

Supporting Statement for Request for OMB Approval  
Under the Paperwork Reduction Act and 5 CFR 1320  
SBA Form 912, Statement of Personal History

A. JUSTIFICATION

1. Circumstances necessitating the collection of information. The Small Business Administration operates multiple programs that create a need for information about the backgrounds of program participants, including business loans. The Small Business Act (the Act) requires SBA to obtain reasonable assurance that any loans it makes are of sound value or so secured as reasonably to assure repayment. 15 U.S.C. § 636(a)(6). SBA is specifically authorized to look into loan applicants' criminal histories. 15 U.S.C. § 636(a)(1)(B). The SBA Disaster Loan, Surety Bond, Small Disadvantaged Business and 8(a) programs also use the Form 912. The Act and the Small Business Investment Act provide additional broad investigative authorities that apply to SBA's non-business loan assistance programs. 15 U.S.C. §§ 634(b)(11) and 687b(a). Copies of these statutes are at Attachment A.

Based on these authorities, SBA has promulgated regulations which identify good character as an element of credit worthiness and eligibility for assistance from SBA. SBA makes this character determination using information developed from the responses given by applicants on SBA Form 912. These regulations for the making of character determinations are found at 13 C.F.R. §§ 115.13, 120.110, 120.140, 120.150, 123.6, and 124.108. Copies of these regulations are at Attachment B.

To obtain information to make the determinations required by these authorities, SBA requires individuals seeking assistance on behalf of a business from SBA to provide sufficient information for SBA to make a character or criminal history determination. For a number of years SBA has used SBA Form 912 to request such information, including several personal identifiers such as Social Security number, name, date and place of birth.

This request seeks OMB approval for the continued use of the form at Attachment C.

2. How, by whom and for what purpose information will be used. The SBA offices mentioned above and lending partners use the information collected on SBA Form 912 to help evaluate the character of applicants for SBA financial assistance or other program participation. When an applicant admits having a criminal record which may affect program eligibility, the OIG requests the criminal history of the applicant from the Federal Bureau of Investigation

(FBI), which conducts a check of its criminal history indices and advises SBA of any unfavorable information developed. In such cases, Block 10 of the signed Form 912 functions as a waiver of rights under the Privacy Act, allowing SBA to obtain the needed information from the FBI.

OIG includes in its Semiannual Reports to Congress a dollar total representing the aggregate amount of payments avoided as a result of SBA's character determinations using the information collected with the Form 912. These reports are published at the OIG's web site:

[www.sba.gov/ig/igreadingroom.html](http://www.sba.gov/ig/igreadingroom.html).

3. Technological collection techniques. The current version of the form is available for downloading through SBA's website at [www.sba.gov/sbaforms/sba912.pdf](http://www.sba.gov/sbaforms/sba912.pdf). Currently, a paper copy of the completed form reflecting the original signature of the respondent must be submitted to SBA or its participating lender. As information systems modernization continues, further consideration will be given to the conversion to a total electronic technology process.
4. Avoidance of Duplication. Other than the basic identification information requested in questions 1 through 4 and 6, the information requested on this form is not otherwise collected by SBA.
5. Impact on small businesses or other small entities. Form 912 is designed to minimize the burden on respondents:
  - a. It calls only for basic identification information and a "yes" or "no" response to no more than five questions.
  - b. It requests follow-up information only if the respondent answers "Yes" to one or more of the three criminal history questions or "No" to the U.S. citizen question. SBA Form 912 is submitted only once by each respondent.
  - c. It consolidates functions, combining on one page the information gathering and the waiver of Privacy Act rights function that would otherwise require a separate form.

We estimate that completing Form 912 takes about 15 minutes on average. Finally, the minimum burden imposed by Form 912 is offset by the fact that *completion is voluntary*. Only respondents seeking a loan or other benefit from SBA need to complete it.

6. Consequences if collection of information is not conducted. Failing to collect the information requested on the Form 912 would increase SBA's risk of making loans and providing other benefits to dishonest persons and persons that are prohibited by law from receiving SBA assistance. SBA's use of the 912 Form has been cited as a significant prevention measure by the

President's Council on Integrity and Efficiency. The use of the SBA Form 912 is one factor that allowed SBA to reduce its financial risks in recent years by \$13 million in fiscal year 2003, \$30 million in fiscal year 2004, and \$27 million in fiscal year 2005.

Eliminating the form would cause both practical and legal problems. The FBI would not provide the criminal background information needed without a substitute waiver form. Even if this problem could be overcome in some manner, in the absence of an admission of a criminal history by the would-be borrower or program participant, SBA would have to request criminal history information on borrowers and program participants. This alternative has been rejected in the past as impractical due to excessive burden, and as unduly intrusive into borrower privacy.

7. Existence of special circumstances. The form requests what is generally considered "confidential" information, in the form of criminal history. This is discussed further in the answer to question 11 below. There are no other "special circumstances" of the sort mentioned in the Instructions for this questionnaire.
8. Solicitation of Public Comment. "Notice and request for comments" was published in the Federal Register on April 11, 2006. 71 Fed. Reg. 18402 (2006). No comments were received. Due to the nature of this collection of information, no outside consultations were deemed necessary or appropriate.

As indicated in the answer to question 6, the President's Council on Integrity and Efficiency (which is chaired by the Deputy Director for Management at the Office of Management and Budget) has cited SBA's 912 Program as a significant loss prevention measure.

9. Payment or gifts. There are no payments or gifts to respondents for providing the information requested. Respondents may receive a loan or other benefit from SBA if they meet the program's statutory requirements, but these are not payments or gifts for providing the information.
10. Assurances of confidentiality. The standard protections of the Privacy Act of 1974 apply to the use of the information obtained, but SBA offers respondents no other specific assurances of confidentiality.
11. Questions of a sensitive nature. This collection of information contains questions of a sensitive or confidential nature, specifically, information about criminal history. As indicated in the answer to question 1, the information is needed to make sound decisions about the character of borrowers. Without such information, the Government may improvidently make many millions of dollars of loans to dishonest or ineligible parties. The provisions of the Privacy Act protect the information provided. Only SBA personnel with a

need to know, i.e., those involved in the decision-making process are provided access to the information. SBA has instituted procedures to protect confidentiality to the extent permitted by law. Only summary, aggregate data, not individual information, are provided in public reports. When this information indicates a violation or potential violation of law, whether civil, criminal, or administrative in nature, SBA may refer it to the appropriate agency, whether Federal, State, local, or foreign, charged with responsibility for or otherwise involved in investigation, prosecution, enforcement or prevention of such violations. See 69 FR 58598 (2004) for other published routine uses.

12. Estimate of the hourly burden of the collection of information. Applicants for SBA loans or other assistance have completed approximately 142,000 SBA Forms 912 annually during the past six fiscal years. Based on our experience, we estimate that the form requires approximately 15 minutes to complete. It is normally submitted only once by each applicant for loan assistance or program participation. Therefore, we estimate that the burden imposed on the public by use of SBA Form 912 is 35,500 hours per year. (142,000 x ¼ hour = 35,500 hours.)

If we assume that the average respondent earns \$100,000 annually, and works 40 hours a week and 50 weeks a year, then the respondent earns an hourly rate of \$50. (50 x 40 = 2000; \$100,000 ÷ 2000 = \$50/hour). Therefore, the cost to the average respondent in completing the form would be \$12.50. (\$50 ÷ ¼ hour = \$12.50).

This cost should be considered in the context that the only citizens asked to complete the form are those seeking some type of benefit from SBA.

13. Estimate of total annual cost burden to respondents or record keepers from collection of information. There is no additional cost to respondents.
14. Estimated annualized cost to the Federal government. The estimated annual cost to the Federal Government of this collection of information is \$147,500.

SBA OIG clerical employee cost (1,000 hrs. @ \$20 per hr.)	\$20,000
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(Duties entail opening envelopes, date stamping and logging in SBA Form 912 applications, data entry, preparing correspondence, etc.)

SBA OIG professional employee cost (2,500 hrs. @ \$40 per hr.)	\$100,000
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(Duties entail reviewing and analyzing the criminal history results and making a character determination.)

FBI cost	
(2,500 name checks @ \$11 per check)	<u>\$27,500</u>
	\$147,500

[NOTE: The average hourly rate of \$20 and \$40 includes all operational expenses associated with the collection, including overhead, salaries, benefits, equipment, postage, printing, and support staff.]

15. Explanation of program changes or adjustments in Items 13 or 14 on OMB Form 83-1. The form is being used by more programs than was anticipated at the time of the prior submission.

16. Collection of information whose results will be published. The number and dollar amount of assistance declined for reasons related to character are reported in the SBA OIG Semiannual Reports to Congress. The reports are published to cover the periods October 1 through March 30 and April 1 through September 30 of each fiscal year. Additionally, the aggregate data is reported by OIG in its GPRA Annual Performance Plan results. The data included in these reports are tabulated and maintained by the OIG Investigations Division.

17. Expiration date for collection of information. N/A.

18. Exceptions to certifications in Block 19 on OMB Form 83-I. N/A.

18 B. Collection of Information Employing Statistical Methods

This collection of information does not employ statistical methods.