

**Supporting Statement for SBA Form 1253
Certified Development Company (CDC) Annual Report Guide
(3245-0074)**

Justification

This information collection is currently approved for use in SBA's Certified Development Company (504) loan program. The collection consists of SBA Form 1253 and an exhibit which details the preferred method of reporting jobs data. The exhibit has no changes. As discussed below, SBA is revising this information collection to make the changes necessary to conform to recent changes to the 504 loan program.

On September 27, 2013, SBA released an update to its Standard Operating Procedures (SOP), Lender and Development Company Loan Programs, designated SOP 50 10 5(F). The update resulted in changes related to CDC's operational and organizational requirements. In addition, the update to the SOP provided clarification in the CDC Annual Report Guide of the consequences for the CDC if it fails to file the CDC Annual Report in a timely manner. The updated SOP will be effective on January 1, 2014.

The changes to SBA Form 1253 include modifying the instructions as per SOP 50 10 5(F) to allow Certified Development Companies (CDCs) to submit the annual report electronically. In addition, the following language was added to the form (page one) to clarify the consequences for failing to submit the annual report in a timely manner: "If a CDC does not submit its annual report in a timely manner, this will be reported to OCRM and any status requests a CDC has submitted will not be processed by OFA or OCRM until such time as the completed report is submitted. If a CDC's status expires because its annual report was not submitted, the CDC will have to reapply."

SBA asked that staff names and titles be displayed in organizational chart. SBA has added clarifying language to the instructions requiring a copy of the written board explanation for why it believes that it is in the best interest of the CDC to contract for a management, marketing, packaging, processing, closing or liquidation function. This was added under Tab 2, Item 4 as (d) as shown below:

- d) The board's explanation must demonstrate to SBA that:
 - i) the compensation under the contract is only from the CDC, is reasonable and customary for similar services in the area of operations and is only for actual services provided;
 - ii) the full term of the contract (including options) is reasonable; and
 - iii) the contract does not evidence any actual or apparent conflict of interest or self-dealing on the part of any of the CDC's officers, management and staff including members of the board and any loan committee.

SBA has clarified that the minutes must be signed. SBA has also clarified that the CDC must specify which SBA District Office received copies of changes to Articles of Incorporation or By-Laws and the date of the change. In addition, the instructions that notification of legal proceedings must indicate which SBA Office and the date documentation was submitted.

SBA has clarified that audited financials and reviewed financials must be reviewed by an independent CPA. SBA has removed all references to 503 loans as the last 503 loan paid out February 2013. SBA has also provided a clarification of 504 related expenses to include: "Funds invested in other economic

development (for multi-states, funds must be invested in economic development in each state in which the funds were generated).”

Finally, SBA added the option to allow CDCs to combine their annual reports with a request for Priority status, Accredited Lenders Program (ALP) status, ALP renewal, Local Economic Area (LEA) Expansion or Multi-State requests if the CDC clearly indicates the request is included in the annual report. While this option does not reduce the paperwork requirement of a CDC annual report, it will significantly reduce paperwork and the review of other submissions (ALP, LEA and Multi-State applications) and will benefit both SBA and CDCs.

SBA Form 1253 has an attachment, Exhibit 1 of which no changes are being recommended.

We note that on February 25, 2013, SBA published a proposed rule, 504 and 7(a) Loan Programs Update, in the Federal Register, which also contained proposed changes to this information collection. See, 78 FR 12633. SBA is currently finalizing that rule, which will result in additional changes to SBA Form 1253 and we will submit the additional changes to OMB for review and approval. Shortly after receiving that approval and following the effective date of the rule, SBA will post the forms with the changes based on the rule on the agency’s website.

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 the sole regulatory oversight agency for Certified Development Companies (CDCs), SBA is responsible for performing the necessary due diligence to assure that CDCs are meeting the regulatory and operational requirements of the CDC program. To facilitate carrying out these responsibilities, SBA requires all CDCs to complete and submit annual reports containing financial statements, operational and management information. Form 1253, Certified Development Company (CDC) Annual Report Guide, is the guide for meeting these annual reporting requirements. These requirements are codified in agency regulations promulgated under authority of the statute that established the CDC program (Pub. Law 96-302). (See attached regulations - 13 C.F.R. §120.822 through 826, 829 and §120.830.)

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 Annual Report Guide is used by all SBA district offices, the 504 Program Branch, Office of Financial Assistance, and the Office of Credit and Risk Management to obtain information from CDCs in regard to their financial condition, their compliance with regulations and the impact of their assistance to small business, as well as to prepare reports to Congress.

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 1253 is available in electronic form, on SBA's website at:

<http://www.sba.gov/category/type-form/lending-forms> under the "forms" option. Also, CDCs may submit their responses electronically.

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.

SBA has determined that, except for minimal identifying data, the information being requested is not obtainable through other means.

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.

SBA is allowing CDCs the ability to provide annual reports by electronic means which reduces the administrative burden for this report submission. The acceptance of electronic documents also reduces costs associated with printing and mailing documentation to SBA.

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.

This form serves as SBA's primary means of collecting information to assess lender regulatory compliance. CDCs are regulated only by SBA. If the information is not collected it would impact SBA's ability to determine program regulatory and operational compliance.

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 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.

On August 30, 2013, SBA published the required 60-day notice and request for comments in the Federal Register (78 FR 53816) SBA did not receive any comments on the changes. A copy of this notice is attached.

9. Payment 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 will be protected to the extent permitted by law. The CDC's financial data are protected from disclosure under exemptions 4, 6, and 8 of 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, 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.

There are no such questions on this form.

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

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.

All CDCs must provide an annual report. Currently there are 260 CDCs. SBA has prepared an estimate based on the fact that respondents keep the information requested in the ordinary course of business (all the loan information including jobs created and retained).

SBA estimates the time needed to complete this collection will average 28 hours at \$25.00 an hour, which is the salary of a program analyst with an average salary equal to a GS 9.

The estimated **burden hours** imposed by the use of this form are as follows:

The number of respondents annually is 260. There is 1 form per respondent. Time to complete the form is 28 hours. **Total burden hours are 7,280 hours.**

(260 respondents x 1 form per respondent = 260 x 28 hours = 7,280 total annual burden hours)

The estimated **annual cost** to the respondents of this collection would be \$182,000 and is broken down as follows:

260 CDCs per year x 28 hours = 7,280 hrs. to complete @ \$25/hr. = \$182,000.

13. Estimate of total annual cost burden for submission.

Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.

There are no start-up or operational costs resulting from this information collection.

14. Estimated annualized costs 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 following is the estimated annual cost to the Federal Government/SBA:

Analyzing reports: 260 x 1 hour = 260 hours x \$25/hr. = \$6,500.

(\$25.00 an hour, the salary of a program analyst with an average salary equal to a GS 9)

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

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

Annual responses for this submission are estimated to be 260 responses. There have been some CDCs who have withdrawn from the program voluntarily and there have also been a few CDCs that have merged with other CDCs thereby decreasing the number of CDCs in the program. However, SBA has approved new CDCs also; therefore the number remains relatively constant.

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.

17. Expiration date for collection of information.

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; no such approval sought.

18. Exceptions to certifications 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; no such exceptions sought.

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.