

Supporting Statement for Paperwork Reduction Act Submission
OMB Control Number 3245-0110
SBA Form 1366, Borrower's Progress Certification

This submission covers the SBA Form 1366, Borrower's Progress Certification, and associated record-keeping requirements. The purpose of this submission is to request OMB renewal authorization of this form.

A. Justification

1. Circumstances that make the collection of information necessary. The SBA Form 1366 is a one-page form that provides a simple format for borrowers to organize and present documentation and information to SBA about how the loan funds have been used in the disaster restoration, and for borrowers to provide the necessary certifications prior to subsequent disbursements.

Form 1366 was developed in response to an expressed need by borrowers for a concise way to document the use of loan funds and make the required certifications. Routine observations, particularly in closing workshops conducted by SBA, and direct feedback from borrowers indicate that estimates of public burden hours are valid and the format in which the information is requested is reasonable and simplified.

Form 1366 is a certification document that is completed before each subsequent disbursement and is part of the documentation of the use of loan proceeds. Also, the borrower attests that no substantial adverse change has occurred, in order to avoid unknowingly continuing disbursement to a borrower whose financial condition has deteriorated. Finally, the certification relates to fees paid to representatives, in accordance with the provisions of 13 CFR 103.5(a), copy attached.

The requirement for submitting and maintaining records concerning the use of loan proceeds is a natural consequence of the program itself: by law, loan proceeds must be used solely for disaster repair/replacement/reconstruction. The requirement for this can be found in Section 123 of the Code of Federal Regulations and in the Standard Operating Procedures (SOP) for Disaster Assistance, SOP 50 30, paragraph 95(c), the pertinent sections of which are attached.

2. How, by whom, and for what purpose information will be used. Form 1366 information collection involves assurances that certain loan conditions (those pertaining to authorized use of proceeds) are satisfied. The information collected by Form 1366 from disaster loan borrowers is either (1) exceptions to the certifications, or (2) a listing of expenditures and copies of certain receipts. Exceptions to the certifications might involve credit factors and would be referred to a loan officer for review. All information related to the use of proceeds is reviewed by Office of Disaster Assistance (ODA) legal section (attorneys and support staff) to assure that loan proceeds have been used as authorized. Representatives of the Inspector General and other auditors also use the information collected on Form 1366 and the records which borrowers are required to retain for audit trail purposes. Evidence of misuse of proceeds would be used by US Attorneys and the Office of Inspector General

prosecuting for misuse of loan proceeds.

3. Technological collection techniques. SBA's Disaster Credit Management System (DCMS) has been in production use since November 2004 and is currently in the Operations and Maintenance phase. As a part of this project, disaster loan applications and related paperwork (including SBA Form 1366) are incrementally being made available to the public electronically for downloading and printing. Planning for the first phase of this enhanced capability of application access through a public site is currently underway and the ability to provide other data and requests for action by borrowers will be provided in subsequent phases of this effort. The Form 1366 is currently available online at www.sba.gov for downloading and printing.

Because the requirements are encountered by each borrower only once for each SBA loan, and records are unique to each borrower, no known technology can reduce the burden of submission in some form.

For loans requiring multiple disbursements, Form 1366 must be filed an average of 1.5 times during the course of the loan. We currently require a hard copy of the form with original signature for fraud prevention purposes, or a fax of a hard copy where an original signature is on file in the office for comparison purposes.

4. Efforts to identify duplication. Because the records regarding expenses by borrowers for repair or replacement are only kept by borrowers, there is no duplication in SBA's files. Information collected by the Form 1366 is not available elsewhere in SBA's system. Similar information is not available and no other information could be substituted. Minimal duplication (borrower name, loan number, etc.) is necessary to distinguish and organize records appropriately.
5. Impact on small businesses or other small entities. The record-keeping requirements for Form 1366 are not in excess of usual and customary business records maintained by businesses for internal management and tax and securities law purposes. Information collected by Form 1366 is limited to specific program requirements. The current version of Form 1366 has been designed to minimize paperwork while satisfying legal and policy mandates and protecting the Government's creditor position (see CRF Section 123 and SOP 50 30 paragraph 95(c)).
6. Consequence if collection is not conducted. The information collection is conducted only as needed. If the record-keeping requirements and submissions were not permitted, SBA would not have a basis for assuring proper documentation of loans and proper use of loan proceeds, for assuring that subsequent disbursements are prudent and justified, or for conducting audits or taking actions in cases of misuse. This would mean that SBA would be in violation of regulation if SBA conducted the information collection less frequently or not at all.

Some borrowers have complained about accounting for the use of loan proceeds and requested that loan funds be disbursed to them for use as they desire. SBA must perform due diligence in order to assure that the loan funds are only used to repair or replace

damaged property in the case of physical disasters, and other uses would be illegal and are subject to a statutory civil penalty. These loans cannot be considered in the nature of indemnification for losses.

Consequences of not collecting Form 1366 information: (1) continuing to disburse to borrowers where the credit position is weak due to an adverse change; (2) not assuring and documenting that loan proceeds have been properly used; (3) when loan proceeds are not properly used, the Government is making subsidized loans for purposes unrelated to the disaster which should be privately financed; and (4) misuse of loan proceeds can weaken the value of the collateral securing the loan and is subject to a civil penalty.

Consequences of not requiring the borrower to maintain books and records diminish SBA's ability to establish facts and determine appropriate action, when SBA suspects a misuse of funds. As a result, SBA would be unable to provide an adequate basis for audit and legal action.

Because it is generally not possible to reduce the number of disbursements, it is not possible to reduce the number of times the Form 1366 is required; however, it is in the best interest of both the borrower and SBA to keep these uses to a minimum.

7. Existence of special circumstances. There are no special circumstances, except for a disclosure of a change in financial condition which may be considered confidential information and SBA protects that information to the extent permitted by law.
8. Solicitation of public comment. A notice required by 5 CFR 1320.8(d) was published in Federal Register volume 71, number 69 page 18403 on April 11, 2006. The comment period closed June 12, 2006 and no comments were received as a result of this notice.
9. Payments or gifts to respondents. There are no payments made or gifts given to respondents.
10. Assurance of confidentiality. Confidentiality is generally based on the Privacy Act and the Freedom of Information Act. SBA will keep the information collected confidential to the extent permitted by law.
11. Questions of a sensitive nature. No questions of a sensitive nature are asked.
12. Estimates of the hourly burden. Because each loan is conditioned based on its unique circumstances, estimates are normally based on typical mixes of loans and conditions over the past 4 fiscal years (for this submission, those years would be FY 2001 through 2004). We have omitted FY05 data because the disaster activity during that fiscal year was unusually high due to the Hurricanes in Florida, and does not reflect normal activity.

SBA approved 31,262 disaster loans annually on average during this period (FY 01-04). Following is an average per year mix of loan types for all loans during this period:

24,723 home:	14,820 unsecured
	9,903 secured

	6,539 businesses:	1,607 unsecured
		4,932 secured
TOTAL	31,262	

PUBLIC BURDEN

HOURS

For the Form 1366, the public burden includes organizing records of expenditures and compiling that information as directed on the form, and it includes copying and providing certain receipts as directed by the form.

The public burden is generally limited to secured loans, as few unsecured loans have multiple disbursements. For secured loans, the average number of disbursements is about 2.5. The Form 1366 is required for each subsequent (other than initial) disbursement, for an average of 1.5 uses for each secured loan (respondent). This average is based on past experience with the form. The anticipated number of secured loans (average) is 14,835. With 1.5 uses per respondent, the Form 1366 would be used 22,253 per year on average.

Based on feedback and previous experience, the Form 1366 is estimated to require about 0.5 hours per response, for **total estimated burden hours of 11,127** ($1.5 \times 14,835 = 22,253$ x $.5 = 11,127$).

COST

The cost to the public is determined on the same basis as that for the Government, which is at the GS-9 level. Costs for the Form 1366 are estimated to be as follows:

Total estimated burden hours of 11,127 x 20.58 cost per hour (based on GS 9, step 1, expertise required) = \$228,994.

The estimated public cost for Form 1366 is \$228,994.

13. Estimate of total annual cost burden. There is no capital and start-up cost component. No additional annual costs beyond those identified in #12 above are anticipated.
14. Estimated annualized cost to the Federal Government. Total Agency burden hours are also based on the number of respondents. The processing time (to review and act upon the information and documentation submitted by borrowers in accordance with Form 1366) for the Agency is estimated to be an average of 1 hour per response. The total Agency burden hours is calculated as follows:

1 hour average processing time per response x 22,253 uses = 22,253 total Agency burden hours

The typical grade level required to process this form is GS 9, Step 1. –

22,253 uses x \$ 20.58 (GS 9, step 1) per hour = \$457,967 x 130% provision for overhead

and operational expenses = **\$595,357** total estimated Agency cost.

15. Explanation of program changes or adjustments in Items 13 and 14 on OMB Form 83-I. Agency burden hours are decreased by 1,903 and public burden hours decreased by 951 as compared to the previous submission due to a decrease in disaster activity and consequent decrease in the number of uses of the form. However, Agency cost and public cost increased slightly, by \$14,719 and \$5,672, respectively, due to the hourly wage increase used to compute cost. The differences are caused strictly by adjustments; there are no program changes causing this burden to be different than in the previous submission.
 16. Collection of information whose results will be published. Not applicable. No publication is planned and no statistical methods will be employed.
 17. Expiration date for collection of information. Display of the expiration date for OMB approval of the information collections is inappropriate in the case of this form. The Agency prints a large quantity of these forms in order to get the best possible printing prices. The form has not changed in quite a number of years and is not expected to change. If the expiration date were displayed, it is possible that large quantities of unusable forms would have to be destroyed as a result of the expiration, and new, probably more expensive, printing costs would be incurred in order to print forms with the new expiration date.
 18. Exceptions to certification statement in Block 19 on OMB Form 83-I. There are no exceptions to the certification statement.
- B. Collections of Information Employing Statistical Methods. N/A