

SUPPORTING STATEMENT
United States Patent and Trademark Office
Patents External Quality Survey
OMB Control Number 0651-0057
2022

A. JUSTIFICATION

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the information collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

For many years the United States Patent and Trademark Office (USPTO) has used surveys to obtain customer feedback regarding the products, services, and related service standards of the USPTO. The USPTO used the data to measure how well the Agency is meeting established customer service standards, to identify any disjoints between customer expectations and USPTO performance, and to develop improvement strategies. Typically, these surveys asked customers to express their satisfaction with the USPTO's products and services based upon their interactions with the Agency as a whole over a 12-month period.

In order to obtain further data concerning customer ratings of the USPTO's services, service standards, and performance, the USPTO developed the Patents External Quality Survey. This survey narrows the focus of customer satisfaction to examination quality. The USPTO partners with Westat, an independent research firm, to administer the Patents External Quality Survey.

This survey uses a longitudinal, rotating panel design to assess changes in customer perceptions and to identify key areas for examiner training and opportunities for improvement. All patent agents and attorneys who have been registered to practice before the USPTO for longer than one year and who belong to a firm that has filed more than six patents in the past year will be eligible for the study. The study will also include independent inventors who have filed six or more patents in the past year. The USPTO will draw a random sample of these customers from their database. Due to the rotating panel design, some sample members will be surveyed twice in order to measure change over a period of time. Each year of the survey will include two waves of data collection.

This is a voluntary survey. The USPTO plans to survey patent agents, attorneys, and other individuals from large domestic corporations (including those with 500+ employees), small and medium-size businesses, universities and other non-profit research organizations, and independent inventors. The USPTO does not plan to survey foreign entities.

There are no statutes or regulations requiring the USPTO to conduct these customer surveys. The USPTO uses surveys to implement Executive Order 12862 of September 11, 1993, *Setting Customer Service Standards*, published in the *Federal Register* on September 14, 1993 (58 FR 176).

2. Uses Indicate how, by whom, and for what purpose the information is to be used. Except for a new information collection, indicate the actual use the agency has made of the information received from the current information collection.

The Patents External Quality Survey is primarily a web-based survey, although respondents can also complete the survey via paper and mail if they prefer. The content of both versions is identical. Potential respondents are sent either an email or mailed pre-survey letter, depending on noted preferences for contact, at the beginning of each survey period with instructions for accessing and completing the survey electronically. Respondents can choose whether to mail the completed survey back to the USPTO's survey contractor (Westat) or respond to the survey online through Westat's secure website.

A pre-notification letter describing the study and asking for participation will be sent to all sample members. This letter will be followed in 2-3 business days by a survey packet containing the questionnaire, a separate cover letter prepared by the Deputy Commissioner for Patents that explains the purpose of the survey, and a postage-paid, pre-addressed return envelope. Instructions for completing the survey electronically will also be included in the packet. These instructions will include details for accessing the survey online through Westat's website and provide a username, password and 5-digit survey ID number that respondents will need to access the electronic survey. One week after the survey mailing, a reminder/thank you postcard will also be mailed to all sample members.

One week after the reminder/thank you postcard is sent, all sample members who have not completed the survey will receive a follow-up non-response prompting telephone call. The primary purpose of these phone calls is to remind non-respondents of the survey date and to answer any questions that they may have concerning the survey. Because these calls are intended as prompting calls, messages will be left if respondents are not available. Westat will not make repeated phone calls if a message was left on an answering machine or with a receptionist/secretary, etc. The Westat telephone staff will encourage survey non-respondents to complete the survey using the web option in order to expedite completion of the survey. The survey non-respondents will not be asked to complete the survey over the telephone with the Westat telephone staff since this survey is not intended to be administered over the telephone. A suggested script has been developed to ensure that all of the staff conducting the follow-up phone calls ask the same questions, in the same manner.

The information collected, maintained, and used in this information collection is based on OMB and USPTO guidelines. This includes the basic information quality standards established in the Paperwork Reduction Act (44 U.S.C. Chapter 35), in OMB Circular A-130, and in the OMB information quality guidelines.

Table 1 outlines how this collection of information is used by the public and the USPTO.

Table 1: Needs and Uses of Information Collected from the Patents External Quality Survey

Item No.	Form and Function	Form No.	Needs and Uses
1-2	Patents External Quality Survey	PTO/2535	<ul style="list-style-type: none"> Used by individuals who work at firms that file more than 5 patent applications a year to provide the USPTO with their perceptions of examination quality. Used by the USPTO to gather feedback to assist them in targeting key areas for examination quality improvement and identify important areas for examiner training.
3	Non-Response Follow-up Survey Card	No Form Associated	<ul style="list-style-type: none"> Used by individuals to access the Patents External Quality Survey after previous non-response to USPTO requests. Used by the USPTO to notify individuals who did not respond to the survey to request them to take the survey.

3. **Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of information collection. Also describe any consideration of using information technology to reduce burden.**

The Patents External Quality Survey is primarily a web-based survey, although respondents can also complete the survey via paper and mail if they prefer. The content of both versions are identical. Potential respondents are sent either an email or mailed pre-survey letter, depending on noted preferences for contact, at the beginning of each survey period with instructions for accessing and completing the survey electronically. Respondents can choose to mail their survey to Westat, or they can provide their responses electronically over the Internet. The cover letter that accompanies the survey provides the web survey URL, instructions for completing the survey online through the survey contractor's (Westat's) secure website, and the username, password and survey ID for the survey.

The USPTO disseminates information from the surveys on the following website: <https://www.uspto.gov/patents/quality-metrics>.

4. **Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

This information is collected only when sampled respondents at organizations who file more than six patents a year respond to the Patents External Quality Survey. Currently, there are no available methods to gather the type of information proposed by this survey directly from USPTO customers. The survey questions relate directly to customers' perceptions of examination quality, as well as information about the customers' frequency of contact with the USPTO. This information is not generally available from other sources and is not collected elsewhere. Therefore, this information collection does not create a duplication of effort.

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

In an effort to minimize burden, the number of questions are limited to the minimum required to obtain useful information. All sizes of businesses and individual customers will participate in these various surveys to accurately portray customer requirements and service quality.

It is important to include small businesses in these surveys because the USPTO wants to encourage their use of the patent systems. However, as the sample selection is designed to include individuals located at top-filing firms, small businesses will only be included in the sample if they submit more than five patent applications a year. Furthermore, the sampling rate for individuals working at businesses submitting a higher number of patent applications per year (i.e., more than 40) is greater than for individuals working at businesses who submit a lower number of patent applications a year. Under this sampling design, the Patents External Quality Survey sample will primarily concentrate upon individuals at large, top-filing organizations.

6. Describe the consequence to Federal program or policy activities if the information collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information collected from the Patents External Quality Survey is needed on a semi-annual basis so that the USPTO can identify problems with examination quality and work to resolve these issues in a timely manner. Timely, valid information on customer assessment of the USPTO's performance is needed in order for the USPTO to accomplish these measures. While the survey was initially conducted on a quarterly basis, in order to reduce costs to the Federal Government and based on the current use of the survey data and ability of the USPTO to implement changes, the USPTO decided to conduct this survey on a semi-annual basis. If this information was collected less frequently, the USPTO would not be able to generate a reliable measure of examination quality on a continuing basis.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:
- requiring respondents to report information to the agency more often than quarterly;
 - requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
 - requiring respondents to submit more than an original and two copies of any document;
 - requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
 - in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
 - requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
 - that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

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

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of information collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The 60-Day *Federal Register* Notice was published on February 1, 2019 (84 FR 1072). The public comment period ended on April 4, 2019. No public comments were received.

In addition to the request for public comments, the USPTO has long-standing relationships with groups from whom patent application information is collected, such as the Patent Public Advisory Council and the American Intellectual Property Law Association, as well as patent bar associations, independent inventors groups, and users of USPTO public search facilities. Views expressed by these groups are considered when evaluating information collection burdens and when developing proposals for information collection requirements.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

This information collection does not involve a payment or gift to any respondent. This survey is voluntary, so the respondent is not required to answer the questions.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the information collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.

Data collected from the surveys will not be linked to the respondents in any way. All contact information collected from the questionnaire will be maintained in a separate electronic file from the quantitative and qualitative data. At the end of the data collection, three files will be maintained by the survey contractor (Westat). One file will contain respondent contact information and will establish a current and continuous sample file for use in future survey administrations. The second file will contain the aggregate quantitative data and will be delivered to the USPTO. The third file will contain the qualitative data generated from the one open-ended survey item: this data will consist of verbatim text written by the survey respondent. Once the three files are created, respondent information will not be realigned with the data collected.

Applicants can also choose to complete their survey online through Westat's website. A generic username and password is needed to access the survey. Additionally, each respondent is assigned a unique 5-digit identification number. The username, password, and survey ID numbers are generated by Westat and provided to the respondent in the prenotification letter and the cover letter that is sent with the mail survey.

Respondents will have the option of providing Westat with their e-mail address upon completion of both the mail and online versions of the survey. Respondents may be selected no more than twice to participate in the survey during the field period. Due to the panel design of the Patents External Quality Survey, respondents may be selected

to complete this survey more than once. If respondents choose to provide Westat with their e-mail address, they will receive future survey mailings by e-mail, should they be selected in a subsequent wave of data collection. This e-mail address will be appended to the file of respondent contact information.

Information collected will be kept private, to the extent of the law. Responses will be reported in aggregate summary format only and any data collected will not be linked to the actual respondent.

- 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. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

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

- 12. Estimate of Hour and Cost Burden to Respondents Provide estimates of the hour burden of the collection of information. The statement should:**
 - **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
 - **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
 - **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under 'Annual Cost to Federal Government'.**

Table 2 displays the burden hours and costs of this information collection to the public for each year of the study, based on the following calculation factors:

- **Respondent Calculation Factors**

Each year of the survey will include two waves of data collection with an estimated 2,500 completed surveys received annually (1,250 completed surveys x 2 waves of the survey). Of this total, the USPTO estimates that 4% (240) of the surveys will be returned by mail and that 87% (2,175) of the surveys will be

completed using the online option. The USPTO estimates that 75 of the surveys will be submitted by small entities.

These estimates are based on responses of previous survey waves that USPTO has conducted as well as the Agency's long-standing institutional knowledge of and experience with the type of information collected by these items.

- **Burden Hour Calculation Factors**

The USPTO estimates that the responses in this information collection will take the public between 2 minutes (0.03 hours) and 10 minutes (0.17 hours) to complete. This includes the time to gather the necessary information, answer the survey prompts, and submit the completed request to the USPTO.

These estimates are based on the Agency's long-standing institutional knowledge of and experience with the type of information collected and the length of time necessary to complete responses containing similar or like information.

- **Cost Burden Calculation Factors**

The USPTO expects that patent attorneys will be completing these surveys. The USPTO uses a professional rate of \$435 per hour for the attorney respondent cost burden calculations, which is the mean rate for attorneys in private firms as shown in the *2021 Report of the Economic Survey* published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA).

Based on the Agency's long-standing institutional knowledge of and experience with the type of information collected, the Agency believes \$435 is an accurate estimate of the cost per hour to collect this information.

Table 2: Burden Hour/Burden Cost to Private Sector Respondents

Item No.	Item	Estimated Annual Respondents	Responses per Respondent	Estimated Annual Responses (a) x (b) = (c)	Estimated Time for Response (hours) (d)	Estimated Burden (hour/year) (c) x (d) = (e)	Rate ¹ (f)	Estimated Annual Respondent Cost Burden (e) x (f) = (g)
		(a)	(b)	(a) x (b) = (c)	(d)	(c) x (d) = (e)	(f)	(e) x (f) = (g)
1	Patents External Quality Survey (One survey within a single year)	1,250	1	1,250	0.17 (10 minutes)	213	\$435	\$92,655
2	Patents External Quality Survey (Two surveys within same year)	625	2	1,250	0.17 (10 minutes)	213	\$435	\$92,655
3	Non-Response Follow-up Survey Card	Same respondents as item 1 and 2	1	600	0.03 (2 minutes)	18	\$435	\$7,830

¹ 2021 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); pg F-27. The USPTO uses the average billing rate for intellectual property attorneys in private firms which is \$435 per hour. (<https://www.aipla.org/home/news-publications/economic-survey>).

	Total	1,875	---	3,100	---	444	---	\$193,140
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- 13. Total Annualized (Non-hour) Cost Burden** Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).
- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
 - If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
 - Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There are no annual (non-hour) costs associated with this information collection. Respondents do not need to submit filing fees with these surveys. The USPTO covers the costs of all survey materials and provides postage-paid, pre-addressed return envelopes for the completed mail surveys so there are no postage costs associated with this information collection. Therefore, this information collection does not impose any additional annual (non-hour) costs on the respondent.

- 14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies**

may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The USPTO has hired a contractor to conduct the Patents External Quality Survey, so this survey is not conducted or processed by USPTO personnel. The USPTO estimates that the contractor (Westat) will spend about \$182,884 per wave of data collection, or \$365,767 per year. These costs include developing, conducting, and processing the survey. This estimate includes various tasks such as processing the related survey correspondence, performing data entry tasks, sampling, analyzing the data gathered, and preparing reports on the findings. This estimate also includes all labor costs and other direct costs. This is a significant cost reduction from the initial 2 years of data collection.

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	3,100	0	600	0	0	2,500
Annual Time Burden (Hr)	444	0	18	9	0	417
Annual Cost Burden (\$)	0	0	0	0	0	0

Changes in Annual Responses and Time Burden due to Agency Discretion

USPTO adds one item to this information collection to cover the Non-Response Follow-up Survey Card. This additional item adds 600 responses and 18 burden hours to the overall estimates.

Changes in Estimated Annual Responses and Hourly Burdens due to Adjustment in Agency Estimate

Increases in the number of burden hours (+9) is due to the increase in responses per respondent for the remaining items in this information collection.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The USPTO does not plan to publish this information for statistical use.

After each wave of data collection is completed, a report summarizing the results of the survey will be prepared by the USPTO's contractor. At the end of each year of data collection, a more in-depth summary report will be prepared by Westat to discuss changes in examination quality across the waves of data collection. The primary audience of this report is the USPTO.

The primary goal is to measure change in examination quality over a fixed period of time. Respondents will be asked to evaluate their perceptions of examination quality and their recent interactions with the USPTO. Results will be used as part of USPTO's overall quality measurement program.

A projected schedule for the next survey under this clearance is provided below:

Wave 34 (September 2022)

Task	Due Date
Mail pre-notification letters	Monday, July 12
Launch EQS web survey	Monday, July 12
Mail survey booklet packages	Monday, July 19
Mail reminder postcards	Monday, August 2
Begin telephone non-response prompting	Monday, August 9
Close data collection	Monday, August 30
Deliver Bi-annual report to USPTO	Thursday, September 30

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

The Patents External Quality Survey includes the OMB Control Number and the expiration date.

- 18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."**

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