

U.S. SMALL BUSINESS ADMINISTRATION

Supporting Statement for SBA Form 1081 Statement of Personal History (For Use by Lenders)

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 appropriate section of each statute and regulation mandating or authorizing the collection of information.

As part of their responsibility to safeguard the integrity of federal programs, Federal credit agencies, like the U.S. Small Business Administration (SBA) are required to evaluate the qualifications, including character and reputation, of a participating lender's principal officers and staff. See, the Federal Managers Financial Integrity Act (FMFIA) codified at 31 U.S.C. 3512 et seq., OMB Circulars A-123 (Management's Responsibility for Internal Control), and A-129 (Policies for Federal Credit Programs and Non-Tax Receivables). As a result, SBA requires Lenders, which includes Non-Bank Lenders, Certified Development Companies (CDCs) and Microlenders, submit the information requested on Form 1081 for each board member, officer, and professional staff. These requirements are codified in various forms in SBA loan program regulations at 13 CFR Part 120. Specifically:

(1) Section 120.140 (*What ethical requirements apply to participants?*) requires Lenders to “act ethically and exhibit good character” and attributes to the Participant the “[e]thical indiscretion of an Associate of a Participant or a member.”

(2) Section 120.410(c) requires all participating lenders, to have “continuing good character and reputation, and otherwise meet and maintain the ethical requirements of 13 CFR §120.140.”

(3) For CDCs, §120.851 states that CDCs and their Associates must act ethically and exhibit good character and meet all of the ethical requirements of §120.140.

SBA has made a few to the form. Specifically, Questions 10a, 10b, and 10c were modified to more accurately reflect criminal background information that is of greatest interest and utility to the Agency when making a character determination. . The changes ensure consistency between those questions and the identical questions on SBA Form 912, which was recently approved by OMB. The revised questions will eliminate the need for a respondent to acknowledge a past arrest or criminal charges that did not result in continued criminal proceedings, while ensuring SBA is advised of any criminal charges or diverted criminal cases that are pertinent to the character determination.

Question 10a addresses whether a respondent is subject to unresolved criminal charges;

Question 10b will help determine whether such charges are reasonably likely to occur in the near future, and

Question 10c inquires about the resolution of all criminal charges in which the charge was not dismissed or the respondent was not fully vindicated.

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 is collected from Associates of the Lenders. [The regulations define Associate of a Participant as an officer, director, key employee or holder of 20 percent or more of the value of the Lender's stock or debt instruments, or an agent involved in the loan process. (13 CFR §120.10, Definitions)]

The information is used by SBA's financial analysts to assess the "good character" and "ethical behavior" of the Participant or its Associates, including whether an Associate is otherwise prohibited from employment with the Participant (e.g., debarred). These determinations are critical factors in whether a Lender may participate or continue to participate with SBA to ensure the key personnel are of good character, are not otherwise prohibited from employment with the Participant (e.g., debarred), and determine what other entities they are associated with or have been associated with, if any. The information also provides the Agency with background data which is evaluated to determine if the institution's key personnel have sufficient qualifications in commercial lending activities.

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 Form 1081 is available to the public in electronic form, on SBA's website at <http://www.sba.gov>, under the "forms" option. The form can be downloaded and is fillable in PDF. SBA requires original signatures on this form and, therefore, does not accept electronic versions.

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. While some Lenders might provide similar information to other regulatory agencies, SBA does not have access to this information.

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.

There will be no significant economic impact to small business or small entities.

6. Consequences if collection of information is not conducted.

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.

If this information is not collected, SBA would be hampered in its efforts to comply with the Federal Managers Financial Integrity Act (FMFIA), OMB Circulars A-123, and A-129, which require a federal agency to evaluate the character and reputation of individuals participating in federal credit

programs. In addition, SBA would be in violation of the Debt Collection Improvement Act of 1996, by failing to require the relevant persons to provide their TINs. Since SBA only collects the information once from each applicable employee of the Lenders, the Agency cannot collect it less frequently.

7. Existence of special circumstances.

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

None of these circumstances are applicable.

8. Solicitation of public comments.

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.

The Federal Register notice requesting public comments was published on Feb. 13, 2013, at 78 FR 10246. Comments were to be submitted on or before Apr. 15, 2013. No comments were received.

9. Payments or Gifts.

Explain any decision to provide any payment or gift to respondents, other than re-enumeration 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.

The information collected is protected to the extent permitted by law including the Freedom of Information Act and the Privacy Act, where applicable. SBA provides respondents with a summary statement of the laws governing the Agency's protection and disclosure of confidential and sensitive information as part of Form 1081. SBA restricts access to the information to those personnel with a need to know.

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, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This information collection requests social security numbers as well as financial, criminal, and employment information in order to conduct a background check through the Office of Inspector General, Security and Investigation Branch to aid in assessing the good character of the respondents. The social security number is the unique identifier, which enables SBA to facilitate a background check by confirming the identity of the particular Associate. SBA has Privacy Act Systems of Records

that cover this information, i.e., Investigative Files--SBA 16, and SBA 17 - Investigative Division Management Information System.

12. Estimate of the Hourly Burden of the Collection of Information The estimated burden hours imposed by use of this form is as follows:

Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

The estimated burden imposed by use of this form is as follows:

Currently there are approximately 543 Lenders. The number of respondents annually is estimated at 215. These organizations do not have high turnover in their board, officers, or professional staff. Historically the responses have been from loan officers. There is 1 form per respondent. Time to complete the form is estimated at 30 minutes. This estimate is based on experience of Lenders using the previously approved form. Total burden hours are 107.50 hours. (215 respondents x 30 minutes ÷ 60 = 107.50 burden hours)

The average salary the respondent, based on a GS-11 Loan Officer is approximately \$30.00 per hour. The total cost burden is \$3,225. (107.50 burden hours x \$30 = \$3,225)

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.

No additional costs.

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, which should include 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.

The estimated annual cost to the Federal Government of this collection is \$3,225 based on the average salary for a GS-11, Financial Analyst, which is \$30.00 per hour. The financial analyst would need approximately 30 min. to review each Form 1081. (\$107.50 burden hours x \$30 per hour = \$3,225)

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.

With this submission, there has been a decrease in the burden hours because of the decrease in Lender responses.**16. Collection of Information Who's 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.

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.

Not applicable. SBA does not seek approval to omit the expiration date from the form.

18. Exceptions to the Certification in Block 19 on OMB Form 83-I Not applicable.

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.

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.

This collection of information does not employ statistical methods.

Paperwork Reduction Act (44 U.S.C. Chapter 35) (USE OF INFORMATION)

SBA is collecting the information on this form to make a character determination regarding Associates of Lenders. An Associate is defined as an officer, director, key employee, or holder of 20 percent or more of the value of the Lender's stock or debt instruments, or an agent involved in the loan process (13 CFR §120.10, Definitions). The information also provides the Agency with background data which is evaluated to determine if the institution's key personnel have sufficient qualifications in commercial lending activities. The information collected may be checked against criminal history indices of the Federal Bureau of Investigation.

Privacy Act (5 U.S.C. 552a)

Any person can request to see or get copies of any personal information that SBA has in his or her file when that file is retrieved by individual identifiers such as name or social security numbers. Requests for information about another party may be denied unless SBA has the written permission of the individual to release the information to the requestor or unless the information is subject to disclosure under the Freedom of Information Act.

Under the provisions of the Privacy Act, you are not required to provide your social security number. Failure to provide your social security number may not affect any right, benefit or privilege to which you are entitled. Disclosures of name and other personal identifiers are, however, required for a benefit, as SBA requires an individual seeking assistance from SBA to provide it with sufficient information for it to make a character determination. In determining whether an individual is of good character, SBA considers the person's integrity, candor, and disposition toward criminal actions. Additionally, SBA is specifically authorized to verify your criminal history, or lack thereof, pursuant to section 7(a)(1)(B), 15 USC Section 636(a)(1)(B) of the Small Business Act (the Act). 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 USC Sections 634(b)(11) and 687(b)(a), respectively. For these purposes, you are asked to voluntarily provide your social security number to assist SBA in making a character determination and to distinguish you from other individuals with the same or similar name or other personal identifier.

The Privacy Act authorizes SBA to make certain "routine uses" of information protected by that Act. One such routine use for SBA's investigative files system of records is that 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. Another routine use is disclosure to other Federal agencies conducting background checks; only to the extent the information is relevant to the requesting agencies' function. See, 74 F.R. 14890 (2009), and as amended from time to time. See, 77 FR 15835 and 77 FR 61467 for additional background and other routine uses.

Freedom of Information Act (5 U.S.C. 552)

This law provides, with some exceptions, that SBA must supply information reflected in agency files and records to a person requesting it. Information about approved loans that will be automatically released includes, among other things, statistics on our loan programs (individual borrowers are not identified in the statistics) and other information such as the names of the borrowers (and their officers, directors, stockholders or partners), the collateral pledged to secure the loan, the amount of the loan, its purpose in general terms and the maturity. Proprietary data on a borrower would not routinely be made available to third parties. All requests under this Act are to be addressed to the nearest SBA office and be identified as a Freedom of Information request.