

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

Supporting Statement:

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

A. Justification:

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.

On February 6, 1979, the Secretary of Agriculture delegated the authority for the collection of the information to the Farm Service Agency (FSA).

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

The regulation at 7 CFR part 781.1-5 require 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 obtained 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 two page FSA-153, which is entered into a data base.

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. The

respondents 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 does not require foreign investors to report information quarterly. Instead, reporting is required when changes occur. The 7 CFR Part 781.3, which set forth the requirements designed to implement the AFIDA, requires 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 November 9, 2012, at FR67329. One comment was received, suggesting that AFIDA information collected by FSA be posted on the agency's website. The information is posted on the FSA website at:

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=ecpa&topic=afa>

The person who suggested that AFIDA information be available online was contacted and given instruction for accessing the information.

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:

David C. Roulston
Senior Counsel
Gamesa Technology Corp
1801 Market Street, Suite 2700
Philadelphia, PA 19103
Phone: 215-553-0011

Christine Shoop
Assistant Land Contracts Specialist
EDF Renewable Energy – formerly enXco
15445 Innovation Drive
San Diego, CA 92128
Phone: 858-521-3469

Birju Pandya
Armonia, LLC
73 Arch Street, 3rd Floor
Greenwich, CT 06803
Phone: 480-747-7783

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

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

10. Confidentiality provided to respondents.

Under the AFIDA of 1978, the AFIDA Reports (FSA-153) 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 respondents is 5,525 in this request. It is estimated that approximately 5,000 respondent foreign investors complete and print or email the form which takes approximately 30 minutes to complete. Approximately 200 respondents submit letters of notification to make changes in foreign person status annually which takes approximately 15 minutes to complete, and approximately 325 respondents submit letters of notification to keep specific information current annually on the AFIDA Report which takes approximately 15 minutes to complete.

The total annual cost to the public is \$98,014 which is 2,631.25 burden hours times an average of \$37.25 per hour. The hourly wage is based on an average of a nonprofessional hourly wage of \$16.50 and a professional hourly wage of \$58. The forms are completed by respondents in a variety of occupations. We may have the individual foreign investor, a corporate employee or an attorney who is hired by the foreign investor completing the forms.

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 \$339,605. The cost represents 4.7 staff years. The description of the method used to estimate costs are as follows:

Washington FSA Office Costs:

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. These totals were all added together to arrive at total salary. The total salary and benefit costs were added together to arrive at a total personnel cost of \$228,091.

Washington FSA Office Total Annual Cost \$228,091

State FSA Office Costs:

An average salary for State Office employees was determined to be \$70,794. The estimated workdays was determined to be 244. Therefore, 244 workdays divided by 260 days = .94 staff year multiplied by the total average salary cost of \$70,794 = State FSA Employee Total Annual Cost of \$66,546.

State FSA Office Total Annual Cost \$66,546

County FSA Office Costs:

An average salary for County Office employees was determined to be \$47,838. The estimated workdays was determined to be 244. Therefore, 244 workdays divided by 260 days = .94 staff years multiplied by the total salary cost \$47,838 = County FSA Employee Annual Cost of \$44,968.

County FSA Office Total Annual Cost \$44,968

15. Reasons for changes in burden.

There are no changes in burden since the last OMB approval.

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.

The expiration date of the OMB approval is not displayed because the form does not change and it is not cost effective for Forms Officer to change the expiration date every three years to post new version form for the FSA county offices.

18. Exception to 83-1 certification statement.

The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.

19. How the information collection is related to the Customer Service Center.

When a foreign investor visits or contacts the FSA County Office for information relating to the FSA programs, an FSA employee informs them of the AFIDA requirements and provides them with a pamphlet, blank report and a copy of the regulations that govern the AFIDA. They also inform the foreign investors that they can use the electronic form as an option.