

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

Abstract

The BE-13, Survey of New Foreign Direct Investment in the United States, collects information on the acquisition and establishment of U.S. business enterprises by foreign investors and on expansions by existing U.S. affiliates of foreign companies. The data collected through the survey are used to measure the amount of new foreign direct investment in the United States and assess its impact on the U.S. economy. The survey also ensures complete coverage of BEA's other foreign direct investment statistics. The survey is authorized by the International Investment and Trade in Services Survey Act.

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 complete and accurate data on new foreign direct investment in the United States that are needed to measure such investment and assess its impact on the U.S. economy. The survey also improves the coverage of BEA's other foreign direct investment in the United States surveys. The survey is mandatory and is conducted under the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101-3108, hereinafter "the Act." The implementing 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 investment (except for investment in certain private funds) in the United States, limited financial and operating data for the U.S. business enterprises established, acquired, or expanded, and identifying information about the U.S. business enterprise and its foreign owner(s). U.S. business enterprises acquired by a foreign parent are only required to file the survey once. Foreign-owned U.S. business enterprises that are newly established or are undergoing an expansion will be required to file an initial report and update their expected costs for three years following the year of the investment. BEA will notify the U.S. business enterprise when updates are required. 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.

These 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 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 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 survey, current data on the size, types, and operating characteristics of new foreign direct investment in the United States would not be available.

Bilateral investment treaties (BITs) 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 United States-Mexico-Canada Agreement.

(c) Other Government uses:

Representatives of many state and local governments take 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. Numerous private researchers also use the data.

The Information Quality Guidelines of the Office of Management and Budget (OMB) 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 the quality of the data is high before the final estimates are released. The data are collected and reviewed according to documented procedures, best practice standards, and ongoing review by the appropriate supervisor. The quality of the data is validated using a battery of edit checks to detect potential errors and to otherwise ensure 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 comply with all applicable information quality guidelines, i.e., those of OMB, the Department of Commerce, 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 enter the required data, save their inputs, and submit the survey securely to BEA.

In addition, BEA provides links to all its survey forms and reporting instructions on its website (www.bea.gov). These are fillable forms that can be downloaded, printed, and submitted via fax or mail.

4. Describe efforts to identify duplication.

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.

The Internal Revenue Service 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.

In 2017, BEA instructed reporters of investments in certain private funds to report with the Treasury International Capital system and not in BEA's surveys of foreign direct investment in the United States. Prior to this change, certain private funds were required to report on both the BEA and TIC surveys. BEA, in conjunction with the Treasury Department, initiated this change because these particular investments displayed the characteristics of portfolio investment (specifically, investors do not intend to control or influence the management of an operating company) rather than direct investment (that is, ownership by one person of 10 percent or more of the voting interest of a business enterprise).

BEA has examined information on foreign direct investment available from these and other agencies and, because the information differs in scope and purpose from 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.

Most of the U.S. business enterprises that are required to file the survey are units of multinational enterprises. For the few 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. business enterprise is determined by the type and cost of the transaction. When the cost of the acquisition, establishment, or expansion is less than \$3 million, the U.S. business enterprise will only be required to report selected items on the BE-13 Claim for Exemption. The average burden for this form is 15 minutes.

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. business enterprises; this in turn would have an adverse impact on the quality of all 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.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary. This rule removes a requirement, significantly reducing overall burden, especially on small businesses, and BEA will continue to capture all investments, regardless of investment size. As stated in the preceding section, BEA is increasing the threshold for filing the BE-13 claim for exemption from \$3 million to \$40 million, greatly increasing the number of investments that can be reported on this form. This is a significant reduction in burden for these smaller investments as the BE-13 claim for exemption form has an estimated burden time of 15 minutes, compared to estimated burden of between 72 and 150 minutes for the full BE-13A, BE-13B, and BE-13D forms. Overall, this change is estimated to reduce the total respondent burden by 33 percent.

Because some members of the public rely on this data, the transactions with a value of \$40 million or less will continue to be collected on the claim for exemption, which will have one question added to directly collect transaction cost and otherwise captures the most critical variables for inclusion in data tables and BEA will have no drop in data quality. Therefore, public comment would serve no purpose and is unnecessary. There is also good cause under 5 U.S.C. 553(d)(1) to waive the 30-day delay in effectiveness because this rule relieves a restriction as the new claim for exemption is a shorter form that significantly reduces the survey response burden by increasing the cut-off for the BE-13 claim for exemption from \$3 million per investment transaction to \$40 million.

Because prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

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 reaching decisions on what questions to include in the survey, BEA considered the government's need for the data and resources for processing the data, the burden imposed on respondents, the quality of the likely responses (e.g., whether the data are readily available on respondents' books), and BEA's experience in previous annual and related benchmark surveys.

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. Per the Cybersecurity Enhancement Act of 2015, your data are protected from cybersecurity risks through security monitoring of the BEA information systems."

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

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

Estimated Burden for BE-13

Form Type	Average burden hours per response	Estimated number of responses	Estimated burden hours
BE-13A - Acquisition	2.50	402	1,005
BE-13B - Establishment	2.20	74	163
BE-13D - Expansion	1.20	49	59
BE-13E – Cost Update	0.75	165	124
BE-13 Claim for Exemption	0.25	2,727	682
Total	0.6*	3,417	2,032**

* Calculated as 2,032 hours/3,417 responses.

**Total is based on unrounded total estimated burden per form type

Respondent burden is estimated based on the estimated burden in the last BE-13 surveys and other BEA surveys, feedback from respondents, and on proposed changes to the reporting requirements. Burden is expected to vary among respondents because of differences in company size and complexity. The estimated respondent burden currently shown in the RISC/OIRA Consolidated Information System (ROCIS) is 3,027 hours. The decrease in burden hours is due to the increase in the proportion of respondents expected to file on the BE-13 Claim for Exemption.

The estimated annual cost to respondents is \$79,801, based on the estimated reporting burden of 2,032 hours and an estimated hourly cost of \$39.27. The hourly cost reflects the median wage of accountants and auditors from the May 2024 Occupational Employment Statistics.

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 2,032 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 \$2,280,201, which consists of \$1,552,401 for salaries and related overhead, and \$727,800 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 revision of a currently approved collection. The estimated respondent burden for this collection is estimated to be 2,032 hours; the estimated respondent burden for the previous survey is 3,027 as currently shown in the inventory maintained by OMB. The decrease in the estimated respondent burden of 995 hours (2,032 hours – 3,027 hours) is due entirely to an increase in the proportion of number of U.S. entities that meet the expanded reporting requirements of the BE-13 Claim for Exemption.

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

Data obtained are aggregated and statistics are published annually in news releases the year following the reference year. An analysis of the data appears in the BEA's monthly online journal, the *Survey of Current Business*, the following month. The articles and news releases are available on BEA's website, along with more detailed statistics by country and by industry.

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. The agency certifies compliance with 5 CFR 1320.9 and the related provisions of 5 CFR 1320.8(b)(3).