

Supporting Statement for Form BE-13, Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, including Real Estate and Form BE-14, Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business Enterprise by, or Who Enters into a Joint Venture with, a Foreign Person (OMB Number 0608-0035)

A. Justification

1. The Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate (Form BE-13) and the Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business Enterprise by, or Who Enters into a Joint Venture With, a Foreign Person (Form BE-14) are necessary to obtain comprehensive initial data concerning new foreign direct investments in the United States. The survey is mandatory and is conducted under the International Investment and Trade in Services Survey Act (Public Law 94-472, 22 U.S.C. 3101-3108 as amended, hereinafter "the Act" (attachment 1)).

Section 4(a) of the Act provides that:

"The President shall, to the extent he deems necessary and feasible--

- (1) conduct a regular data collection program to secure current information on international capital flows and information related to international investment and trade in services, including (but not limited to) such information as may be necessary for computing and analyzing the United States balance of payments, employment and taxes of United States parents and affiliates, and the international investment and trade in services position of the United States; [and]
- (2) conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment and trade in services which may have significant implications for the economic welfare and national security of the United States."

In Section 3 of Executive Order 11961, the President delegated the responsibility for collecting information on direct investment to the Secretary of Commerce, who has redelegate it to the Bureau of Economic Analysis (BEA). Reports are mandatory under section 5(b)(2) of the Act (22 U.S.C. 3104). Implementing rules and regulations are contained in 15 CFR Part 806 (attachment 2).

2. The BE-13 survey form collects information on the cost of new foreign direct investments in the United States, the sources of funding, and limited financial and operating data for the U.S. entity being established or acquired; the survey also collects

identification information about the U.S. entity being acquired or established and about the new foreign owner(s). The BE-14 survey form collects information from U.S. persons who assist in an investment transaction, such as a real estate broker or attorney, or who enter into a U.S. joint venture with a foreign person. Its primary purpose is to provide BEA with the name and address of the newly established or acquired U.S. company, so that a BE-13 form can be mailed to it for completion. A form BE-14 is not required to be filed, however, if the U.S. company files a BE-13 relating to its establishment or acquisition by a foreign person.

A primary purpose of this information collection is to identify new U.S. affiliates that should be included in BEA's estimates of foreign direct investment in the United States. The information is needed to update data on the universe of U.S. affiliates on a continuous basis to ensure that it is complete, and to determine whether the new affiliates are required to report in related benchmark, annual, and quarterly surveys of foreign direct investment conducted by BEA. The information is also used to improve the accuracy of universe estimates derived from the ongoing quarterly and annual sample surveys of foreign direct investment. In addition, the level and number of acquisitions and new establishments of U.S. business enterprises in a given year by foreign direct investors is of analytic interest in its own right.

Representatives of many State and local governments take active steps to attract new foreign direct investment to their localities. To make informed policy decisions concerning such investment, it is essential that government entities, including the U.S. Government, have the means to measure foreign direct investment in the United States, monitor changes in it, and assess its economic impact. Data from the survey are intended to be general purpose statistics on foreign direct investment that are readily available to answer any number of research and policy questions when they arise.

The data also complement data from BEA's other surveys of foreign direct investment in the United States, namely the BE-605 and BE-605 Bank quarterly surveys of transactions of U.S. affiliates with their affiliated foreign groups, and the BE-12 (benchmark) and BE-15 (annual) surveys, which provide data on the overall operations of U.S. affiliates. Some specific uses of the data to be collected are discussed in greater detail below.

a) Support U.S. Government policy on direct investment:

The data are used by several U.S. Government agencies, including the Office of the U.S. Trade Representative, the International Trade Administration of the Commerce Department, and the Departments of Treasury and State, to carry out and evaluate U.S. international economic policy. Without this information, current data on the size, types, and financial and operating characteristics of new foreign direct investments in the United States would not be available.

Bilateral investment treaties (BIT's) are negotiated with interested countries to facilitate and protect U.S. investment interests. During BIT negotiations, data from this and related surveys provide important, up-to-date information on the level and impact of direct investment on the economy of the United States.

The United States is a signatory to regional and multilateral commercial agreements that cover direct investment as well as cross-border trade, and the data from this and related surveys provide information that can be used both during the negotiations and as an aid in monitoring the resulting agreements. For example, investment issues are covered both by the General Agreement on Trade in Services, which is the principal World Trade Organization agreement on trade in services, and by the North American Free Trade Agreement among the United States, Canada, and Mexico.

b) Other U.S. Government uses:

The data are used by State governments in assessing the impact of foreign direct investment on individual States, in advising foreign investors seeking to invest in the United States, and in developing State policies related to foreign direct investment. The data are also needed by the Government Accountability Office, the Council of Economic Advisers, and the Federal Reserve Board to execute and evaluate U.S. international economic and monetary policy.

c) Non-government uses:

Foreign embassies, academicians, and private researchers use the data to assess the impact of foreign direct investment on the U.S. and foreign economies.

3. BEA offers an electronic filing option, its Automated Survey Transmission and Retrieval (ASTAR) system, for use in reporting on Forms BE-13 and BE-14, as an alternative to using paper forms. After the information has been entered, ASTAR directs the reporting company to transmit the data back to BEA via the Internet. ASTAR employs state-of-the-art encryption security features to protect confidential information transmitted in electronic form.

In addition, BEA places all of its survey forms and reporting instructions on its Web site (<http://www.bea.gov>), which provides an alternative and, for some, more convenient way to access information about BEA's surveys.

The survey data are published and analyzed in BEA's monthly journal, the *Survey of Current Business*. All of the data tabulated from the survey that are released to the public and analyses of the data, published in the *Survey*, are placed on BEA's Web site.

4. The survey forms, as proposed, collect identification information and key data items

for new U.S. affiliates and their foreign parents, including the cost of the investment and the source of the funding for the investment (i.e., the foreign parent and/or existing U.S. affiliates of the foreign parent). These data are collected only by BEA. Similar data are not collected by other Government agencies and identified as being for foreign-owned U.S. business enterprises.

5. The survey will not have a significant economic impact on a substantial number of small entities. The survey has an exemption level that is based on either \$3 million of assets or cost of investment, or the ownership of 200 or more acres of U.S. land. U.S. business enterprises that fall below the stated exemption levels are not required to file a Form BE-13; they need only file a BE-13 Supplement C. In addition to providing this size-based exemption, BEA has attempted to keep burden for small businesses to a minimum by asking only those questions that are considered essential and for which answers are likely to be readily available from existing records of the business. Finally, few small businesses are foreign-owned.

6. The survey represents the initial report of an investment transaction and, as such, is a one-time report. The objectives presented in item A. 2. could not be accomplished if the survey were not conducted. Also, not conducting the survey would affect BEA's ability to maintain a complete and up-to-date list of foreign-owned U.S. businesses; this, in turn, would have an adverse impact on the overall quality of data published by BEA on foreign direct investment in the United States.

7. No aspects of the proposed data collection require a special justification.

8. The public notice soliciting comments on the information collection prior to its submission to OMB appeared on page 10475 (Vol. 71, No. 40) of the March 1, 2006 issue of the Federal Register (attachment 3). BEA received no comments in response to that notice.

BEA maintains a continuing dialogue with respondents and with data users, including its own internal users, through the Bureau's Source Data Improvement and Evaluation Program to ensure that, as far as possible, the required data serve their intended purposes and are available to the maximum extent possible from existing records, that instructions are clear, and that unreasonable burdens are not imposed.

Because the survey forms already reflect changes developed in the design of the previous (2002) benchmark survey of foreign direct investment in the United States, specific consultations outside this agency were not held. BEA normally engages in extensive consultations with both government and non-government users and potential survey respondents during the design and clearance of all of its benchmark surveys. The next benchmark survey of foreign direct investment in the United States will cover 2007, and BEA will conduct such consultations in connection with the design and clearance of that survey.

9. No payments or gifts to respondents are made.

10. Section 5(c) of the Act (22 U.S.C. 3104) provides that the information collected may be used only for analytical and statistical purposes and access to the information shall be available only to officials and employees (including consultants and contractors and their employees) of agencies designated by the President to perform functions under the Act. The President may authorize the exchange of the information between agencies or officials designated to perform functions under the Act, but only for analytical and statistical purposes. No official or employee (including consultants and contractors and their employees) shall publish or make available any information collected under the Act in such a manner that the person to whom the information relates can be specifically identified. Reports and copies of reports prepared pursuant to the Act are confidential, and their submission or disclosure shall not be compelled by any person without the prior written permission of the person filing the report and the customer of such person where the information supplied is identifiable as being derived from the records of such customer.

11. No questions of a sensitive nature are asked.

12. The survey is the initial report of an investment transaction and is a one-time report. Based on recent levels of new investments, BEA expects to receive an average of approximately 600 reports per year. The average respondent burden is unchanged at 1.5 hours per response. The total annual respondent burden of 900 hours (600 responses times 1.5 hours per response) is unchanged from the hours carried in the current OMB inventory. This covers the amount of time for respondents to review the instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

The actual burden per response will vary because of differences in activity, size, and complexity of the reporting enterprises. Reports for companies with simple corporate structures, and most of those for real estate transactions, should require no more than 1 hour to complete; a report for a large company with a complex corporate structure could require up to 4 hours to complete.

The forms remain the same as in the past. No changes in the data collected or in the reporting criteria are proposed (see attachment 4).

BEA believes its proposal reflects a reasonable balance between the needs of data users for complete, accurate, detailed, and timely data, and the concerns of respondents about the burden imposed.

The cost to the respondents is estimated at \$36,000, based on an estimated reporting burden of 900 hours and an estimated hourly cost of \$40.

13. Other than respondent cost associated with the estimated burden of 900 hours (see A. 12. above), the total additional annual cost burden to respondents is expected to be negligible. Total capital and start-up costs are insignificant, because new technology or capital equipment would not be needed by respondents to prepare responses to the survey. As a consequence, the total cost of operating and maintaining the technology and capital equipment will also be insignificant. Purchases of services to complete the information collection are also expected to be insignificant.

14. The project cost to the Federal Government for this survey is estimated at \$350,000, which consists of \$265,000 for salaries and related overhead and \$85,000 for equipment, supplies, forms design, mailing, printing, and computer processing.

15. No program changes or adjustments are being reported.

16. Data obtained are aggregated and published in articles in the *Survey of Current Business* and in news releases; the articles and news releases are available on BEA's Web site, along with more detailed estimates by country and by industry. A schedule for publishing both preliminary and revised estimates for the BE-13 data for 2006 follows:

- \* Survey forms are mailed to respondents as BEA becomes aware of potentially reportable investment transactions; the forms are due no later than 45 days after the completion of the transaction.

- \* June 2007 - News release of preliminary 2006 and revised 2005 estimates; details will appear in an article in the June issue of the *Survey of Current Business*. Both the article and the news release will be available on BEA's Web site, as will a set of detailed tables.

- \* June 2008 - News release of revised 2006 and preliminary 2007 estimates; details will appear in an article in the June issue of the *Survey of Current Business*. Data will be available on BEA's Web site, as described above.

17. The expiration date will be displayed on the forms.

18. The information collection is consistent with the certification in all aspects.

## **LIST OF ATTACHMENTS**

Attachment 1: International Investment and Trade in Services Survey Act (22 U.S.C. 3101 through 3108).

Attachment 2: 15 CFR Part 806.

Attachment 3: Federal Register Notice soliciting comments on the information collection.

Attachment 4: Forms BE-13, BE-13 Supplement C, and BE-14 and instructions.

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-Summary-

This request is for an extension of a currently approved collection for Form BE-13, Initial Report on a Foreign Person's Direct or Indirect Acquisition, Establishment, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate and Form BE-14, Report by a U.S. Person Who Assists or Intervenes in the Acquisition of a U.S. Business Enterprise by, or Who Enters Into a Joint Venture With, a Foreign Person. The average burden for completing the survey is unchanged at 1.5 hours per response. The estimated total annual respondent burden of 900 hours is unchanged from the hours carried in the current OMB inventory.

The forms remain the same as in the past. No changes in the data collected or in reporting criteria are proposed.

BEA maintains a continuing dialogue with respondents and with data users, including its own internal users, through the Bureau's Source Data Improvement and Evaluation Program to ensure that, as far as possible, the required data serve their intended purposes and are available from existing records, that instructions are clear, and that unreasonable burdens are not imposed.

BEA believes its proposal reflects a reasonable balance between the needs of data users for complete, accurate, detailed, and timely data, and the concerns of respondents about the burden imposed.