

Supporting Statement for Requests for OMB Approval
Under the Paperwork Reduction Act and 5 C.F.R. § 1320
SBA Form 912, Statement of Personal History

A. Justification

1. Circumstances necessitating the collection of information. SBA requires an individual seeking assistance on behalf of a business to provide sufficient information for SBA to make a character or criminal history determination. In making loans under Section 7(a)(6) of the Small Business Act (the Act), 15 U.S.C. § 636(a)(6), SBA is required to have reasonable assurance that the loan is of sound value and will be repaid or that it is in the best interest of the Government to grant the assistance requested. Additionally, SBA is specifically authorized to verify an individual's criminal history, or lack thereof, under section 7(a)(1)(B), 15 U.S.C. § 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 U.S.C. §§ 634(b)(11), and 687b(a).

SBA has promulgated notice and comment regulations based upon the above authorities, identifying good character as an element of credit worthiness and eligibility for assistance from or in participation with SBA. The Agency makes this character determination based upon information developed from the responses given by applicants on SBA Form 912. The regulations for making character determinations are found in Title 13 of the Code of Federal Regulations at Sections 115.18(c)(Surety Bond Program), 120.464(a)(5)(ii) (Guaranteed Lending Program), and 124.203 (Section 8(a) Business Development Program). These regulations are further explained in SBA Standard Operating Procedures (SOP) 50 10 5(B) Chapter 2(III)(D)(3)(n)(4) (Guaranteed Lending Program), 50 45, Chapter 4(3)(a)(1) (Surety Bond Program), and 80 05 3, Chapter 2D(9) (Section 8(a) Business Development Program). SBA also uses Form 912 in its Disaster Loan Program. See, SOP 50 30 6, at Paragraph 74.

SBA is proposing four minor revisions to the existing SBA Form 912. First, SBA has corrected typographical errors existing on the current form, which range from a spelling error in block 2, to spacing errors throughout the document. Second, SBA has updated its "Notices Required By Law" to reflect the new Privacy Act System of Records Notice the Agency published on April 1, 2009. 74 Fed. Reg. 14890. The new system of records contains a discrete system of records for information SBA collects through SBA Form 912. Third, SBA has updated the language warning of possible consequences of making false statements to reflect changes to Title 18 of the United States Code. Finally, SBA has added initial blocks to the form at questions 5, 7, 8 and 9, as well as an instruction that answers to those questions must be

initialed. It is imperative that program participants answer those questions honestly. In the past, applicants have attempted to avoid prosecution by claiming the bank or some other intermediary filled out the Form 912 the applicant signed. Initialing applicant responses to questions 5, 7, 8 and 9 is necessary, therefore, to ensure accurate responses.

2. How, by whom, and for what purpose the information will be used. The information collected on SBA Form 912 is used by SBA offices, including the OIG, in connection with character reviews of applicants for SBA financial assistance or other SBA program participation. When an applicant, or individual affiliated with a program participant, indicates a criminal record that may affect program eligibility, the OIG requests the criminal history of the applicant from the Federal Bureau of Investigation (FBI). The FBI then conducts a check of its criminal history databases 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 a dollar total representing the aggregate amounts of payments avoided as a result of SBA' character determinations using the information collected with the Form 912 in its Semiannual Reports to Congress. These reports are published on the OIG's website at:
<http://www.sba.gov/ig/onlinelibrary/Sarc/index.html>.

3. Technological collection techniques. The current version of the form is available for download through SBA's website at http://www.sba.gov/idc/groups/public/documents/sba_homepage/tools_sbf_finasst912.pdf. SBA's online form is a fill-able PDF, which the respondent must print, sign and submit to the SBA. As SBA further modernizes its systems, the agency will consider moving toward a fully electronic 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. In Fiscal Year (FY) 2009, SBA Business Loan Program managers declined 63 applications totaling nearly \$24.2 million and Disaster Loan Program officials declined 42 applications totaling over \$2.6 million. SBA also used information obtained through Form 912 to deny 17 applications for participation in the 8(a) Business Development Program.

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 regarding an arrest record and 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 Wednesday, May 7, 2009, 74 Fed. Reg. 25289 (2009). SBA did not receive any comments in response to the May 7th publication. 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 has historically 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. SBA Form 912 includes several personal identifiers such as social security number, name, date of birth and place of birth. This collection of information contains questions of a sensitive or confidential nature, specifically, information about criminal history. The form explains that disclosure of an individual's social security number is voluntary. The other personal identifiers are required for a benefit, e.g., a loan. 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, 74 Fed. Reg. 14890 (April 1, 2009) 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 each of the past six fiscal years. In Fiscal Year 2009, SBA reported approximately 72,156 transactions that should involve Form 912. Given the reported number of transactions, we believe 142,000 SBA Forms 912 to be a reasonable estimate of annual reports. Based on our experience we estimate that it takes 15 minutes to complete the form, even with the proposed minor modifications. 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 responses x ¼ hour = 35,500 hours.)

SBA estimates that the average salary of the respondent providing this information is equivalent to a GS-11 loan officer's salary, at an hourly rate of \$29.22. SBA has previously used the \$26 hourly cost burden for SBA Forms 4, 4-I and 4-Schedule A, but is adjusting that estimate in this submission for inflation and an increase in the hourly pay rate on the General Schedule. The respondent populations for those forms are similar to the respondent population for SBA Form 912. We believe, therefore, that the \$29.22 hourly cost rate is reasonable for the SBA Form 912. The cost to the average respondent for completing this form is estimated at \$7.31 ($\$29.22 \div \frac{1}{4} \text{ hour} = \7.31). The annual cost to all respondents would be 35,500 hours at \$29.22 per hour = \$1,037,310.

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. As noted above, the use of this form in FY 2009 allowed the Government to avoid making \$26.8 million in loans to ineligible applicants.

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. In FY 2009, SBA spent \$46,758.50 on for FBI costs associated with roughly 2,500 name checks. Form SBA 912 takes approximately 30 minutes to process and is reviewed by an agency employee with an average grade of GS-10. We estimate handling roughly 2,500 name checks in the upcoming year. The estimated annualized cost to the Federal Government is, therefore, \$80,008.5 (\$46,758.50 payable to the FBI plus \$33,250(calculated by GS-10 hourly rate of \$26.60 X 1250 hours) in employee salary costs.
15. Explanation of program changes or adjustments in Items 13 or 14 on OMB Form 83-I. The estimates for items 13 and 14 on Form 83-I are consistent with SBA's 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.

B. Collection of Information Employing Statistical Methods

This collection of information does not employ statistical methods.