

Supporting Statement for SBA Form 857
Request for Information Concerning Portfolio Financing

A. Justification

1. Circumstances necessitating the collection of information. The Investment Division (ID) of the Small Business Administration (SBA) periodically examines Small Business Investment Companies (SBICs) pursuant to the statutory requirement of section 310(c) of the Small Business Investment Act, as amended, 15 U.S.C. Section 687b, and Agency regulation 13 CFR 107.690. The purpose of the examination as stated in the statute is to determine, in part, whether or not the SBIC has engaged “solely in lawful activities and those [activities] contemplated” by title III of the Small Business Investment Act. SBA collects information on Form 857 as part of its effort to meet this statutory requirement.

This form was last extended in August 2004. At that time, OMB noted that the response rate for this voluntary collection of information was approximately 45 percent, and directed SBA (1) to evaluate the impact of the 55 percent non-response rate on program effectiveness, and (2) to explore alternatives to surveying third parties as a means of verifying SBIC-provided financial information. With regard to the first question, SBA has determined that the response rate has improved slightly and is currently approximately 50 percent. Although the non-response rate is still high, SBA notes that use of the form has identified some instances of reporting discrepancies, conflicts of interest and other regulatory violations, such as when a portfolio company has reported receiving less than the amount of financing indicated by the SBIC and investigation of the discrepancy has led SBA to discover that funds were diverted by the SBIC to an impermissible use. Non-responses have also served to identify problems; for example, SBA has mailed forms to portfolio companies that have been returned as undeliverable, and has learned through follow-up by the examiner that some companies did not exist or had ceased operations. As a result, SBA believes the form has provided valuable compliance-related information even in the absence of a complete response. SBA also believes that use of the form may have a deterrent effect because SBICs know that the information they report is subject to confirmation.

With regard to the second question, SBA has considered the possibility of having examiners visit more portfolio companies in person, but this approach is time consuming and may be too expensive if the companies are geographically scattered. Another possibility is to run Dun & Bradstreet reports on the portfolio companies. SBA believes a D&B report could effectively confirm information about the existence and operations of a company and about the investment made by the SBIC, but would not provide as much information about potential conflicts of interest or other regulatory non-compliance as Form 857.

2. How, by whom, and for what purpose information will be used. SBA Form 857, Request for Information Concerning Portfolio Financing, is used by ID examiners during the conduct of SBIC examinations. Each SBIC is required to be examined at least every two years. The form is mailed to a sample of businesses (usually 5 to 10 per examination) financed by an SBIC in order to obtain information concerning the nature of the financing arrangement. This is used to verify information reported by the SBIC on SBA Form 468. In addition, information provided on the form assists examiners in determining whether SBICs are in compliance with various statutory and regulatory provisions, including those governing conflicts of interest, small business size standards, maximum allowable interest rates, and the use of financing proceeds by portfolio companies.

If this information is not collected, SBA will have less reliable evidence on which to determine regulatory compliance, which is then used, in part, for making credit and oversight decisions, potentially resulting in an increased risk of financial loss to the government and/or undetected noncompliance with laws and regulations.

3. Technological collection techniques. This information collection does not employ any technological collection techniques. The current method used involves the exchange of information by mail between the SBA examiner and the respondent. This method is typical of requests made by auditors or examiners for confirmation of information by third parties, as evidenced by the many such confirmation requests that SBA receives each year. SBA believes this method is appropriate because the form is not intended for use by the general public; each respondent is individually selected by SBA based on its relationship with an SBIC that is being examined and is directly contacted by SBA for a response.
4. Avoidance of Duplication. The information requested in questions 1, 2 and 3 of Form 857 is also provided directly to SBA on Form 468 by the SBIC being examined, although not necessarily as of the same date (examination dates are usually different from the dates when SBICs submit financial reports to SBA). The information requested in questions 4 through 7 is not provided by the SBICs, nor do the SBICs' independent public accountants obtain such information during their audits of the SBICs' financial statements.

Even though Form 857 collects some information similar to that on Form 468, SBA believes that the entire form provides useful independent verification of information reported by SBICs which helps the agency to carry out its statutory mandate to determine SBICs' compliance with laws, rules and regulations and established policies governing the SBIC program. It is a standard principle of auditing that evidence obtained from an independent source is more reliable than that secured from the audited organization; as a result, independent confirmation is a standard tool used in virtually every type of audit.

5. Impact on small business or other small entities. The companies asked to complete the form are small businesses, but the impact on these businesses is not significant.

Response to the questions on the form is voluntary. The information requested is not extensive and is the type of information that companies would generally maintain in the normal course of business. If a company has a dispute or concern about its relationship with an SBIC, question 7 of the form provides an opportunity for the company to report the problem to SBA. Thus, in part, this form can help SBA identify and address actions by an SBIC that may be detrimental to small business.

6. Consequences if collection of information is not conducted. Without this collection of information, SBA's ability to verify investment information reported by SBICs would be limited. Verification of such information as part of the examination process helps to ensure that SBICs are in compliance with certain key regulations, including those governing related party transactions and use of financing proceeds. The collection also helps to maintain the integrity of the SBIC program for two reasons: (1) SBIC awareness of this aspect of SBA oversight may act as a deterrent to the submission of incorrect information, and (2) verification helps SBA to identify any problems with information submitted by SBICs and, if fraudulent activity is involved, to take corrective action in time to minimize financial losses to the government.
7. Existence of special circumstances. This collection of information requests responses within 10 days of receipt by the small businesses to which the forms are sent. This is a request rather than a requirement, since all responses are voluntary. This requested turn-around time is intended to minimize the time involved in the conduct of each SBIC examination. SBA is required by statute to examine each SBIC at least biennially under 15 U.S.C. Section 687b. Due to our limited examination staff resources, in order to comply with the statutory mandate, we must limit the time consumed by each examination as much as possible. We believe that the 10-day response time balances SBA's need to limit the duration of each examination and the time needed by portfolio companies to respond to each request.
8. Solicitation of public comment. Published in the Federal Register April 11, 2006, Vol. 71, No. 69, page 18402. No comments were received.

As part of the examination of an SBIC, the SBA examiner typically visits a few of the companies in which the SBIC has invested. As part of the visit, the examiner can answer any questions the company has about completing the form and has the opportunity to receive any feedback from the respondent concerning the information collection.

9. Payment or gifts. No payment or gifts were provided to respondents.
10. Assurance of confidentiality. The information collected includes financial data of the portfolio company, which is protected from disclosure under the Freedom of Information Act; specifically, exemptions 4, 6 and 8 allow SBA to withhold financial data on individual companies. The information collected will be protected to the extent permitted by law.

11. Questions of a sensitive nature. This collection of information does not contain any questions of a sensitive nature.

12. Estimate of the hourly burden of the collection of information. Estimated annual hour burden of collection:

Number of respondents – 2,160
Number of responses per respondent – 1
Estimated hours to complete form – 1
Total burden hours – 2,160

When SBA examiners have observed the completion of this form by small businesses during site visits, the completion time has usually been in the 15-30 minute range. However, SBA is leaving the estimated time at 1 hour to allow for circumstances where the person completing the form is unfamiliar with it and/or with the subject financing transaction.

Estimated cost of hour burden to respondents (based on hourly compensation of bookkeeper):

Preparation: 2160 hours at \$25 per hour = \$54,000

13. Estimate of total annual cost burden. There is no annual cost burden to respondents other than the cost of the hour burden given in item 12.

14. Estimated annualized cost to the Federal government. Estimated cost to Government:

Mailing costs:

Postage = \$1,500.00

Preparation and review by staff examiner (GS-13):

400 hours x \$40.00 = \$16,000.00

Total = \$17,500.00

15. Explanation of program changes in Items 13 or 14 on OMB Form 83-I. No burden changes.

16. Collection of information whose results will be published. The results of this collection of information will not be published.

17. Expiration date for collection of information. Not applicable.

18. Exceptions to certifications in Block 19 on OMB Form 83-I. Not applicable.

B. Collection of Information Employing Statistical Methods

This collection of information does not employ statistical methods.