

SUPPORTING STATEMENT
United States Patent and Trademark Office
Pro Bono Survey
OMB CONTROL NUMBER 0651-New
April 2017

A. JUSTIFICATION

1. Necessity of Information Collection

The Leahy-Smith America Invents Act (AIA), Pub. L. No. 112-29 § 32 (2011) directs the USPTO to work with and support intellectual property law associations across the country in the establishment of pro bono programs designed to assist financially under-resourced independent inventors and small businesses. In February 2014, President Obama issued an Executive Action calling on the USPTO to expand the existing patent pro bono programs to all 50 states in the country. In support of this Executive Action, the USPTO—in collaboration with various non-profit organizations—has established a series of autonomous regional programs that act as matchmakers to help connect low-income inventors with volunteer patent attorneys across the United States.

The regional programs comprise law school IP clinics, bar associations, innovation/entrepreneurial organizations, and arts-focused lawyer referral services that are strategically located to provide access to patent pro bono services across all fifty states. The Regional Program Administrator Survey collects information about the services being provided by each region. This information will help the USPTO determine which regional programs are operating efficiently and which programs need additional support; ensuring that the efforts provided by our partners are resulting in matches between attorneys and applicants. The metrics will help establish the criteria used to individually evaluate each program on its own merits.

Table 1 identifies the statutory and regulatory authorities that allow for the USPTO to administer the Patent Pro Bono Program. In support of Program administration, this proposed survey facilitates the USPTO’s support and coordination of regional patent pro bono programs in the nationwide network of programs; ensuring that each regional patent pro bono program is effective in providing patent pro bono services to its constituents. The survey collection also helps validate USPTO funding allocations to certain regional programs via established Memoranda of Agreement (MOA).

Table 1: Authorities for Patent Pro Bono Program

IC Number	Description	Statute	Other
1	Establish Patent Pro Bono Program	Pub. L. No. 112-29 § 32; 35 U.S.C. § 2(b)(11)	White House Executive Action dated 20 February 2014

2. Needs and Uses

This information collection will ascertain the effectiveness of each individual regional program with respect to their matchmaking efforts. The USPTO has worked with the Pro Bono Advisory Council (PBAC) to determine what information is necessary to ascertain the effectiveness of each regional pro bono program's matchmaking operations. PBAC is a well-established group of patent practitioners and patent pro bono regional program administrators who have committed to provide support and guidance to patent pro bono programs across the country. The USPTO is responsible for the collection of this information, which is collected on a quarterly basis. The collection of the data using the form is prescribed for programs in which the USPTO and the Regional Pro Bono organization have an MOA. The collection is voluntary for programs for which USPTO does not have an established MOA.

Specifically, the information will allow the PBAC and the USPTO to ascertain the origination state of applicants, where applicants are being referred from, and what portion of applicants are completing and returning financial screening applications. Additionally, the information will help track the number of invention screenings, disqualified applicants, corporations/law firms agreeing to accept cases, backlog of unmatched applicants, hours donated by lawyer referral service panel attorneys, and provisional and non-provisional applications filed, all on a quarterly basis. Further, information regarding depth of donor support will allow the PBAC and the USPTO to understand each program's progress toward financial self-sustainability.

The information, at its highest level, will allow the PBAC and the USPTO to ascertain whether the regional programs are matching qualified low income inventors with volunteer patent attorneys. It will also help successfully establish the total economic benefit derived by low-income inventors in the form of donated legal services. This information can then be used to promote the regional programs to under-resourced inventors and patent attorneys.

Table 2 outlines how the items in this collection of information are used by the regional programs, the PBAC, and the USPTO:

Table 2: Needs and Uses for Pro Bono Survey

IC Number	IC Instrument	Form #	Needs and Uses
1	Regional Program Administrator Survey	Electronic Worksheet, No Form Number	<ul style="list-style-type: none"> • Used by regional program administrators to provide information to the USPTO regarding the current status and effectiveness of their region's pro bono program. • Used by the USPTO and the PBAC to evaluate the effectiveness of each regional pro bono program to help inform determinations regarding future support for or actions involving those programs. • Used by the USPTO to publish summary metrics about all of the pro bono regional programs and to publish metrics regarding the performance of individual regional programs in order to promote the regional programs individually and collectively.

3. Use of Information Technology

The information collected through the Regional Program Administrator Survey will only be collected through online survey tools and electronically submitted by regional program administrators. No paper or other non-electronic methods of submission are allowed for the survey.

4. Efforts to Identify Duplication

USPTO collects this information from regional program administrators on a quarterly basis. It does not duplicate information or collect data that could be found elsewhere; it functions as the source data for regional program statistics, and may later be used by the programs at their discretion.

5. Minimizing the Burden to Small Entities

Small business entity status is determined by the Small Business Administration. As small non-profits, many of the regional programs are small entities. However, no specific change in rules, processing, fees, or other factors benefit one categorical entity over another in this collection. As a result, this survey, which is an essential part of the program, places an equally low burden on each regional program administrator.

6. Consequences of Less Frequent Collection

The USPTO is collecting this information on a quarterly basis in order to more effectively ascertain the effectiveness of each individual regional pro bono program and to determine how best to provide additional support to regional programs should they need such support. Less frequent collection would reduce the USPTO's ability to support the regional programs in a timely manner because these emerging programs have rapidly changing data. In addition, this information is not collected elsewhere. Therefore, less frequent collection of information would reduce the relevancy of the

information for publication to stakeholders, such as inventors and patent attorneys, and for outreach in presentations, online discussion, and conferences.

7. Special Circumstances in the Conduct of Information Collection

There are no special circumstances associated with this collection of information.

8. Consultation Outside the Agency

The 60-Day *Federal Register* Notice published on May 12, 2015 (80 FR 27150). The public comment period ended on July 11, 2015. One public comment was received.

The comment received expressed the belief that the collection of information in order to evaluate the effectiveness of regional pro bono patent services programs is “crucial” to the determination of the pro bono program’s efficacy. The commenter noted the requirement of attorneys in his home state to report hours to the state bar, and the ongoing encouragement of attorneys to complete pro bono services. The commenter went on to opine that assisting under-resourced and otherwise-disadvantaged inventors and small businesses, as these programs are designed to do, is a “noble cause” and one that should spur future innovation. The USPTO appreciates this comment and agrees that these services have the potential to further advance technological progress and achievement.

The USPTO has long-standing relationships with groups from whom patent application data is collected, such as the American Intellectual Property Law Association (AIPLA), as well as patent bar associations, independent inventor groups, and users of our public facilities. Views expressed by these groups are considered in developing proposals for information collection requirements and during the renewal of an information collection.

9. Payment or Gifts to Respondents

This information collection does not involve a payment or gift to any respondent.

10. Assurance of Confidentiality

The agreements that are in place with each of our partners indicate that only non-confidential information is to be shared, and thus no proprietary information is included in the survey. Information obtained in this collection is often made available to the public. Any information retained by the program will be kept private to the extent permitted by law.

11. Justification for Sensitive Questions

None of the required information is considered to be of a sensitive nature.

12. Estimate of Hour and Cost Burden to Respondents

Table 3 calculates the anticipated burden hours and costs of this information collection to the public, based on the following factors:

- Respondent Calculation Factors**
 The USPTO estimates that it will receive 80 responses to this information collection per year, with approximately 20 regional program administrators reporting their metrics once per quarter. All responses are submitted electronically.
- Burden Hour Calculation Factors**
 The USPTO estimates that it takes the public approximately 120 minutes (2 hours) to complete the worksheet. This includes the time to gather the necessary information, prepare the worksheet, and submit it to the USPTO.
- Cost Burden Calculation Factors**
 The USPTO expects that regional program administrators will supply the information in this collection, at an estimated hourly rate of \$65.51. The estimated hourly rate is derived from the mean hourly wage for a lawyer according to the United States Department of Labor Bureau of Labor Statistics May 2015 National Occupational Employment and Wage Estimates.

IC Number	Item	Estimated Response Time (min) (a)	Estimated Annual Responses (b)	Estimated Annual Burden Hours (a) x (b) / 60 = (c)	Rate (\$/hr) (d)	Total Hourly Burden Cost (c) x (d) = (e)
1	Regional Program Administrator Survey	120	80	160	\$65.51	\$10,481.60
	Total	----	80	160	----	\$10,481.60

Table 3: Burden Hour/Burden Cost to Respondents for Pro Bono Survey

13. Total Annualized (Non-hour) Cost Burden

There are no annualized (non-hour) costs associated with this information collection. 100 percent of the items in this collection are submitted electronically, eliminating the need for postage, and there are no other transaction costs (e.g. filing fees) associated with this collection.

14. Annual Cost to the Federal Government

The USPTO estimates that it takes a GS-14, step 10, 60 minutes (1 hour) to process a single submission from this collection. The current 2016 hourly rate for a GS-14, step 10, is \$67.83. When 30% is added to account for a fully loaded hourly rate (benefits and overhead), the rate per hour for a GS-14, step 10, is \$88.18 (\$67.83 + \$20.35).

Table 4 calculates the processing hours and costs of this information collection to the Federal Government:

Table 4: Annual Burden Hour/Burden Cost to the Federal Government

IC Number	Item	Estimated Response Time (min) (a)	Estimated Annual Responses (b)	Estimated Annual Burden Hours (a) x (b) / 60 = (c)	Rate (\$/hr) (d)	Total Government Burden Cost (c) x (d) = (e)
1	Regional Program Administrator Survey	60	(20 x 4) = 80	80	\$88.18	\$7,054.40
	Total	----	80	80	----	\$7,054.40

The USPTO's total estimated cost for processing the information in this collection is \$7,054.40 per year.

15. Reason for Change in Burden

Summary of Changes Since the Previous Renewal

Because this is a new collection, there have been no changes since the previous renewal. However, there has been a change in hourly burden since the publication of the 60-day notice.

Changes Since the 60-day Notice

Since the 60-day notice for this collection was published, USPTO has revised its estimate of the hourly burden rate for the regional program administrators. Previously this cost was estimated at \$50 an hour, but it has been updated to an hourly rate of \$65.51 to reflect that most of the regional program administrators are lawyers. Therefore, the hourly cost to respondents has increased from \$8,000 to \$10,481.60. In addition, the USPTO has determined since implementation of the survey that only 60 minutes (1 hour) is required to process a single submission. Thus, the Total Government Burden Cost has been reduced from \$14,108.80 to \$7,054.40.

16. Project Schedule

The USPTO plans to present aggregate summary metrics for the regional programs using the Pro Bono Survey in order to promote the regional programs at conferences and forums. The USPTO may also publish metrics for individual regional programs to promote the programs individually. The Office of Enrollment and Discipline of the USPTO is responsible for conducting and summarizing the Pro Bono Survey. These quarterly reports are used as a basis for OED performance discussion. This performance discussion will be used to establish criteria to evaluate each program on its own merits. This data will help OED evaluate performances of each regional program as well as the overall performance and health of the overall patent pro bono program.

17. Display of Expiration Date of OMB Approval

The questionnaire in this information collection will display the OMB Control Number and the OMB expiration date.

18. Exception to the Certificate Statement

This collection of information does not include any exceptions to the certificate statement.