

SUPPORTING STATEMENT

*PAPERWORK REDUCTION ACT SUBMISSION FOR
RURAL BUSINESS INVESTMENT PROGRAM (RBIP)
EXTENSION OF CURRENTLY APPROVED INFORMATION COLLECTION
OMB CONTROL #0570-0051*

A. JUSTIFICATION

1. Legal circumstances necessitating the collection of information.

Section 6029 of the Farm Security and Rural Investment Act of 2002 (P.L. 107-171) amended the Consolidated Farm and Rural Development Act (the “Act,” 7 U.S.C. 2009cc) by adding “Subtitle H -- Rural Business Investment Program” (“RBIP”) to be established by the Secretary of the U.S. Department of Agriculture (USDA).

The purpose of the RBIP as stated in the Act is to promote economic development and the creation of wealth and job opportunities in rural areas and to establish a developmental venture capital program, with the mission of addressing unmet equity investment needs of small enterprises located in rural areas. Section 384Q of the Act, as amended, requires the Secretary of USDA to enter into an interagency agreement under the Economy Act (31 U.S.C. § 1535) with “another Federal agency” that has “considerable expertise in operating a program under which capital is provided for equity investments in private sector companies.” Further, the Joint Explanatory Statement of the Committee of Conference on the Farm Security and Rural Investment Act of 2002 states that, “Sec. 384Q requires the Secretary to enter into an interagency agreement with the Small Business Administration to carry out the day-to-day management and operation of the RBIP” (House Report 107-424, at page 150).

USDA and SBA signed an Economy Act Agreement on October 31, 2003. The Agreement authorizes SBA to provide “the day-to-day management and operation of the RBIP, including ... administrative ... and all data management, licensing ... [and] regulatory compliance ...” functions. Pursuant to the Agreement, SBA will perform, on behalf of USDA, the information collections described in this statement.

In accordance with Congressional intent, USDA is establishing the RBIP in a manner similar to current SBA Investment Division programs - the Small Business Investment Company (“SBIC”) and New Markets Venture Capital (“NMVC”) programs.

Section 384D(b) of the Act authorizes the creation of an application process for participation in the RBIP as a Rural Business Investment Company (RBIC). Section 384K of the Act requires RBICs to submit reports to the Secretary. Section 384H(d) of the Act requires RBICs to submit plans for the use of Operational Assistance grants. As described in section 2 of this Statement, USDA will implement these statutory provisions.

Some of the collections of information approved under this burden package were created specifically for use in the RBIP and were based on previously OMB-approved collections used in the SBIC and NMVC programs. As in the SBIC and NMVC programs, RBICs will have an expected life of 10 to 15 years, and therefore it is imperative that the information collections used for the RBIP be approved for the maximum amount of time possible. USDA seeks OMB approval of the following information collections:

- SBA Form 2241, Rural Business Investment Company (RBIC) Management Assessment Questionnaire (MAQ), Part I, Application
- SBA Form 2242, RBIC Application, Part II, Exhibits
- SBA Form 2243, RBIC Applicant Interview Questions
- SBA Form 2244, RBIC Instructions for Commitment of Leverage
- SBA Form 2245, RBIC Request for Approval of Management Services Fees and Other Fees
- SBA Form 2246, RBIC Amendment to Application
- SBA Form 2247, RBIC Instructions for RBIC Draw Application
- SBA Form 2248, Operational Assistance (OA) Grant Performance Report
- SBA Form 468, RBIC Schedules 9/10/11
- SF 424, Application for Federal Assistance (Exhibit X, SBA Form 2242)
- SF 424A, Budget information (Exhibit X, SBA Form 2242)
- SF 424B, Assurances (Exhibit X, SBA Form 2242)
- SBA Form 468, Annual financial report
- SBA Form 468, Annual financial report – short form
- SBA Form 1031, Portfolio financing report
- SBA Form 480, Size status declaration
- SF 269 Financial status report
- SF 270 Request for advance or reimbursement
- SF 272 Federal cash transaction report
- Detailed Expenditures
- SBA Form 34, Bank Identification Form
- SBA Form 159, Compensation Agreement

Supporting documents:

- PL 107-171, sec. 6029, adding Subtitle H (“Rural Business Investment Program”) to the Consolidated Farm and Rural Development Act
- Farm Security and Rural Investment Act of 2002, Conference Report 107-424, to accompany House Resolution 2646
- Rural Business Investment Program, USDA Interim Final Rule, 7 CFR Part 4290 (69FR32200, June 8, 2004).
- Notice of Funds Availability (69 Fed. Reg. 32230, June 8, 2004)
- Advanced Notice of Proposed Rulemaking (72 Fed. Reg. 14712, March 29, 2007)

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

The collections of information fall into four categories, discussed in detail below.

(a) Application for Assistance under the RBIP.

The following are the collections of information from entities applying for a license as RBICs:

- SBA Form 2241, RBIC Application, Management Assessment Questionnaire (MAQ), Part I, and
- SBA Form 2242, RBIC Application Exhibits, Part II.
USDA will collect this information with these application forms, Part I & II, from applicants seeking designation as RBICs. USDA will use the information collected to make informed and proper selections among applicants, and to consider whether applicants have met the necessary conditions for USDA's licensing of, and award of a grant and commitment of leverage. These forms also will become the basis for an applicant's participation in the RBIP; they will become part of a participation agreement governing the RBIC's participation in the program.
- SBA Form 2243, RBIC Applicant Interview Questions.
USDA will collect information from applicants seeking a license as a RBIC through a 90-minute interview, during which USDA will ask a set of standardized questions. USDA will use the information collected to make informed and proper selections among applicants. USDA believes this information collection to be necessary in determining the best-qualified applicants to participate in the program.

(b) Selection of RBICs Prior to Licensing.

After a RBIC is selected but before it is licensed, USDA will collect additional information. After a selected RBIC has raised the required amounts of Regulatory Capital and Leverageable Capital, USDA will collect this information, as part of a final collection of information before USDA licenses the company.

These collections of information are:

- SBA 2244, RBIC Instructions for Commitment of Leverage (including Disclosure of Third Party Debt) (Based on SBA Form 2211 of the same title; OMB # 3245-0332).
USDA will use the information collected to evaluate the creditworthiness of the selected RBIC before obligating funds in the form of a leverage commitment to the RBIC.
- SBA Form 2245, RBIC Request for Approval of Management Services Fees and Other Fees (Based on SBA Form 2217 of the same title, OMB #3245-0332).
USDA will collect this information only when an RBIC requests USDA prior approval of such fees. USDA will use the information collected to evaluate the RBIC's request, on behalf of the enterprises to which the RBIC will be charging fees, for financial reasonableness and consistency with the objectives of the RBIP. It is important to distinguish services for fee from those services provided by the RBIC free of charge, such as Operational Assistance under the RBIC's grant award.
- SBA Form 34, Bank Identification Form. (OMB #3245-0081) USDA will use the information collected to determine into which bank the RBIC wants the proceeds of

guaranteed leverage proceeds to be deposited. SBA uses this form for the same purpose in both the SBIC and NMVC programs.

- SBA Form 159, Compensation Agreement. (OMB #3245-0201) USDA will use the information collected to evaluate compliance with USDA's regulations concerning payment of fees to agents representing the applicant before USDA. SBA uses this form for the same purpose in both the SBIC and NMVC programs

(c) RBIC Funding and Reporting.

Once a RBIC is licensed, it is eligible to draw down against the Secretary's commitment to that RBIC of guaranteed debenture leverage and conduct investing and operational assistance activities under the RBIP.

USDA will use the following information collection to evaluate the RBIC's continued creditworthiness and regulatory compliance before approving the draw-down request, and to exercise proper oversight over the RBIC and the RBIP.

- SBA Form 468, Annual Financial Report; SBA Form 468, Annual Financial Report (Short Form); and SBA Form 468, Annual Financial Report, Schedules 9, 10, and 11 (Based on Schedules of the same numbers for the NMVC program, OMB #3245-0332). The SBA Form 468 is an existing OMB-approved form. The form requests current information about a RBIC's financial condition and about the number and types of investments a RBIC has made. USDA will require the RBIC to submit this form annually and to submit the Short Form each time it requests a draw of leverage unless the RBIC otherwise has submitted financial information within certain time periods before it submitted the draw request. USDA will use the information collected to evaluate a RBIC's creditworthiness before approving a draw request and issuing a guarantee, to ensure the fiscal stability and integrity of debentures guaranteed, and to evaluate a RBIC's regulatory compliance. USDA also will use these collections of information to report on the outputs and outcomes of the RBIP. SBA uses this form for these same purposes in the SBIC and NMVC programs.
- SBA Form 1031, Portfolio Financing Report, SBA Form 480, Size Status Declaration. These are existing OMB-approved forms. USDA will require that a RBIC collect information on these forms about each financing it makes, including information about the enterprises receiving the financing. A RBIC must submit the SBA Form 1031 to USDA within 30 days after making a financing; it must retain the SBA Form 480 in its files and make it available for review at any time. USDA will use the information collected in SBA Forms 1031 and 480 to ensure the eligibility of enterprises receiving financing and to report on the outputs and outcomes of the RBIP. SBA uses these forms for these same purposes in the SBIC and NMVC programs.
- SBA Form 2246, RBIC Amendment to Application (Based on SBA Form 2217 of the same title for the NMVC program, OMB #3245-0332). USDA will require a RBIC to submit this form each time it reports to USDA, and requests USDA approval of, an amendment to any aspect of its application for the RBIP (which has been incorporated by

reference into its participation agreement governing its participation in the program). USDA will use the information collected on this form to determine, based on the RBIC's application as amended, whether the RBIC should remain a RBIC.

- SBA Form 2247, RBIC Instructions for RBIC Draw Application (Based on SBA Form 2210 of the same title for the NMVC program, OMB #3245-0332). These collections of information require: a statement of the amount of draw-down the RBIC is requesting; an annual SBA Form 468 or Form 468 (Short Form); a statement that there has been no material adverse change in the RBIC's financial position; a statement that the RBIC is in regulatory compliance; and, a statement that the draw-down proceeds are needed to fund one or more particular Portfolio Concerns or to provide liquidity for the RBIC's operations. SBA will use this information to ensure statutory and regulatory compliance.

(d) Operational Assistance Grant Funding and Reporting.

USDA will use existing OMB-approved Standard Forms to administer the Operational Assistance (OA) grants that are part of the RBIP. USDA also will collect information concerning a RBIC's performance under its grant. These collections of information are:

- Financial Status Report, SF 269; Request for Advance or Reimbursement, SF 270; Federal Cash Transactions Report, SF 272; Detailed Expenditures. A detailed description of the grantee's actual expenditures, is submitted together with the SF 270 and/or SF 272, and is considered part of the back-up information for those Standard Forms. USDA will collect the SF 269 and SF 272 from RBICs on a semiannual basis when they submit reports on their activities under the grant, and the SF 270 on a quarterly basis (or less frequently, at the option of the RBIC) when they request disbursement of grant funds. Together with the final SF 269 submitted at the end of the grant term, USDA will collect information on the RBIC's detailed expenditures. USDA will use the information collected to ensure the proper proposed and actual use of grant funds based on the RBIC's reports.
- SBA Form 2248, Operational Assistance (OA) Grant Performance Report (Based on SBA Form 2219 of the same title; OMB # 3245-0332). USDA will collect this information from RBICs on a semiannual basis, when they submit reports on their activities under the grant. USDA will use the information collected to ensure that RBICs have accomplished their stated performance objectives and the overall objectives of the RBIP; track the accomplishments of the RBIP objectives; and report on the outputs and outcomes of the RBIP.

3. Technological collection techniques.

USDA is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. All the responses from this information collection will be handled electronically. Additionally, 100% of the forms used in the RBIP will be accessible from SBA's Web site.

USDA will require RBIC applicants to submit their application package (SBA Forms 2241 and 2242) in both electronic format (i.e., a file on a diskette) and hard copy (to obtain necessary signatures). Additionally, RBIC applicants will have access to SBA's website, which will contain mapping software, for purposes of identifying the rural areas in which they intend to target their investment and OA activities.

USDA will require RBICs to submit SBA funding and reporting forms, including OA reporting, in electronic format (i.e., a file on a diskette) and hard copy in the same way SBA requires NMVCCs and SBICs to submit such forms. The RBIC Schedules 9, 10 and 11 to the SBA Form 468 also will be available for submission in electronic format.

4. Avoidance of duplication.

The Act requires RBIC applicants to be newly formed entities. These forms are critical to the integrity of the RBIC licensing process. There is no similar information available that can be used to accomplish the purposes of this collection. If the information were not collected, USDA would be unable to meet its statutory responsibilities with respect to the licensing and oversight of RBICs. Since this information is collected only once it cannot be conducted less frequently.

5. Impact on small businesses or other small entities.

USDA does not believe that these information collections will have a significant impact on small businesses or other entities.

The information USDA seeks to collect through SBA Forms 2241 and 2242 should already be maintained by or available to RBIC applicants. For example, in order to determine the quality and capability of an RBIC applicant's management team, USDA will ask for resumes of management team members and performance data for investment, community development lending, and/or grants management experience of each such team member.

The information USDA seeks to collect through a description of the Rural Areas in which they intend to target their investment and OA activities will be accessible from USDA's and SBA's website, and therefore easily obtained. RBIC applicants will be able to type in specific locations to produce visual representations and the specific criteria under which each area qualifies as a Rural Area.

The information USDA seeks to collect through Standard Forms 424, 424A and 424B as part of the application for OA grants is the minimum necessary to enable USDA to determine eligibility and evaluate whether applicants will fulfill the purposes of the RBIP as required by the Act.

The information USDA seeks to collect from selected RBICs seeking licensure, through SBA Forms 34, 159, and 2244, is necessary to enable USDA to evaluate whether applicants have

fulfilled the statutory and regulatory requirements of the RBIP and are eligible for licensing as RBICs.

The information USDA seeks to collect from RBICs through SBA Forms 468, 1031, and 480 is generally created or maintained in the day-to-day operations of managing a business (for example, financial statements and due diligence information concerning enterprises in which the RBIC invests or seeks to invest). Small business concerns in which RBICs invest are required to complete SBA Form 480. SBA Form 480 is a certification of small business size status, which is required to ensure that the recipients of portions of the investments and other assistance from RBICs are eligible small businesses. This form contains minimal data collection elements and contains only the minimum data necessary to meet the purpose of the form.

The information USDA seeks to collect from RBIP participants through Standard Forms 269, 270, and 272 and Detailed Expenditures and SBA Form 2248 will be information that generally is created in the day-to-day operations of managing a business (for example, financial statements, and expense reports).

The information USDA seeks to collect from RBICs through SBA Forms 2244 and 2247 is necessary to enable USDA to determine whether a RBIC is qualified to receive Federal funds as required by the Act.

6. Consequences if collection is not conducted.

The information USDA seeks to collect is critical to the integrity of the process for selecting RBICs for participation in the RBIP and to the accomplishment of the objectives of the RBIP. There is no similar information collection available that USDA can use to accomplish these purposes as required by the Act. Without this collection of information, USDA would be unable to meet the requirements of the Act and effectively administer the RBIP, ensuring safety and soundness.

7. Special circumstances.

USDA will be collecting some proprietary trade secret information in the RBIC application in the form of a business plan for operation of a RBIC. USDA also will be collecting confidential financial and/or trade secret information in the form of past investment and business experience of certain individuals involved with a RBIC applicant. USDA is authorized by sections 384D and 384Q of the Act to collect such information from applicants to the RBIP, and such information is critical to USDA's ability to effectively select applicants for participation in, and to administer, the program. USDA will maintain the confidentiality of such information to the extent permitted by law, including the Freedom of Information Act (5 USC 552) and other related Federal laws. No other special circumstances apply to this collection.

8. Solicitation of public comment.

A Federal Register Notice was published on July 11, 2007, [72 FR 37700]. No comments were received.

As outlined in this PRA justification, Congressional intent was that the RBIP be modeled after the SBIC and NMVC programs except with a mission of targeting investment strategy on Rural Areas. While USDA is charged with oversight of the RBIP, the day-to-day management and operation of regulating the RBICs created under the program will be substantially run by SBA using its staff, procedures, and forms. As such, already approved OMB data collections for the SBIC and NMVC programs were used to create RBIC-specific forms, minimizing changes only to assure technical compliance with RBIP statute and regulations. Any RBIC applicants familiar with either the SBIC or NMVC application and reporting procedures would instantly recognize the similarities of the RBIC forms.

9. Payments or gifts.

Neither USDA nor SBA will make any payments or gifts to any entity responding to this information collection.

10. Assurance of confidentiality.

Applicants for licensing as RBICs and licensed RBICs are accorded the assurance of confidentiality to the extent permitted by law, including the Freedom of Information Act (5 USC 552), the Privacy Act (5 USC 552a), and other related Federal laws, and a statement to this effect appears on each collection of information. Exemptions 4 and 6 of the Freedom of Information Act allow USDA to withhold financial data on individual companies. Except for Exhibit C (Statement of Personal History) in SBA Form 2242, none of this information collection is protected under the Privacy Act because the information will not be maintained in a system of records retrievable by an individual's name or other personal identifier.

Exhibit C (Statement of Personal History) in SBA Form 2242 will be transmitted to SBA's Office of Inspector General and to other criminal justice agencies (including but not limited to the Federal Bureau of Investigation), to assist USDA in determining eligibility for the RBIP. Any Exhibit C, Statement of Personal History, received by SBA's Office of Inspector General and other Federal criminal justice agencies will become part of those organizations' systems of records subject to the protections afforded under the Privacy Act. See 56 Fed Reg. 8020 (1991) for the SBA Office of Inspector General's published routine uses of this information.

11. Questions of a sensitive nature.

This information collection does contain several questions of a sensitive nature concerning matters that are commonly considered private. On the SBA Form 2242, RBIC Application Exhibits, Part II, USDA asks for information concerning the personal financial background and criminal history of individual members of an applicant's management team; and

for the social security numbers of such individuals. This information is needed in order to perform background checks and to make determinations regarding the background and character of an applicant’s management team as required under section 384D(d)(1)(B) of the Act.

12. Estimate of the hour burden of the collection of information.

See attached spreadsheet for the estimate of burden hours. In determining the following estimates of burden hours, USDA considered SBA’s experience from using closely related forms in the SBIC and NMVC programs and from burden estimates already assigned to this information collection under OMB control #0570-0051. Again, given the variables affecting the RBIP’s number of participants, and for purposes of continuity, USDA requests extension of this information collection using the same burden estimates as originally proposed. It is important to note that in any year USDA conducts an application round, the number of hours estimated for RBIP application forms will not be an annual burden beyond the year in which such application round occurs.

13. Estimate of total annual cost burden from collection of information.

USDA estimates the costs for completing this information collection as follows:

a) Total capital and start-up costs.

RBIC Application. USDA assumes that 25 companies will file applications to be licensed as RBICs with a total cost estimated as follows:

• Attorney fees	\$50,000
• Accounting, financial, advisory fees	\$10,000
• Grant issuance fee	<u>\$ 5,000</u>
	TOTAL: \$65,000
	x 25 applicants = \$1,625,000

b) Total operation and maintenance costs.

RBIC Reporting and Funding Forms and OA Grant Funding and Reporting Forms. USDA assumes that three RBICs will participate in the RBIP and receive Operational Assistance grant award. Based on this number, USDA estimates the total costs per year as follows:

• Accounting, financial, advisory fees	\$10,000
• Postage/Courier costs	<u>\$ 250</u>
	TOTAL: \$10,250
	x 3 program participants = \$30,750

14. Estimated annualized cost to the federal government.

Estimations for this information collection are limited to the costs incurred by SBA to perform duties as agreed-to with USDA under an Economy Act Agreement, to run the day-to-day operations of the RBIP.

USDA estimates that the total annual cost to the Federal Government from this information collection will be approximately \$291,005 for the year in which USDA holds an application round. In all other years, USDA estimates the cost at \$17,863. These numbers are based on the hourly rate for the Washington-Baltimore area for the salary of a GS-13, Step-5: \$42.08 per hour. USDA uses the GS-13, Step-5 level as a mid-point wage rate for all forms, even though the staff processing of such forms will range from GS-15s to GS-9s. The number and grade level of staff reviewing any individual form will vary according to the information disclosed within the form and generated otherwise by the review process.

It is anticipated that the SBA will employ the services of existing SBA Investment Division employees, whose time will be reimbursed by USDA under the Economy Act Agreement. Staff from the offices of the SBIC and NMVC programs would run the day-to-day operations of the RBIP. The following employee needs would be estimated at each existing employee's time being half spent on the RBIP:

- one GS-15 supervisory employee,
- one GS-14 senior financial analyst,
- one GS-13 program analyst, and
- one GS-9 administrative employee.

Additionally, the SBA Investment Division staff will rely on the support services of other offices within SBA, such as the Office of Procurement and Grants Management (OPGM), the Office of General Counsel (OGC), the Office of Capital Access (OCA), and, as may be needed, USDA's Rural Business Services. Since many offices with a wide range of employee duties will be involved in the review of this information collection, using a mid-level salary to calculate a cost burden should reflect a more balanced estimate of the cost to the Federal government.

15. Explanation of program changes in items 13 and 14 in OMB 83-I.

The burden hours have been reduced from 6,689 to 6,446 for a difference of 243 hours less. This change is due to burden hours that were previously reported for the Standard Forms 424. On the high end, venture capitalists tend to prefer a favorable percentage of carry in addition to salary over a higher yearly salary, and even a \$100K salary would be substantial for a rural area. On the low end, a \$50K salary would be more than appropriate, as the grant portion of the RBIP may not require a full time employee as a grant administrator. These numbers were taken largely from the NMVC program, and they were used again for the extension of the NMVC PRA information collection last year.

16. Collections of information whose results will be published.

USDA may publish information received from this collection of information in an aggregate form if required to respond to requests from Congress or OMB or other governmental agencies.

17. Expiration date for collection of information.

USDA does not seek OMB approval to not display the expiration date set by OMB for this collection of information.

18. Exceptions to certifications in block 19 on OMB 83-I.

USDA does not request any exceptions to the certifications contained in Item 19 on OMB Form 83-I.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

USDA will not employ the use of statistical methods for purposes of the RBIP.