

Supporting Statement for Paperwork Reduction Act Submission
OMB Control Number 3245-0110
SBA Form 1366, Borrower's Progress Certification

This submission covers the SBA Form 1366, Borrower's Progress Certification, and associated record-keeping requirements. The purpose of this submission is to request OMB renewal authorization of this form.

A. Justification

1. *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.*

SBA's disaster program regulations and procedures require borrowers to submit and maintain records to show that loan proceeds were used solely for authorized purposes. In addition, prior to any subsequent disbursement of funds, borrowers are required to provide certain certifications regarding no substantial adverse change(s), as well as fees paid to borrowers' agents. See, 13 CFR 103.5(a), 13CFR 123, and Disaster Assistance Program SOP, 50 30, ¶ 95(c). The pertinent portions of each authority are attached.

SBA Form 1366 provides a simple format for borrowers to organize and present the documentation and information to SBA to show loan funds have been used in the disaster restoration, and to provide the necessary certifications prior to subsequent disbursements. The form was developed in response to an expressed need by the borrowers, for a concise way to document the use of loan proceeds and make the required certifications.

Form Changes:

SBA has made a few revisions to Form 1366 since the form was approved 2006. Specifically SBA has added an instructions page and revised text of currently approved form, to clarify for borrowers the information being requested, why that information is being collected, and the nature of the required certifications.

2. *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.*

Form 1366 information collection involves assurances that certain loan conditions (those pertaining to authorized use of proceeds) are satisfied. The information collected by Form 1366 from disaster loan borrowers is either (1) exceptions to the certifications, or (2) a listing of expenditures and copies of certain receipts. Exceptions to the certifications might involve credit factors and would be referred to a loan officer for review. All information related to the use of proceeds is reviewed by Office of Disaster Assistance (ODA) legal section (attorneys and support staff) to assure that loan proceeds have been used as authorized. Representatives of the Inspector General and other auditors also use the

information collected on Form 1366 and the records which borrowers are required to retain for audit trail purposes. Evidence of misuse of proceeds would be used by US Attorneys and the Office of Inspector General prosecuting for misuse of loan proceeds.

3. *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's Disaster Credit Management System (DCMS) has been in use since November 2004 and is currently in the Operations and Maintenance phase. As a part of this project, disaster loan applications and related paperwork (including SBA Form 1366) are incrementally being made available to the public electronically for downloading and printing. Planning for the first phase of this enhanced capability of application access through a public site is currently underway and the ability to provide other data and requests for action by borrowers will be provided in subsequent phases of this effort. The Form 1366 is currently available online at www.sba.gov for downloading and printing.

For loans requiring multiple disbursements, Form 1366 must be filed an average of 1.5 times during the course of the loan. We currently require a hard copy of the form with an original signature for fraud prevention purposes, or a fax of a hard copy where an original signature is on file in the office for comparison purposes.

4. *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.*

Because the records regarding expenses by borrowers for repair or replacement are only kept by borrowers, there is no duplication in SBA's files. Information collected by the Form 1366 is not available elsewhere in SBA's system. Similar information is not available and no other information could be substituted. Minimal duplication (borrower name, loan number, etc.) is necessary to distinguish and organize records appropriately.

5. *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.*

The record-keeping requirements for Form 1366 are not in excess of usual and customary business records maintained by businesses for internal management and tax and securities law purposes. Information collected by Form 1366 is limited to specific program requirements. The current version of Form 1366 has been designed to minimize paperwork while satisfying legal and policy mandates and protecting the Government's creditor position (see CRF Section 123 and SOP 50 30 paragraph 95(c)).

6. *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.*

The information collection is conducted only as needed. If the record-keeping and data submission requirements were not imposed, SBA would not have a basis for assuring proper data documentation of loans and proper use of loan proceeds, or that subsequent disbursements are prudent and justified. Failure to conduct this collection of information could also impair SBA's ability to conduct audits or take actions in cases of misuse. When loan proceeds are not used properly, SBA effectively subsidizes loans for purposes unrelated to the disaster, and which should be privately financed. Misuse of loan proceeds can also weaken the value of the collateral securing the loan.

Some borrowers have complained about accounting for the use of loan proceeds and requested that loan funds be disbursed to them for use as they desire. SBA must perform due diligence in order to assure that the loan funds are only used to repair or replace damaged property in the case of physical disasters. Any other uses would be illegal and are subject to a statutory civil penalty. These loans cannot be considered in the nature of indemnification for losses.

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

There are no special circumstances, except for a disclosure of a change in financial condition which may be considered confidential information and SBA protects that information to the extent permitted by law.

8. *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.*

A notice required by 5 CFR 1320.8(d) was published in Federal Register volume 74, number 202 page 54109 on October 21, 2009. The comment period closed December 21, 2009 and no comments were received as a result of this notice. However, routine observations, particularly in closing workshops conducted by SBA, and direct feedback from borrowers indicate that estimates of public burden hours are valid and the format in which the information is requested is reasonable and simplified.

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

There are no payments made or gifts given to respondents.

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

Confidentiality is generally based on the Privacy Act and the Freedom of Information Act. SBA will keep the information collected confidential to the extent permitted by law.

11. *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.

No questions of a sensitive nature are asked.

12. *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.*

Because each loan is conditioned based on its unique circumstances, estimates are normally based on typical mixes of loans and conditions over the past 4 fiscal years (for this submission, those years would be FY 2006 through 2009).

SBA approved 55,229 disaster loans annually on average during this period (FY 06-09). Following is an average per year for all loans during this period:

	47,023 home:	7,973 unsecured
		39,050 secured
	8,206 businesses:	2,616 unsecured
		5,590 secured
TOTAL	55,229	

PUBLIC BURDEN

HOURS

For the Form 1366, the public burden includes organizing records of expenditures and compiling that information as directed on the form, and it includes copying and providing certain receipts as directed by the form.

The public burden is generally limited to secured loans, as few unsecured loans have multiple disbursements. For secured loans, the average number of disbursements is about 2.5. The Form 1366 is required for each subsequent (other than initial) disbursement, for an average of 1.5 uses for each secured loan (respondent). This average is based on past experience with the form. The anticipated number of secured loans (average) is 44,639. With 1.5 uses per respondent, the Form 1366 would be used 66,959 per year on average.

Based on feedback and previous experience, the Form 1366 is estimated to require about 0.5 hours per response, for **total estimated burden hours of 33,479** ($1.5 \times 44,639 = 66,959$ $\times .5 = 33,479$).

COST

The cost to the public is determined on the same basis as that for the Government, which is at the GS-9 level. Costs for the Form 1366 are estimated to be as follows:

Total estimated burden hours of 33,479 x 24.15 cost per hour (based on GS 9, step 1, expertise required) = \$808,518.

The estimated public cost for Form 1366 is \$808,518.

13. *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.*

There is no capital and start-up cost component. No additional annual costs beyond those identified in #12 above are anticipated.

14. *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.*

Total Agency burden hours are also based on the number of respondents. The processing time (to review and act upon the information and documentation submitted by borrowers in accordance with Form 1366) for the Agency is estimated to be an average of 1 hour per response. The total Agency burden hours is calculated as follows:

1 hour average processing time per response x 66,959 uses = 66,959 total Agency burden hours

The typical grade level required to process this form is GS 9, Step 1. –

66,959 uses x \$ 24.15 (GS 9, step 1) per hour = \$1,617,060 x 130% provision for overhead and operational expenses = **\$2,102,178** total estimated Agency cost.

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

Public burden hours increased by 22,352 and public burden cost increased by \$579,525 as compared to the previous submission due to an increase in disaster activity (increase in the number of uses of the form) and due to the hourly wage increase used to compute cost. The differences are caused strictly by adjustments; there are no program changes causing this burden to be different than in the previous submission.

16. *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. No publication is planned and no statistical methods will be employed.

17. *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.*

Expiration will be displayed

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

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

N/A