

Paperwork Reduction Act Submission  
OMB Control No. 3245-0201  
Compensation Agreement

## 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, and the fees paid or to be paid to such person is required by section 13 of the Small Business Act, (15 U.S.C. 642) and the implementing regulation at 13 CFR 103.5. This regulation specifically requires any applicant, 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, lender, or Certified Development Company (“CDC”) in any matter involving SBA assistance. As used in this context, an agent includes a loan packager, referral agent, broker, accountant, attorney, consultant or any other party that receives compensation from representing an applicant in connection with 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 <http://www.ecfr.gov> .

As requested by the Office of Inspector General, there is one change on the 7a and 504 forms. Revision of language on page one, 4<sup>th</sup> and 5<sup>th</sup> paragraphs respectively, number 4 item listed is revised to say: “4) an individual who only performs a business valuation as long as the individual does not provide any other services to the Applicant in connection with the loan application.”

### 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, CDCs, and applicants for 7(a), 504 and SBA disaster loans. The information collected is used by SBA to monitor the Agents, fees charged by Agents, and the relationship between Agents and lenders. The information helps SBA to determine among other things whether borrowers are paying unnecessary, unreasonable or prohibitive fees.

### 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 [www.sba.gov/for-lenders](http://www.sba.gov/for-lenders) , under the “forms” option. The form can be downloaded and is fillable in PDF.

#### **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 compensation to agents for those programs. In the disaster loan program all applicants submitting the SBA Form 5 (Disaster Business Loan Application) and Form 5c (Disaster Home Loan Application) are asked to provide the Agent's name, address, telephone number and the amount that he or she was compensated. However, the Form 159D is only used if an applicant has paid or will pay compensation in excess of \$500 for disaster home loans, or \$2500 for disaster business loans. The Form 159D also collects more detailed information than the Forms 5 or 5C 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. None of this information is available elsewhere. 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 for all loans.

#### **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 that receive a financial benefit from representing the applicant for an SBA guaranteed loan or disaster loan. Some of respondents are small businesses; however, the impact on such small businesses is minimal. SBA does not require applicants to hire loan agents and indeed not all applicants do. And for those who do hire loan agents, the information requested is limited to that which is necessary to meet the agency's purposes. SBA is requiring the completion of the form only when there is a packager or other agent that is receiving compensation from the applicant 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 applicant were not required to complete this form when he or she pays a fee for services in connection with an SBA loan, they risk being charged prohibitive or excessive 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 the required 60-day public comment notice of this information collection in the Federal Register on 77 FR 12901 on March 2, 2012. 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, 5 U.S.C. 552a 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, Export Express, Small Loan Advantage, PLP-Caplines and Pilot Loan Programs (Patriot Express and Dealer Floor Plan). The loan amounts in these programs are generally lower than other 7(a) loans, averaging approximately \$55,000, and applicants are less likely to retain and pay fees to an agent. 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.

Total estimated annual burden is  $55,000 \times 15 \text{ percent} \times .083 \text{ hours} = 684 \text{ hours}$ .

The average salary for completing this form is estimated at a GS-11 whose salary is approximately \$24.00 per hour, for an annual estimate of  $684 \text{ hours} \times \$24.00 \text{ per hour} = \$16,416$ .

For other 7a loans (PLP and regular processing), the loan amounts can go up to \$5 million. Approximately 25,000 loans are processed using PLP or regular processing. It is estimated that approximately 30 percent use agents or pay referral fees. The estimated annual hour burden for this group is:

$25,000 \times 30 \text{ percent} \times .083 \text{ hours} = 622 \text{ hours}$ ; and the annual estimated costs is  
 $622 \times \$24.00 \text{ per hour} = \$14,928$

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 approximately 8,000 loans will be approved in the 504 loan program in a fiscal year. These loans can range up to \$5 million or \$5.5 million for small manufacturers or energy projects. It is estimated that only 10 percent of these loans will require the use by the applicant of an agent or that the CDC will pay a referral fee or be paid as a referral agent.

$8000 \times 10 \text{ percent} \times .083 \text{ hours} = 66 \text{ hours}$   
 $66 \text{ hours} \times \$24.00 \text{ per hour} = \$1,584.00$

The total hour burden for 504 loans is estimated at 66 hours.  
The cost is approximately \$1,584.00.

#### 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, or other disaster causing phenomena.

| <u>FY</u> | <u>Number of Loans Approved</u> |
|-----------|---------------------------------|
| 2007      | 14,014                          |
| 2008      | 15,128                          |
| 2009      | 21,780                          |
| 2010      | 15,356                          |
| 2011      | 13,643                          |

Average yearly approvals = 15,984

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

$15,984 \text{ approvals} \times 1 \text{ percent} \times .083 \text{ hours} = 13 \text{ hours}$   
 $13 \text{ hours} \times \$29.93 \text{ per hour (average wage for skill required)} = \$389$

|                          |            |
|--------------------------|------------|
| <u>Total Respondents</u> |            |
| 159 (7a) =               | 8,250      |
| 159 (504) =              | 800        |
| 159D =                   | <u>160</u> |
|                          | 9,210      |

|  |           |
|--|-----------|
| <u>Total Burden Hours for Form 159</u> |           |
| 159 (7a) =                             | 1306      |
| 159 (504) =                            | 66        |
| 159D =                                 | <u>13</u> |
| Total Hours                            | 1385      |

|                   |            |
|-------------------|------------|
| <u>Total Cost</u> |            |
| 159 (7a)          | \$31344    |
| 159 (504)         | 1,584      |
| 159D              | <u>389</u> |
| Total Cost =      | \$33,317   |

**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.*

This information collection does not result in any other expenses that would not ordinarily be incurred. There is minimal staff review. 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

160 responses @ .5 hours for reviewing = 80 x \$35.88 (hourly wage of average skill required, GS-12) = \$2,870.

**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. Only a slight decrease in hours and total cost due to the decrease in 504 and Disaster approvals.

**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, and disaster programs.

**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.