

SUPPORTING STATEMENT  
U.S. Small Business Administration  
Paperwork Reduction Act (PRA) Submission for  
Secondary Market for Section 504 First Mortgage Loan Pool Program  
**[A Recovery Act Program]**

**JUSTIFICATION**

Introduction

Section 503 of the American Recovery and Reinvestment Act of 2009 (the Recovery Act), P. L. 111-5 authorizes the Small Business Administration to establish the SBA Secondary Market Guarantee Authority within SBA to provide a Federal guarantee for pools of first lien 504 loans that are to be sold to third party investors. In order to implement this program without further delay, SBA is requesting approval on an emergency basis for this new information collection that is central to the Pool application and guarantee process. SBA's target implementation date is September 1 2009; your review under emergency procedures would greatly facilitate meeting that goal. The justification for this request as, required by 5 C.F.R. 1320.13, is being submitted concurrently with this Form 83-I submission.

SBA has created the following 4 new forms to collect mission critical data for this Secondary Market for Section 504 First Mortgage Loan Pool (FMLP) Program.

**SBA Form 2401: First Lien Position 504 Loan Pool Guarantee Agreement:** This Form serves as the primary agreement between lenders, Pool Originators, SBA's Central Servicing Agent ("CSA") and the SBA. The form details the terms and conditions under which lenders will exchange portions of first mortgage loans they have originated and disbursed in exchange for proceeds from a Pool Security created by SBA through its Central Servicing Agent and sold to outside investors. The form serves as a legal contract between the parties to the secondary market pool security transaction. In completing the Form, the following information is collected: information on the terms of the sale (for example; interest rate, fees, and price); lender's name and contact information; Pool Originator's name, contact, and taxpayer id information; borrower's name and contact information; loan information (note date, original loan amount, outstanding principle balance); date SBA guarantee fees paid; loan disbursement dates; date interest paid to; interest calculation method; fees; date of lender legend on note; and certain disclosures. The data listing above consists of most of the information collected, but, it is not exhaustive. In signing this form the lender agrees to collect and submit information on loan payments to SBA's CSA on a monthly basis.

The collection of information is necessary to determine that the loan is being sold into a pool security on the secondary market. Collection is also necessary to identify the lender that made and sold the loan, the Pool Originator who has assembled the Pool Security for sale, and the Investor that has acquired the Pool Security in exchange for cash.

**SBA Form 2402: Form of Detached Assignment For U.S. Small Business Administration Pool Certificate for the First Lien Position 504 Loan Pools:** This form serves as the primary source of the disclosure information involving transfer of existing 504 first mortgage guaranty pool certificates. The information on this form will enable investors to know the facts and assumptions used to develop the price on 504 first mortgage guaranty pool certificates. This information will also allow SBA to keep track of the ownership of the 504 first mortgage guaranty pool certificates and keep statistical information of the transferred 504 first mortgage guaranty pool certificates.

**SBA Form 2403: Application For Pool of Section 504 First Mortgage Loan Interests:** This form will primarily be used by Pool Originators to supply SBA with the information necessary for 504 First Mortgage Loans that the Pool Originators desires to put into a 504 FMLP. It also requires the Pool Originators to certify that it continues to meet the requirements necessary to qualify as a Pool Originators. The information on this form is used to create records of the 504 FMLPs and to determine which 504 First Mortgage Loans will comprise each 504 FMLP. These records are maintained by the CSA and corresponding data will be transmitted to SBA on regular basis.

**SBA Form 2404: Application To Become A Loan Pool Originator For First Mortgage Loan Pool (FMLP) Program:** This form will be utilized by the broker dealers of the securities market to become a SBA approved Pool Originator for 504 FMLP program. It lays out the required documents, certifications and authorization for SBA to review and consider the applicant for approval to participate in 504 FMLP Program.

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.*

Section 503 of the American Recovery and Reinvestment Act (the “Recovery Act”) authorized the SBA to establish a government-guaranteed Pool Security related to first mortgage loans made by lenders in conjunction with SBA Certified Development Company project financings. SBA has no prior regulatory history with the lenders providing this unique first mortgage loan, and looks to establish a legally binding obligation in exchange for the Agency’s placement of a Federal guarantee on a pool security backed by a substantial interest in the underlying first mortgage liens originated by the lenders.

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 program managers, top Agency management, and government entities with oversight authority over SBA primarily for loan monitoring, portfolio risk management, and lender oversight. These groups will use the data to determine how effectively Secondary Market for Section 504 First Mortgage Loan Pool Program is meeting the needs of various geographical, demographical, and industry markets and segments; the safety and soundness of SBA’s policies and procedures; and to set program fees consistent with the subsidy rate model. SBA will also use the information to report to its various oversight authorities regarding the number, dollar volume, and demographic characteristics of its Secondary Market for Section 504 First Mortgage Loan Pool Program recipients.

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.*

These forms will be available in a fillable, PDF format on SBA’s website at: [www.sba.gov](http://www.sba.gov) which then can be submitted as an attachment to an e-mail. Forms will also be made available in a fillable, PDF format on the website of SBA’s Central Servicing Agent for the

504 Program. This will allow for faster transmission of information on assembled loan pools and the faster delivery of pool proceeds.

#### **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.*

The information collected is unique to the individual applicant and the circumstances and conditions of its business operation, so there are no other sources of the information nor is it currently available electronically. In developing the forms, SBA sought to minimize the burden on a lender or Pool Originator by reducing the amount of documentation required of the borrower and the amount of information that the lender has to transmit to SBA. The reduced documentation will also decrease the lender and Pool Originator's processing costs, particularly for very small pools.

#### **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 of data will not impact small businesses as most entities participating in this form of securitization are large sophisticated financial institutions.

#### **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 the information contained in the forms may compromise the effectiveness of the Secondary Market First Mortgage Loan Pool program, SBA's recoveries, the program's contribution to improving the nation's economy, and the Agency's ability to comply with Recovery Act reporting requirements.

#### **7. Existence of Special Circumstances**

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

Not applicable.

#### **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 Summarize public comments received. Describe efforts to consult with persons outside the agency to obtain their views on: availability of data, frequency of collection, clarity of instructions, etc...*

To facilitate the SBA's implementation of the Secondary Market First Mortgage Loan Pool program under the Recovery Act, the Agency has requested emergency approval of this information collection, including a waiver of the 60-day public comment notice required under 5 C.F.R. 1320.8(2)(d)(1). SBA is publishing an interim final rule concurrent with this information collection to implement this loan initiative; that rule request public comment on the information collection. If this request for emergency processing is approved, SBA will shortly thereafter take the necessary steps to obtain approval under normal review procedures. Any comments received will be finalized at that time.

#### **9. Payments or Gifts**

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

There are none. The forms request basic information about the third party loans which will be pooled and guaranteed. This loan information is already available in the public domain, and therefore there is no need to treat as confidential.

**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.*

SBA collects tax identification information from lenders and investors in order to insure the proper tax treatment of actions related to this program. SBA and the CSA are to uphold all confidentiality obligations to these parties and to safeguard this information.

**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.*

**SBA Form 2401: First Lien Position 504 Loan Pool Guarantee Agreement:**

Approximately 50 Lenders and Pool Originators are expected to participate in this pooling process. Each respondent will need to review and execute this Form for each loan offered. Historically, SBA has approved approximately 9,000 504 project financings annually, each with a corresponding First Mortgage loan included in the project. SBA is estimating that until respondents become proficient in the use of this form, each respondent will need 3 hours to gather the required information, read through the document and execute its section of the Form.

Thus the total estimated annual burden hour is 3.0 hours times 9,000 responses or 27,000 hours.

Although actual pool creation and transaction will be conducted by the broker dealers, this form will likely be completed by bond trading assistances. Their estimated average annual salary is \$40,000.00. Their hourly rate is calculated to be about \$19.25. It is estimated that it will cost respondents \$57.75 per response.

**SBA Form 2402: Form of Detached Assignment For U.S. Small Business Administration Pool Certificate for the First Lien Position 504 Loan Pools (FMLP):**

It is estimated that there are approximately 250 potential investors and broker dealers to participate in transfer activities involving 504 FMLPs. The annual burden of 1.5 hours per respondent is determined by an estimated of the amount of time necessary to read the form, insert the appropriate information, sign the document, maintain CSA records, prepare and sends

payments and includes an allowance of ½ hour per respondent to cover unpredictable events. It is anticipated that there will be approximately 3,000 transactions.

The estimated total annual burden hour is 4,500 based on the estimated number of responses: 3,000 and hours per response of 1.5 hours.

This form will likely be completed by bond trading assistants. Their estimated average annual salary is \$40,000.00. Their hourly rate is calculated to be about \$19.25. It is estimated that it will cost respondents \$28.88 per response.

**SBA Form 2403: Application for Pool of Section 504 First Mortgage Loan Interests:**

It is estimated that there will be no more than 15 Pool Originators, which estimated to create about 475 504 FMLPs. The burden for this form is estimated as the amount of time necessary for a pool originator to review the firm's inventory of 504 first mortgage loans and determine which ones will be included in the pools. It is estimated that a pool originator will need approximately 3 hours to do such tasks. Total annual burden hour of 1,425 is calculated based on 475 pools created times the 3 hours per form.

Although actual pool creation and transaction will be conducted by the broker dealers, this form will likely be completed by bond trading assistants. Their estimated average annual salary is \$40,000.00. Their hourly rate is calculated to be about \$19.25. It is estimated that it will cost respondents \$57.75 per response.

**SBA Form 2404: Application to Become a Loan Pool Originator for First Mortgage Loan Pool (FMLP) Program:**

It is estimated that there will be no more than 15 broker dealers interested in applying to become a Pool Originator for FMLP Program. Only 1 application per broker dealers would be required. The burden for this form is estimated as the amount of time necessary for the broker dealers to obtain required resolutions, certification as well as gathering required financial documents. It is estimated that approximately 10 hours will be require to complete the requirements for this form. Total annual burden hour is estimated to be 150 based on the estimated number of response: 15 and hours per response of 10 hours.

This form will likely be completed by an attorney (in house or outside counsel). Their estimated average annual salary is \$100,000.00. Their hourly rate is calculated to be about \$48.08. It is estimated that it will cost respondents \$480.80 per response.

**13. Estimate of Total Annual Cost**

*Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. Do not include hour cost burden from above.*

It is estimated that there will be minimal start-up or other costs to the respondents as a result of the new Secondary Market for Section 504 First Mortgage Loan Pool Program initiative that triggers this information collection.

**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.

**SBA Form 2401: First Lien Position 504 Loan Pool Guarantee Agreement:**

The cost to the government estimated to be approximately \$308,250.00 annually. Each request for guaranty is estimated to require .5 hours of a contractor's time at \$50 per hour, times 9,000 pool applications or \$225,000.00. SBA would also incur approximately \$83,250.00 including .25 hour per application from a GS-13 staff analyst (GS-13 at \$37 per hour) for verifying the terms of the agreement with the underlying documentation.

**SBA Form 2402: Form of Detached Assignment For U.S. Small Business Administration Pool Certificate for the First Lien Position 504 Loan Pools (FMLP):)**

The cost to the government estimated to be approximately \$37,500.00 annually. Each request for guaranty is estimated to require .25 hours of a contractor's time at \$50 per hour, times 3,000 pool certificate transfer applications or \$37,500.00. SBA would not be involved in the transfer transaction and would not incur any expanses other than the cost for the contractor to perform the related duties.

**SBA Form 2403: Application for Pool of Section 504 First Mortgage Loan Pool Interests:**

The cost to the government estimated to be approximately \$17,812.00 annually. Each request for guaranty is estimated to require .5 hours of a contractor's time at \$50 per hour, times 475 pool applications or \$17,812.00. SBA would not be involved in the pool creation process and any review of the documents would have be done simultaneously with the review of Section 504 First Mortgage Loan Pool Guarantee Agreement and would not incur any expanses other than the cost for the contractor to perform the related duties.

**SBA Form 2404: Application to Become a Loan Pool Originator for First Mortgage Loan Pool (FMLP) Program:**

SBA would also incur approximately \$5,400.00 including 4 hour per application from a GS-14 staff financial analyst (GS-14 at \$45 per hour) and 4 hour per application from a GS-14 staff financial attorney for reviewing and processing the application, times 15 Pool Originator applications or \$5,400.00.

**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.*

This is a new information collection.

**16. Collection of Information whose Results will be Published.**

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

Except for summary data that might be included in various agency reports (e.g., number or percentage of pools formed in this program, number of Pool Originator participating in this program) this information will not be published.

**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.*

No exception is being sought; expiration date will be displayed.

**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.*

In Section 19 of OMB Form 83-I, item I indicates the use of statistical survey methodology in the collection of information. Because each pool application is unique to the applicants and to the loan terms (maturity, interest rate, loan amount, etc.) SBA cannot employ a statistical survey methodology to obtain the required information for Secondary Market for the Section 504 First Mortgage Loan Pool Program. A statistical survey for this area would not likely be representative and, therefore, would increase SBA's financial risk if relied upon.

**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