

Office of the United States Trade Representative  
Draft Information Quality Guidelines  
(Final OMB clearance required.)

October 1, 2002

Background

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law No. 106-554) ("Section 515") directs each agency subject to the Paperwork Reduction Act (44 USC Chapter 35) to issue a set of guidelines for information quality. These guidelines must conform to the general guidelines issued by the Office of Management and Budget (OMB) on October 1, 2001. The OMB guidelines require that agencies ensure and maximize the quality, utility, objectivity, and integrity of information that each agency disseminates. Further, Section 515 requires that each agency develop and publish along with the guidelines, information describing the administrative process by which affected persons may seek and obtain corrections to any information disseminated by the agency that is not in compliance with the agency's or OMB's (67 Federal Register 8452, February 22, 2002) guidelines.

Policy

The Office of the United States Trade Representative (USTR) will act to ensure the quality, integrity, objectivity and utility of any and all information disseminated by USTR to the public.

Guidelines

USTR will review all information products for quality before disseminating those products. The following guidelines apply to information products in all media and formats, including print, electronic, audiovisual or any other form that is specifically prepared for public dissemination. While these guidelines do apply to information products posted on USTR's Internet web site ([www.ustr.gov](http://www.ustr.gov)), the guidelines do not apply to links found on that web site that lead to other web sites or that lead to information disseminated by other organizations. These guidelines will cover information disseminated on or after October 1, 2002, regardless of when the information was first disseminated.

Procedures for Ensuring the Quality (Objectivity and Utility) of Information

- USTR is committed to making reliable and useful information available to the public. Before disseminating any information product, USTR staff and officials will strive to present information to the public in a manner that meets the standards of objectivity, utility and integrity. It is the responsibility of each USTR office, drafting information intended for dissemination, to pursue the most

knowledgeable and reliable sources reasonably available to confirm the objectivity and utility of such information.

- Much of the information USTR uses is provided by other Federal Government agencies. In preparing such material for dissemination, the lead USTR drafting office will seek verification from the agency of origin that the agency of origin followed its information quality guidelines with respect to the provided information.
- USTR will continue to employ a long-standing interagency clearance process that is coordinated by the lead USTR drafting office. The lead drafting office will consult with all offices within USTR having substantial interest or expertise in the information being proposed for dissemination. As appropriate, all other involved organizations will be included in the review and clearance process.
- When the lead drafting office determines that information being considered for dissemination is influential scientific, financial, or statistical information, extra care should be taken, where appropriate, to include a high degree of transparency with respect to the data, and any analytical methods used in deriving the data, in order to meet the OMB guidance requirement for the reproducibility of such information. To be considered influential, information must be based on objective and quantifiable data that constitute a principal basis for substantive policy positions adopted by USTR.
- In determining the appropriate level of transparency, the lead office should consider the types of data that can practicably be subjected to a reproducibility requirement given ethical, feasibility, and confidentiality constraints. Within these same constraints, the lead office should hold analytical results to an even higher standard of transparency than original data.
- Hard-copy public dissemination of information and the posting of all information published on USTR's website shall occur only after clearances are obtained from all appropriate USTR offices and, when appropriate, senior USTR officials.
- These guidelines focus on procedures for the "dissemination" of "information," as those terms are defined below. Accordingly, procedures specifically applicable to forms of communication outside the scope of these guidelines, such as those for correspondence, press releases (that include information that USTR has previously disseminated to the public), archival records, requests under the Freedom of Information or Privacy Acts, public filings or adjudicative processes, among others, are not included.

#### Integrity of Information

- “Integrity” refers to the security of information; protection of the information from unauthorized, unanticipated, or unintentional modification; to prevent information from being compromised through corruption or falsification.
- Within USTR, the Office of Administration has responsibility for information security. Both the USTR Office of Computer Operations and the Office of Security and Administrative Services work to ensure information security. These offices implement and maintain computer software and hardware systems and provide operational support for systems and system users.
- USTR adheres to both legal and internal Information Technology (IT) security policies, along with EOP security policies and operational processes for the protection of USTR's data and information. USTR's systems are reviewed annually in accordance with existing law and policy and corrective action plans are developed to address all security weaknesses.

#### Administrative Process for Corrective Action

In accordance with Section 515, USTR has established the following procedure to provide affected persons a means to seek and obtain correction of information that USTR has disseminated to the public. This procedure requires that certain information regarding the challenged information and regarding the affected persons submitting a challenge under these procedures be supplied to USTR in writing.

USTR has the responsibility to review all duly filed challenges, determine whether the challenge is covered and whether a revision of to the challenged information is warranted. In instances where USTR determines the challenge to be valid, the submitter will receive a reply that will include an explanation of any remedy or revision applied and the time frame for the application of the remedy or revision. In instances where USTR denies a initial challenge, the submitter is eligible to lodge an administrative appeal as described below.

Where a person challenges information that is disseminated in the course of rulemaking or another similar administrative process that provides for public comment, challenges to information should ordinarily be brought within the context of public participation under the existing administrative framework rather than the guidelines. In cases where USTR disseminates a study, analysis or other information prior to taking some final action, requests for correction may be considered prior to the final action. In making such determinations, USTR must consider the factors of delay and harm, for example, whether an earlier response to the complaint will not unduly delay issuance of the final action and whether the complainant has shown a reasonable likelihood of suffering actual harm from that final action if USTR does not resolve the complaint before taking the final action.

### Submitting a Challenge

- Persons submitting a challenge under these guidelines must provide, in writing, the following information: name and contact information of the person filing the challenge (mailing address, fax and telephone numbers, any applicable e-mail addresses, and the organization represented, if applicable); a clear and complete description of the information being challenged, including specifics about any perceived errors or inaccuracies; the title of any cited report or information product; the publication dates, if available; document URLs if the item is posted on a website. The submitter must also state specifically why the information is being challenged (*i.e.*, describe in what manner the information does not meet the USTR or OMB guidelines.). Submitters must also explain how they are affected by the information.
- Challenge requests are to be sent to the USTR Freedom of Information Officer, Office of the United States Trade Representative, 600 17<sup>th</sup> Street, N.W., Washington, D.C. 20508 and must clearly indicate that the request is a “Request for Corrective Action” that is being filed in accordance with “Section 515, Information Quality Guidelines”. Requests will be forwarded to the appropriate office within USTR responsible for the disputed information product and to the Assistant U.S. Trade Representative (AUSTR) for Administration. The AUSTR for Administration will appoint a facilitator from the Office of Administration to coordinate the Initial Agency Review.

### Initial Agency Review

- In the case a submitter does not provide all appropriate information, as indicated above, USTR will determine that the challenge is not covered by this process. If USTR determines that a request is not covered, the person submitting the request will be notified of that determination, in writing, within the prescribed time frame (see below). Any request deemed by USTR to be frivolous will not receive a notification.
- For covered challenges, the USTR office reviewing the challenge will give the request due consideration, including a review of the disseminated information at issue and other materials, as appropriate. Where the reviewing office determines that the information publicly disseminated by USTR warrants correction, it will consider appropriate corrective measures recognizing the potential implications for USTR and the United States.
- If USTR determines that a request is covered by these guidelines, but that corrective action is unnecessary or is otherwise inappropriate, USTR will notify the requestor of that determination, in writing, within the prescribed time frame.

- If USTR determines that a request is covered by these guidelines and that corrective action is appropriate, it will notify the requestor in writing, within the prescribed time frame of that determination and describe action that has been or will be taken. Subject to applicable law, rules, and regulations, corrective actions may take a number of forms, including (but not limited to): personal contacts via letter or telephone, form letters, press releases or postings on the USTR website, when appropriate, to correct a widely disseminated error or address a frequently raised challenge. Corrective measures, where appropriate, should be designed to provide reasonable notice to affected persons of such correction.
- The prescribed time frame is sixty (60) calendar days from the date of receipt of the original challenge. If the action on a challenge will require more than 60 calendar days, USTR will inform the complainant in writing that more time is required, indicating the reason more time is needed and provide an estimated date when the review will be completed.
- Determinations in the Initial Review process are made by the facilitator based upon relevant information provided by officials from such offices within USTR as are needed to complete an appropriate review.

#### Administrative Appeal Review

- When an affected person who has filed a covered challenge and received notice of USTR's initial agency review determination believes that appropriate corrective action has not been taken, that person may file an appeal. Challenges determined by USTR to be not covered or frivolous under these guidelines, will not be reconsidered under the administrative appeal review provisions.
- To request an appeal review, persons must again provide contact information in writing and must also clearly state that they are making a "Request for Appeal Review" in accordance with "Section 515, Information Quality Guidelines". The request must include a copy of the original challenge previously submitted to USTR and a copy of USTR's initial review response. The administrative appeal submission should be sent to the USTR Freedom of Information Officer, Office of the United States Trade Representative, 600 17<sup>th</sup> Street, N.W., Washington, D.C. 20508. Requests for Administrative Appeal Review must be received by USTR within thirty (30) calendar days of the date of USTR's notification to the requestor of the disposition of the underlying challenge. Appeal submissions will be forwarded to the Office of the General Counsel, the AUSTR for Administration and to the appropriate office within USTR responsible for the challenged information. The General Counsel will appoint a facilitator from the Office of the General Counsel to coordinate the Administrative Appeal Review.

- USTR will consider the appeal and will make a determination regarding its validity. If the appeal request is found to be valid, USTR will notify the submitter of its determination within the prescribed time frame and, as appropriate, any corrective action it has taken or will take. USTR will give reasonable notice to affected persons of any corrections made.
- If USTR determines that the initial review was correct and no further action needs to be taken, it will send a notice of that determination to the submitter within the prescribed time frame and the appeal process will end.
- The prescribed time frame is sixty (60) calendar days from the date of receipt of the request for an Administrative Appeal Review. If consideration of an appeal requires more than 60 calendar days, USTR will inform the submitter in writing that more time is required, include the reason more time is needed, and provide an estimated date when the appeal will be completed.
- Determinations in the appeal process are made by the facilitator based upon relevant information provided by officials from such offices within USTR as are needed to complete an appropriate review.

### Definitions

“Affected” persons are those who may be using, be benefitted or be harmed by the disseminated information.

“Dissemination” means agency initiated or sponsored distribution of information to the public (See also 5 CFR 1320.3(d) (definition of “Conduct or Sponsor”). Dissemination does not include distribution limited to: government employees or agency contractors or grantees; documents intended for intra- or inter-agency use or sharing of government information; documents shared exclusively with foreign governments or multilateral organizations where there is no requirement that they be made public; responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law. This definition also does not include distribution limited to: correspondence with individuals or persons, press releases, archival records, public filings, adjudicative processes, submissions in arbitration proceedings or dispute settlement cases. If a particular distribution of information is not covered by these guidelines, the guidelines may still apply to a subsequent distribution of the information in which USTR adopts, endorses or uses the information to formulate or support a regulation, guidance, or other agency decision or position.

“Influential” when used in the phrase “influential scientific, financial, or statistical information,” means that the agency can reasonably determine that dissemination of the information will have

or does have a clear and substantial impact on important public policies or important private sector decisions.

“Information” means any communication or representation of substantive knowledge such as facts or data, in any medium or form, (including textual, numerical, graphic, cartographic, narrative, or audiovisual media) prepared to inform the public. This definition includes information that an agency disseminates from a web page, but does not include hyperlinks to information that others disseminate, whether government or non-government. This definition does not include opinions, where the context makes it clear that the statement is subjective opinion or interpretation, rather than fact; statements related solely to internal personnel rules and practices of USTR; descriptions of the agency, its responsibilities and its organizational components; statements, the modification of which might cause harm to the national security, including harm to the foreign relations of the United States; statements of Administration policy; testimony or comments of USTR officials before Congress, courts, administrative bodies, or the media, unless such testimony or comments contain new, substantive information not previously disseminated; statements which are, or which reasonably may be expected to become, the subject of litigation, whether before a U.S. or foreign court, or in an arbitration or dispute resolution proceeding.

“Integrity” refers to the security of information – protection of the information from unauthorized access or revision, to prevent the information from being compromised through corruption or falsification.

“Objectivity” addresses whether disseminated information is, as a matter of substance and presentation, accurate, reliable, clear, complete, and unbiased, and includes the presentation of background information where warranted by the circumstances.

“Person” means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a regional, national, State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision, or an international organization;

“Quality” is an encompassing term comprising utility, objectivity, and integrity. Therefore, the guidelines sometimes refer to these four statutory terms, collectively, as “quality”.

“Reproducibility” means that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. For information judged by the agency to have more (less) important impacts, the degree of imprecision that is tolerated is reduced (increased). If an agency applies the reproducibility test to specific types of original or supporting data, the associated guidelines shall provide relevant definitions of reproducibility (*e.g.*, standards for replication of laboratory data). With respect to analytic results, “capable of being substantially reproduced” means that independent analysis of the original or supporting data using identical methods would generate similar analytic results, subject to an acceptable degree of imprecision

or error.

“Utility” refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that the agency disseminates to the public, the agency needs to consider the uses of the information not only from the perspective of the agency but also from the perspective of the public. As a result, when transparency of information is relevant for assessing the information’s usefulness from the public’s perspective, the agency must take care to ensure that transparency has been addressed in its review of the information.