

Supporting Statement for SBA Form 1081
Statement of Personal History
(For Use by Non-Bank Lenders, Certified Development Companies, and
Microlenders)

Introduction

The U.S. Small Business Administration (SBA) requires Certified Development Companies (CDC), Non-Bank Lenders (NBL), and Microlenders (ML) to complete and submit Form 1081 on each board member, officer, and professional staff. The form was originally approved for use by SBA for small business lending companies and other non-bank lenders in 1975 who applied to become SBA lenders. As the sole regulatory oversight agency for CDCs and MLs, SBA then added this requirement for CDCs (1980) and microlenders (1991) when these two programs became authorized.

The purpose of this request is to obtain OMB approval for a three year expiration date. This form is currently approved by OMB and will expire on 12/31/06.

1. Circumstances necessitating the collection of information.

Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Form 1081 information is necessary to operate the CDC, NBL and ML Programs and to comply with the various federal and agency laws and regulations.

As part of their responsibility to safeguard the integrity of federal programs, Federal credit agencies, like SBA are required to evaluate the qualifications, including character and reputation, of a participating lender's principal officers and staff. See, the Federal Managers Financial Integrity Act (FMFIA) codified at 31 U.S.C. 3512 et seq., OMB Circulars A-123 (Management's Responsibility for Internal Control), and OMB A-129 (Managing Federal Credit Programs).

SBA's regulations at 13 CFR 120 also impose similar requirements:

(1) Section 120.140, *What ethical requirements apply to participants?*, requires that lenders, intermediaries, and CDCs " must act ethically and exhibit good character. Ethical indiscretion of an Associate of a participant or a member of a CDC will be attributed to the participant ..." Associate is defined as an officer, director, key employee or holder of 20 percent or more of the value of the Lender's or CDC's stock or debt instruments, or an agent involved in the loan process. (13 CFR §120.10, definitions)

(2) Section 120.410(c) requires all participating lenders, to have "continuing good character and reputation, and otherwise meet and maintain the ethical requirements of 13 CFR §120.410."

(3) For CDCs, §120.851 states that CDCs must act ethically and exhibit good character and meet all of the ethical requirements of §120.140.

SBA is also collecting information to comply with the Debt Collection Improvement Act of 1996, Public Law 104-134, which states that, "The head of each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number (TIN)."

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

Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information collected will be used by the financial analysts in the SBA district offices as evidence of "good character" and "ethical behavior" of the participant's key personnel before allowing them to participate as SBA participants, CDCs, or MLs and on a continuing basis after being approved as an SBA participant, CDC or ML

The information is collected from associates of the lender, CDC, or ML. (Associate is defined as an officer, director, key employee or holder of 20 percent or more of the value of the Lender's or CDC's stock or debt instruments, or an agent involved in the loan process. (§120.10, definitions))

The form is also used to gain clearance from Office of Security, Office of Inspector General as to the good character of those identified positions of responsibility within the organization. Also, it provides the Agency with background data which is evaluated to determine if the institution's key personnel have sufficient qualifications in commercial lending activities. To summarize, SBA is responsible for performing the necessary due diligence to assure that new associates and staff meet certain ethical and experience standards.

3. Technological collection techniques.

Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce the burden.

This form renewal represents an interim step in the Agency's transition to an electronic data collection, transmission, and analysis environment. The form is available on SBA's website at www.sba.gov/banking. SBA still requires original signatures, therefore the agency does not accept electronic versions.

4. Avoidance of duplication.

Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

For NBLs, CDCs and MLs. SBA is the sole regulatory agency. For other NBLs, there may be some duplicity in the collection of this information if the NBLs' regulatory institution also requires such information. However, currently, other regulatory institutions do not share the information they collect. Therefore, in all cases, SBA is responsible for performing the necessary due diligence to assure that new associates and staff meet certain ethical and experience standards.

5. Impact on small businesses or other small entities.

If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

This collection does not impact small businesses or small entities.

6. Consequences if collection of information is not conducted.

Describe the consequence to the Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

SBA would be in violation of the Federal Managers Financial Integrity Act (FMFIA), OMB Circulars A-123, and A-129, which require a federal agency to evaluate the character and reputation of individuals participating in federal credit programs. In addition, SBA would be in violation of the Debt collection Improvement Act of 1996, which requires TINs. Since SBA only collects the information once from each applicable employee of the CDC, NBL or ML, the agency cannot collect it less frequently.

7. Existence of special circumstances.

Explain any special circumstances that would cause an information collection to be conducted in a manner, etc.

Some of the data collected includes personal financial or other confidential business information. SBA has procedures to protect the information's confidentiality to the extent permitted by law. This information can only be accessed with the approval of the Office of Financial Assistance Technology Project Manager.

8. Solicitation of public comments.

If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Notice for public comment was published in the Federal Register dated June 26, 2006, (71 FR 36382). No comments were received.

9. Payments or Gifts.

Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.

No gifts or payments are provided to any respondents.

10. Assurance of Confidentiality.

Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The information collected is protected to the extent permitted by law including the Freedom of Information Act and the Privacy Act, where applicable. SBA will provide respondents with a summary statement of the laws governing the agency's protection and disclosure of confidential and sensitive information (copy of this statement is attached). In addition, SBA restricts access to the information to those personnel with a need to know.

11. Questions of a Sensitive Nature.

Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This information collection requests social security numbers as well as financial, criminal, and employment information in order to conduct a background check through the Office of Inspector General, Security and Investigation Branch. The social security number is the unique identifier which enables SBA to facilitate a background check to ensure that each associate of the lender meets the required ethical standards. SBA has a Privacy Act System of Records that covers this information, i.e., Investigative Files--SBA 16, and SBA 17 - Investigative Division Management Information System. See attached copy of these Privacy Act Systems of Record notice, which is available at 69 FR 58598, 58612 (September 30, 2004).

12. Estimate of the Hourly Burden of the Collection of Information **The estimated burden hours imposed by use of this form is as follows:**

Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

The estimated burden imposed by use of this form is as follows:

Currently there are approximately 274 CDCs, 410 NBLs, and 177 MLs. The number of respondents annually is estimated at 95 for CDCs, 83 for MLs, 65 for NBLs. These organizations do not have high turnover in their board, officers, or professional staff. Historically the responses have been from loan officers. There is 1 form per respondent. Time to complete the form is estimated at 30 minutes. This estimate is based on experience of CDCs, NBLs, and MLs using the previously approved form. Total burden hours are 121.50 hours. (243 respondents x 30 minutes ÷ 60 = 121.50 burden hours)

The average salary for a GS-11 Loan Officer is approximately \$26.00 per hour. The total cost burden is \$3,159.
(121.50 burden hours x \$26 = \$3,159).

13. Estimate of Total Annual Cost.

Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

No additional costs.

14. Estimated Annualized Cost to the Federal Government.

Provide estimates of annualized costs to the Federal Government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

The estimated annual cost to the Federal Government of this collection is \$3,159 based on the average salary for a GS-11, Financial Analyst, which is \$26.00 per hour. The financial analyst would need approximately 30 min. to review each Form 1081. (121.50 burden hours x \$26 per hour = \$3,159).

15. Explanation of Program Changes in Items 13 or 14 on OMB Form 83-I.

Explain reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

Change in burden hours and costs resulted from an increase in the number of lenders and CDCs participating in the 504 program.

16. Collection of Information Who's Results will be Published.

For collection of information whose results will be published, outline plans for tabulation and publication. Address complex analytical techniques. Provide time schedules for the entire project.

Not applicable.

17. Expiration Date for Collection of this Data.

If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why the display would be inappropriate.

Not applicable. SBA does not seek approval to exclude the form expiration date from publication.

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

Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB Form 83-I.

Not applicable.

B. Collection of Information Employing Statistical Methods.

Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used.

This collection of information does not employ statistical methods.

Privacy Act (5 U.S.C. 552a)

A person can request to see or get copies of any personal information that SBA has in his or her file when that file is retrievable by individual identifiers such as name or social security numbers. Requests for information about another party may be denied unless SBA has the written permission of the individual to release the information to the requestor or unless the information is subject to disclosure under the Freedom of Information Act.

Under the provisions of the Privacy Act, you are not required to provide your social security number. Failure to provide your social security number may not affect any right, benefit or privilege to which you are entitled. Disclosures of name and other personal identifiers are, however, required for a benefit, as SBA requires an individual seeking assistance from SBA to provide it with sufficient information for it to make a character determination. In determining whether an individual is of good character, SBA considers the person's integrity, candor, and disposition toward criminal actions. Additionally, SBA is specifically authorized to verify your criminal history, or lack thereof, pursuant to section 7(a)(1)(B), 15 USC Section 636(a)(1)(B). Further, for all forms of assistance, SBA is authorized to make all investigations necessary to ensure that a person has not engaged in acts that violate or will violate the Act or the Small Business Investment Act, 15 USC Sections 634(b)(11) and 687(b)(a). For these purposes, you are asked to voluntarily provide your social security number to assist SBA in making a character determination and to distinguish you from other individuals with the same or similar name or other personal identifier.

The Privacy Act authorizes SBA to make certain "routine uses" of information protected by that Act. One such routine use for SBA's investigative files system of records is that 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. Another routine use is disclosure to other Federal agencies conducting background checks; only to the extent the information is relevant to the requesting agencies' function. See, 69 F.R. 58598, 5861 27 (and as amended from time to time) for additional background and other routine uses.

Debt Collection Improvement Act of 1996 (31 U.S.C. 3701, et. Seq. and other titles)

This law permits a Federal agency to require each person doing business with that agency to furnish to that agency that person's taxpayer identification number.

Freedom of Information Act (5 U.S.C. 552)

This law provides, with some exceptions, that SBA must supply information reflected in agency files and records to a person requesting it. Information about approved loans that will be automatically released includes, among other things, statistics on our loan programs (individual borrowers are not identified in the statistics) and other information such as the names of the borrowers (and their officers, directors, stockholders or partners), the collateral pledged to secure the loan, the amount of the loan, its purpose in general terms and the maturity. Proprietary data on a borrower would not routinely be made available to third parties. All requests under this Act are to be addressed to the nearest SBA office and be identified as a Freedom of Information request.

Paperwork Reduction Act (44 U.S.C. Chapter 35)

SBA is collecting the information on this form to make a character determination regarding associates of non-bank lenders, certified development companies or micro-lenders. The information is required in order for SBA to have sufficient information to determine whether to provide the organization with the required assistance. The information collected may be checked against criminal history indices of the Federal Bureau of Investigation.

An associate of a lender is defined as an officer, director, key employee, or holder of 20 percent or more of the value of the Lender's stock or debt instruments, or an agent involved in the loan process (title 13, code of federal regulations, part 120.10, definitions).