

Supporting Statement for the BE-13,  
Survey of New Foreign Direct Investment in the United States  
OMB Control Number 0608-0035

A. Justification

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

The BE-13 Survey of New Foreign Direct Investment in the United States is necessary to obtain comprehensive initial data concerning new foreign direct investments in the United States. The survey is conducted under the authority of the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101-3108, hereinafter “the Act.”

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 parent and affiliates, and the international investment and trade in services position of the United States;
- (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 performing functions under the Act concerning direct investment to the Secretary of Commerce, who has redelegated responsibility to the Bureau of Economic Analysis (BEA). The implementing rules and regulations for the direct investment surveys conducted under the Act may be found in 15 CFR Part 801.

**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.**

The BE-13 survey collects information on the cost of new foreign direct investments in the United States, limited financial and operating data for the U.S. enterprises established, acquired, or expanded and identification information about the U.S. enterprise and the new foreign owner(s). U.S. enterprises acquired by a foreign investor are only required to file the survey once. Foreign-owned U.S. enterprises that are newly established or are undergoing expansion will be required to file an initial report and then will be asked to revise their projected costs every year until construction is complete. Foreign direct investment in the United States is defined as the ownership or control, directly or indirectly, by one foreign person of 10 percent or more of

the voting securities of an incorporated U.S. business enterprise, or an equivalent interest of an unincorporated U.S. business enterprise, including a branch.

The data complement data from BEA's other surveys of foreign direct investment in the United States, namely the BE-605, a quarterly survey that collects transactions and positions 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) Compile and improve the U.S. economic accounts:

Data from the BE-13 survey will 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 to ensure that it is complete, and to determine whether the new affiliates meet reporting criteria for 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 BEA's ongoing annual and quarterly surveys of foreign direct investment.

(b) 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, the Departments of Treasury and State, the Council of Economic Advisers, and the Federal Reserve Board to support U.S. international economic policy. The International Trade Administration's SelectUSA office uses the data in advising foreign investors seeking to invest in the United States. The Treasury Department's Committee on Foreign Investment in the United States uses the data as background in its reports to Congress. Without this information, current data on the size, types, and financial and operating characteristics of new foreign direct investment 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 U.S. economy.

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. Investment issues are also part of ongoing trade negotiations such as those for the Trans Pacific Partnership (TPP).

(c) Other Government uses:

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.

(d) Non government uses:

International organizations, foreign embassies, and private researchers also use data from the BE-13 survey in assessing the impact of foreign direct investment on the U.S. economy. International organizations that regularly make use of BEA data on foreign direct investment include the United Nations, International Monetary Fund, Organisation for Economic Co-operation and Development, and World Bank.

The Section 515 Information Quality Guidelines apply to this information. The information is collected according to documented procedures in a manner that reflects standard practices accepted by the relevant economic/statistical communities. BEA conducts a thorough review of the survey input data using sound statistical techniques to ensure that the quality of the data is high before the final estimates are released. The data are collected and reviewed according to documented procedures and best practice standards and on-going review by the appropriate supervisor. The quality of the data are validated using a battery of edit checks to detect potential errors and to otherwise ensure that the data are accurate, reliable, and relevant for the estimates being made. Data are routinely revised as more complete source data become available. The collection and use of this information complies with all applicable information quality guidelines, i.e., those of the Department of Commerce, the Office of Management and Budget (OMB), and BEA.

**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.**

BEA will offer electronic filing through its eFile system for use in reporting on the BE-13 survey forms. The eFile system enables respondents to download the survey forms in PDF format, enter the required data, and submit the forms securely to BEA.

In addition, BEA provides links to all its survey forms and reporting instructions on its web site ([www.bea.gov](http://www.bea.gov)). These may be downloaded, printed, and submitted via fax or mail.

The data from the new foreign investment survey are published and analyzed annually in BEA's online journal, the *Survey of Current Business*. All of the data tabulated from the BE-13 survey that are released to the public and analyses of the data published in the *Survey* are available on the BEA web site.

#### **4. Describe efforts to identify duplication.**

Other data collected by other Government agencies and segregated as being for foreign-owned U.S. companies are not comparable to the data collected by BEA. For example, although the Securities and Exchange Commission (SEC) maintains information on the nationality of major stockholders in publicly traded U.S. companies, most of the foreign-owned U.S. companies in BEA's reporting universe are not publicly traded. For those that are publicly traded, the data available from the SEC are not in the form or detail required by BEA. For example, data reported to the SEC are on a worldwide consolidated basis. In contrast, data collected in the BE-13 survey are on a domestic (U.S.) single enterprise basis, and cover only the new U.S. domestic operation.

For tax purposes, the Internal Revenue Service (IRS) collects information on foreign-owned U.S. companies, but it covers only "foreign-controlled" companies—those owned at least 50 percent by foreigners. BEA's data are based on a 10 percent ownership criterion—the current international standard for defining direct investment. Consolidation rules also differ significantly.

BEA has examined information on foreign direct investment available from these and other agencies and, because the information differs in scope and purpose than that collected by BEA, has not identified significant duplication.

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

For small businesses that are foreign owned, BEA has attempted to keep burden to a minimum by asking only those questions that are considered essential and for which answers are likely to be readily available from the existing records of the business. The amount of information required to be reported by each U.S. enterprise is determined by the type of transaction. U.S. enterprises acquired by a foreign investor are only required to file the survey once. Foreign-owned U.S. enterprises that are newly established or are undergoing expansion will be required to file an initial report and then will be asked to revise their projected costs every year until construction is complete. For those that do not meet the \$3 million filing threshold, the U.S. enterprise will only be required to report selected items on the BE-13 Claim for Exemption.

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

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

No aspects of the proposed BE-13 data collection require a special justification.

**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.**

This submission supports a proposed rulemaking, which will solicit comments on this survey. 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 much 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.

In August 2009, when BEA was expecting to reinstate the BE-13 survey, BEA sent for comment a copy of the previous BE-13 form and a list of proposed changes to the survey (Attachment 1) to a group of respondent companies and to a broad group of Government and non-Government data users. (See Attachment 2 for a list of Government and non-Government data users invited to comment on the proposed changes.) The list of proposed changes indicated items that BEA proposed to add to the BE-13 survey. BEA requested written comments on the proposal. The substance of the proposal, which was not implemented in 2009 for budgetary reasons, remains unchanged at the time of this request for OMB approval.

One potential respondent provided comments. They informed BEA that they would be able to provide the new data items that BEA was proposing to collect on the BE-13 survey.

Written responses were received from six federal Government data users representing the International Trade Administrative (Department of Commerce), Federal Reserve Bank of New York, Federal Deposit Insurance Corporation, the Economic Statistics Administration, the National Science Foundation, and the Council of Economic Advisors. Comments were also received from three state Government data users representing the state of Florida International Trade and Business Development Office, the Empire State Development Corporation, and the State of South Carolina Department of Commerce. In addition, comments were received from two non-government data users. BEA carefully considered the comments of all the data users in the design of the survey. A summary of the comments follows.

Nearly all of the data users commented very favorably about adding the "greenfield" questions to the survey. Greenfield refers to a newly established U.S. affiliate or the expansion of an existing U.S. affiliate. For most data users, being able to distinguish between mergers and acquisitions and greenfield investment is very important. Data users from state governments commented that these data are vital to their planning and policy making decisions.

Some data users expressed concern that expansions by existing U.S. affiliates would impact the count of U.S. affiliates by state. BEA would only add to the count of affiliates by state if a new affiliate was established or acquired – not if an existing affiliate undertakes an expansion project.

One data user requested that BEA add a question about research and development (R&D) activities at new facilities. After considering this comment BEA added a question about R&D activities. The user also recommended adding questions about R&D expenditures and employment. However, these data items are collected on the annual and benchmark surveys and would not provide any additional utility if collected on the BE-13 survey. Therefore, BEA decided against adding them to the survey.

Several data users were convinced that BEA's published statistics reflect the location of operations rather than the location of incorporation or headquarters for all types of transactions, but especially for establishments and expansions. BEA has added specific questions regarding location of operations in addition to the mailing address of the U.S. affiliate.

Many data users were very enthusiastic about state level data on new foreign direct investment in the United States; however, the state level data that BEA publishes is from the BE-12 and BE-15 surveys and was never from the BE-13. BEA may be able to publish new investment counts by states, although more detailed statistics will probably be unlikely given the sparse nature of the data and the confidentiality requirements that BEA must maintain. BEA makes every attempt to publish as much data as possible, but in certain circumstances detailed data are not available to avoid disclosure of individual companies' information.

One data user was concerned that the questions regarding greenfield investment only include new investments to the United States rather than movement between states. BEA has written explicit instructions that the transfer of operations from one state to another not be reported.

One data user expressed concern that BEA was considering business enterprises without operations, such as holding companies, as greenfield investment. For BEA's purposes these entities are considered new U.S. affiliates and are required to report on the survey whether or not they have operations.

One data user expressed concern that the establishment of a new U.S. affiliate be distinguished from expansion by existing U.S. affiliates in the published data. BEA will continue to publish investment by type which includes acquisitions and establishments while also providing information on expansions of existing U.S. affiliates.

In addition to BEA's written request for comments, in September 2009, BEA staff visited three respondents to get their input on form design and content. Their feedback was incorporated in the design of the form.

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

No payments or gifts to respondents are made.

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

BEA provides respondents with assurance that it will keep the reported data confidential. The following statement is taken directly from the reporting instructions for the survey.

“Confidentiality – The Act provides that your report is CONFIDENTIAL and may be used only for analytical or statistical purposes. Without your prior written permission, the information filed in your report CANNOT be presented in a manner that allows it to be individually identified. Your report CANNOT be used for purposes of taxation, investigation, or regulation. Copies retained in your files are immune from legal process.”

Sec. 5(c) of the Act (22 U.S.C. 3104) provides that the information 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. 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.**

No questions of a sensitive nature are asked.

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

U.S. enterprises that are acquired, established, or expanded, directly or indirectly, by a foreign person are required to file an initial BE-13 form. Established or expanded entities that are still under construction will be required to file a cost update form annually. An estimated 1,350 respondents are expected to file a BE-13 survey form each year. Average burden per respondent is estimated at 1.6 hours, producing an estimated burden of 2,160 hours for the survey, as shown in the RISC/OIRA Consolidated Information System (ROCIS). 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.

Burden is expected to vary considerably among respondents because of differences in company structure and transaction complexity. A BE-13 Claim for Exemption would require approximately 15 minutes to complete; a report for an enterprise with a multi-level ownership structure and a complex transaction could require up to 4 hours to complete.

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 table below provides details on burden range, average burden, estimated number of respondents, and estimated burden hours by form type.

**Estimated Burden for BE-13**

Form Type	Burden range per response	Average burden hours per response	Estimated number of respondents	Estimated burden hours
BE-13A - Acquisition	1 hours – 4 hours	2.50	450	1,125
BE-13B - Establishment	1 hours – 4 hours	2.20	150	375
BE-13C - Merger	1 hours – 4 hours	2.50	100	250
BE-13D - Expansion	30 min. – 2 hours	1.20	50	60
BE-13E – Cost Update	15 min. – 1 hour	0.75	400	300
BE-13 Claim for Exemption	15 min.	0.25	200	50
<b>Total</b>	15 min. – 4 hours	1.60	1,350	2,160

The proposed reporting requirements for the BE-13 by form are:

1. Form BE-13A—Required to be filed by a U.S. business enterprise when a foreign entity acquires a voting interest (directly, or indirectly through an existing U.S. affiliate) in that enterprise, segment, or operating unit and i) the total cost of the acquisition is greater than \$3 million, ii) the U.S. business enterprise will operate as a separate legal entity, and iii) by this acquisition, at least 10 percent of the voting interest in the acquired entity is now held (directly or indirectly) by the foreign entity;
2. Form BE-13B—Required to be filed by a U.S. business enterprise when a foreign entity, or an existing U.S. affiliate of a foreign entity, establishes a new legal entity in the United States and i) the projected total cost to establish the new legal entity is greater than \$3 million, and ii) the foreign entity owns 10 percent or more of the new business enterprise's voting interest (directly or indirectly);
3. Form BE-13C—Required to be filed by an existing U.S. affiliate of a foreign parent when it acquires a U.S. business enterprise or segment that it then merges into its operations and the total cost to acquire the business enterprise is greater than \$3 million;
4. Form BE-13D—Required to be filed by an existing U.S. affiliate of a foreign parent when it expands its operations to include a new facility where business is conducted and the projected total cost of the expansion is greater than \$3 million;



5. Form BE-13E—Required to be filed by a U.S. business enterprise that previously filed a BE-13B or BE-13D indicating that the established or expanded entity is still under construction;
6. Form BE-13 Claim for Exemption—Required to be filed by a U.S. business enterprise that i) was contacted by BEA but does not meet the requirements for filing forms BE-13A, BE-13B, BE-13C, or BE-13D, or ii) whether or not contacted by BEA, met all requirements for filing on Forms BE-13A, BE-13B, BE-13C, or BE-13D except the \$3 million reporting threshold.

The estimated annual cost to respondents is \$86,400, based on the estimated reporting burden of 2,160 hours and an estimated hourly cost of \$40.

**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 #12 above).**

Other than respondent cost associated with the estimated burden of 2,160 hours (see A.12. above), the total additional annual cost 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 in order to prepare their 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. Provide estimates of annualized cost to the Federal government.**

The project cost to the Federal Government for this survey is estimated at \$950,000, which consists of \$500,000 for salaries and related overhead, and \$450,000 for equipment, supplies, forms design, mailing, printing, and computer processing.

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

This request is for a reinstatement, with change, of a previously approved collection. Currently, there are no burden hours for the BE-13 survey in the inventory maintained by OMB. Therefore, the estimated burden of 2,160 hours (see A. 12 above) is shown entirely as a program change in the RISC/OIRA Consolidated Information System (ROCIS).

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

Data obtained are aggregated and published annually 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 statistics by country and by industry. A schedule for publishing both preliminary and revised estimates for the BE-13 data will be determined in the spring of 2015.

**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.**

The OMB expiration date will be displayed on the forms.

**18. Explain each exception to the certification statement.**

The BE-13 information collection is consistent with the certification in all aspects.