

Supporting Statement for SBA Form 860 Financial Institution Confirmation Form

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 860 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 85 percent, and directed SBA (1) to evaluate the impact of the 15 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, the response rate has improved slightly and is currently approximately 90 percent. SBA also notes that the primary purpose of the form is to evaluate regulatory compliance and detect risks associated with non-compliance for the individual SBIC being examined; evaluation of compliance trends for the SBIC program as a whole is also of interest, but is a secondary goal. For this reason, SBA believes that the detection of any individual instance of non-compliance makes a valuable contribution to program safety and soundness, even in the absence of a 100% response rate. Although the incidence of discrepancies is rare, the form has identified some problems, such as assets that are encumbered or the existence of undisclosed liabilities, which would otherwise have escaped detection.

With regard to the second question, SBA has considered the possibility of relying on third party confirmations performed by each SBIC’s certified public accountant in connection with the annual audit of its financial statements; however, SBA would prefer not to do so since these confirmations are normally performed as of a different date and the SBIC’s banking relationships or borrowing arrangements may have changed.

2. How, by whom, and for what purpose information will be used. SBA Form 860, Financial Institution Confirmation Form, 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 financial institutions where SBIC funds are maintained in order to confirm the existence and amount of SBIC assets and liabilities to the financial institution, which assists examiners in determining whether SBICs are in compliance with statutory and regulatory provisions concerning investment of temporary surplus cash balances and borrowing from non-SBA lenders. SBA also uses this form to help identify whether funds on deposit are subject to any pledge or encumbrance, and whether the SBIC has any contingent liabilities to the responding financial institution.

If this information is not collected, SBA will have less complete and/or less reliable evidence on which to determine regulatory compliance which the ID uses, in part, to make 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. 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 dollar amounts requested in questions 1, 2 and 3 of the form are also provided directly to SBA on Form 468 by the SBIC being examined, although typically not as of the same date (examination dates are usually different from the dates when SBICs submit reports to SBA).

Even though Form 860 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. There is no significant impact on small entities. The financial institutions that are asked to complete this form are usually large entities and are accustomed to responding to auditors' confirmation requests. The information requested is not extensive and is the type of information that financial institutions would generally maintain in the normal course of business.
6. Consequences if collection of information is not conducted. Without this collection of information, SBA's ability to verify asset and liability 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, as discussed in question 2, above. 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 may allow 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 financial institutions to which the forms are sent. This is a request rather than a requirement, since 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 limited examination staff resources, in order to comply with the statutory mandate, SBA 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 financial institutions 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.
9. Payment or gifts. No payment or gifts were provided to respondents.
10. Assurance of confidentiality. The information collected includes financial data 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 – 1,500
Number of responses per respondent – 1
Estimated hours to complete form – ½ hour
Total burden hours - 750

Burden estimate is based on inquiries made to SBA's accounting personnel, who frequently respond to similar requests from auditors for verification of SBA loan balances and terms.

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

Preparation: 750 hours at \$25 per hour = \$18,750

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 = \$1,000.00

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

240 hours x \$40.00 = \$9,600.00

Total = \$10,600.00

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.