

SUPPORTING STATEMENT for OMB Form 83-1

SBA Form 1790, Semi-Annual Report on Representatives Used and Compensation Paid for Services in Connection with Obtaining Federal Contracts from the Period from _____ to _____.

The purpose of this Paperwork Reduction Act submission is to request the Office of Management and Budget's (OMB's) approval for the U.S. Small Business Administration's (SBA's) continued use of SBA Form 1790, "Semi-Annual Report on Representatives Used and Compensation Paid for Services in Connection with Obtaining Federal Contracts from the Period from _____ to _____" under OMB control number: 3245-0270. SBA last updated this information collection March 31, 2009. For the current submission, SBA made two related changes to the form: the title of the form on page one was changed from *Representatives Used and Compensation Paid for Services in Connection with Obtaining Federal Contracts* to the following: *Semi-Annual Report on Representatives Used and Compensation Paid for Services in Connection with Obtaining Federal Contracts for the Period from _____ to _____*. This minor name change is proposed to emphasize that this reporting should be done semi-annually. Related to this title change, the sentence above the signature section requests that the 8(a) Participant provides the dates for the six-month reporting period.

A. Justification:

1. Circumstances necessitating the collection of information.

The SBA 8(a) Business Development Program (8(a) BD program) as authorized by sections 7(j)(10) and 8(a) of the Small Business Act (Act) (15 U.S.C. 636(j)(10) and 637(a), was created to assist eligible small disadvantaged business concerns compete in the American economy. The purpose of the 8(a) BD program is to assist eligible small disadvantaged business concerns (or program Participants) to compete in the American economy through business development assistance. Under 15 U.S.C § 637(a)(20)(A), small business concerns participating in the 8(a) BD Program are required to report the following to their assigned Business Opportunity Specialist (BOS) semi-annually:

“(i) A listing of any agents, representatives, attorneys, accountants, consultants, and other parties (other than employees) receiving compensation to assist in obtaining a Federal contract for such Program Participant. (ii) The amount of compensation received by any person listed under clause (i) during the relevant reporting period and a description of the activities performed in return for such compensation.”

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

How: This form is filled out electronically by the 8(a) Participant and submitted semi-annually to the BOS in the 8(a) Participant's SBA servicing district office. In addition, the 8(a) Participant also prints out and submits a hard copy of the SBA Form 1790 containing a certification with a "wet

signature” to its BOS, who can view the firm’s information both electronically and in hard copy format.

By whom: Each small business concern certified to participate in the SBA 8(a) BD program is required to complete this form. The SBA Form 1790 (the electronic version and the hard copy containing the 8(a) Participant’s “wet signature”) is then collected and reviewed by the BOS. If warranted, a second review could take place within the Office of Certification and Eligibility.

For what purpose: The SBA uses the information submitted on the form to ensure that program Participants or agents (“an authorized representative, including an attorney, accountant, consultant, packager, lender service provider, or any other person representing an applicant or participant by conducting business with SBA” (C.F.R. § 103.1(a))) do not engage in any improper or illegal activity in connection with obtaining a Federal contract. Any report that raises suspicion is sent to the Office of the Inspector General (OIG) for further review and possible investigation. The SBA also uses this form to determine if any agents conducting business on behalf of a Participant are prohibited from doing so (e.g., persons debarred under SBA or Government debarment regulations); or determine if SBA should revoke or suspend such an agent from doing business with SBA on the Participant’s behalf. SBA’s regulations found at 13 C.F.R. § 103 allow SBA to suspend or revoke the privilege of any agent when SBA finds good cause to do so. Good cause is any unlawful or unethical activity that can include the following: (a) Attempting to influence any employee of SBA or a lender, by gifts, bribes or other unlawful or unethical activity, with respect to any matter involving SBA assistance. (b) Soliciting for the provision of services to an Applicant by another entity when there is an undisclosed business relationship between the two parties. (c) Violating ethical guidelines which govern the profession or business of the Agent or which are published at any time by SBA. (d) Implying or stating that the work to be performed for an Applicant will include use of political or other special influence with SBA. Examples include indicating that the entity is affiliated with or paid, endorsed or employed by SBA, advertising using the words *Small Business Administration* or *SBA* in a manner that implies SBA’s endorsement or sponsorship, use of SBA’s seal or symbol, and giving a “guaranty” to an Applicant that the application will be approved. (e) Charging or proposing to charge any fee that does not bear a necessary and reasonable relationship to the services actually rendered or expenses actually incurred in connection with a matter before SBA or which is materially inconsistent with the provisions of an applicable compensation agreement or lender Service Provider agreement. A fee based solely on a percentage of a loan or guarantee amount can be reasonable, depending on the circumstances of a case and the services actually rendered. (f) Engaging in any conduct indicating a lack of business integrity or business honesty, including debarment, criminal conviction, or civil judgment within the last seven years for fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, false statements, conspiracy, receiving stolen property, false claims, or obstruction of justice. (g) Acting as both a lender Service Provider or Referral Agent and a Packager for an Applicant on the same SBA business loan and receiving compensation for such activity from both the Applicant and lender. A limited exception to this “two master” prohibition exists when an Agent acts as a Packager and is compensated by the Applicant for packaging services; also acts as a Referral Agent and is compensated by the lender for those activities; discloses the referral activities to the Applicant; and discloses the packaging activities to the lender. (h) Violating materially the terms of any compensation agreement or lender Service Provider agreement provided

for in C.F.R. § 103.5. (i) Violating or assisting in the violation of any SBA regulations, policies, or procedures of which the Applicant has been made aware.” (C.F.R. § 103.4)

3. Technological collection techniques.

SBA Form 1790 can be completed electronically via the electronic system firms use to interact with the SBA.

Twice a year, 8(a) BD Participants are notified that the SBA Form 1790 is due. The 8(a) BD Participants have been assigned a username and password for completion of his/her updated information. Upon logging in to its company profile, the 8(a) BD Participant has access to all of the forms required for completion for his/her 8(a) Annual Update, including Form 1790.

4. Avoidance of Duplication.

The only duplication of information is the small business concern’s name, principal’s name, principal’s title, and case number. This information is to identify the source of the information. The discrete information collected is that of the name, location of the representative, amounts paid to the representative, and description of services performed by the representative. This information will be unique to each semi-annual reporting period and is not available from any source other than the 8(a) Program Participant.

5. Impact on small businesses or other small entities.

This information collection will not have a significant economic impact on a substantial number of small businesses or small entities. In fact this information collection will only have a minimal impact on the responding small business concerns. The Agency has reduced the burden by shortening the form to the bare minimum information necessary to comply with the statute; not requiring any supporting documentation with the submission of the Form; and only requesting additional information if the review of this information collection indicates that further analysis is needed.

6. Consequences if collection of information is not conducted.

The information is necessary to help the SBA determine if the 8(a) BD Participant has used agents, representatives, accountants, attorneys or other parties for the acquisition of Federal government contracts during the previous six months period. In addition, if the information is not collected, SBA cannot make necessary changes and improvements to the administration of the program; the SBA cannot effectively detect fraud, waste and inefficiency; and SBA cannot properly monitor agents used by Participants in order to take any needed actions to suspend or revoke agents.

7. Existence of special circumstances.

No special circumstances exist. SBA protects this information to the extent permitted by law. Records are maintained under conditions designed to preclude access by other than the Agency personnel with a need to know.

8. Solicitation of Public Comment.

SBA published the 60-day comment notice on December 12, 2011.

9. Payment or gifts.

There were no payments or gifts to any respondent in connection with this information collection.

10. Assurance of confidentiality.

There are no assurances of confidentiality. However, SBA protects the information collected to the extent permitted by law, including the Freedom of Information Act, 5.U.S.C. 552.

11. Questions of a sensitive nature.

Not applicable.

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

The approximate completion time for the existing SBA Form 1790 is **.25 hours** per Participant. Each of the SBA 8(a) BD program Participants will complete and submit this form to the SBA semi-annually. The SBA estimates that there are approximately **7,814** firms in the program. Since the submission is made semi-annually by each firm, the number of annual responses would be approximately 15,628. Assuming approximately 100 percent for overhead, general and administrative, and other employee associated costs, the Participant's time will cost the company approximately **\$75.00** per hour. Total approximate annual responses of **15,628** at **.25 hours** would equal **3,907** hours. At \$75.00 per hour, the **3,907** hours of company time for preparation will cost **\$293,025**. The calculation for the annual burden to complete the form is as follows:

7,814 Participants x **2** submissions per year = **15,628** annual submissions
15,628 submissions x **.25** hours per completion = **3,907** hours
3,907 hours x **\$75.00** per hour = **\$293,025** total burden cost on Participants.

13. Estimate of total annual cost burden for submission.

There are neither capital/start-up costs to the respondents nor purchase of services component for the respondents as a result of this collection.

14. Estimated annualized cost to the Federal government

The first review of Form 1790 will be performed by a BOS at level GS-12/1 and will take approximately **.25 hours**. The cost for the GS-12/1 to perform this task is **\$35.88** per hour (The wage rate used was that of a GS-12/1 grade level, 2012-DCB (DC and Baltimore), incorporating the 1.50% General Schedule increase and a locality payment of 24.22%, for the locality pay area of Washington-Baltimore-Northern Virginia, DC-MD-VA-WV-PA, effective January 2012. Rates are frozen at 2010 levels.) Assuming approximately **15,628** submissions, the total hours for review is **3,907**. At **\$35.88** cost per hour, the total cost for the review by the Business Opportunity Specialists is **\$140,183.16**.

Of the approximately **15,628** forms submitted annually, approximately **five** percent, or **781 forms**, will require a review at the Headquarters' level of the Office of Certification and Eligibility. At **.25** per hour for each of the **781** forms, the review will take approximately **195.25 hours**. At **\$59.30** per hour for a GS-15/1 review, the cost for the second review will be **\$11,578.33**. (The wage rate used was that of a GS-15/1 grade level, 2012-DCB (DC and Baltimore), incorporating the 1.50% General Schedule increase and a locality payment of 24.22%, for the locality pay area of Washington-Baltimore-Northern Virginia, DC-MD-VA-WV-PA, effective January 2012. Rates are frozen at 2010 levels.)

The calculation for the estimated annual cost to the Federal government to review the form is as follows:

First level review:

$$\begin{aligned} 15,628 \text{ submissions} \times .25 \text{ hours per completion} &= 3,907 \text{ hours} \\ 3,907 \text{ hours} \times \$35.88 \text{ per hour} &= \$140,183.16 \end{aligned}$$

Second level review:

$$\begin{aligned} 15,628 \text{ submissions} \times 5 \text{ percent} &= 781 \text{ submissions} \\ 781 \text{ submissions} \times .25 \text{ hours per review} &= 195.25 \text{ hours} \\ 195.25 \text{ hour} \times \$59.30 \text{ per hour} &= \$11,578.33. \end{aligned}$$

Total cost for first plus second reviews:

$$\$140,183.16 \text{ first reviews} + \$11,578.33 \text{ for second reviews} = \$151,761.49.$$

15. Explanation of program changes in Items 13 or 14 on OMB Form 83-1.

The primary reason for the approximately 10% decrease in burden hours on SBA 1790 - from **3,953** to **3,907** - is due to the decrease in the number of 8(a) BD Participants since this form was last submitted to OMB in 2009.

Specifically, the number of 8(a) BD Participants has decreased to **7,814** from **7,905**.

16. Collection of information whose results will be published.

The information collected will not be published.

17. Expiration date for collection of information.

Not applicable.

18. Exceptions to certifications in Block 19 on OMB Form 83-1.

Not applicable.

B. Collection of Information Employing Statistical Methods:

This collection of information does not employ statistical methods.