

# Automated Commercial Environment—Requirements Recommendation

<b>Date:</b>	July 27, 2001
<b>Number:</b>	ITD-001
<b>Requestor:</b>	ITDS Sub-Committee
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## Requirement

### **Appeal process for ITDS applicants and participants.**

#### Notification of Adverse Action

##### 1. Application Denial

In cases where an application is denied, the responsible agency shall provide written notice to the applicant that will clearly state the reason(s) for denial, advise the applicant of its administrative appeal rights and option of submitting a new application after 60 days.

##### 2. Participant Revocation (2 Types: Proposed and Immediate)

a) Proposed: All ITDS participating government agencies will provide written notification to trade participants when a proposal to revoke participation is made. This will occur when compliance concerns arise which may warrant the removal of a participant in the near future. This notification will effectively serve as a “warning notice” to the ITDS participant so that the problem may be addressed in concert with the respective agency and removal may be avoided.

b) Immediate: In cases of serious compliance violations where immediate revocation from ITDS Track-4 processing occurs, the revoking agency must provide written notification to the trade participant within 10 working days of the removal.

#### Two-Step Appeal Process

Each agency participating in ITDS must establish a 2-step appeal process that will be followed when an application is denied or a participant is removed. The trade should be allowed 60 days to file the appeal. Each agency will then have 60 days to respond to the appeal.

1. Appeal to Initiating Office: The first appeal should be filed to the office with the agency that initiated the adverse action. This office may then overturn the decision if sufficient explanation, evidence or reasoning is provided by the trade to clarify possible misunderstandings or errors.
2. Headquarters Level Appeal: Each participating agency must establish a responsible party to handle appeals at the Headquarters levels. This will serve as the second level of appeal.

## Business Need

There is a business need for an appeal process whenever a program is developed that involves participant pre-approvals. The trade needs due process procedures for the following events:

1. **Application Denial:** The applicant is denied participation in the program which requires pre-approval.
2. **Participant Removal:** Once a participant, an action to remove the participant from the program is taken.

## Technical Need

None

## Benefits

There are major benefits to the trade and participating ITDS agencies by creating an appeal process.

Trade Benefits:

1. **Due Process:** An appeal process provides an avenue for the trade to open a dialogue with the agency when an adverse decision is made.
2. **Compliance:** The trade will have a general understanding as to why the denial or removal occurred and what they must do to correct the problem to be eligible for participation.
3. **Uniformity:** There will be one uniform method for appealing the decisions of the many agencies participating in ITDS. This is critical when conducting pre-approvals for Track-4 processing because one agency may be responsible for a trade member's ineligibility, regardless of the trade member being approved by all other participating agencies.

Government Benefits:

1. **Due Process:** Provides standard due process for adverse decisions.
2. **Compliance:** This can be used as an avenue to coordinate with the trade in helping to encourage compliance. The appeal process helps identify what the concerns are and provides avenues for addressing the issues.
3. **Uniformity:** A standard ITDS appeal process is needed for all participating government agencies. This would be particularly useful if more than one agency denies participation to a trade member.

**Risks**

The risks associated with trying to implement this requirement will pertain mostly to creating a standard appeal process that is agreeable to all parties involved. This will have to be one standard policy and procedure that numerous government agencies and the trade will have to agree upon.

**Related Subcommittees**

Account Data Management  
Trade Interface  
Business Uses of Technology

**Priority:**    **Critical**           **High**           **Medium**           **Low**  

**Customs Use Only**Approved Not Approved Further Evaluation Required