

**SUPPORTING STATEMENT**  
**United States Patent and Trademark Office**  
**Secrecy and License to Export**  
**OMB CONTROL NUMBER 0651-0034**  
**2023**

**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.**

In the interest of national security, patent laws and regulations place certain limitations on the disclosure of information contained in patents and patent applications and on the filing of applications for patents in foreign countries.

**Secrecy Orders**

Whenever the publication or disclosure of an invention by the publication of an application or by the granting of a patent is, in the opinion of the head of an interested Government agency, determined to be detrimental to national security, the Commissioner for Patents at the United States Patent and Trademark Office (USPTO) must issue a secrecy order and withhold the publication of a patent application and the grant of a patent for such period as the national interest requires. A patent will not be issued on the application, nor will the application be published, as long as the secrecy order is in force. If a secrecy order is applied to an international application, the application will not be forwarded to the International Bureau as long as the secrecy order is in effect.

The Commissioner for Patents can issue three types of secrecy orders, each of a different scope. The first type, Secrecy Order and Permit for Foreign Filing in Certain Countries, is intended to permit the widest utilization of the technical data in the patent application while still controlling any publication or disclosure that would result in an unlawful exportation. The second type, the Secrecy Order and Permit for Disclosing Classified Information, is to treat classified technical data presented in a patent application in the same manner as any other classified material. The third type of secrecy order is used where the other types of orders do not apply, including orders issued by direction of agencies other than the Department of Defense.

Under the provision of 35 U.S.C. § 181, a secrecy order remains in effect for a period of one year from its date of issuance. A secrecy order may be renewed for additional periods of not more than one year upon notice by a government agency that the national interest continues to so require. The applicant is notified of such renewal.

When the USPTO places a secrecy order on a patent application, the regulations authorize the applicant to petition the USPTO for permits to allow disclosure, modification, or rescission of the secrecy order, or to obtain a general or group permit. In each of these circumstances, the petition is forwarded to the appropriate defense agency for decision. Also, the Commissioner for Patents at the USPTO may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the disclosure of the invention is no longer deemed detrimental to the national security.

Unless expressly ordered otherwise, action on the application and prosecution by the applicant will proceed during the time the application is under secrecy order to a specific point as indicated under 37 CFR 5.3. Applications under secrecy order that come to a final rejection must be appealed or otherwise prosecuted to avoid abandonment. Appeals in such cases must be completed by the applicant, but unless specifically indicated by the Commissioner of Patents at the USPTO, will not be set for hearing until the secrecy order is removed.

### Foreign Filing License

In addition, this information collection covers information gathered with respect to foreign filing licenses. The filing of a patent application is considered a request for a foreign filing license. However, in some instances an applicant may need a license for filing patent applications in foreign countries prior to a filing in the USPTO or sooner than the anticipated licensing of a pending patent application.

For such circumstances, this information collection covers petitions for a foreign filing license either with or without a corresponding United States application. In addition, this information collection covers petitions to change the scope of a license and petitions for a retroactive license for instances when a patent application is filed through error in a foreign country without the appropriate filing license.

This information collection includes the information needed by the USPTO to review the various types of petitions regarding secrecy orders and foreign filing licenses. This collection of information is required by 35 U.S.C. 181-183 and 184-186 and administered by the USPTO through 37 CFR 5.1-5.5, 5.11-5.15, and 5.18-5.25.

The specific statutes and regulation authorizing the USPTO to collect this information are provided and discussed in Table 1 below:

**Table 1: Information Requirements**

Item No.	Requirement	Statute	Regulation
1	Petition for Rescission of Secrecy Order	35 U.S.C. 181-183	37 CFR 5.4
2	Petition to Disclose or Modification of Secrecy Order	35 U.S.C. 181-182	37 CFR 5.5

3	Petition for General and Group Permits	35 U.S.C. 181	37 CFR 5.5 37 CFR 5.5(e)
4	Petitions for Foreign Filing Licenses: <ul style="list-style-type: none"> <li>• Petition for Expedited Handling of License (no corresponding application)</li> <li>• Petition for Expedited Handling of License (corresponding U.S. application)</li> <li>• Petition for Changing Scope of License</li> <li>• Petition for Retroactive License</li> </ul>	35 U.S.C. 184-186	37 CFR 1.17(g), 5.11-5.15, 5.18-5.20, 5.25
5			
6			
7			

**2. 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.**

There are no forms associated with the petitions in this information collection. Response to this information collection is necessary to obtain a permit to disclose, modify, or rescind a secrecy order, to obtain general or group permits, to obtain foreign filing licenses, including retroactive foreign filing licenses, to expedite the handling of a license, or to change the scope of a license.

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 USPTO information quality guidelines.

Table 2 outlines how this collection of information is used by the public and the USPTO:

**Table 2: Needs and Uses**

Item No.	Form and Function	Form No.	Needs and Uses
1	Petition for Rescission of Secrecy Order	No Form	<ul style="list-style-type: none"> <li>• Used by the public to present evidence to the USPTO that the patent application no longer requires a secrecy order.</li> <li>• Used by the USPTO to determine whether an invention remains subject to a secrecy order.</li> </ul>
2	Petition to Disclose or Modification of Secrecy Order	No Form	<ul style="list-style-type: none"> <li>• Used by the public to petition the USPTO for a permit to disclose a patent application currently under a secrecy order.</li> <li>• Used by the public to petition the USPTO to modify a secrecy order.</li> <li>• Used by the USPTO to query a defense agency to determine whether a permit can be issued to allow disclosure of a patent application currently under a secrecy order.</li> <li>• Used by the USPTO to query a defense agency to determine whether a patent application currently under a secrecy order can be modified.</li> </ul>

3	Petition for General and Group Permits	No Form	<ul style="list-style-type: none"> <li>• Used by organizations or individuals inside an organization to petition the USPTO for a permit allowing use of patent applications under secrecy orders.</li> <li>• Used by the USPTO to query a defense agency to determine whether an organization or individuals inside an organization qualify for permission to handle patent applications under secrecy orders.</li> </ul>
4	Petitions for Foreign Filing Licenses: <ul style="list-style-type: none"> <li>• Petition for Expedited Handling of License (no corresponding application)</li> </ul>	No Forms	<ul style="list-style-type: none"> <li>• Used by the public to petition the USPTO for various licenses to file and/or export patent applications, technical data, and other information in a foreign country.</li> <li>• Used by the public to request a change in the scope of a license.</li> <li>• Used by the public to appeal the USPTO's denial of a retroactive license.</li> <li>• Used by the public to ensure that the appropriate fees have been submitted.</li> <li>• Used by the USPTO to examine and issue or revoke, as appropriate, various types of foreign filing licenses.</li> <li>• Used by the USPTO to determine whether an unlicensed filing violated any export regulations.</li> <li>• Used by the USPTO to ensure that the appropriate fees have been submitted.</li> </ul>
5	<ul style="list-style-type: none"> <li>• Petition for Expedited Handling of License (corresponding U.S. application)</li> </ul>		
6	<ul style="list-style-type: none"> <li>• Petition for Changing Scope of License</li> </ul>		
7	<ul style="list-style-type: none"> <li>• Petition for Retroactive License</li> </ul>		

**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 USPTO currently accepts the electronic filing of most patent applications and related documents through its Web-based patent application and document submission solution, the USPTO patent electronic filing system. With respect to the information associated with this information collection, the USPTO, at this time, only accepts through electronically filed petitions for foreign filing licenses for applications on file with the USPTO. The USPTO is not currently collecting, through USPTO patent electronic filing system, petitions for foreign filing licenses, where there is not a U.S. patent application on file or any of the petitions under the secrecy order program. However, a separate database is being used to collect petition information related to an expedited foreign filing license petition, and the petition itself is scanned and retained in electronic form on Image File Wrapper (IFW).

The USPTO patent electronic filing system offers many benefits to filers, including immediate notification that a submission has been received by the USPTO, automated processing of requests, and avoidance of postage and other paper delivery costs. Users can access the USPTO patent electronic filing system from any computer with an Internet connection. Since the USPTO patent electronic filing system is hosted on the USPTO's secure servers and not on the individual's personal computer, USPTO staff can update the USPTO patent electronic filing system without requiring any action from

the user. Customers can submit fee payments and other requests in real time. The PDF forms can be passed around to multiple users for collaboration.

The USPTO patent electronic filing system integrates with the Patent Application Information Retrieval (PAIR) system, the USPTO's online database that is available through the USPTO Web site. PAIR uses digital certificates to permit only authorized individuals to access information about pending patent applications and to maintain the confidentiality and integrity of the information as it is transmitted over the Internet.

At this time, the USPTO does not accept petitions regarding secrecy orders through the USPTO patent electronic filing system. Due to its extremely sensitive nature (national security interests) and low volume, it is currently not cost-effective to automate the information collection and handling of the information pertaining to applications under a secrecy order. If the security issues are resolved and the electronic collection of these items becomes feasible, the USPTO will reevaluate the options for submitting the secrecy order program petitions.

**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 to issue permits to disclose, modify or rescind secrecy orders, to grant general or group permits, to obtain foreign filing licenses, including retroactive foreign filing licenses, to expedite the handling of a license, or to change the scope of a license. This information is not collected elsewhere and does not result in a duplication of effort.

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

No significant impact is placed on small entities. The same information regarding secrecy orders and foreign filing licenses is required of every applicant and is not available from any other source. The USPTO further estimates that it will receive approximately 4,434 responses annually, with approximately 20% of these responses from small entities and approximately 10% of the small entities will qualify as micro entities.

Pursuant to 35 U.S.C. § 41(h)(1), the USPTO provides a 50 percent (50%) reduction in the fees charged under 35 U.S.C. § 41(a) and (b) for those entities asserting small entity status. The USPTO also provides a 50 percent (50%) reduction of the already-reduced small-entity fees for those entities certifying micro entity status. The USPTO's regulations concerning the payment of reduced patent fees by small entities and micro entities are at 37 CFR 1.27-1.29, and reduced fees for the petition filing fees in this information collection for applicants with either small entity or micro entity status are shown in 37 CFR 1.17(g).

**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.**

This information is collected only when the respondent petitions the USPTO for permits to disclose, modify, or rescind secrecy orders; to grant general or group permits; to obtain foreign filing licenses, including retroactive foreign filing licenses; to expedite the handling of a license; and to change the scope of a license. It could not be conducted less frequently. If the collection of information were not collected, the USPTO could not comply with the requirements of 35 U.S.C. 181-183 and 184-186 and 37 CFR 5.1-5.5, 5.11-5.15, and 5.18-5.25..

**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 2 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 Notice was published in the *Federal Register* on December 27, 2022 (87 Fed. Reg. 79283).<sup>1</sup> The comment period ended on February 27, 2023. No public comments were received.

The USPTO has long-standing relationships with groups from whom patent application data is collected, such as the Patent Public Advisory Committee, 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. 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.

**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.**

The confidentiality of patent applications is governed by statute 35 U.S.C. 122 and 181 and regulations 37 CFR 1.11, 1.14, and 5.1-5.3. Records are maintained for referral to authorized government agencies under 35 U.S.C. 181 for determination of the requirement for a secrecy order, notification of the applicant or his or her duly appointed representative of such secrecy order, to prevent disclosure of information that might be detrimental to national security, and in accordance with agency rules.

Anyone wishing to view documents recorded under secrecy orders or view recorded documents in which the Federal government has an interest must submit authorization in writing before the USPTO will release the documents for inspection, according to 37 CFR 3.58. Records are stored in paper in file folders and on magnetic storage media. Documents under secrecy orders cannot be filed electronically due to national security concerns.

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<sup>1</sup> <https://www.govinfo.gov/content/pkg/FR-2022-12-27/pdf/2022-28151.pdf>.

Administrative controls are used to safeguard this information as appropriate. Records are stored in a locked vault in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Where information is retrievable by terminal, all safeguards appropriate to secure the ADP telecommunications system (hardware and software) are utilized.

This information collection contains information that is subject to the Privacy Act and are covered by the following published System of Records Notices (SORN):

- A SORN for the Patent Application Secrecy Order Files (Commerce/PAT-TM-8 Patent Application Secrecy Order Files, 78 FR 19246) published March 29, 2013.<sup>2</sup>
- A SORN covering Petitioners for License to File for Foreign Patents (Commerce/PAT-TM-13; 78 FR 19463) published April 1, 2013.<sup>3</sup>
- A SORN covering Patent Application Files (COMMERCE/PAT-TM-7 Patent Application Files, 78 FR 19243), published on March 29, 2013.<sup>4</sup>

These SORNs identify the categories of records in the system containing information regarding applicants for patent, including inventors, legal representatives, and other persons authorized by law to make applications for patent.

**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 is considered to be sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

**12. 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**

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<sup>2</sup> <https://www.osec.doc.gov/opog/privacyact/SORNs/pat-tm-8.html>.

<sup>3</sup> <https://www.osec.doc.gov/opog/PrivacyAct/SORNs/pat-tm-13.html>.

<sup>4</sup> <https://www.osec.doc.gov/opog/PrivacyAct/SORNs/pat-tm-7.html>.



**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’.**
- **Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.**

Table 2 calculates the burden hours and costs of this information collection to the public, based on the following factors:

- **Respondent Calculation Factors**

The USPTO estimates that 7,524 respondents from the private sector will submit activity under this information collection. Items relating to secrecy orders are submitted only by private sector firms, but it is estimated that both firms and individuals (2%) will submit licensing petitions.

The USPTO further estimates that it will receive approximately 7,524 responses annually, with approximately 20% (1,505) of these responses from small entities and approximately 10% (151) of the small entities will qualify as micro entities.

These estimates are based on 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 it will take the public between 30 minutes (0.5 hours) to 4 hours to gather the necessary information, prepare the appropriate petition, and submit the petition to the USPTO, depending on the complexity of the situation. The overall estimate for burden hours for these activities is 4,503 hours.

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 uses the professional rate of \$435 per hour for 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). The USPTO expects that the information in this information collection will be prepared by attorneys. This is a fully-loaded hourly rate.

Based on the Agency’s long-standing institutional knowledge of and experience with the type of information collected, the Agency uses the estimate of \$435 to calculate the

estimated cost per hour for respondents. The hourly cost burden for submissions under this information collection is estimated at \$1,958,805.

**Table 3: Total Burden Hours and Hourly Costs to Private Sector Respondents**

Item No.	Item	Estimated Annual Respondents (a)	Responses per Respondent (b)	Estimated Annual Responses (a) X (b) = (c)	Estimated Time For Response (hours) (d)	Estimated Burden (hour/year) (c) x (d) = (e)	Rate <sup>5</sup> (\$/hour) (f)	Estimated Annual Respondent Cost Burden (e) x (f) = (g)
1	Petition for Rescission of Secrecy Order	10	1	10	3	30	\$435	\$13,050
2	Petition to Disclose or Modification of Secrecy Order	10	1	20	2	40	\$435	\$8,700
3	Petition for General and Group Permits	1	1	1	1	1	\$435	\$435
4	Petition for Expedited Handling of License (no corresponding application)	7,000	1	7,000	0.5	3,500	\$435	\$1,522,500
5	Petition for Expedited Handling of License (corresponding U.S. application)	300	1	300	0.5	150	\$435	\$65,250
6	Petition for Changing Scope of License	3	1	3	0.5	2	\$435	\$870
7	Petition for Retroactive License	200	1	200	4	800	\$435	\$348,000
	<b>Totals</b>	<b>7,524</b>	<b>---</b>	<b>7,524</b>	<b>---</b>	<b>4,503</b>	<b>---</b>	<b>\$1,958,805</b>

**13. 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**

<sup>5</sup> 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>).

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 capital start-up, maintenance, or record keeping costs associated with this information collection. There are, however, non-hour costs due to filing fees and postage costs for the foreign filing petitions. No fees are associated with the secrecy order petitions.

The total annual filing fee costs to respondents is outlined in Table 5 below:

**Table 5: Filing Fees**

IC No.	Fee Code	Item	Responses (a)	Filing Fee (\$) (b)	Total Non-Hour Cost Burden (a) x (b) (c)
4	1463	Petition for Expedited Handling of License (no corresponding application) (undiscounted entity)	5,600	\$220	\$1,232,000
4	2463	Petition for Expedited Handling of License (no corresponding application) (small entity)	1,260	\$88	\$110,880
4	3463	Petition for Expedited Handling of License (no corresponding application) (micro entity)	140	\$44	\$6,160
5	1463	Petition for Expedited Handling of License (corresponding U.S. application) (undiscounted entity)	240	\$220	\$52,800
5	2463	Petition for Expedited Handling of License (corresponding U.S. application) (small entity)	54	\$88	\$4,752

5	3463	Petition for Expedited Handling of License (corresponding U.S. application) (micro entity)	6	\$44	\$264
6	1463	Petition for Changing Scope of License (undiscounted entity)	1	\$220	\$220
6	2463	Petition for Changing Scope of License (small entity)	1	\$88	\$88
6	3463	Petition for Changing Scope of License (micro entity)	1	\$44	\$44
7	1463	Petition for Retroactive License (undiscounted entity)	160	\$220	\$35,200
7	2463	Petition for Retroactive License (small entity)	36	\$88	\$3,168
7	3463	Petition for Retroactive License (micro entity)	4	\$44	\$176
		<b>Totals</b>	<b>7,503</b>	<b>- - -</b>	<b>\$1,445,752</b>

The USPTO estimates that 99 percent of the petitions in this information collection are submitted electronically, by facsimile, or hand carried because of the quick turnaround required. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail 2-day flat rate legal envelope, will be \$9.25 and that approximately 1% (75) submissions will be mailed to the USPTO per year. Therefore, the USPTO estimates that postage costs in this collection will be \$694.

Therefore, the USPTO estimates that the total (non-hour) cost burden for this information collection in the form of filing fees (\$1,445,752) and postage costs (\$694) is \$1,446,446.

**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 estimates that it takes a GS-7, step 5, approximately 1 hour each to process the petition for rescission of a secrecy order, the petition to disclose or modification of secrecy order, and the petition for general and group permits. The hourly rate for a GS-7, step 5, is currently \$28.84 according to the U.S. Office of Personnel Management's (OPM's) wage chart, including locality pay for the Washington, DC area. When 30% is added to account for a fully-loaded hourly rate (benefits plus overhead), the rate per hour for a GS-7, step 5, is \$37.49 (\$28.84 + \$8.65).

The USPTO estimates that it takes a GS-13, step 2, approximately 30 minutes (0.5 hours) each to process the petitions for expedited handling of license (no corresponding application and corresponding U.S. application), 0.5 hours to process the petition for

changing the scope of a license, and 4 hours to process the petition for retroactive license. The hourly rate for a GS-13, step 2, is currently \$55.46. When 30% is added to account for a fully loaded hourly rate (benefits plus overhead), the rate per hour for a GS-13, step 2, is \$72.10 (\$55.46+ \$16.64).

Table 6 calculates the processing hours and costs to the Federal Government:

**Table 6: Burden Hour/Burden Cost to the Federal Government for Secrecy and License to Export**

IC No.	Item	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) x (b)	Rate <sup>6</sup> (\$/hr) (d)	Total Cost (\$/hr) (e) (c) x (d)
1	Petition for Rescission of Secrecy Order	10	1	10	\$37.49	\$375
2	Petition to Disclose or Modification of Secrecy Order	10	1	40	\$37.49	\$375
3	Petition for General and Group Permits	1	1	1	\$37.49	\$37
4	Petition for Expedited Handling of License (no corresponding application)	4,000	0.5	3,500	\$72.10	\$252,350
5	Petition for Expedited Handling of License (corresponding U.S. application)	250	0.5	150	\$72.10	\$10,815
6	Petition for Changing Scope of License	3	0.5	2	\$72.10	\$144
7	Petition for Retroactive License	150	4	800	\$72.10	\$57,680
	<b>Totals</b>	<b>7,524</b>	<b>---</b>	<b>4,473</b>	<b>---</b>	<b>\$321,776</b>

**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	7,524	0	0	3,090	0	4,434
Annual Time Burden (Hr)	4,503	0	0	1,705	0	2,798
Annual Cost Burden (\$)	1,446,446	0	0	658,209	0	788,237

Changes Since the Publication of the 60-Day Notice

Since the publication of the 60-day notice *Federal Register* on December 27, 2022, USPTO has revised the annual cost burden for this information collection. The annual cost burden has decreased (-\$31,383) in order to reflect the fee reductions included in the *Unleashing American Innovators Act of 2022*. The fee reductions were accounted

<sup>6</sup> [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB_h.pdf).

for in a changed worksheet approved by OMB on March 28, 2023.<sup>7</sup> These reductions are now being applied to the renewal of this information collection, but the respondent estimates remain unchanged.

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

The increase in the number of responses (+3,090) and burden hours (+1,705) to the estimated normal fluctuation in the number of responses for the items remaining in this information collection. This increase is reflective of the increased use of patent filing options.

#### Change in Annual (Non-hour) Costs due to Adjustment in Agency Estimate

The USPTO estimates an increase (+\$658,209) for the total annual (non-hour) costs due to increases in the number of respondents paying filing fees, and postage costs. Likewise, USPTO increased postage costs to reflect more accurate respondent burden. These increases reflect the increased use of patent filing options.

- 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.**

There is no plan to publish this information for statistical use.

- 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.**

There are no forms in this information collection. Therefore, the display of the OMB Control Number and the expiration date is not applicable.

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

No exceptions to the certificate statement are included in this collection of information.

## **B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection of information does not employ statistical methods.

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<sup>7</sup> [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202303-0651-016](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202303-0651-016).