

U.S. Department of Agriculture
Farm Service Agency
Supporting Statement
OMB No. 0560-0097
Form FSA-153, Agricultural Foreign Investment Disclosure Act Report

Supporting Statement:

The Farm Service Agency (FSA) is requesting an extension of a currently approved information collection associated with Agricultural Foreign Investment Disclosure Act (AFIDA) Report.

1. Circumstances that make the collection of information necessary.

The Agricultural Foreign Investment Disclosure Act of 1978 requires foreign investors to timely report all held, acquired, or transferred United States (U.S.) agricultural land under penalty of law to Farm Service Agency. The statute of authority is 92 STAT (1263-1267) or 7 USC 3501-3508 or Public Law 95-460. The regulation was promulgated at 7 CFR Part 781.1-5.

On February 6, 1979, the Secretary of Agriculture delegated the authority for the collection of the information to the Agricultural Stabilization and Conservation Service (ASCS) which is now known as the Farm Service Agency (FSA).

2. How, by whom and for what purpose is information used.

The regulation at 7 CFR part 781.1-5 require Foreign Investors who buy, sell, or hold a direct or indirect interest in U.S. agricultural to report their holdings and transactions to FSA. The foreign investors are instructed to complete a printed form or an electronic form of the FSA-153 (AFIDA report) when they acquire, transfer and change the use of their land and file the AFIDA report with the FSA county office in the county where the land is located. The Foreign Investors can submit the form in person, mail the form, or transmit the form electronically to the appropriate FSA county office. They can also obtained permission to file a report with the FSA office in Washington, DC, when complex filings are involved.

The information collected from the form is used to monitor the effect of foreign investment upon family farms and rural communities and in the preparation of a voluntary report to Congress and the President. Congress reviews the report and decides if regulatory action is necessary to limit the amount of foreign investment in U.S. agricultural land.

3. Use of improved information technology.

The FSA-153 is available as an electronic form at <http://forms.sc.egov.usda.gov/efrms/formsearchservlet>. The Foreign Investors can optionally submit the completed form to the FSA county office electronically. The respondents can print and submit the completed form in hardcopy to the appropriate FSA county offices. This information collection is in compliance with GPEA requirement. The information contained in the voluntary report to Congress and the President is collected from a two page FSA-153, which is key punched into a data base.

4. Efforts to identify duplication.

The Commerce Department is the only other department monitoring foreign investment. However, the Commerce Department excludes agricultural land below 200 acres and less than one million dollars in value (15 CFR Part 806-International Survey Act of 1976). The Commerce survey also omits most of the foreign-owned citrus and a sizable percentage of the rest of foreign-owned agricultural land. The Commerce data is also classified confidential and cannot be used for our purposes.

5. Methods to minimize burden on small businesses or other small entities.

The collection of information involves some small organizations. If a small foreign organization is involved, our FSA headquarters office and FSA county office will assist in answering questions and filling out the form. There will be reporting requirement instructions for the completion of the report on the internet which will help to minimize the burden. The small investor answers the same questions as all other respondents. The questions asked on the form are mandated by AFIDA of 1978. The creation of the Internet report will make the completion of the report less of a burden.

6. Consequence if information collection were less frequent.

The AFIDA of 1978 requires that any foreign persons who held, holds, acquires or transfers any interest in U.S. agricultural land shall file a report within 90 days after the date of such transaction (7 U.S.C. 3501). It would not be possible for Agriculture to effectively monitor foreign investment and the effect of such holdings upon family farms and rural communities if the collection was conducted less frequently. It would be very difficult to accurately monitor foreign investment without foreign persons reporting all acquisitions, transfers, and changes in the status of their ownership and land use as they occur.

7. Special Circumstances.

The AFIDA does not require foreign investors to report the information quarterly. Reporting is required when changes occur. The 7 CFR Part 781.3, which set forth the requirements designed to implement the AFIDA, requires any foreign person who held, holds, acquires or transfers any interest in U.S. agricultural land to report the transactions on the form FSA-153.

If the interest in the land was held on February 1, 1979, the report was required to be filed by August 1, 1979. However, if the interest was acquired or transferred on or after February 2, 1979, the report is required to be filed within 90 days of the date of the transaction. There are no other special circumstances. After a report is submitted and it needs additional information it must be submitted to us within 30 days of the date of the correspondence. The respondents need only provide one copy of the report. The data is open to the public for inspection.

8. Federal Register notice, summarization of comments and consultation with persons outside the agency.

The Notice of Request for Extension of a Currently Approved Information Collection was published in the Federal Register on March 29 at 71 FR 15691. No comments were received.

The persons were contacted to get feedback on the form and the instruction, and they found that the form and the instruction are practical in this information collection.

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9. Decisions to provide any payment or gift to respondents.

There are no plans to provide any payments or gifts to respondents.

10. Confidentiality provided to respondents.

Under the AFIDA of 1978, the AFIDA Reports (FSA-153) are open to the public for inspection (7 U.S.C. 3506).

11. Questions of a sensitive nature.

There are no questions of a sensitive nature included in the form.

12. Estimates of burden.

It is estimated that approximately 2,000 respondent foreign investors complete and electronically submit the form annually which takes approximately 10 minutes to complete. Approximately 2,000 respondent foreign investors complete and print the form which takes approximately 15 minutes to complete. Approximately 100 respondents submit letters of notification to make changes in foreign person status annually which takes approximately 10 minutes to complete, and approximately 275 respondents submit letters of notification to keep specific information current annually on the AFIDA Report which takes approximately 10 minutes to complete.

The total annual cost to the public is \$28,016 which is 903.75 burden hours times an average of \$31 per hour. The hourly wage is based on an average of a nonprofessional hourly wage of \$12 and a professional hourly wage of \$50. The forms are completed by respondents in a variety of occupations. We may have the individual foreign investor, a corporate employee or an attorney who is hired by the foreign investor completing the forms.

13. Total annual cost burden to respondents or record keepers.

There are no capital or startup costs associated with this information collection.

14. Estimates of annualized cost to the Federal government.

The annual cost to the government is approximately \$431,659. The cost represents 10.1 staff years and includes the cost for development, printing and distribution of forms, and management of the data. The description of the method used to estimate costs are as follows:

Washington FSA Office Costs:

A percentage of staff years were computed for each employee involved in the program based on the amount of time spent on the program. The staff year total was 2.1. The determined percentage was multiplied by the annual salary of each employee to arrive at a total salary cost for each employee. These totals were all added together to arrive at total salary. Then a percentage of benefits was computed based on the total salary. The total salary and benefit costs were added together to arrive at a total personnel cost of \$159,910.

The development, printing, distribution, storage, retrieval, and dissemination of data for an estimated annual response of $4,375 \times \$0.08$ per form = \$350.

Washington FSA Office Total Annual Cost \$159,910

State FSA Office Costs:

An average salary for State Office employees was determined to be \$46,247. The percentage of benefits was determined to be \$10,729. It was computed based on the average salary. The average salary and benefit amount was added together for a total salary cost of \$56,976. The estimated workdays was determined to be 244. Therefore, 244 workdays divided by 260 days = .94 staff years multiplied by the total salary cost \$56,976 = State FSA Total Annual Cost of \$53,470.

State FSA Office Total Annual Cost \$53,470

County FSA Office Costs:

An average per day salary and benefits for County Office employees was determined to be \$142.48 per day cost. Based on the average workload units (Form FSA-153) it was determined that the County Office workdays was 1,532. Therefore, 1,532 workdays divided by 260 days = 5.9 staff years. The 1,532 workdays were multiplied by the average per day cost \$142.48 = County FSA Total Annual Cost of \$218,279.

County FSA Office Total Annual Cost \$218,279

15. Reasons for changes in burden.

The reason for the change is due to an error in estimating the burden hours.

16. Tabulation, analysis, and publication plans.

The four tables are published summarizing foreign investment data every year. These tables are part of a voluntary Report to the President and Congress and any interested parties.

17. Reasons display of expiration date of OMB approval is inappropriate.

The expiration date of the OMB approval is not displayed because the form does not change and it is not cost effective for Forms officer to change the expiration date every three years to post or reprint/distribute new version form for the FSA county offices.

18. Exception to 83-1 certification statement.

The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.

19. How the information collection is related to the Customer Service Center.

When a Foreign Investor visits or contacts the Customer Service Center for information relating to the FSA programs, a customer service employee informs them of the AFIDA requirements and provides

them with a pamphlet, blank report and a copy of the regulations that govern the AFIDA. Also, inform the Foreign Investors that they can submit the form electronically as an option.