

Paperwork Reduction Act Submission
OMB Control No. 3245-0201

Terms of Clearance: OMB previously approved a reinstatement request for a one year period regarding OMB Control Number 3245-0201 and requested SBA's plan to avoid future violations. Previous violations happened during the reorganization of SBA's Office of Capital Access (OCA) which shifted key personnel to other divisions. The Office of Financial Assistance (OFA) which is responsible for the PRA on Form 159 was forced to re-staff and subsequently train new employees on the PRA process. The new Director OFA came on board in December 2013 and subsequently placed a high priority on maintaining PRAs, with weekly reviews on expirations and progress reports for renewals. Trained staff is currently in place to complete all OFA PRA submissions in collaboration with SBA's internal offices as well as the Records Management Division. Recently, OFA has timely submitted 9 PRAs to OMB, and we remain committed to a responsive turn around on PRAs and accordingly, request OMB's approval for a three year renewal on this ICR.

A. Justification

Form 159 (7a), Form 159 (504), and Form 159D.

SBA has made a few changes to this information collection.

- Added a certification for the Agent to attest that among other things, neither it nor the principals of its organization are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.
- Added a summary description of the routine uses under the applicable system of record.

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.

Section 13 of the Small Business Act, 15 U.S.C. 642 as well as 13 CFR 103.5, require loan applicants, agents or packagers to execute and provide to SBA a compensation agreement . Each agreement discloses the compensation charged for services rendered or to be rendered to the SBA loan applicant, 7(a) participating lender or Certified Development Company ("CDC") in any matter involving SBA assistance. "Agent" includes a loan packager, referral agent, accountant, attorney, consultant or any other party that receives compensation for representing an applicant or lender/CDC in connection with an SBA loan.

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, Certified Development Companies (CDCs), applicants for 7(a), 504 loans and SBA disaster loans to report compensation paid to Agents. The information collected is used by SBA to establish that there is no appearance of unlawful or unethical activity by agents, loan packagers, and others who receive compensation in exchange for representing the applicants for an SBA business or disaster loan. The information is also used to monitor fees charged to applicants and lenders/CDCs in connection with an SBA loan

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 pdf-fillable format on SBA's website at www.sba.gov. Once on SBA's website, type Form 159 in the search box located in the top right corner. Form 159 (7a) is submitted by email as a pdf version.

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.

Forms 159 (7a) and 159 (504) collect information that is not obtained in any other collection for either program regarding the disclosure of fees charged by and paid to Agents for those programs. In the disaster loan program, SBA collects the Agent's name, address, telephone number and the amount that he or she was compensated on SBA Form 5 (Disaster Business Loan Application) and Form 5c (Disaster Home Loan Application). 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 to be completed in a very small percentage of cases, the burden on respondents is less than if the information were required in all compensation cases.

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, SBA loan applicants and Agents 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 direct loan and to determine the fees charged and services performed. Some of the respondents are small businesses; however, the impact on such small businesses is minimal. SBA is requiring the completion of the form only when there is an Agent who is receiving compensation from the Applicant, lender or CDC; not all borrowers hire Agents.

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 mean non-compliance with the statute that requires SBA to collect information from recipients of financial assistance about compensation paid to Agents. Also, SBA would not be able to properly monitor the fees charged to applicants in connection with SBA loans, as required by the Small Business Act.

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 notice of this information collection in the Federal Register on February 11, 2014, at 79 FR 8229-8230. 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 follow:

Form 159 (7a)

It is estimated that approximately 45,000 7(a) loans will be approved in FY 2015, based on the historic activity in 2013 and 2014.

Of those, approximately 20,000 will be processed through the SBA Express, Export Express, 7(a) Small Loans and Pilot Loan Programs. The loan amounts in these programs are generally lower than other 7(a) loans, and applicants are less likely to retain and pay fees to an Agent. It is estimated that no more than 15 percent of SBA Express loans and Pilot Loan Program loans (3000 loans) involve applicants employing agents to assist them or lender that pay referral fees.

Total estimated annual burden is $20,000 \times 15 \text{ percent} \times .083 \text{ hours} = 249 \text{ hours}$.

The average GS salary for completing this form is estimated at a GS-11 whose salary is approximately \$24.34 per hour based on the GS general salary table effective January 2014 without adjustments for locality, for an annual estimate of $249 \text{ hours} \times \$24.34 \text{ per hour} = \$6,061$.

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 (or 7,500 loans) 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 $622 \times \$24.34 \text{ per hour} = \$15,139$

The total hour burden for 7a loans is estimated at 871 hours.

The cost is approximately \$21,200.

Form 159 (504)

It is estimated that there will be approximately 8,400 Section 504 loans approved in a fiscal year based on 2013 and 2014 use. These loans can range up to \$5,000,000. It is estimated that only 10 percent of these loans (or 840 loans) will require the applicant to use an Agent or the CDC to pay a referral fee or be paid as a referral agent.

8400 x 10 percent x .083 hours = 66.4 hours
66.4 hours x \$24.34 per hour = \$1,616

The total hour burden for 504 loans is estimated at 66.4 hours.
The cost is approximately \$1,616

This is a decrease of 3.6 hours because our expected approvals are less than the previous submission.

Form 159D (Disaster)

Estimates are based on an average number of approvals for the last 5 years. For the last 5 years the average yearly approval is **16,246** (we have omitted FY13 because the majority of the loan applications submitted during FY13 were for Super Storm Sandy, which was an aberration and does not reflect normal activity).

Based on historical data, it is estimated that less than 1 percent of loan applicants will use loan agents that charge fees exceeding \$500 for home loans and \$2,500 for business loans. Therefore the estimated number of respondents is 162.

16,246 approvals x 1 percent x .083 hours = 13.48 hours
13.48 hours x \$33.30 per hour (GS-12, Step 1, which is the average wage for skill required) = \$449.02

<u>Total Respondents/responses</u>	
159 (7a) =	10,500
159 (504) =	840
159D =	<u>162</u>
Total Respondents/responses	11,502

<u>Total Burden Hours for Form 159</u>	
159 (7a) =	871
159 (504) =	66.4
159D =	<u>13</u>
Total Hours	950.4

<u>Total Cost</u>	
159 (7a)	\$21,200
159 (504)	1,616
159D	<u>449</u>
Total Cost	\$23,265

13. Estimate of Total Annual Cost

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.

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 form is filed with the application in the event there is a complaint by the applicant. Historically, SBA has received less than 1% complaints. The Fiscal Transfer Agent is the repository for the documents.

Form 159D

162 responses @ .5 hours for reviewing = 81 x \$33.30 (hourly wage of average skill required, GS-12, step 1) = \$2,697.30

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 fluctuates due to the inclusion of the disaster program directly tied to the instance of declared disasters

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 all three versions of the form.

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.