

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

A. JUSTIFICATION

This request is a revision to the information collection and an extension of Office of Management and Budget approval.

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

EDA administers the Trade Adjustment Assistance for Firms (TAAF) Program under chapters 3 and 5 of title II of the Trade Act of 1974 (Trade Act). Under the TAAF Program, EDA provides business planning and implementation assistance to firms negatively impacted by import competition through a national network of eleven EDA-funded nonprofit and University-affiliated organizations called Trade Adjustment Assistance Centers (TAACs). Chapters 3 and 5 of the Trade Act were 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 TAAF Program assistance. The TGAAA also amended the Trade Act to give petitioners the option to use an extended look-back period to demonstrate eligibility for the program.

In August of 2009, EDA received Paperwork Reduction Act (PRA) emergency approval of Form ED-840P to account for the changes made by the TGAAA.

Section 251 of chapter 3 of the Trade Act 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.

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 (AP), which is each firm's business plan to remain viable in the current global economy. This PRA estimate also includes an estimate for adjustment proposals.

If the petitioner or any other person or organization with substantial interest submits a request for a public hearing, the Secretary of Commerce is directed to provide for a public hearing and afford such interested persons an opportunity to produce evidence and be heard.

As compared to the previous submission for renewal of Form ED-840P (April 2009) and the emergency renewal (August 2009), and in order to comply with new reporting and eligibility requirements as required under the TGAAA, EDA propose the following changes to Form ED-840P.

- a. Item 1 of form ED-840P has been revised so that a firm's congressional district may be recorded. This will allow EDA to comply with the requirement to report the number of petitions and certifications by congressional district.
- b. Item 6 of form ED-840P has been revised so that petitioners may clarify whether a firm is using decline in net sales or net production to qualify. This will allow a more accurate calculation of a firm's productivity measure, which EDA is calculating as net sales per employee. EDA is required to report on a firm's productivity at the time of certification, upon completion of the program, and each year for the two years thereafter.
- c. Item 6 of Form ED-840P also was revised to allow petitioners can indicate whether they're using a 12, 24, or 36 month lookback period.
- d. Item 12 of Form ED-840P has been revised to allow the respective TAAC to sign.
- e. Item 12 has been updated to include the certification regarding firms' responsibility to comply with the regulations regarding the employment of expeditors for TAAF petitions and conflicts of interest (13 C.F.R. §§ 315.14 and 313.5, respectively).

The changes above to Form ED-840P are expected to have no effect on Items 13 and 14.

- f. Items 13 and 14 have been changed to account for the possibility that a public hearing is requested by an interested person in regards to an accepted petition.

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 the TAACs, which assist respondents throughout the application process. EDA uses information collected from Form ED-840P, and its attachments, to determine if a firm is eligible to apply to participate in the TAAF Program. EDA reviews the petitions, ensures that the statutory requirements are met, and files each application. EDA is transitioning from paper filing to electronic recording and filing.

Once EDA has certified a firm as eligible, APs are required to receive financial assistance under the program and must be submitted to EDA within two years of EDA's determination that a firm is eligible.

The collected information will not be disseminated to the public.

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 its 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 under the TAAF Program 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 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 Form 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 TAAF 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 information 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 notice soliciting public comment for this collection of information was published in the *Federal Register* on December 16, 2009 (Vol. 74, pg. 66615). No comments were received.

In addition, EDA e-mailed the Directors of the TAACs, who prepare Form ED-840P for their client-firms, to request comments for improving the form. No comments were received as of result of this e-mailed request.

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 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 given to respondents.

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/private in nature. Firms submitting Form 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. The TAACs contact at least two 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.

- (a) *Form ED-840P (Petition by a Firm for Certification of Eligibility to Apply for Trade Adjustment Assistance)*: EDA estimates that it will receive 500 responses annually for an estimated total of **4,100 burden hours**.

EDA estimate it will take the average respondent approximately 8 hours and 12 minutes to complete the petition. The estimated cost burden to a petitioning firm is \$358. 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. Between FY 2000 and FY 2009, EDA received between 143 and 251 petitions annually. EDA estimates it will receive 500 petitions annually going forward, for an annual total burden of 4,100 hours costing \$164,000 in labor, and annual non-labor costs at \$15,000, for a total annual cost of \$179,000. EDA believes that the number of petitions will increase going forward for two reasons: 1) the decline in the economy has increased demand for the program's services and 2) starting May 17, 2009 service firms became eligible for assistance through the TAAF Program, whereas previously only manufacturing and production firms were eligible.

(b) APs: EDA estimates it will receive 300 responses 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 AP. 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 cost burden 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. EDA estimates it will receive 300 proposals annually, for an annual total burden of 36,000 hours costing \$1,440,000 in labor per year, and annual non-labor costs of \$45,000, for a total annual cost of \$1,485,000.

(c) Hearing: To EDA's knowledge, no party within the past 13 years has requested a public hearing on a petition accepted for certification. However, to account for the possibility that EDA may receive such a request, we estimate one respondent and **1 burden hour** for this collection of information.

Table 1. PRA Burden Hours and Costs for the TAAF Program

	Petitions (Form ED-840P)	APs	Hearings
Hours per response	8 hrs 12 mins	120	1
Labor costs/hour	\$40.00	\$40.00	\$40.00
Non-labor costs/hour	\$3.66	\$1.25	\$1.25
Total cost/response	\$358.00	\$4,950.00	\$41.25
Estimate of annual responses	500	300	1
Total annual hours	4,100	36,000	1
Total labor costs	\$164,000.00	\$1,440,000.00	\$40.00
Total non-labor costs	\$15,000.00	\$45,000.00	\$1.25
Total annual cost	\$179,000.00	\$1,485,000.00	\$41.25

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).

Not Applicable.

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 **\$274,200**. These estimates are based on EDA’s restructuring its TAA program operations and staffing in headquarters during FY 2009.

(a) Form ED-840P (Petition by a Firm for Certification of Eligibility to Apply for Trade Adjustment Assistance): \$223,400; The cost associated with review of Form ED-840P for eligibility certification is based on 99% of a Certification Examiner project officer’s salary (\$60,000) 97 % of an attorney’s annual salary (\$100,000), and 50 % of a TAAF Program director’s salary (\$120,000). Printing the form and publishing monthly *Federal Register* notices, which lists the firms from which EDA has accepted petitions for investigation, adds an additional \$7,000 per year.

(b) APs: \$48,000; The costs associated with review of adjustment proposals is based 80 percent of an AP Examiner project officer’s salary (\$50,000), two percent of an attorney’s annual salary (\$100,000), and 5 percent of a TAAF Program director’s salary (\$120,000).

(c) Hearings: \$2,800; To EDA’s knowledge, no party within the past 13 years has requested a public hearing on a petition accepted for certification. However, to account for the possibility that EDA may receive such a request, we estimate one respondent and one burden hour for this collection of information. Only a small percentage of staff time is allocated toward handling such a hearing.

Table 2. PRA Burden Hours and Costs for the TAAF Program to the Federal Government

Position/ Item	Annual Salary/Cost	Petitions (Form ED-840P)		APs		Hearings		Total
		% of time	Cost	% of time	Cost	% of time	Cost	
AP Examiner	\$50,000	0%	\$0.00	80%	\$40,000	0%	\$0.00	\$40,000
Certification Examiner	\$60,000	99%	\$59,400	0%	\$0.00	1%	\$600	\$60,000
Attorney	\$100,000	97%	\$97,000	2%	\$2,000	1%	\$1,000	\$100,000
Director	\$120,000	50%	\$60,000	5%	\$6,000	1%	\$1,200	\$67,200
Federal Register Notices	\$7,000	100%	\$7,000	0%	\$0	0%	\$0	\$7,000
Total			\$223,400		\$48,000		\$2,800	\$274,200

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

The reduction in responses from 1,167 to 801 and burden hours is the result of more realistic estimates made after a thorough review of the new legislation and continuing discussions with stakeholders.

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 TAAF Program 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.

No exceptions are requested.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods. EDA is not aware of any statistical sampling methods that might reduce burden or improve the accuracy of results.