

Paperwork Reduction Act Submission  
OMB Control No. 3245-0201

**A. Justification**

**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 applicable section of each statute and regulation that mandates or authorizes the collection of information.*

Form 159 (7a), Form 159 (504), and Form 159D

The collection of information regarding the names of any agents or other persons engaged by or on behalf of the applicant for SBA financial assistance is required by section 13 of the Small Business Act, 15 U.S.C. 642 and Part 103 of Title 13 of the Code of Federal Regulations. 13 CFR 103.5 specifically requires any agent or packager to execute and provide to SBA a compensation agreement (“Agreement”). Each Agreement governs the compensation charged for services rendered or to be rendered to the SBA loan applicant or Certified Development Company (“CDC”) in any matter involving SBA assistance. “Agent” includes a loan packager, referral agent, accountant, attorney, consultant or any other party that receives compensation from representing an applicant for an SBA loan. Additional regulations governing the payment of compensation by loan applicants can be found in 13 CFR Sections 120.221, 120.222, 120.883, 120.926, 120.935, 120.971, and 120.972. These regulations may be found at [www.sba.gov/services/lawsandregulations](http://www.sba.gov/services/lawsandregulations).

No changes to the forms since the last PRA submission are being made.

Form 160 and 160A

These forms are not a collection of information as defined in the PRA and should not have been included in the previous submissions. Form 160 and 160A are therefore being removed from the approved collection.

**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.*

SBA Form 159 is used by 7(a) lenders, Certified Development Companies (CDCs), applicants for 7(a), 504 loans and SBA disaster loans. The information collected is used by SBA to establish that there is no appearance of unlawful or unethical activity by agents, loan packagers, and others who receive compensation in exchange for representing the applicants for an SBA business or disaster loan.

### **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.*

SBA Forms 159 (7a), 159 (504) and 159D are available to the public in electronic form on SBA's website at <http://www.sba.gov/aboutsba/sbaprograms/elending> , then click on "forms" for a listing of all forms available. The updated forms will be posted as soon as OMB approves this modified collection.

### **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.*

There is no duplication of Forms 159 (7a) and 159 (504) because there is no other document that collects information for SBA's use regarding agents and loan packagers for those programs. In the disaster loan program some similar, but different, information is collected on loan agents on the Forms 5 and 159D. Specifically, SBA also collects the Agent's name, address, telephone number and the amount that he or she was compensated on the SBA Form 5 (Disaster Business Loan Application) and Form 5c (Disaster Home Loan Application). However, the purpose of the Form 159D is to collect detailed information on the services that the Agent provided, the length of time it took to provide that service and the amount that he or she charged for each such service. The information allows SBA to determine whether the amount of compensation to the agent is reasonable under the circumstances and is not available elsewhere. The duplicative information is minimally burdensome and facilitates SBA's correlation of the Form 159D with the correct loan applicant. In addition, because SBA only requires the Form 159D in a very small percentage of cases, the burden on respondents is less than if the Form were required in all compensation cases.

### **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.*

Lenders, CDCs and SBA loan applicants are required to complete the forms in order to identify those agents and loan packagers that receive a financial benefit from representing the applicant for an SBA guaranteed loan or direct loan. Some of respondents are small businesses; however, the impact on such small businesses is minimal. Not all borrowers hire loan packagers. SBA is requiring the completion of the form only when there is a packager or other agent that is receiving compensation from the borrower, lender or CDC.

## **6. Consequences If Information Is Not Collected**

*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.*

Failure to collect information on the Forms 159 would result in a violation of the statute that requires SBA to collect information from recipients of financial assistance about compensation paid to Agents. Furthermore, if the borrower were not required to complete this form when the borrower pays a fee for a packaging service, the borrower risks being charged for erroneous fees.

## **7. Existence Of Special Circumstances**

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

There are no special circumstances.

## **8. Solicitation of Public Comment**

*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.*

SBA published notice of this information collection in the Federal Register on April 8, 2008, at 73 FR, 19130-19131. No comments were received.

## **9. Payments or Gifts**

*Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

There are no gifts or payment to 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 provided will be protected to the extent permitted by law, including the Privacy Act and the Freedom of Information Act. 5 U.S.C. § 552.

### **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, specific uses to be made of the information, explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

Not applicable.

### **12. Estimate of the Hourly Burden of the Collection of Information**

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

The separate hour burden estimates for each version of the Form 159 follows:

#### Form 159 (7a):

It is estimated that approximately 80,000 7(a) loans will be approved.

Of those, approximately 55,000 will be processed through the SBAExpress program or one of the Pilot Loan Programs (Community Express, Patriot Express and Export Express) which permit the lender to use its own forms. The loan amounts are restricted to \$350,000 for SBA Express, \$250,000 for Community Express and Export Express, and \$500,000 for Patriot Express. The average loan size is approximately \$55,000. It is estimated that no more than 15 percent of SBAExpress loans and Pilot Loan Program loans involve applicants employing agents to assist them or lender that pay referral fees. The average salary for completing this form is estimated at a GS-11 whose salary is approximately \$24.00 per hour.

$$55,000 \times 15 \text{ percent} \times .083 \text{ hours} = 684 \text{ hours}$$

$$684 \text{ hours} \times \$24.00 \text{ per hour} = \$16,416$$

For other 7a loans (PLP and regular processing), the loan amounts can go up to \$2,000,000. It is estimated that approximately 30 percent use agents or packagers or pay referral fees. Approximately 25,000 loans are processed using PLP or regular processing.

$$25,000 \times 30 \text{ percent} \times .083 \text{ hours} = 622 \text{ hours}$$

$$622 \times \$24.00 \text{ per hour} = \$14,928$$

The total hour burden for 7a loans is estimated at 1,306 hours.

The cost is approximately \$32,650

Form 159 (504)

It is estimated that there will be approximately 8,400 504 loans approved in a fiscal year. These loans can range up to \$4,000,000. It is estimated that only 10 percent of these loans will require the use by the applicant of an agent or loan packager or that the CDC will pay a referral fee or be paid as a referral agent.

$$8400 \times 10 \text{ percent} \times .083 \text{ hours} = 70 \text{ hours}$$
$$70 \text{ hours} \times \$24.00 \text{ per hour} = \$1,680.00$$

The total hour burden for 504 loans is estimated at 70 hours.  
The cost is approximately \$1,680.00.

Form 159D (Disaster)

Estimates are based on average number of approvals for the last 5 years because disaster loan activity is completely dependent on the unpredictable forces of nature that create disasters. (Note: We omitted FY 06 and included FY 02 because FY 06's inclusion of 169,983 loans approved would have distorted the average due to the large number of applications as a result of Hurricanes Katrina and Rita.)

<u>FY</u>	<u>Number of Loans Approved</u>
2002	21,829
2003	25,856
2004	28,510
2005	62,075
2007	14,014

Average yearly approvals = 30,457

It is estimated that less than 1 percent of these loans will require the use by the applicant of an agent or loan packager.

$$30,457 \text{ approvals} \times 1 \text{ percent} \times .083 \text{ hours} = 25 \text{ hours}$$
$$25 \text{ hours} \times \$24.00 \text{ per hour (average wage for skill required)} = \$600$$

<u>Total Respondents</u>	
159 (7a) =	8,250
159 (504) =	840
159D =	<u>305</u>
	9,395

<u>Total Burden Hours for Form 159</u>	
159 (7a) =	1,306
159 (504) =	70
159D =	<u>25</u>
Total Hours	1,401

<u>Total Cost</u>	
159 (7a)	\$32,650
159 (504)	1,680
159D	<u>600</u>
Total Cost =	\$34,930

**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. Do not include hour cost burden from above.*

No additional annual costs beyond that identified in #12 above are anticipated.

**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, including a 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 Federal government does not routinely review Form 159, except in the case of the Disaster program. This form is filed with the application for possible reference if there is a complaint by the applicant. This is a rare occurrence. In the past year, SBA has received no complaints.

Form 159D

305 responses @ .5 hours for reviewing = 153 x \$29 (hourly wage of average skill required, GS-12) = \$4,423.

**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.*

For Form 159, the number of burden hours and the cost has remained about the same. No changes have been made to the form.

**16. Collection of Information whose 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. The results of this collection of information will not be published for statistical use. There are no plans for tabulation or publication; therefore, no complex analytical techniques will be used. These forms are completed on an “as needed” basis to coincide with loan application requests and subsequent processing.

**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.*

The expiration date will be displayed on the forms used in the 7(a), 504 program, and disaster.

**18. Exceptions to the Certification in Block 19 on OMB Form 83-I**

*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.*

Not applicable.