

**SUPPORTING STATEMENT
U.S. Department of Commerce
Economic Development Administration
Trade Adjustment Assistance for Firms
OMB CONTROL NO. 0610-0091**

A. JUSTIFICATION

This emergency review request is to revise this information collection associated with amendments to the Trade and Globalization Adjustment Assistance Act. EDA does not propose changing the OMB-approved Petition by a Firm for Certification of Eligibility to Apply for Trade Adjustment Assistance (Form ED-840P). The approved form will only be used to collect necessary information for an expanded pool of eligible applicants.

1. Explain the circumstances that make the collection of information necessary.

Chapter 3 of the Trade Act of 1974, hereafter the “Trade Act”), was amended by the Trade and Globalization Assistance Act of 2009 (“TGAAA”), which was part of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5), to make service sector firms potentially eligible for Trade Adjustment Assistance for Firms (TAAF) Program assistance. The TGAAA also amended the Trade Act to give petitioners the option to use an extended look-back period*.

EDA requires emergency review and approval of the revision to its existing information collection to publish the regulatory changes promulgated in accordance with the TGAAA. Under these new regulations, EDA has revised the definition of an applicant under the TAAF Program to include service sector firms and created the new Community Trade Adjustment Assistance (CTAA) Program.

Chapters 3 of title II of the Trade Act, as amended (19 U.S.C. 2341 *et seq.*, directs the Secretary of Commerce to accept petitions from firms that have been adversely affected by increased imports and to certify these firms as eligible to apply for Trade Adjustment Assistance (“TAA”) if the Secretary determines that all of the following conditions are met:

- 1) a significant reduction in the number or proportion of the workers in a firm, a reduction in their weekly wage or work hours, or an imminent threat of such reductions;
- 2) sales or production of the firm have decreased absolutely, or sales or production of an article accounting for at least 25 percent of the firm’s sales or production have decreased absolutely; and
- 3) an increase in imports of articles like or directly competitive with those produced by the petitioning firm, which has contributed importantly to the decline in employment and sales or production of that firm.

Pursuant to the Trade Act, the Economic Development Administration (“EDA”) established and administers the TAAF Program, which helps firms adjust to negative trade impacts. The Form ED-840P (Petition by a Firm for Certification of Eligibility to Apply for Trade Adjustment Assistance) serves as a standard format for providing data on these subjects. Traditionally, only domestic manufacturing firms had been eligible to receive assistance under the TAAF Program.

After being determined eligible for TAAF Program assistance using Form ED-840P, firms must create an EDA-approved adjustment proposal, which is each firm’s business plan to remain viable in the current global economy. This estimate also includes an estimate for adjustment proposals.

*Look back period is how firms show they are eligible for assistance. The Program works by having a firm show that its sales have gone down by 5% by comparing the most recent 12 months to the 12 months before that. So they must show that sales have gone down 5% by comparing sales in the base period of January 2007 – December 2007 to the comparison period of January 2008 – December 2008. The “increased look-back period” means they can also use the 24 or 36 month period before the most recent 12 month period to show that they’re eligible. So if they can’t get a 5% from the 12 month look-back period, they can go back another year or two to show that their sales are dropping.

This does not increase the reporting burden, it is an option a firm *can* use if they cannot get the 5% drop from the 12-12 month comparison.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

EDA uses the information collected from Form ED-840P, and supporting documentation, to determine if a firm is eligible to apply for the TAAF Program. The petitions are submitted by electronic mail through eleven, EDA-funded, Trade Adjustment Assistance Centers (“TAACs”) which assist respondents throughout the application process. EDA reviews the petitions, ensures that the statutory requirements are met, and files each application.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

EDA forms are available for downloading, filling-in and printing (.pdf file format) on EDA's website at www.eda.gov. The Form ED-840P and supporting documentation are submitted via electronic mail.

4. Describe efforts to identify duplication.

EDA is unaware of any duplication with respect to this information collection. EDA periodically reviews its information collections to ensure that there is no duplication.

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

Pursuant to the Trade Act and 13 C.F.R. part 315, eligible applicants and eligible recipients of Adjustment Assistance include “small businesses” or “small entities” as defined by the Regulatory Flexibility Act (5 U.S.C. 601(6)). Accordingly, this information collection potentially involves small businesses or other small entities.

As part of this Paperwork Reduction Act (“PRA”) process, EDA has conducted a thorough review of its forms and other information collections to minimize respondent burden. EDA collects only the minimum amount of information to effectively administer the TAAF program and to monitor statutory compliance.

Under the TAAF program, one of the roles of a TAAC is to help interested firms complete the ED-840P, assemble the required supporting documentation, and submit the completed package to EDA for consideration. This service is provided at no cost to the firm. Given their knowledge of the TAA program, the TAACs are able to discourage firms that do not meet the requirements for certification from completing the form. This service-oriented program structure assists small businesses in minimizing the burden of information collection.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

EDA would not be able to fulfill the statutory mandate under the Trade Act if these information collections are not conducted or conducted less frequently. The information collected is essential to the effective administration of EDA’s TAAF program. Additionally, due to reductions in staffing and budgetary constraints, EDA must rely on this information collection in lieu of individual meetings with applicants or recipients, or in lieu of individual project site visits by EDA personnel.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

Not Applicable.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments

received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The Federal Register Notice for this revision was waived by the Office of Management and Budget due to the time constraints of this emergency request.

On May 5, 2009, a Federal Register Notice (Vol. 74, pg. 20647) provided notice of public rulemaking soliciting public comments on specific proposed changes to the TAAF Program regulations. The notice included EDA's intent to use Form ED-840P for petitions filed by both manufacturing and service sector firms under the TAAF Program. Comments received by June 4, 2009, concerned programmatic matters only; none addressed information collection issues.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Certain information collected by EDA from a petitioning firm on Form ED-840P, or from a certified firm as part of its adjustment proposal, is proprietary or confidential in nature (e.g., sales data, customer lists, tax returns, etc.). While the Form ED-840P and the adjustment proposal are generally subject to public disclosure under the Freedom of Information Act ("FOIA"), EDA does not release a firm's confidential business information, including trade secrets and confidential commercial or financial information, to the extent that such information is exempt from public disclosure under FOIA. See 5 U.S.C. 552(b)(4) and the General Instructions to Form ED-840P. No assurance of confidentiality is required.

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.

Firms generally consider their customers lists as sensitive in nature. Firms submitting an ED-840P, however, must include a short list of customers, including buyer names and contact information, which have reduced their purchases from the petitioning firm. This information must be obtained in order for EDA to make one of the findings for certification which is specified in the Trade Act.

EDA must determine whether a firm's reduction in employment along with its decline in sales or production were due to increased imports. Declines in employment and sales or production due to other factors (e.g., loss of business to another domestic producer of similar items or losses due to a general reduction in the demand for the generic products produced by the petitioning firm) would not qualify a firm for certification. EDA contacts at least three customers of a petitioning firm and asks them if they have replaced their purchases of goods from the petitioning firm with imported goods.

12. Provide an estimate in hours of the burden of the collection of information.

Because of the changes made by the TGAAA, EDA estimates that it will receive a total of 800 responses under the TAAF Program. This number includes both petitions made using ED-840P and adjustment proposals. The following paragraphs provide more details on both.

- (a) Form ED-840P (Petition by a Firm for Certification of Eligibility to Apply for Trade Adjustment Assistance): Due to the TGAAA amendment to accept service sector firms into the TAAF Program, EDA estimates that responses related to certifications of eligibility will be an additional 500 responses annually for an estimated total of **4,100 burden hours**.

EDA estimates that it will take the average respondent approximately 8 hours and 12 minutes to complete the petition.

The estimated labor cost to a petitioning firm is \$350. EDA used \$40 per hour as the estimate for the average cost of professional and support staff involved in preparing the petition. EDA estimates total non-labor costs at \$30 per response. The total annual labor cost is estimated at of \$175,000 ($\350×500).

- (b) Adjustment Proposals: EDA estimates it will receive an additional 300 proposals annually due to this revision for an estimated total of **36,000 burden hours**.

Normally, a TAAC undertakes the vast majority of work, in consultation with an eligible firm, to prepare an adjustment assistance proposal, which is the business strategy planned designed to help an import-impacted firm adjust and thrive. EDA's role at this stage of the program is limited to overall review, comment and approval. For each TAAC, however, the preparation of a proposal is comprehensive, given the need to tailor the proposal to each firm's particular circumstances. EDA used 120 hours as the average amount of time to complete a proposal.

The estimated labor cost in preparing a proposal is \$4,950. EDA used \$40 per hour as the estimate for the average cost of professional and support staff involved in preparing the

proposal and a \$150 non-labor cost per response for an annual total of \$1,485,000 (\$4,950 x 300).

- (c) Hearing: This part of the information collection will not be changed due to the TGAAA amendment.

ESTIMATED ANNUAL TOTAL NO. OF RESPONDENTS/RESPONSES = 800

ESTIMATED ANNUAL TOTAL NO. OF BURDEN HOURS = 40,100

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

There are no additional costs burdens to TAACs or firms resulting from the collection of this information.

14. Provide estimates of annualized cost to the Federal government.

The estimated total annualized costs to the Federal government for these information collections are approximately \$62,000. These estimates are based on the amendments made by the TGAAA.

- (a) Form ED-840P (Petition by a Firm for Certification of Eligibility to Apply for Trade Adjustment Assistance): \$35,000; The cost associated with review of Form ED-840P for eligibility certification is based on 30 percent of a project officer's salary (\$50,000) and one-fifth of an attorney's annual salary (\$100,000). Printing the form and publishing monthly *Federal Register* notices, which list the firms from which EDA has accepted petitions for investigations, adds an additional \$7,000 per year.
- (b) Adjustment Proposals: \$27,000; The costs associated with review of adjustment proposals is based 30 percent of a project officer's salary (\$50,000) and one-eighth of an attorney's annual salary (\$100,000).
- (c) Hearing: \$0;

15. Explain the reasons for any program changes or adjustments.

To accommodate the changes to the TGAAA, the following program changes increases are estimated -

Petitions – respondents/responses from 173 to 673; burden hours from 1,384 to 5,519.

Proposals – respondents/responses from 193 to 493; burden hours from 23,160 to 59,160.

16. For collections whose results will be published, outline the plans for tabulation and publication.

As required by the Trade Act, each month EDA publishes a notice in the *Federal Register* listing TAA petitions accepted for investigation. This notice lists the firm's name, address, principal products, and acceptance date of the petition. EDA does not publish any other information collected in the petition.

Further specific details of information collected from respondents will generally not be published. However, some of the information collected may be published in aggregate form as part of EDA's annual report, GPRA reporting, EDA's Balanced Scorecard or other summary report.

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

Not Applicable.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

No exceptions are requested.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.