

**U.S. Department of Agriculture
Farm Service Agency
Supporting Statement
OMB Control Number 0560-0097
Form FSA-153, Agricultural Foreign Investment Disclosure Act Report**

The Farm Service Agency (FSA) is requesting a revision and an extension of a currently approved information associated with Agricultural Foreign Investment Disclosure Act (AFIDA) Report.

1. Circumstances that make the collection of information necessary.

The Agricultural Foreign Investment Disclosure Act of 1978 requires foreign investors to timely report all held, acquired, or transferred United States (U.S.) agricultural land under penalty of law to Farm Service Agency. The statute of authority is 92 STAT (1263-1267) or 7 USC 3501-3508 or Public Law 95-460. The regulation was promulgated at 7 CFR Part 781.1-5.

2. How, by whom and for what purpose is information used.

The regulation (7 CFR part 781.1-5) requires foreign investors who buy, sell, or hold a direct or indirect interest in U.S. agricultural land to report their holdings and transactions to FSA. The foreign investors are instructed to complete a printed form or an electronic form of the FSA-153 (AFIDA Report) when they acquire, transfer and change the use of their land and file the AFIDA Report with the FSA county office in the county where the land is located. The foreign investors can submit the form in person, mail the form, or transmit the form electronically to the appropriate FSA county office. They can also obtain permission to file a report with the FSA office in Washington, DC, when complex filings are involved.

The information collected from the form is used to monitor the effect of foreign investment upon family farms and rural communities and in the preparation of a voluntary report to Congress and the President. Congress reviews the report and decides if regulatory action is necessary to limit the amount of foreign investment in U.S. agricultural land. The information contained in the voluntary report to Congress and the President is collected from a 2 pages FSA-153, which is entered into a database.

3. Use of improved information technology.

The FSA-153 is now available as an electronic form at <http://fsaintranet.sc.egov.usda.gov/dam/ffasforms/currentforms.asp>. The foreign investors can optionally submit the completed form to the FSA county office electronically (still have to manually sign it). The foreign investors can print and submit the completed form in paper copy to the appropriate FSA county offices.

4. Efforts to identify duplication.

The Commerce Department is the only other department monitoring foreign investment. However, the Commerce Department excludes agricultural land below 200 acres and less than one million dollars in value (15 CFR Part 806-International Survey Act of 1976). The Commerce survey also omits most of the foreign-owned citrus and a sizable percentage of the rest of foreign-owned agricultural land. The Commerce data is also classified confidential and cannot be used for our purposes.

5. Methods to minimize burden on small businesses or other small entities.

The collection of information involves some small organizations. If a small foreign organization is involved, our FSA headquarters office and FSA county office will assist in answering questions and filling out the form. There are reporting requirement instructions for the completion of the report on the internet which will help to minimize the burden. The small investor answers the same questions as all other respondents. The questions asked on the form are mandated by AFIDA of 1978. The number of small businesses in this information request is 500.

6. Consequence if information collection were less frequent.

The AFIDA of 1978 requires that any foreign persons who held, holds, acquires, or transfers any interest in U.S. agricultural land shall file a report within 90 days after the date of such transaction (7 U.S.C. 3501). It would not be possible for Agriculture to effectively monitor foreign investment and the effect of such holdings upon family farms and rural communities if the collection was conducted less frequently. It would be very difficult to accurately monitor foreign investment without foreign persons reporting all acquisitions, transfers, and changes in the status of their ownership and land use as they occur.

7. Special Circumstances.

- a. Requiring respondents to report information more than quarterly. FSA staff do not require foreign investors to report information quarterly. Instead, reporting is required when changes occur. The 7 CFR Part 781.3 regulation is established to implement the AFIDA regulation to require any foreign person who held, holds, acquires, or transfers any interest in U.S. agricultural land to report the transactions on the form FSA-153. If the interest in the land was held on February 1, 1979, the report was required to be filed by August 1, 1979. However, if the interest was acquired, or transferred, on or after February 2, 1979, the report is required to be filed within 90 days of the date of the transaction. After the report is submitted, and it is discovered by FSA that additional information is needed, the information requested must be submitted to FSA within 30 days of the date of the correspondence.
- b. Requiring written responses in less than 30 days. There are no such requirements.
- c. Requiring more than an original and two copies. The respondents need only provide one copy of the report. All data reported is open to the public for inspection.
- d. Requiring respondents to retain records for more than 3 years. There are no such requirements.
- e. Not utilizing statistical sampling. There are no such requirements.
- f. Require statistical sampling which has not been reviewed and approved by OMB. There are no such requirements.
- g. Requiring a pledge of confidentiality. There are no such requirements.
- h. Requiring submission of proprietary trade secrets. There are no such requirements.

8. Federal Register notice, summarization of comments and consultation with persons outside the agency.

The Notice of Request for Extension of a Currently Approved Information Collection was published in the Federal Register on February 18, 2022 (87 FR 9310). No comments were received in the Regulations.gov (FSA-2022-0002).

Consultations took place with the following persons to get feedback regarding form FSA-153, and its instructions, and they stated that the form and its instructions are practical in this information collection:

1. Analisa Cox, Attorney, Rouse Fret White Goss Gentile Rhodes, PC.
2. Pam Summers, Paralegal, Adams and Reese, LLP, 10181 Highland Colony Parkway, Suite 800, Ridgeland, MS 39156, Phone: 601-353-3234.
3. Paul Ostroot, Administrator, Real Estate Tile, Community and Land Relations, Innergex, 3636 Nobel Drive, Suite 260, San Diego, CA, 29122, Phone: 737-255-2879.

9. Decisions to provide any payment or gift to respondents.

There are no plans to provide any payment or gifts to respondents.

10. Confidentiality provided to respondents.

The AFIDA Reports are open to the public for inspection (7 U.S.C. 3506).

11. Questions of a sensitive nature.

There are no questions of a sensitive nature included in the form.

12. Estimates of burden.

The total number of responses is 7,775 in this request. It is estimated that approximately 7,000 respondent foreign investors complete and print or email the form which takes approximately 30 minutes to complete. Approximately 350 respondents submit letters of notification to make changes in foreign person status annually, which takes approximately 15 minutes to complete, and approximately 425 respondents submit letters of notification to keep specific information current annually on the AFIDA Report which takes approximately 15 minutes to complete.

The respondents are mainly foreign investors, and we may have the individual foreign investor, a corporate employee or an attorney who is hired by the foreign investor completing the forms.

For Foreign Investor, the medium annual wage is \$95,180 per year at \$45.60 per hour derived from Bureau of Labor Statistics. Also, a total employer compensation costs (fringe benefits) for all workers averaged \$11.22 per hour worked from Bureau of Labor Statistics website, specifically in the document of the employer costs for employee compensation, December 2021.

The total annual cost to the public is \$209,893 (3,694 burden hours multiplied an average of \$ 56.82 per hour).

13. Total annual cost burden to respondents or record keepers.

There are no capital or startup costs associated with this information collection.

14. Estimates of annualized cost to the Federal government.

The annual cost to the government is approximately **\$505,361**. The cost represents 3 staff years.

The description of the method used to estimate costs are as follows:

Washington FSA Office Costs:

The employee income of \$ 89,834 (\$43.04 hourly rate) was derived from the OPM January 2022 at <http://www.opm.gov>. A total employer compensation costs (fringe benefits) for all government workers averaged \$12.52 from Bureau of Labor Statistics website, specifically in the document of the employer costs for employee compensation, December 2021.

The average hourly rate is \$55.56. A percentage of staff years were computed for each employee involved in the program based on the amount of time spent on the program. The staff year total was 3.0. The determined percentage was multiplied by the annual salary of each employee to arrive at a total salary cost for each employee.

Washington FSA Office Total Annual Cost: \$289,723.

State FSA Office Costs:

An average salary for State Office employees plus fringe benefit was determined to be \$114,701. The estimated workdays were determined to be 244. Therefore, 244 workdays divided by 260 days = 0.94 staff year multiplied by the total average salary cost of \$114,701 = State FSA Employee Total Annual Cost of \$107,819.

State FSA Office Total Annual Cost: \$107,819.

County FSA Office Costs:

An average salary for County Office employees plus fringe benefit was determined to be \$114,701. The estimated workdays was determined to be 244. Therefore, 244 workdays divided by 260 days = 0.94 staff years multiplied by the total salary cost \$114,701 = County FSA Employee Annual Cost of \$107,819.

County FSA Office Total Annual Cost: \$107,819.

15. Reasons for changes in burden.

The number of respondents and responses increased by 2,250, and the burden hours increased by 1,064. The increase is because more foreign persons acquired or transferred an interest in U.S. agricultural land than in prior years and must comply with AFIDA reporting requirements.

16. Tabulation, analysis, and publication plans.

The nine tables are published summarizing foreign investment data every year. These tables are part of a voluntary report to the President and Congress, along with any other interested parties.

17. Reasons display of expiration date of OMB approval is inappropriate.

FSA displayed the OMB expiration date in the form.

18. Exception to certification statement.

FSA is able to certify compliance with all provisions.