

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 to revise and extend OMB approval for these information collections.

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

The mission of the Trade Adjustment Assistance for Firms (TAAF) program is to help import-impacted U.S. firms develop and implement projects to regain global competitiveness, expand markets, strengthen operations, increase profitability, and create jobs. Historically, most firms that applied for TAAF certification have been in the manufacturing sector. The program provides direct technical assistance to support the development of business recovery plans (Adjustment Proposals) and matching funds to implement projects outlined in Adjustment Proposals.

The TAAF program funds a national network of 11 Trade Adjustment Assistance Centers (TAACs), some of which are university-affiliated and others of which are independent non-profit organizations. Using TAAF funds that are matched by firms, these TAACs provide direct technical assistance to U.S. firms negatively affected by increased imports.

Pursuant to the Trade Act of 1974 (the Trade Act), EDA accepts petitions from firms for certification of eligibility to apply for trade adjustment assistance (Petitions). EDA evaluates Petitions to determine whether the following criteria are met:

- 1) A significant number or proportion of the workers in the firm have been or are threatened to be totally or partially separated; and
- 2) Sales and/or production of the firm have decreased absolutely, or sales and/or production of an article or service that accounted for at least 25 percent of total production or sales of the firm have decreased absolutely, during the 12, 24, or 36 months preceding the most recent 12-month period for which data are available; and
- 3) Increased imports of articles like or directly competitive with articles produced or services provided by the firm have “contributed importantly” to both the decrease or threatened decrease in employment and the decline in sales and/or production.

Form ED-840P (Petition by a Firm for Certification of Eligibility to Apply for Trade Adjustment Assistance) serves as a standard format for collecting data on the above eligibility criteria.

EDA's authorization to collect Petitions is located at section 251 of the Trade Act (19 U.S.C. § 2341(a)).

A firm certified as eligible to apply for trade adjustment assistance is required to create an Adjustment Proposal. EDA's authorization to collect Adjustment Proposals is located at section 252 of the Trade Act (19 U.S.C. § 2342(a)).

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 information collected from Form ED-840P, and its attachments, to determine if a firm is eligible to apply for trade adjustment assistance. EDA received approximately 93 Petitions during Fiscal Year 2017 and 94 Petitions during Fiscal Year 2018. Petitions are submitted to EDA by e-mail by the 11 TAACs, which assist respondent firms applying for TAAF program benefits. The respondents are U.S. firms adversely impacted by import competition. EDA reviews Petitions to ensure that the TAAF program's statutory requirements are met.

EDA uses information collected from Adjustment Proposals to determine if the respondent firms' business recovery plans are reasonably calculated to materially contribute to the economic adjustment of the firm, give adequate consideration to the interests of the workers of such firms, and demonstrate that the firms will make all reasonable efforts to use their own resources for economic development. EDA received 104 Adjustment Proposals during Fiscal Year 2017 and 100 Adjustment Proposals during Fiscal Year 2018.

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 permits Petitions and Adjustment Proposals to be submitted either electronically or in hardcopy format. Petitions are generally submitted electronically using EDA-provided fillable PDF forms. However, some TAACs chose not to use the fillable PDF forms; instead they complete Form ED-840P manually and then scan and email it to EDA.

4. Describe efforts to identify duplication.

EDA is unaware of any duplication with respect to these information collections. The information requested is unique to the TAAF Program and is not collected elsewhere. 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 trade adjustment assistance include “small businesses” or “small entities” as defined by the Regulatory Flexibility Act (5 U.S.C. 601). Accordingly, this information collection potentially involves small businesses or other small entities.

As part of this Paperwork Reduction Act process, EDA has conducted a thorough review of its TAAF program forms and information collections to minimize respondent burden. EDA collects only the minimum amount of information to effectively administer the TAAF program and to monitor compliance with the Trade Act and 13 C.F.R. part 315.

Under the TAAF program, EDA funds a national network of eleven TAACs. 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 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 minimizes the burden of the information collections on small businesses.

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 its statutory mandates under the Trade Act if these information collections were not conducted or were conducted less frequently. The information collected is essential to the administration of the TAAF program.

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

There are no special circumstances that would require the information collection to be conducted in a manner inconsistent with OMB guidelines.

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 Federal Register Notice soliciting public comments was published on February 13, 2019 (84 Fed. Reg. 3757). EDA received a total of eleven comments, all from TAACs. No comments were received from individuals or entities unassociated with a TAAC.

Several comments stated that the estimate of 8.2 hours for completing the ED-840P was too low. EDA subsequently surveyed the TAACs, which, pursuant to cooperative agreements with EDA, assist respondents in assembling Petitions. EDA asked the TAACs the number of hours necessary to complete Form ED-840P. The average response was 53 hours, which is the revised estimate in the 30-day notice and this Supporting Statement.

Several comments related to the supporting documentation required for a Petition. For example, some comments suggested allowing the use of IRS Form 941 to document firms' monthly employment figures, instead of the currently required state unemployment insurance filings. IRS Form 941 does not include the number of a firm's employees for each month, which is needed to determine eligibility for the TAAF program, and for this reason EDA will continue to require state unemployment insurance filings to document firms' employment figures. EDA may allow petitioning firms to use internal payroll reports when state unemployment insurance filings are not available.

One comment suggested eliminating the requirement for supporting documentation for sales, exports, and resale figures. The commenter proposed EDA instead allow a certification of such figures by the petitioning firm rather than supporting documentation. In EDA's experience, this supporting documentation is necessary to verify sales, export, and resale figures. From time to time, EDA has found such figures to have been entered into Form ED-840P inaccurately. Therefore, based on EDA's experience, a certification of the sales, exports, and resale figures would be insufficient; EDA requires supporting documentation to verify information provided on Form ED-840P.

Other comments suggested that EDA allow petitioning firms to use readily available financial reports that cover the entire petition period, whether the data is annual, quarterly, or monthly. It is already the case that EDA allows supporting documentation to be provided for annual, quarterly, or monthly periods, so long as the sales figures provided on Form ED-840P can be verified from that documentation. In some cases, monthly sales documentation is required because the petition period selected by the petitioning firm does not align with annual or quarterly sales documentation.

Several comments suggested raising the threshold for excluding exports from 5% to 25%. Similarly, one comment proposed raising the threshold for excluding resales from 5% to 25%. EDA has determined that 5% is a significant amount of exports and resales. This is consistent with the 5% eligibility threshold for decline in employment and sales specified in the regulations governing the TAAF program (13 C.F.R. § 315.2, definitions of *Decreased Absolutely* and *Significant Number or Proportion of Workers*).

Several comments suggested reducing the amount of information required for related firms, including not requiring the names of all owners of a petitioning firm to be submitted with a Petition. Information regarding related firms is requested to ensure any related firm does not receive unjustifiable benefits pursuant to the petitioning firm being certified as eligible for the TAAF program.

One comment suggested simplifying the wording of the ED-840P. The ED-840P is being revised to simplify the language in several areas.

Lastly, several comments proposed changing TAAF program requirements mandated by the Trade Act. Because those comments did not concern information collections or Form ED-840P, they are not addressed here.

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

No gifts or payments are made to any respondent, other than disbursements of cooperative agreement funds made by EDA to recipients to eligible firms under the TAAF Program.

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

Petitions and Adjustment Proposals frequently include confidential commercial information. As required under 13 C.F.R. § 315.3, EDA will follow the Department of Commerce procedures set forth at 15 C.F.R. § 4.9 for the submission of confidential commercial information. Respondents must clearly mark and designate as confidential any confidential commercial information.

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.

Respondent firms generally consider their customer lists to be 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 determine whether increased imports have

contributed importantly to a firm's decrease (or threatened decrease) in employment and a firm's decline in sales and/or production, as required under the Trade Act (19 U.S.C. § 2341(c)(1)(C)). 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 generally contact at least two customers of a petitioning firm and ask the customers if they have replaced their purchases of goods and/or services from the petitioning firm with imported goods and/or services.

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 take the average respondent approximately 53 hours to complete a Petition. This burden estimate has increased in response to public comments in response to the 60-day notice, using information provided by the TAACs. The estimated cost burden to a petitioning firm is \$3,366.56. This figure is calculated using \$59.86 per hour as the estimate for the average cost of professional and support staff involved in preparing the petition based on data from the December 2018 BLS Employer Costs for Employee Compensation of management, professional, and related occupations. This figure also includes EDA's estimate of total non-labor costs in the amount of \$193.98 per response, which includes equipment, supply, and internet costs. EDA estimates the agency will receive up to 150 petitions annually, for an annual total burden of 7,950 hours costing \$475,887.00 in labor, and annual non-labor costs at \$29,097.00, for a total estimated annual cost of \$504,984.00. The number of Petitions has been decreased since the last renewal of this information collection to reflect the number of Petitions received over the past two years. EDA received approximately 93 Petitions during Fiscal Year 2017 and 94 Petitions during Fiscal Year 2018.
- (b) *Adjustment Proposals*: EDA estimates that it will take the average respondent 120 hours to complete an Adjustment Proposal. The estimated cost burden in preparing a proposal is \$7,333.20. This figure is calculated using \$59.86 per hour as the estimate for the average cost of professional and support staff involved in preparing the proposal based on data from the December 2018 BLS Employer Costs for Employee Compensation of management, professional, and related occupations. This figure also includes EDA's estimate of non-labor costs at \$150.00 per response, which includes equipment, supply, and internet costs. EDA estimates that the agency will receive 150 Adjustment Proposals annually, for an annual total burden of 18,000 hours costing \$1,077,480.00 in labor per year, and annual non-labor costs of \$22,500.00, for a total estimated annual cost of \$1,099,980.00. The number of Adjustment Proposals has been decreased since the last renewal of this information collection to reflect the number of Adjustment Proposals approved over the past two years. EDA received 104 Adjustment Proposals during Fiscal Year 2017 and 100 Adjustment Proposals during Fiscal Year 2018.

Table 1. Estimated Total Annual Cost to Respondents for TAAF Petitions (Form ED-840P) and Adjustment Proposals.

	Petitions (Form ED-840P)	Adjustment Proposals
Hours per response	53	120
Labor costs/ hour/ response	\$59.86	\$59.86
Non-labor costs/hour/response	\$193.98	\$150.00
Total cost/ response	\$3,366.56	\$7,333.20
Estimate of annual responses	150	150
Total labor costs	\$475,887.00	\$1,077,480.00
Total non-labor costs	\$29,097.00	\$22,500.00
Total Annual Cost	\$ 504,984.00	\$1,099,980.00

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).

There are no additional cost burdens to TAACs or firms resulting from the collection of this information, other than the costs identified in Item 12.

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 \$233,099.

- (a) Form ED-840P (Petition by a Firm for Certification of Eligibility to Apply for Trade Adjustment Assistance): \$146,492; The cost associated with review of Form ED-840P for eligibility certification is based on 80 percent of a program analyst’s salary (\$84,548 – GS 12, Step 1) 10 percent of an attorney’s annual salary (\$114,590 GS 14, Step 1), and 50 percent of a director’s salary (\$134,789– GS 15 – Step 1).
- (b) Adjustment Proposals: \$86,607; The costs associated with review of adjustment proposals is based on 80 percent of a program analyst’s salary (\$96,970 – GS 13, Step 1), two percent of an attorney’s annual salary (\$114,590 – GS 14, Step 1), and five percent of a director’s salary (\$134,789 – GS 15 – Step 1).

Table 2. Estimated Total Annual Cost to the Government for TAAF Petitions (Form ED-840P) and Adjustment Proposals.

Petitions (Form ED-840P)	Adjustment Proposals
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<i>Position/ Item</i>	<i>Annual Salary/Cost</i>	<i>% of time</i>	<i>Cost</i>	<i>% of time</i>	<i>Cost</i>	<i>Total</i>
AP Examiner	\$96,970	0%	\$0	80%	\$77,576	\$77,576
Certification Examiner	\$84,548	80%	\$67,638	0%	\$0	\$67,638
Attorney	\$114,590	10%	\$11,459	2%	\$2,292	\$13,751
Director	\$134,789	50%	\$67,395	5%	\$6,739	\$74,134
Total			\$146,492		\$86,607	\$233,099

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

There are no program changes or adjustments.

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 petitions accepted for investigation. This notice lists the firm's name, address, and principal products, and the 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 the TAAF annual report, 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.

EDA is not seeking approval to not display the expiration date of OMB approval for the information collections.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

EDA does not employ statistical methods to collect data using these forms.