

SUPPORTING STATEMENT - PART A for

OMB Control Number 0560-0097:

Form FSA-153, Agricultural Foreign Investment Disclosure Act Report

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

1. Circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Farm Service Agency (FSA) is requesting an extension of a currently approved information collection associated with the Agricultural Foreign Investment Disclosure Act (AFIDA) Report. FSA is delegated authority for AFIDA; in practice, the Farm Production and Conservation (FPAC) Business Center's Economic and Policy Analysis Division (EPAD) is responsible for data collection from large filers, interaction with and guidance to county FSA offices (who also receive AFIDA filings and transmit them to EPAD), the preparation of the annual report to Congress, maintenance of FSA's AFIDA webpage, and responding to requests from the Hill and others in response to questions about AFIDA.

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 the 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. Purpose and Use of the Information.

Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate how the agency has actually used the information received from the current collection.

The AFIDA regulation requires foreign persons who buy, sell, or hold a direct or indirect interest in U.S. agricultural land to report their holdings and transactions to FSA. Those who enter into or terminate a 10-year-or-longer lease of U.S. agricultural land must also report. Foreign persons are instructed to complete the FSA-153 (AFIDA Report) when they acquire, transfer, or change the use of their land. Foreign persons can submit the AFIDA report in person at the FSA county office in the county where the land is located, mail a hard copy of the AFIDA report, or transmit it electronically¹ to the appropriate FSA county office. Filers can also obtain permission to file a report with EPAD in Washington, D.C. when complex filings are involved.

The process currently involves manual hand entry of FSA-153 data by AFIDA specialists in EPAD, often from bankers' boxes of filing submissions. (Relatively few filers use the electronic form.) The information collected from the FSA-153 is currently hand-entered into an Access database and is used to prepare an annual report to Congress, which can be found at:

<https://www.fsa.usda.gov/resources/economic-policy-analysis/afida/annual-reports-underlying-data>.

¹ An electronic version of the form is available at: <https://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/for-filers>.

3. Use of improved information technology and burden reduction.

Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

FSA and EPAD make every effort to comply with the E-Government Act, 2002 (E-Gov) and to provide for alternative submission of information collections. Sec. 773 of the Consolidated Appropriations Act, 2023 (CAA, 2023), requires the development of an on-line AFIDA filing portal and a public-facing database. Development of this online filing portal is underway. In the interim, FSA is continuing to use the current paper form FSA-153 to collect information from foreign persons, subject to the filing requirements. Once an online filing portal is live, filers that have sent in acquisitions on paper will continue to use paper for amendments and dispositions. This is because sufficient funding is not available to allow for the scanning of historical filings. Only new acquisitions will be filed in the online filing portal (along with any subsequent amendments or dispositions).

4. Efforts to identify duplication.

Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Question 2. The Commerce Department is the only other Department monitoring foreign investment. However, the Commerce Department data is classified as confidential and cannot be shared with USDA nor used in any way for AFIDA purposes. The Commerce data focus on capital flows and are not specific to agricultural land; in addition, the Commerce data exclude agricultural land below 200 acres and less than \$1 million in value (15 CFR Part 806-International Survey Act of 1976).

5.Impacts on small businesses or other small entities.

If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

“Foreign persons” for AFIDA purposes can vary from individual investors to large corporations (such as Syngenta). If a small foreign company or a foreign individual files, EPAD and/or FSA county office staff will answer questions and provide guidance in filling out the AFIDA form. In addition, there are instructions for completing the AFIDA report on the FSA AFIDA home page, helping minimize the burden on filers. The content of the AFIDA form (whether the current form or the new, revised form), does not vary depending on the amount of acreage acquired or the net worth of the foreign person. We estimate that of the approximately 4,000 filings annually, 500 are filed by small businesses or individual persons.

6. Consequence if information collection were less frequent.

Describe the consequence to Federal program or policy activities if the collection is not conducted, or is conducted less frequently, as well as any technical or legal obstacles to reducing burden. This is a mandatory, on-going information collection request. The AFIDA of 1978 requires

that any foreign persons who 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). Foreign persons must also report changes in land use, foreign person status, and other related changes within 90 days of such changes occurring. There is no option for reporting on a different (less frequent) schedule, per the 1978 law; otherwise, the agency would not be complying to ensure program integrity with the law.

7. Special circumstances relating to the Guidelines of 5 CFR 1320.5.

a. Requiring respondents to report information more than quarterly. Per the AFIDA law, foreign investors are required to report transactions within 90 days; they are also required to report changes in land use, foreign person status, and other changes within 90 days. They are not required to report information quarterly or within any other time intervals. Instead, reporting is required when transactions occur or when changes are made to names on the original filing, the use of the land changes from the original filing, or other such changes occur.

b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it. 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.

c. Requiring respondents to submit more than an original and two copies of any document. Foreign persons are asked to provide the original and two copies of the report. All originals are held in Washington, D.C.; one copy is held by the FSA county office and one copy is sent to the state department of agriculture. All submitted FSA-153 filings are open to the public for inspection, 10 days after receipt, at the AFIDA headquarters office at 3112 South Building in Washington, D.C.

d. Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years. There are no such requirements.

e. In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study. There are no such requirements. Foreign persons must report transactions and other changes (changes in land use, name, foreign person status, etc.) to USDA.

f. Requiring the use of a statistical data classification that has not been reviewed and approved by OMB. There are no such requirements.

g. That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use. There are no such requirements. Per the 1978 law, all AFIDA filings are available for public inspection 10 days after they are filed.

h. Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law. There are no such requirements.

8. Comments to the Federal Register Notice and efforts for consultation.

A 60-day notice for public comment was published in the Federal Register on May 30, 2025, FR citation 90 FR 23026. Comments were received.

The AFIDA information collection notice and comments can be viewed at:

<https://www.federalregister.gov/documents/2025/05/30/2025-09831/information-collection-request-agricultural-foreign-investment-disclosure-act>. The new proposed FSA-153 form can be viewed as supplemental information at: <https://www.regulations.gov/document/FSA-2025-0001-0002>.

Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Public comments received address data collection elements that USDA had initially proposed in a revision to the current collection. However, USDA is no longer pursuing these revisions at this time and has determined to move forward with a reauthorization of the existing approved information collection only at this time. USDA has included these comments in the record, but they are no longer within the scope of the current information collection. If USDA initiates a revision to this collection in the future and determines the comments are relevant to the proposed changes, USDA will incorporate a response to these comments inside the process for seeking approval of that future revised collection.

We regularly consult with the following persons to get feedback regarding the FSA-153:

1. Matt Luzadder (attorney), Jeff Hunter (attorney), and Robin Mariella (senior paralegal manager). Kelley Drye and Warren, LLP. 333 W Wacker Dr #2600, Chicago, IL 60606; mluzzader@kelleydrye.com; Tel: (312) 857-2623; Cell: (305) 609-5497. jhunter@kelleydrye.com; Tel: (202) 342-8574; Cell: (202) 258-6500. rmariella@invenergy.com. One South Wacker Drive, Suite 1800, Chicago, IL 60606
2. Analisa Cox, attorney. Rouse Frets White Goss Gentile Rhodes, P.C., Leawood, Kansas. acox@rousepc.com
3. Kyla Kaplan, attorney. Olsson Frank Weeda Terman Matz PC. 2000 Pennsylvania Avenue NW Suite 4003, Washington, DC 20006. Tel: (202) 789-1212. Kkaplan@ofwlaw.com

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

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

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

The AFIDA reports are open to the public for inspection, as noted above (see 7 U.S.C. 3506). USDA is updating its existing system of records notice (SORN) titled Farm Records File (Automated) USDA/FSA-2 to include activities under AFIDA. Routine uses of AFIDA records are described in the revised SORN, which includes broader information collection associated with FSA. AFIDA is not

subject to Section 1619 of the Food, Conservation, and Energy Act of 2008, as Section 1619 only applies to information producers or landowners submit to participate in Department programs. AFIDA is not a “program[] of the Department,” rather it is simply a reporting requirement. Filers receive no Department benefits; therefore, AFIDA is not subject to Section 1619. Permissible disclosure of all information collected is treated as confidential and will only be shared pursuant to the SORN and as mandated by the statute.

11. Justification for any questions of a sensitive nature. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Some questions on the FSA-153 form are more sensitive than others. For example, we are required by the 1978 AFIDA law to collect information on the purchase price of the land, which may involve sensitive business information not normally subject to public review. USDA requests specific information about the land, such as the purchase price and other items, to fulfill the purposes of the statute and to address federal government national security interests. Any information made public or shared is done so pursuant to the statute and corresponding SORN.

12. Estimates of the hour burden of the collection of information.

Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

A. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.

The total number of responses is 4,350 in this request. It is estimated that approximately 4,000 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 keep specific information current annually on the AFIDA Report, which takes approximately 15 minutes to complete.

Foreign investors that are corporations, LLCs (captured in the “other” category on the existing FSA-153 form), trusts, and others often hire an attorney or have a corporate employee (also often in the legal field) complete the FSA-153 report. About 90 percent of individuals who file also rely on an attorney representative. As a result, the “lawyers, judges, and related workers” category in the Occupational Series of the Bureau of Labor Statistics for 2024² is used to estimate the dollar-value of the respondent burden. The median annual salary for that category is \$177,575, which translates to a respondent cost of \$85.37 an hour (\$177,575/2,080 hours per year).

² The Bureau of Labor Statistics Occupational Employment and Wage Statistics Query System webpage can be found at: <https://data.bls.gov/oes/#/home>.

The total annual cost to the public is \$178,210 (2,088 burden hours multiplied by an average of \$85.37 per hour).

13. Estimates of other total annual cost burden.

Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information, (do not include the cost of any hour burden shown in questions 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.

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

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

Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

The annual cost to the government is approximately \$889,547. The cost represents 5 staff years.

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

Washington FSA Office Costs:

A Federal Government employee administering the procedures is expected to be a General Schedule Grade 13, Step 5 with a Washington, D.C. locality pay. At OPM's January 2025 pay scale, they would receive \$136,658 per year, or equivalently, a \$65.48 hourly rate (<http://www.opm.gov>).

The percentage of staff years for each employee involved in the program was summed to a total of 4.0 staff years. The staff years were then multiplied by the annual salary of each employee to arrive at a total cost of \$546,632; with fringe benefits, the total is \$728,843.

State FSA Office Costs:

The salary for an FSA State Office employee at a GS-12, Step 5 at the 'Rest of the U.S.' locality area pay in January 2025 is \$100,440. The number of days devoted to the program by State Offices was estimated to be 104. Therefore, the total salary cost of \$100,440 multiplied by 104 workdays divided by 260 days – 0.4 staff years – is the total County FSA Annual Cost of \$40,176; with fringe benefits the total is \$53,568.

County FSA Office Costs:

The 2025 salary for FSA County Office employee at a GS-12, Step 5 at a 'Rest of the U.S.' locality area pay is \$100,440. The number of days worked on the program by County Offices was estimated to be 208. Therefore, the total salary cost of \$100,440 multiplied by 208 workdays divided by 260 days

– 0.8 staff years – is the County FSA Employee Annual Cost of \$80,352; with fringe benefits the total is \$107,136.

15. Explanation of program changes or adjustments.

Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I..

The number of respondents and responses has declined and the burden hours have decreased by 1,606. The decrease is due to a decline in the number of foreign investor AFIDA filings since the peak year of 2020.

16. Plans for tabulation, and publication and project time schedule.

For collections of information whose results are planned to be published, outline plans for tabulation and publication.

Twelve tables are published summarizing foreign investment data every year. These tables are part of the annual report to Congress, which is also published on the FSA website.

17. Displaying the OMB Approval Expiration Date.

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

FSA displays the OMB expiration date on the form.

18. Exceptions to the certification statement identified in Item 19.

Explain each exception to the certification statement identified in Item 19 of the OMB 83-I, "Certification for Paperwork Reduction Act."

FSA is able to certify compliance with all provisions.

