repetitively buying and selling firearms with the primary objective of profit.

# Questions & Answers On Getting A Federal Firearms License

Q

A

## ***How do I become licensed?***

The license application (called the ATF Form 7) is straightforward and can be found here: <https://www.atf.gov/firearms/apply-license>. In addition to the application itself, an applicant for a federal firearms license must also provide to ATF a photograph, fingerprints, and the license application fee, currently set at \$200 for the initial three-year period, and \$90 for each three-year renewal.

Q

A

## ***What standards does ATF use to determine whether to give me a license?***

ATF will approve an application for a federal firearms license if the applicant:

- Is 21 years of age or older;
- Is not prohibited from shipping, transporting, receiving or possessing firearms or ammunition;
- Has not willfully violated the GCA or its regulations;
- Has not willfully failed to disclose material information or willfully made false statements concerning material facts in connection with his application;
- Has a premises for conducting business; and
- The applicant certifies that:
  - the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises is located;
  - within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business;
  - the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met;
  - the applicant has sent or delivered a form to the chief law enforcement officer where the premises is located notifying the officer that the applicant intends to apply for a license; and
  - secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees.

Q

A

## ***What obligations will I have once I become licensed?***

Licensed firearms dealers are subject to certain requirements under federal law, including running background checks on any non-licensed person prior to transferring a firearm (subject to narrow exceptions), keeping firearms transaction records so that crime guns can be traced to their first retail purchaser, and ensuring safety locks are provided with every handgun, and available in any location where firearms are sold.

## Questions & Answers On Getting A Federal Firearms License (*continued*)

Licensees are also prohibited by law from knowingly transferring handguns to persons who do not reside in the State where the licensee's premises are located, and from knowingly transferring any firearm to underage persons and certain categories of "prohibited persons," including felons, persons who were involuntarily committed to mental institutions, and illegal aliens. Under federal law, licensees are subject to inspection and are also required to respond to requests for firearms tracing information within 24 hours.

**This list is not all inclusive; more information about the requirements of having a federal firearms license can be found at [www.ATF.gov](http://www.ATF.gov) and by contacting your local ATF Office. A list of local offices can be found at <https://www.atf.gov/contact/atf-field-divisions>.**



***What if I don't need to be licensed, but I want to make sure a background check is run on a potential purchaser of my gun?***



Private, unlicensed sellers can help ensure that potential purchasers are not prohibited from possessing firearms by using a licensed dealer to facilitate the sale and transfer of a firearm. For a small fee, many licensed dealers will facilitate a sale of a firearm between two unlicensed individuals. This service provides both customers and the community assurance that individuals who want to purchase firearms undergo a comprehensive background check which helps to ensure the buyer is not prohibited from possessing a firearm, and can improve the ability of law enforcement to trace firearms if they are later recovered in a connection with a crime. In 2013, ATF published an open letter (<https://www.atf.gov/file/56331/download>) to licensed dealers educating them on how to facilitate private sales, and published ATF Procedure 2013–1 (<https://www.atf.gov/file/88181/download>), which provides further guidance. The decision to facilitate private sales is wholly voluntary on the part of the licensed dealer.

Additional information can be found at [www.atf.gov](http://www.atf.gov).

**U.S. Department of Justice**

Bureau of Alcohol, Tobacco, Firearms and Explosives

99 New York Avenue, NE

Washington, DC 20226





# **ATTACHMENT C**

**ATF Publication:**

**Facilitating Private Sales: A Federal Firearm Licensee Guide**

FACILITATING  
PRIVATE  
SALES:

# A Federal Firearms Licensee Guide



# Welcome

We've put together this guide to educate Federal Firearms Licensees (FFLs) on how to facilitate private party sales of firearms. When individuals decide to use FFLs to facilitate the private sale of their firearms, it can enhance public safety, assist law enforcement, and help ensure firearms end up only in the hands of those who are legally allowed to possess them.

Every day, many lawful transfers of firearms take place between unlicensed individuals who reside in the same state. These transfers take place at residences, at gun shows, and through classified and online ads. But these unlicensed sellers, who are not FFLs, may not have the ability to conduct complete background checks on potential buyers. This leaves these private sellers with no way to confirm whether or not the person to whom they are selling the firearm is prohibited from possessing it. Indeed, many of these sellers may not even be aware of all the circumstances that prohibit someone from possessing a firearm.

As an FFL, you play a key role in safeguarding the public from violent crime by maintaining accurate records, instituting internal controls, and performing background checks on potential firearms purchasers. These practices help prevent violent criminals from obtaining firearms and help reduce the possibility that firearms will be used in crimes.



Facilitating private sales is purely voluntary under federal law. Note that state laws may impose their own requirements, and you should ensure that you comply with the requirements in your state.

When a private transaction is completed through a licensed dealer, both the customers and the community have some assurance that the individual wishing to purchase the firearm is not prohibited by law from possessing or receiving a firearm. When a private seller goes through an FFL to transfer his or her firearm, it can also improve the ability of law enforcement to trace that firearm if it is later recovered during a criminal investigation.

This guide will cover the procedures to follow when facilitating private sales, as well as answer some frequently asked questions (FAQs). There is also a list of resources that can provide further guidance.

Federal law prohibits certain persons from shipping, transporting, possessing, or receiving firearms or ammunition including any person who:

- Has been convicted of a crime punishable by a term of imprisonment exceeding one year;
- Is a fugitive from justice;
- Is an unlawful user of, or addicted to, any controlled substance;
- Has been adjudicated as a mental defective or committed to a mental institution;
- Is an alien illegally or unlawfully in the United States;
- Is an alien who has been admitted to the United States under a nonimmigrant visa (with certain exceptions);
- Has been discharged from the Armed Forces under dishonorable conditions;
- Has renounced United States citizenship;
- Is subject to a qualifying protective order;
- Has been convicted of a misdemeanor crime of domestic violence.

Further, Federal law prohibits the shipment, transportation, or receipt of firearms or ammunition by any person who is under indictment for a crime punishable by a term of imprisonment exceeding one year. Federal law also prohibits, with certain exceptions, the possession of handguns by any person under the age of 18.

# Procedures for Facilitating Private Sales

FFL-facilitated sales between private individuals are subject to the same rules and regulations as any other sale conducted by the FFL. In all cases, the prospective buyer must complete Section A of the [Firearms Transaction Record, ATF Form 4473](#). The FFL must complete section B of the ATF Form 4473.

When an FFL contacts the National Instant Criminal Background Check System (NICS) (or the state point of contact) for a background check, there are several responses that it may receive, and the procedure for moving forward depends upon that response, as indicated below.



## 1. The FFL receives an immediate “Proceed” response from NICS:

- The FFL enters the firearm into its Acquisition and Disposition (A&D) records as an acquisition from the private party seller.
- The FFL completes Section D of Form 4473 and transfers the firearm to the buyer.
- The FFL records the disposition of the firearm out of the A&D record to the buyer, no later than seven days following the transaction.

## 2. The FFL receives a “Denied” or “Cancelled” response from NICS:

- The FFL cannot transfer the firearm to the prospective buyer.
- If the private party seller has not left the firearm in the exclusive possession of the FFL, the private party seller can leave the premises with the firearm.
- The FFL would not enter the firearm as an acquisition into the A&D record.
- If the seller has left the firearm in the exclusive possession of the FFL, the FFL must record the firearm as an acquisition in its A&D record as an acquisition from the private party seller.
- Prior to the FFL transferring the firearm back to the private party seller, the FFL must do the following:
  - Complete a Form 4473 to return the firearm to the private party seller.
  - Conduct a NICS background check on the private party seller. The FFL may transfer the firearm to the private party seller if it receives a “proceed” response or a “delayed” response with no response from NICS after three business days (or the appropriate state waiting period if more than three business days).

- Record the return as a disposition in the A&D records, no later than seven days following the transaction.

### **3. The FFL receives a “Delayed” response from NICS:**

- The private party seller has two options:
  - He or she can leave with the firearm, if the private party seller has not left the firearm in the exclusive possession of the FFL. In this case, the FFL does not need to record the firearm in its A&D record. However, if the sale later occurs (because the FFL receives a “proceed” response from NICS or three business days — or the appropriate state waiting period — have passed) the private party seller must return to the business premises of the FFL to complete the transfer to the buyer. At that time, the FFL will need to record the transaction as an acquisition from the private party seller in its A&D records and record the disposition to the buyer no later than seven days following the transaction.
  - He or she can allow the FFL to keep the firearm at the business pending a response from NICS or until three business days (or the appropriate state waiting period if more than three business days) has passed with no response. In this case, the FFL has to take the firearm into inventory and record it as an acquisition from the private party seller in its A&D records. If NICS later issues a “proceed” response, or no response after three business days (or the appropriate state waiting period if more than three business days) and the FFL decides to go forward with the transfer, the seller does not need to return to the premises to complete the transfer. The FFL will complete the transfer of the firearm to the buyer and record the disposition to the buyer in its A&D record no later than seven days following the transaction.
- Note that the FFL is not required to proceed with the transfer after the three business days have passed with no response from NICS; the decision to transfer is at the discretion of the FFL.
- In the case of a later “denied” response, the firearm cannot be transferred to the prospective buyer:
  - If the private party seller has chosen to allow the FFL to retain the firearm pending a response from NICS, the FFL and private party seller must complete a Form 4473, and the FFL must conduct a NICS check and receive a “proceed” response or a “delayed” response with no response from NICS after three business days (or the appropriate state waiting period) before transferring the firearm to the private party seller.
  - The FFL must also record the return as a disposition in the A&D record no later than seven days following the transaction.

## GUIDELINES FOR ALL FFL-FACILITATED TRANSFERS

- The prospective transferee (buyer) must complete Section A of the ATF Form 4473.
- The FFL must complete Section B of the 4473, conduct a NICS check on the buyer, and record the response.
- The FFL must complete Section D of ATF Form 4473 prior to transfer, identify the transaction as a private party transfer on the ATF Form 4473, and record the disposition in its A&D record no later than seven days following the transaction.
- The FFL must maintain the Form 4473 in accordance with 27 CFR 478.129(b).
- The transfer must be completed within 30 calendar days of the date NICS was initially contacted. If not, the FFL must conduct a new NICS check.
- If the transfer takes place on a day different than the day the prospective buyer signed Section A of ATF Form 4473, the FFL must check the buyer's photo ID again and the buyer must complete the recertification in Section C immediately prior to the transfer.
- All other legal requirements (for example, providing secure gun storage or safety devices with each transferred handgun, and any applicable multiple sales reporting) apply equally to these transfers.

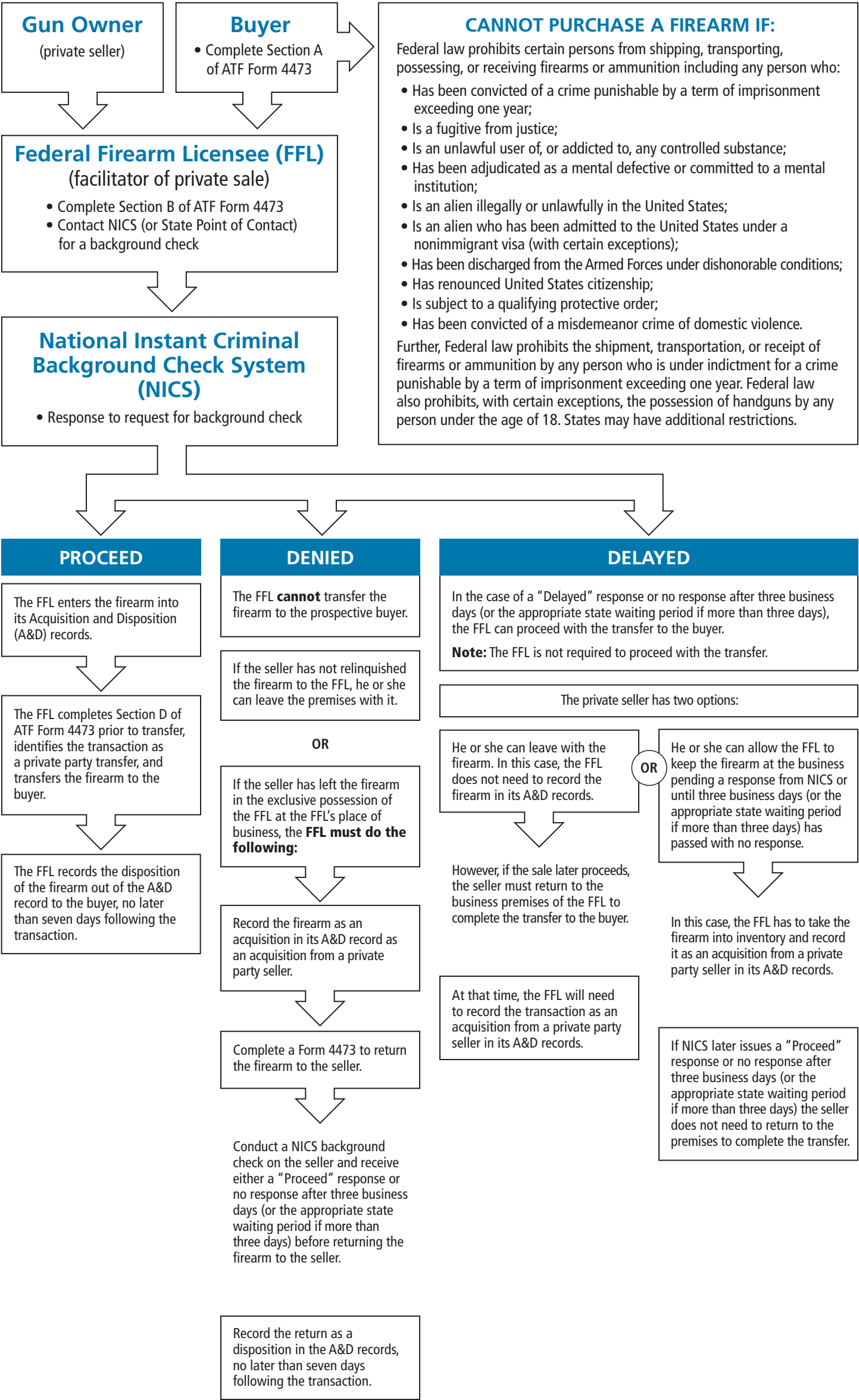
For a full description of the procedures applicable when facilitating private party sales, please see ATF Proc. 2013-1, <https://www.atf.gov/file/88181/download>



# FFL-Facilitated Firearm Sales

## GUIDELINES FOR ALL FFL-FACILITATED TRANSFERS

- The prospective transferee (buyer) must complete Section A of the ATF Form 4473.
- The FFL must complete Section B of the 4473, conduct a NICS check on the buyer, and record the response.
- The FFL must complete Section D of ATF Form 4473 prior to transfer, identify the transaction as a private party transfer on the ATF Form 4473, and record the disposition in its A&D record no later than seven days following the transaction.
- The FFL must maintain the Form 4473 in accordance with 27 CFR 478.129(b).
- The transfer must be completed within 30 calendar days of the date NICS was initially contacted. If not, the FFL must conduct a new NICS check.
- If the transfer takes place on a day different than the day the prospective buyer signed Section A of ATF Form 4473, the FFL must check the buyer's photo ID again and buyer must complete the recertification in Section C immediately prior to the transfer.
- All other legal requirements (for example, providing secure gun storage or safety devices with each transferred handgun, and any applicable multiple sales reporting) apply equally to these transfers.





# Frequently Asked Questions (FAQs)

## **Is it legal for an FFL to facilitate private sales?**

Yes. Not only is it legal for an FFL to facilitate private sales, it can help enhance public safety by ensuring a background check is run on the prospective purchaser.

## **Are FFLs required to facilitate private sales under federal law?**

No. Facilitating private sales is purely voluntary under federal law. Note that state laws may impose their own requirements, and you should ensure that you comply with the requirements in your state.

## **Why should an FFL facilitate private sales?**

Although it's legal under federal law for a private seller to sell a firearm to a resident of his or her own state, private sellers have no way of checking to see if the buyer is legally able to possess a firearm. Private sellers generally do not have access to complete background checks. Note, however, that some states may require potential purchasers to undergo background checks, and have set up systems to meet that requirement.

## **Can I charge a fee for facilitating private sales?**

Yes. An FFL can charge a fee as long as it is consistent with the FFL's state law requirements.



## **What's the procedure for facilitating private sales?**

ATF has developed a procedure to assist FFLs who choose to facilitate private sales. See ATF Proc. 2013-1, <https://www.atf.gov/file/88181/download>. The steps are also outlined in this guide on pages 4-5 and in the flow chart on page 7.

For more information, visit the [Conduct of Business](https://www.atf.gov/conduct-of-business) section of [www.atf.gov](https://www.atf.gov).

## **Is there anything different I should do on the ATF Form 4473?**

The FFL must identify the transaction as a "Private Party Transfer" in Section D of the ATF form 4473 to ensure transaction records correspond with private party transfers in the FFL's Acquisition and Disposition record.

**If I receive no response from NICS, or my state point of contact (POC), within three business days after initially receiving a “delayed” response, do I have to complete the transfer?**

If you initially receive a “delayed” response from NICS (or your state point of contact) and have not received a further response,

it is legal for you to complete the transfer after three business days (or the appropriate state waiting period if more than three business days). However, the law does not require you to complete the transfer.

For answers to more of your questions, visit the ATF’s FAQs:  
<https://www.atf.gov/questions-and-answers/firearms-qas>

# Resources

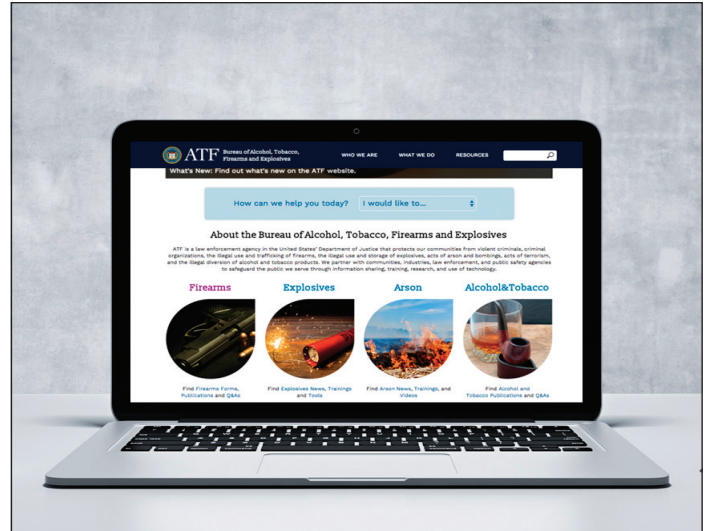


## Bureau of Alcohol, Tobacco, Firearms and Explosives

**Website:** [www.atf.gov](http://www.atf.gov)

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is a law enforcement agency in the United States Department of Justice that protects the public from crimes involving firearms, explosives, arson, and the diversion of alcohol and tobacco products; regulates lawful commerce in firearms and explosives; and provides worldwide support to law enforcement, public safety, and industry partners.

- Federal Firearms Transaction Record: <https://www.atf.gov/firearms/docs/4473-part-1-firearms-transaction-record-over-counter-atf-form-53009/download>
- Federal Firearms Regulations Reference Guide: <https://www.atf.gov/file/11241/download>
- The Gun Control Act of 1968: <https://www.gpo.gov/fdsys/pkg/USCODE-2015-title18/pdf/USCODE-2015-title18-part1-chap44.pdf>
- Federal Firearms Licensee Quick Reference and Best Practices Guide: <https://www.atf.gov/file/58681/download>
- Firearms Industry Programs Branch, 202-648-7090



## Federal Bureau of Investigation

**Website:** [www.fbi.gov](http://www.fbi.gov)

As an intelligence-driven and a threat-focused national security organization with both intelligence and law enforcement responsibilities, the mission of the FBI is to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners.

- National Instant Criminal Background Check System (NICS): <https://www.fbi.gov/services/cjis/nics>

# **ATTACHMENT D**

**ATF Form 4473 (Oct. 2016)**

## Firearms Transaction Record

**WARNING:** You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. 921 et. seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Read the Notices, Instructions, and Definitions on this form. Prepare in original only at the licensed premises ("*licensed premises*" includes *business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located*) unless the transaction qualifies under 18 U.S.C. 922(c). All entries must be handwritten in ink. "PLEASE PRINT."

Transferor's/  
Seller's  
Transaction Serial  
Number (If any)

## Section A - Must Be Completed Personally By Transferee/Buyer

1. Transferee's/Buyer's Full Name (If legal name contain an initial only, record "IO" after the initial. If no middle initial or name, record "NMN".)

Last Name (Including suffix (e.g., Jr, Sr, II, III))

First Name

Middle Name

2. Current State of Residence and Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.)

Number and Street Address

City

County

State

ZIP Code

3. Place of Birth

U.S. City and State

-OR-

Foreign Country

4. Height

Ft. \_\_\_\_\_

In. \_\_\_\_\_

5. Weight

(Lbs.) \_\_\_\_\_

6. Sex

☐ Male

☐ Female

7. Birth Date

Month \_\_\_\_\_

Day \_\_\_\_\_

Year \_\_\_\_\_

8. Social Security Number (Optimal, but will help prevent misidentification)

9. Unique Personal Identification Number (UPIN) if applicable (See Instructions for Question 9.)

10.a. Ethnicity

☐ Hispanic or Latino

☐ Not Hispanic or Latino

10.b. Race (In addition to ethnicity, select one or more race in 10.b. Both 10.a. and 10.b. must be answered.)

☐ American Indian or Alaska Native

☐ Asian

☐ Black or African American

☐ Native Hawaiian or Other Pacific Islander

☐ White

11. Answer the following questions by checking or marking "yes" or "no" in the boxes to the right of the questions.

a. Are you the actual transferee/buyer of the firearm(s) listed on this form? **Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you. Exception: If you are picking up a repaired firearm(s) for another person, you are not required to answer 11.a. and may proceed to question 11.b. (See Instructions for Question 11.a.)**

Yes No

☐ ☐

b. Are you under indictment or information in any court for a **felony**, or any other crime for which the judge could imprison you for more than one year? (See Instructions for Question 11.b.)

☐ ☐

c. Have you ever been convicted in any court of a **felony**, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.c.)

☐ ☐

d. Are you a fugitive from justice? (See Instructions for Question 11.d.)

☐ ☐

e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?

**Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.**

☐ ☐

f. Have you ever been adjudicated as a mental defective **OR** have you ever been committed to a mental institution? (See Instructions for Question 11.f.)

☐ ☐

g. Have you been discharged from the Armed Forces under **dishonorable** conditions?

☐ ☐

h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.)

☐ ☐

i. Have you ever been **convicted** in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.i.)

☐ ☐

12.a. Country of Citizenship: (Check/List more than one, if applicable. Nationals of the United States may check U.S.A.)

☐ United States of America (U.S.A.)

☐ Other Country/Countries (Specify)

Yes No

12.b. Have you ever renounced your United States citizenship?

☐ ☐

12.c. Are you an alien **illegally** or **unlawfully** in the United States?

☐ ☐

12.d.1. Are you an alien who has been admitted to the United States under a nonimmigrant visa? (See Instructions for Question 12.d.)

☐ ☐

12.d.2. If "yes", do you fall within any of the exceptions stated in the instructions?

☐ N/A

☐ ☐

13. If you are an alien, record your U.S.-Issued Alien or Admission number (AR#, USCIS#, or I94#):

Previous Editions Are Obsolete

Transferee/Buyer Continue to Next Page  
STAPLE IF PAGES BECOME SEPARATED

I certify that my answers in Section A are true, correct, and complete. I have read and understand the Notices, Instructions, and Definitions on ATF Form 4473. I understand that answering "yes" to question 11.a. if I am not the actual transferee/buyer is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I understand that a person who answers "yes" to any of the questions 11.b. through 11.i and/or 12.b. through 12.c. is prohibited from purchasing or receiving a firearm. I understand that a person who answers "yes" to question 12.d.1. is prohibited from receiving or possessing a firearm, unless the person answers "yes" to question 12.d.2. and provides the documentation required in 18.c. I also understand that making any false oral or written statement, or exhibiting any false or misrepresented identification with respect to this transaction, is a crime punishable as a felony under Federal law, and may also violate State and/or local law. I further understand that the repetitive purchase of firearms for the purpose of resale for livelihood and profit without a Federal firearms license is a violation of Federal law. (See Instructions for Question 14.)

14. Transferee's/Buyer's Signature

15. Certification Date

**Section B - Must Be Completed By Transferor/Seller**

16. Type of firearm(s) to be transferred (check or mark all that apply):

☐ Handgun ☐ Long Gun (rifles or shotguns) ☐ Other Firearm (frame, receiver, etc., See Instructions for Question 16.)

17. If transfer is at a qualifying gun show or event:

Name of Function: \_\_\_\_\_

City, State: \_\_\_\_\_

18.a. Identification (e.g., Virginia Driver's license (VA DL) or other valid government-issued photo identification.) (See Instructions for Question 18.a.)

Issuing Authority and Type of Identification

Number on Identification

Expiration Date of Identification (if any)

Month

Day

Year

18.b. Supplemental Government Issued Documentation (if identification document does not show current residence address) (See Instructions for Question 18.b.)

18.c. Exception to the Nonimmigrant Alien Prohibition: If the transferee/buyer answered "YES" to 12.d.2. the transferor/seller must record the type of documentation showing the exception to the prohibition and attach a copy to this ATF Form 4473. (See Instructions for Question 18.c.)

**Questions 19, 20, or 21 Must Be Completed Prior To The Transfer Of The Firearm(s) (See Instructions for Questions 19, 20 and 21.)**

19.a. Date the transferee's/buyer's identifying information in Section A was transmitted to NICS or the appropriate State agency:

Month Day Year

19.b. The NICS or State transaction number (if provided) was:

19.c. The response initially (first) provided by NICS or the appropriate State agency was:

☐ Proceed ☐ Delayed  
☐ Denied [The firearm(s) may be transferred on  
☐ Cancelled \_\_\_\_\_ if State law permits (optional)]

19.d. The following response(s) was/were later received from NICS or the appropriate State agency:

☐ Proceed \_\_\_\_\_ (date) ☐ Overturned  
☐ Denied \_\_\_\_\_ (date)  
☐ Cancelled \_\_\_\_\_ (date)  
☐ No response was provided within 3 business days.

19.e. (Complete if applicable.) After the firearm was transferred, the following response was received from NICS or the appropriate State agency on:

\_\_\_\_\_ (date). ☐ Proceed ☐ Denied ☐ Cancelled

19.f. The name and Brady identification number of the NICS examiner. (Optional)

\_\_\_\_\_ (name) \_\_\_\_\_ (number)

19.g. Name of FFL Employee Completing NICS check. (Optional)

20. ☐ No NICS check was required because a background check was completed during the NFA approval process on the individual who will receive the NFA firearm(s), as reflected on the approved NFA application. (See Instructions for Question 20.)

21. ☐ No NICS check was required because the transferee/buyer has a valid permit from the State where the transfer is to take place, which qualifies as an exemption to NICS. (See Instructions for Question 21.)

Issuing State and Permit Type

Date of Issuance (if any)

Expiration Date (if any)

Permit Number (if any)

**Section C - Must Be Completed Personally By Transferee/Buyer**

If the transfer of the firearm(s) takes place on a different day from the date that the transferee/buyer signed Section A, the transferee/buyer must complete Section C immediately prior to the transfer of the firearm(s). (See Instructions for Question 22 and 23.)

I certify that my answers to the questions in Section A of this form are still true, correct, and complete.

22. Transferee's/Buyer's Signature

23. Recertification Date

Transferor/Seller Continue to Next Page  
STAPLE IF PAGES BECOME SEPARATED



**Section D - Must Be Completed By Transferor/Seller Even If The Firearm(s) is Not Transferred**

24. Manufacturer and Importer <i>(If any) (If the manufacturer and importer are different, the FFL must include both.)</i>	25. Model <i>(If Designated)</i>	26. Serial Number	27. Type <i>(See Instructions for Question 27.)</i>	28. Caliber or Gauge
1.				
2.				
3.				
4.				

**REMINDER - By the Close of Business Complete ATF Form 3310.4 For Multiple Purchases of Handguns Within 5 Consecutive Business Days**

29. Total Number of Firearms Transferred <i>(Please handwritten by printing e.g., zero, one, two, three, etc. Do not use numerals.)</i>	30. Check if any part of this transaction is a pawn redemption. <input type="checkbox"/> Line Number(s) From Question 24 Above:
31. For Use by Licensee <i>(See Instructions for Question 31.)</i>	32. Check if this transaction is to facilitate a private part transfer. <input type="checkbox"/> <i>(See Instructions for Question 32.)</i>
33. Trade/corporate name and address of transferor/seller and Federal Firearm License Number <i>(Must contain at least first three and last five digits of FFL Number X-XX-XXXXX.) (Hand stamp may be used.)</i>	

**The Person Transferring The Firearm(s) Must Complete Questions 34-37.**

**For Denied/Cancelled Transactions, the Person Who Completed Section B Must Complete Questions 34-36.**

I certify that: (1) I have read and understand the Notices, Instructions, and Definitions on this ATF Form 4473; (2) the information recorded in Sections B and D is true, correct, and complete; and (3) this entire transaction record has been completed at my licensed business premises ("licensed premises" includes business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located) unless this transaction has met the requirements of 18 U.S.C. 922(c). Unless this transaction has been denied or cancelled, I further certify on the basis of — (1) the transferee's/buyer's responses in Section A (and Section C, if applicable); (2) my verification of the identification recorded in question 18 (and my re-verification at the time of transfer, *if Section C was completed*); and (3) State or local law applicable to the firearms business — it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) listed on this form to the person identified in Section A.

34. Transferor's/Seller's Name <i>(Please print)</i>	35. Transferor's/Seller's Signature	36. Transferor's/Seller's Title	37. Date Transferred
--	-------------------------------------	---------------------------------	----------------------

**NOTICES, INSTRUCTIONS, AND DEFINITIONS**

**Purpose of the Form:** The information and certification on this form are designed so that a person licensed under 18 U.S.C. 923 may determine if he/she may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the transferee/buyer of certain restrictions on the receipt and possession of firearms. The transferor/seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction. Consequently, the transferor/seller must be familiar with the provisions of 18 U.S.C. 921-931 and the regulations in 27 CFR Parts 478 and 479. In determining the lawfulness of the sale or delivery of a rifle or shotgun to a resident of another State, the transferor/seller is presumed to know the applicable State laws and published ordinances in both the transferor's/seller's State and the transferee's/buyer's State. *(See ATF Publication 5300.5, State Laws and Published Ordinances.)*

Generally, ATF Form 4473 must be completed at the licensed business premises when a firearm is transferred over-the-counter. Federal law, 18 U.S.C. 922(c), allows a licensed importer, manufacturer, or dealer to sell a firearm to a nonlicensee who does not appear in person at the licensee's business premises only if the transferee/buyer meets certain requirements. These requirements are set forth in section 922(c), 27 CFR 478.96(b), and ATF Procedure 2013-2.

After the transferor/seller has completed the firearms transaction, he/she must make the completed, original ATF Form 4473 *(which includes the Notices, General Instructions, and Definitions)*, and any supporting documents, part of his/her permanent records. Such Forms 4473 must be retained for at least 20 years and after that period may be submitted to ATF. Filing may be chronological *(by date of disposition)*, alphabetical *(by name of purchaser)*, or numerical *(by transaction serial number)*, as long as all of the transferor's/seller's completed Forms 4473 are filed in the same manner.

**FORMS 4473 FOR DENIED/CANCELLED TRANSFERS MUST BE RETAINED:** If the transfer of a firearm is denied/cancelled by NICS, or if for any other reason the transfer is not completed after a NICS check is initiated, the licensee must retain the ATF Form 4473 in his/her records for at least 5 years. Forms 4473 with respect to which a sale, delivery, or transfer did not take place shall be separately retained in alphabetical *(by name of transferee)* or chronological *(by date of transferee's certification)* order.

If the transferor/seller or the transferee/buyer discovers that an ATF Form 4473 is incomplete or improperly completed after the firearm has been transferred, and the transferor/seller or the transferee/buyer wishes to correct the omission(s) or error(s), photocopy the inaccurate form and make any necessary additions or revisions to the photocopy. The transferor/seller should only make changes to Sections B and D. The transferee/buyer should only make changes to Section A and C. Whoever made the changes should initial and date the changes. The corrected photocopy should be attached to the original Form 4473 and retained as part of the transferor's/seller's permanent records.

**Exportation of Firearms:** The State or Commerce Departments may require a firearms exporter to obtain a license prior to export. **Warning:** Any person who exports a firearm without proper authorization may be fined not more than \$1,000,000 and/or imprisoned for not more than 20 years. See 22 U.S.C. 2778(c).

**Section A**

The transferee/buyer must personally complete Section A of this form and certify *(sign)* that the answers are true, correct, and complete. However, if the transferee/buyer is unable to read and/or write, the answers *(other than the signature)* may be completed by another person, excluding the transferor/seller. Two persons *(other than the transferor/seller)* must then sign as witnesses to the transferee's/buyer's answers and signature/certification in question 14.

When the transferee/buyer of a firearm is a corporation, company, association, partnership, or other such business entity, an officer authorized to act on behalf of the business must complete Section A of the form with his/her personal information, sign Section A, and attach a written statement, executed under penalties of perjury, stating: (A) the firearm is being acquired for the use of and will be the property of that business entity; and (B) the name and address of that business entity.

**Question 1.** If the transferee's/buyer's name in question 1 is illegible, the transferor/seller must print the transferee's/buyer's name above the name written by the transferee/buyer.

**Question 2. Current Residence Address:** A rural route (RR) may be accepted provided the transferee/buyer lives in a State or locality where it is considered a legal residence address. County and Parish are one and the same.

If the transferee/buyer is a member of the Armed Forces on active duty, his/her State of residence is the State in which his/her permanent duty station is located. If the service member is acquiring a firearm in a State where his/her permanent duty station is located, but resides in a different State, the transferee/buyer must list both his/her permanent duty station address and his/her residence address in response to question 2. If the transferee/buyer has two States of residence, the transferee/buyer should list his/her current residence address in response to question 2 (e.g., if the transferee/buyer is purchasing a firearm while staying at his/her weekend home in State X, he/she should list the address in State X in response to question 2).

**Question 9. Unique Personal Identification Number (UPIN):** For transferees/buyers approved to have information maintained about them in the FBI NICS Voluntary Appeal File, NICS will provide them with a UPIN, which the transferee/buyer should record in question 9. The licensee should provide the UPIN when conducting background checks through the NICS or the State POC.

**Question 10.a. and 10.b.** Federal regulations (27 CFR 478.124(c)(1)) require licensees to obtain the race of the transferee/buyer. This information helps the FBI and/or State POC make or rule out potential matches during the background check process and can assist with criminal investigations. Pursuant to Office of Management and Budget (OMB), effective January 1, 2003, all Federal agencies requiring collection of race and ethnicity information on administrative forms and records, were required to collect this information in a standard format. (See 62 FR 58782) The standard OMB format consists of two categories for data on ethnicity: "Hispanic or Latino," and "Not Hispanic or Latino" and five categories for data on race: American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White.

Ethnicity refers to a person's heritage. Persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race, are considered Hispanic or Latino.

Race - one or more of the following responses must be selected: (1) American Indian or Alaska Native - A person having origins in any of the original peoples of North and South America (including Central America), and who maintains a tribal affiliation or community attachment; (2) Asian - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam; (3) Black or African American - A person having origins in any of the Black racial groups of Africa; (4) Native Hawaiian or Other Pacific Islander - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands; and (5) White - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. Any other race or ethnicity that does not fall within those indicated, please select the closest representation.

**Question 11.a. Actual Transferee/Buyer:** For purposes of this form, a person is the actual transferee/buyer if he/she is purchasing the firearm for him/herself or otherwise acquiring the firearm for him/herself. (e.g., *redeeming the firearm from pawn, retrieving it from consignment, firearm raffle winner*). A person is also the actual transferee/buyer if he/she is legitimately purchasing the firearm as a bona fide gift for a third party. A gift is not bona fide if another person offered or gave the person completing this form money, service(s), or item(s) of value to acquire the firearm for him/her, or if the other person is prohibited by law from receiving or possessing the firearm.

**Actual TRANSFEREE/buyer examples:** Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith (*who may or may not be prohibited*). Mr. Smith gives Mr. Jones the money for the firearm. Mr. Jones is **NOT THE**  
Page 4 of 6

**ACTUAL TRANSFEREE/BUYER** of the firearm and must answer "NO" to question 11.a. The licensee may not transfer the firearm to Mr. Jones. However, if Mr. Brown buys the firearm with his own money to give to Mr. Black as a gift (*with no service or tangible thing of value provided by Mr. Black*), Mr. Brown is the actual transferee/buyer of the firearm and should answer "YES" to question 11.a. However, the transferor/seller may not transfer a firearm to any person he/she knows or has reasonable cause to believe is prohibited under 18 U.S.C. 922(g), (n) or (x). **EXCEPTION:** If a person is picking up a repaired firearm(s) for another person, he/she is not required to answer 11.a. and may proceed to question 11.b.

**Question 11.b. - 12.** Generally, 18 U.S.C. 922(g) prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who: has been convicted of a felony in any Federal, State or local court, or any other crime, punishable by imprisonment for a term exceeding one year (*this does not include State misdemeanors punishable by imprisonment of two years or less*); is a fugitive from justice; is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance; has been adjudicated as a mental defective or has been committed to a mental institution; has been discharged from the Armed Forces under dishonorable conditions; is subject to certain restraining orders; convicted of a misdemeanor crime of domestic violence under Federal, State or Tribal law; has renounced his/her U.S. citizenship; is an alien illegally in the United States or an alien admitted to the United States under a nonimmigrant visa. Furthermore, section 922(n) prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by one who is under indictment or information for a felony in any Federal, State or local court, or any other crime, punishable by imprisonment for a term exceeding one year. An information is a formal accusation of a crime verified by a prosecutor.

A member of the Armed Forces must answer "yes" to 11.b. or 11.c. if charged with an offense that was either referred to a General Court Martial, or at which the member was convicted. Discharged "under dishonorable conditions" means separation from the Armed Forces resulting from a dishonorable discharge or dismissal adjudged by a General Court-Martial. That term does not include any other discharge or separation from the Armed Forces.

**EXCEPTION:** A person who has been convicted of a felony, or any other crime, for which the judge could have imprisoned the person for more than one year, or who has been convicted of a misdemeanor crime of domestic violence, is not prohibited from purchasing, receiving, or possessing a firearm if: (1) under the law of the jurisdiction where the conviction occurred, the person has been pardoned, the conviction has been expunged or set aside, or the person has had their civil rights (*the right to vote, sit on a jury, and hold public office*) taken away and later restored, AND (2) the person is not prohibited by the law of the jurisdiction where the conviction occurred from receiving or possessing firearms. Persons subject to this exception, or who receive relief from disabilities under 18 U.S.C. 925(c), should answer "no" to the applicable question.

**Question 11.d. Fugitive from Justice:** Any person who has fled from any State to avoid prosecution for a felony or a misdemeanor; or any person who leaves the State to avoid giving testimony in any criminal proceeding. The term also includes any person who knows that misdemeanor or felony charges are pending against such person and who leaves the State of prosecution.

**Question 11.f. Adjudicated as a Mental Defective:** A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease: (1) is a danger to himself or to others; or (2) lacks the mental capacity to contract or manage his own affairs. This term shall include: (1) a finding of insanity by a court in a criminal case; and (2) those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility.

**Committed to a Mental Institution:** A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

**EXCEPTION:** Under the NICS Improvement Amendments Act of 2007, a person who has been adjudicated as a mental defective or committed to a mental institution in a State proceeding is not prohibited by the adjudication or commitment if



the person has been granted relief by the adjudicating/committing State pursuant to a qualifying mental health relief from disabilities program. Also, a person who has been adjudicated as a mental defective or committed to a mental institution by a department or agency of Federal Government is not prohibited by the adjudication or commitment if either: (a) the person's adjudication or commitment was set-aside or expunged by the adjudicating/committing agency; (b) the person has been fully released or discharged from all mandatory treatment, supervision, or monitoring by the agency; (c) the person was found by the agency to no longer suffer from the mental health condition that served as the basis of the initial adjudication/commitment; or (d) the adjudication or commitment, respectively, is based solely on a medical finding of disability, without an opportunity for a hearing by a court, board, commission, or other lawful authority, and the person has not been adjudicated as a mental defective consistent with section 922(g)(4) of title 18, United States Code; (e) the person was granted relief from the adjudicating/committing agency pursuant to a qualified mental health relief from disabilities program. **Persons who fall within one of the above exceptions should answer "no" to question 11.f.** This exception to an adjudication or commitment by a Federal department or agency does **not** apply to any person who was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

**Question 11.h. Qualifying Restraining Orders:** Under 18 U.S.C. 922, firearms may not be sold to or received by persons subject to a court order that: (A) was issued after a hearing which the person received actual notice of and had an opportunity to participate in; (B) restrains such person from harassing, stalking, or threatening an intimate partner or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury. An "intimate partner" of a person is: the spouse or former spouse of the person, the parent of a child of the person, or an individual who cohabitates or has cohabitated with the person.

**Question 11.i. Misdemeanor Crime of Domestic Violence:** A Federal, State, local, or tribal offense that is a misdemeanor under Federal, State, or tribal law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with, or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. The term includes all misdemeanors that have as an element the use or attempted use of physical force or the threatened use of a deadly weapon (*e.g., assault and battery*), if the offense is committed by one of the defined parties. (*See Exception to 11.b. - 12.*) A person who has been convicted of a misdemeanor crime of domestic violence also is not prohibited unless: (1) the person was represented by a lawyer or gave up the right to a lawyer; or (2) if the person was entitled to a jury, was tried by a jury, or gave up the right to a jury trial. Persons subject to this exception should answer **"no"** to 11.i.

**Question 12.d. Immigration Status:** An alien admitted to the United States under a nonimmigrant visa includes, among others, persons visiting the United States temporarily for business or pleasure, persons studying in the United States who maintain a residence abroad, and certain temporary foreign workers. These aliens must answer "yes" to this question and provide the additional documentation required under question 18.c. Permanent resident aliens and aliens legally admitted to the United States pursuant to either the Visa Waiver Program or to regulations otherwise exempting them from visa requirements may answer "no" to this question and are not required to submit the additional documentation under question 18.c.

**Question 13. U.S.-issued Alien Number or Admission Number:** U.S.-issued alien and admission numbers may be found on the following U.S. Department of Homeland Security documents: Legal Resident Card or Employment Authorization Card (AR# or USCIS#); Arrival/Departure Record, Form I94, or Form 797A (I94#). Additional information can be obtained from [www.cbp.gov](http://www.cbp.gov). If you are a U.S. citizen or U.S. national then this question should be left blank.

**Question 14.** Under 18 U.S.C. 922(a)(1), it is unlawful for a person to engage in the business of dealing in firearms without a license. A person is engaged in the business of dealing in firearms if he/she devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal

objective of livelihood and profit through the repetitive purchase and resale of firearms. A license is not required of a person who only makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his/her personal collection of firearms.

## Section B

**Question 16. Type of Firearm(s):** "Other" refers to frames, receivers and other firearms that are neither handguns nor long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell, or National Firearms Act (NFA) firearms, including silencers.

If a frame or receiver can only be made into a long gun (*rifle or shotgun*), it is still a frame or receiver not a handgun or long gun. However, frames and receivers are still "firearms" by definition, and subject to the same GCA limitations as any other firearms. See Section 921(a)(3)(B). Section 922(b)(1) makes it unlawful for a licensee to sell any firearm other than a shotgun or rifle to any person under the age of 21. Since a frame or receiver for a firearm, to include one that can only be made into a long gun, is a "firearm other than a shotgun or rifle," it cannot be transferred to anyone under the age of 21, nor can these firearms be transferred to anyone who is not a resident of the State where the transfer is to take place. Also, note that multiple sales forms are not required for frames or receivers of any firearms, or pistol grip shotguns, since they are not "pistols or revolvers" under Section 923(g)(3)(A).

**Question 17. Qualifying Gun Show or Event:** As defined in 27 CFR 478.100, a gun show or event is a function sponsored by any national, State, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

**Question 18.a. Identification:** Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the transferee/buyer. The transferee/buyer **must** provide a valid government-issued photo identification document to the transferor/seller that contains the transferee's/buyer's name, residence address, and date of birth. A driver's license or an identification card issued by a State in place of a license is acceptable. Social Security cards are not acceptable because no address, date of birth, or photograph is shown on the cards. A combination of government-issued documents may be provided. See instructions for question 18.b. Supplemental Documentation.

If the transferee/buyer is a member of the Armed Forces on active duty acquiring a firearm in the State where his/her permanent duty station is located, but he/she has a driver's license from another State, the transferor/seller should list the transferee's/buyer's military identification card and official orders showing where his/her permanent duty station is located in response to question 18.a. Licensees may accept electronic PCS orders to establish residency.

**Question 18.b. Supplemental Documentation:** Licensees may accept a combination of valid government-issued documents to satisfy the identification document requirements of the law. The required valid government-issued photo identification document bearing the name, photograph, and date of birth of transferee/buyer may be supplemented by another valid, government-issued document showing the transferee's/buyer's residence address. This supplemental documentation should be recorded in question 18.b., with the issuing authority and type of identification presented. For example, if the transferee/buyer has two States of residence and is trying to buy a handgun in State X, he may provide a driver's license (*showing his name, date of birth, and photograph*) issued by State Y and another government-issued document (*such as a tax document*) from State X showing his residence address. A valid electronic document from a government website may be used as supplemental documentation provided it contains the transferee's/buyer's name and current residence address.

**Question 18.c. Exceptions to the Nonimmigrant Alien Prohibition and Acceptable Documentation:** An alien admitted to the United States under a nonimmigrant visa is not prohibited from purchasing, receiving, or possessing a firearm if the alien: (1) is in possession of a hunting license or permit lawfully issued by the Federal Government, a State or local government, or an Indian tribe federally recognized by the Bureau of Indian Affairs, which is valid and unexpired; (2) was admitted to the United States for lawful hunting or sporting purposes; (3) has received a waiver from the prohibition from the Attorney General of the United States; (4) is an official representative of a foreign government who is accredited to the United States Government or the Government's mission to an international organization having its

headquarters in the United States; (5) is an official representative of a foreign government who is en route to or from another country to which that alien is accredited; (6) is an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or (7) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

**Question 19. NICS BACKGROUND CHECKS:** 18 U.S.C. 922(t) requires that prior to transferring any firearm to an unlicensed person, a licensed importer, manufacturer, or dealer must first contact the National Instant Criminal Background Check System (NICS). NICS will advise the licensee whether the system finds any information that the purchaser is prohibited by law from possessing or receiving a firearm. For purposes of this form, contacts to NICS include State agencies designated as points-of-contact ("or POCs") to conduct NICS checks for the Federal Government.

The licensee should NOT contact NICS and must stop the transaction if there is reasonable cause to believe that the transferee/buyer is prohibited from receiving or possessing a firearm, including if: the transferee/buyer answers "no" to question 11.a.; the transferee/buyer answers "yes" to any question in 11.b. - 11.i. or 12.b. - 12.c.; the transferee/buyer has answered "yes" to question 12.d.1., and answered "no" to question 12.d.2.; or the transferee/buyer cannot provide the documentation required by questions 18.a, b, or c. **WARNING:** Any person who transfers a firearm to any person he/she knows or has reasonable cause to believe is prohibited from receiving or possessing a firearm violates the law, even if the transferor/seller has complied with the Federal background check requirements.

At the time that NICS is contacted, the licensee must record in question 19.a. - 19.c.: the date of contact, the NICS (*or State*) transaction number, and the initial (first) response provided by NICS or the State. The licensee may record the date the firearms may be transferred to the transferee/buyer (also known as the Missing Disposition Information (MDI) date) in 19.c. that NICS provides for delayed transactions (*States may not provide this date*). If the licensee receives any subsequent response(s) before transferring the firearm, the licensee must record in question 19.d. any response later provided by NICS or the State, or that no response was provided within 3 business days. If the transaction was denied and later overturned in addition to checking the "Proceed" and entering the date, the licensee must also check the "Overturned" box and, if provided, attach the overturn certificate issued by NICS or the State POC to the ATF Form 4473. If the licensee receives a response from NICS or the State after the firearm has been transferred, he/she must record this information in question 19.e. **Note:** States acting as points of contact for NICS checks may use terms other than "*proceed*," "*delayed*," "*cancelled*," or "*denied*." In such cases, the licensee should check the box that corresponds to the State's response. Some States may not provide a transaction number for denials. However, if a firearm is transferred within the three business day period, a transaction number is required.

**NICS responses:** If NICS provides a "*proceed*" response, the transaction may proceed. If NICS provides a "*cancelled*" or "*denied*" response, the transferor/seller is prohibited from transferring the firearm to the transferee/buyer. If NICS provides a "*delayed*" response, the transferor/seller is prohibited from transferring the firearm unless 3 business days have elapsed and, before the transfer, NICS or the State has not advised the transferor/seller that the transferee's/buyer's receipt or possession of the firearm would be in violation of law. (See 27 CFR 478.102(a) for an example of how to calculate 3 business days.) If NICS provides a "*delayed*" response, NICS also will provide a Missing Disposition Information (MDI) date that calculates the 3 business days and reflects when the firearm(s) can be transferred under Federal law. States may not provide an MDI date. *State law may impose a waiting period on transferring firearms.*

**Questions 20 and 21. NICS Exceptions:** A NICS check is not required if the transfer qualifies for any of the exceptions in 27 CFR 478.102(d). Generally these include: (a) transfers of National Firearms Act firearms to an individual who has undergone a background check during the NFA approval process; (b) transfers where the transferee/buyer has presented the licensee with a permit or license that allows the transferee/buyer to possess, acquire, or carry a firearm, and the permit has been recognized by ATF as a valid alternative to the NICS check requirement; or (c) transfers certified by ATF as exempt because compliance with the NICS check requirements is impracticable. If the transfer qualifies for one of these exceptions, the licensee must obtain the documentation required by 27 CFR 478.131. A firearm must **not** be transferred to any transferee/buyer who fails to provide such documentation.

A NICS check must be conducted if an NFA firearm has been approved for transfer to a trust, or to a legal entity such as a corporation, and no background check was conducted as part of the NFA approval process on the individual who will receive the firearm. Individuals who have undergone a background check during the NFA application process are listed on the approved NFA transfer form.

### Section C

**Questions 22 and 23. Transfer on a Different Day and Recertification:** If the transfer takes place on a different day from the date that the transferee/buyer signed Section A, the licensee must again check the photo identification of the transferee/buyer at the time of transfer.

### Section D

**Question 24-28. Firearm(s) Description:** These blocks must be completed with the firearm(s) information. Firearms manufactured after 1968 by Federal firearms licensees should all be marked with a serial number. Should you acquire a firearm that is legally not marked with a serial number (i.e. pre-1968); you may answer question 26 with "NSN" (No Serial Number), "N/A" or "None."

If more than four firearms are involved in a transaction, the information required by Section D, questions 24-28, must be provided for the additional firearms on a separate sheet of paper, which must be attached to this ATF Form 4473.

**Types of firearms include, but are not limited to:** pistol, revolver, rifle, shotgun, receiver, frame and other firearms that are neither handguns nor long guns (rifles or shotguns), such as firearms having a pistol grip that expel a shotgun shell (pistol grip firearm) or NFA firearms (machinegun, silencer, short-barreled shotgun, short-barreled rifle, destructive device or "any other weapon").

Additional firearms purchases by the same transferee/buyer may not be added to the form after the transferor/seller has signed and dated it. A transferee/buyer who wishes to acquire additional firearms after the transferor/seller has signed and dated the form must complete a new ATF Form 4473 and undergo a new NICS check.

**Question 31.** This item is for the licensee's use in recording any information he/she finds necessary to conduct business.

**Question 32.** Check this box, or write "Private Party Transfer" in question 31, if the licensee is facilitating the sale or transfer of a firearm between private unlicensed individuals in accordance with ATF Procedure 2013-1. This will assist the licensee by documenting which transaction records correspond with private party transfers, and why there may be no corresponding A&D entries when the transfer did not proceed because it was denied, delayed, or cancelled.

### Privacy Act Information

Solicitation of this information is authorized under 18 U.S.C. 923(g). Disclosure of this information by the transferee/buyer is mandatory for the transfer of a firearm. Disclosure of the individual's Social Security number is voluntary. The number may be used to verify the transferee's/buyer's identity.

For information about the routine uses of this form see System of Records Notice Justice/ATF-008, Regulatory Enforcement Records System (68 FR 163558, January 24, 2003).

### Paperwork Reduction Act Notice

The information required on this form is in accordance with the Paperwork Reduction Act of 1995. The purpose of the information is to determine the eligibility of the transferee to receive and possess firearms under Federal law. The information is subject to inspection by ATF officers and is required by 18 U.S.C. 922 and 923.

The estimated average burden associated with this collection is 30 minutes per respondent or recordkeeper, depending on individual circumstances. Comments about the accuracy of this burden estimate and suggestions for reducing it should be directed to Reports Management Officer, IT Coordination Staff, Bureau of Alcohol, Tobacco, Firearms and Explosives, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Confidentiality is not assured.