

SUPPORTING STATEMENT
U.S. Department of Commerce
National Institute of Standards and Technology
NIST Invention Disclosure Form and Inventor Information Sheet (DN-45)
OMB Control No. XXXX-XXXX

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The National Institute of Standards and Technology (NIST) DN-45 Invention Disclosure Form is used to collect information pertaining to inventions created by Federal employees or by non-Federally employed individuals who have created an invention using NIST laboratory facilities as NIST Associates. The collection of this information is required to protect the United States rights to inventions created using Federal resources. The information collected on the form allows the Government to determine: 1) if an invention has been created; 2) the status of any statutory bar that pertains to the potential invention or that may pertain to the invention in the future. The information collected may allow the Government to begin a patent application process.

The Inventor Information Sheet is used to collect from individuals who have been named as potential inventors on a NIST Invention Disclosure Form. The collection of this information is used for multiple purposes: 1) Some of the information may be required to file a patent application, if NIST seeks to protect a federally owned invention, pursuant to 35 USC §207. 2) The form, in part, is a statement made by the respondent declaring whether the respondent considers herself/himself to be an inventor. 3) Some of the information is needed for NIST to determine potential assignees with which NIST would potentially negotiate consolidation of rights and other patent related matters. 4) Some of the information helps NIST determine under which statutory authority NIST may consolidate rights in an invention with other potential assignees. 5) Country citizenship information is required to determine whether a Scientific and Technology agreement or treaty with the respondent's country may impact the U.S. Government's rights to the invention.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information is collected by the Technology Partnerships Office and shared with the Office of Chief Counsel at NIST. The information may also be shared with non-Governmental entities that may have ownership rights to the potential invention. The Government collects this information to execute the policy and objective of the Congress expressed at 35 U.S.C. §200. 35 U.S.C. §207 authorizes Federal agencies to apply for, obtain, and maintain patents or other

forms of protection ... on inventions in which the Federal Government owns a right, title, or interest. 35 U.S.C. §207 also authorizes each Federal agency to undertake all other suitable and necessary steps to protect and administer rights to federally owned inventions on behalf of the Federal government. The information collected through the NIST DN-45 is necessary for NIST to execute the authority granted at 35 U.S.C. §207.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The form is a Word fillable document that can be downloaded from the NIST website. The form can be emailed to the NIST Technology Partnerships Office or sent by other electronic file transfer methods.

4. Describe efforts to identify duplication.

This type of information can only be collected through the NIST DN-45. Information collected by other potential co-owners does not contain information sufficient to determine 1) Government rights to the invention; 2) statutory authority under which to license, or otherwise make available, the Government's interest in the invention.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The collection could apply to a small business or other small entity if such an entity had an employee Associate conducting research using NIST facilities or was a party to a Collaborative Research and Development Agreement. The information requested in this information collection is required and necessary to determine ownership of the intellectual property, and the potential scope of Government rights to the intellectual property.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

The Federal Government would not be able to assess its rights to use inventions created using NIST resources. The Government would not be able to fulfill the policy and objective expressed by Congress in 35 USC 200 to use the patent system to bring federally supported inventions to practical application for the benefit of the U.S. public.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

There are no special circumstances that will prevent NIST from collecting the information in a manner inconsistent with OMB guidelines.

8. Provide information of the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A 60-day Federal Register Notice (FRN) soliciting public comments was published on Wednesday, August 7, 2019 (Vol. 84, Number 152, pages 38599). No comments were received.

A 30-day Federal Register Notice (FRN) soliciting public comment was published on Friday, October 11, 2019 (Vol. 84, Number 198, page 54846).

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts to respondents for the act of responding.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The information collection instruments will have appropriate privacy notifications in the way of a Privacy Act Statement with applicable SORN noted:

Privacy Act Statement:

Authority: The National Institute of Standards and Technology Act, as amended, 15 U.S.C. 271 et seq. (which includes Title 15 U.S.C. 272) and section 12 of the Stevenson-Wydler Technology; Innovation Act of 1980, as amended, 35 U.S.C. §200; 35 U.S.C. §207

Purpose: Information is collected for the National Institute of Standards and Technology (NIST), Technology Partnerships Office (TPO) to streamline the NIST invention disclosure and review processes and to make them scalable to a larger number of disclosed inventions.

Routine Uses: NIST will use this information to track work flow, standardize processing, and provide data control in support of the Technology Transfer program. Disclosure of this

information is permitted under the Privacy Act of 1974 (5 U.S.C. Section 522a) to be shared among NIST staff for work-related purposes. Disclosure of this information is also subject to all the published routine uses as identified in the Privacy Act System of Records Notices: COMMERCE/DEPT-23: Information Collected Electronically in Connection with Department of Commerce Activities, Events, and Programs.

Disclosure: Furnishing this information is voluntary. When supplying the information, you are indicating your voluntary consent for NIST to use the information you submit for the purpose stated.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature will be asked of the individuals providing this information.

12. Provide an estimate in hours of the burden of the collection of information.

Invention Disclosure Form – 10 per year.
Inventor Information Form – 100 per year.

Estimated Time Per Response:

Invention Disclosure Form: 3 hours.
Inventor Information Form: 30 minutes.

Estimated Total Annual Burden Hours:

Invention Disclosure Form: 30 hours.
Inventor Information Form: 50 hours.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

There is no cost to the respondent.

14. Provide estimates of annualized cost to the Federal government.

Employee labor cost at both NIST and DOC counsel is approximately \$100,000 for this information collection. This staff is responsible for analyzing, evaluating, summarizing, and/or reporting on the collected information.

15. Explain the reasons for any program changes or adjustments.

This is a new information collection.

16. For collections whose results will be published, outline the plans for tabulation and publication.

There is no publication of information for this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The OMB approval and expiration date will be displayed on the information collection instrument.

18. Explain each exception to the certification statement.

There are no exceptions to this information collection.