

Supporting Statement for Requests for OMB Approval
Under the Paperwork Reduction Act and 5 C.F.R. § 1320
SBA Form 912, Statement of Personal History

A. Justification

1. Circumstances necessitating the collection of information. The Small Business Administration (SBA) requires an individual seeking assistance on behalf of a business to provide sufficient information for SBA to make a character or criminal history determination. In making guaranteed loans under Section 7(a) of the Small Business Act (“the Act”), 15 U.S.C. § 636(a), SBA is specifically authorized to verify an individual’s criminal history, or lack thereof, under section 7(a)(1)(B). 15 U.S.C. § 636(a)(1)(B). SBA is also 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 U.S.C. §§ 634(b)(11), and 687b(a) respectively.

SBA has promulgated regulations through notice and comment rulemaking based upon the above authorities, identifying good character as an element of credit worthiness and eligibility for assistance from, or in participation with, SBA. The Agency makes this character determination based upon information developed from the responses given by applicants on SBA Form 912. The regulations for making character determinations are found in Title 13 of the Code of Federal Regulations at Sections 115.18(c) (Surety Bond Guarantee Program), 120.110(n), 120.150(a) (Business Loan Programs), and 124.203 (Section 8(a) Business Development Program). These regulations are further explained in SBA Standard Operating Procedures (SOP) SOP 50 10 5(H), Subpart B, Chapter 2, Paragraph III.D.3.n iv, (7(a) Loan Program) and Subpart C, Chapter 2, Paragraph III.D.3.n iv. (Certified Development Company Loan Program), 50 45, Chapter 4(3)(a)(1) (Surety Bond Program), and 80 05 3, Chapter 2A(12) (Section 8(a) Business Development Program). SBA also uses Form 912 in its Disaster Loan Program. See, SOP 50 30 6, at Paragraph 74.

SBA is proposing several revisions to SBA Form 912, while ensuring the form collects information most pertinent to SBA’s character determination duties.

Revision 1. SBA is revising the instructions to direct applicants to fully complete SBA Form 912.

Revisions 2—3. SBA is splitting Question 1 into two sub-parts, “1(a)” and “1(b).”

Revision 4. SBA is adding “and e-mail” to the section requesting the applicant’s name (or firm name) and address (street, city, state, and ZIP code).

Revision 5—6. SBA is revising Question 2 and the unnumbered question asking for “Name and Address of participating lender or surety co.” to enhance accuracy and clarity of the form.

Revision 7. SBA is revising Question 5. The proposed text will ask applicants if they have U.S. citizenship; if the answer is “No,” applicants are asked to provide either their alien registration number if they are a Lawful Permanent Resident, or the country of their citizenship if they are not a Lawful Permanent Resident.

Revision 8. SBA is instructing applicants that they “must” furnish details on a separate sheet if they answer “Yes” to Questions 7, 8, or 9 on Form 912.

Revisions 9—10. SBA is changing “plead” to “pleaded” to enhance the readability of the form at Question 9.

Revision 11: SBA is moving the burden information from the bottom of Page 1 to the top of Page 2.

Revision 12. SBA is revising the edition information at the bottom of Page 1.

2. How, by whom, and for what purpose the information will be used. SBA offices, including the OIG, use the information collected on SBA Form 912 in connection with character reviews of applicants for SBA financial assistance or other SBA program participation. When an applicant, or individual affiliated with a company applying for SBA assistance, indicates a criminal record that may affect program eligibility, the OIG requests the criminal history of the applicant from the Federal Bureau of Investigation (FBI). The FBI then conducts a check of its criminal history databases and advises SBA of any unfavorable information. In such cases, Block 10 of SBA Form 912 functions as a waiver of rights under the Privacy Act with respect to the requested information, allowing SBA to obtain information from the FBI.

OIG includes a dollar total representing the aggregate amounts of payments avoided as a result of SBA’s character determinations using the information collected with SBA Form 912 in its Semiannual Reports to Congress. These OIG reports are published on the OIG’s website at:

<http://www.sba.gov/ig/onlinelibrary/Sarc/index.html>.

3. Technological collection techniques. The current version of the form is available for download through SBA’s website at http://www.sba.gov/sites/default/files/tools_sbf_finasst912.pdf. SBA’s online form is a fill-able PDF, which the respondent must print, sign and submit to

the SBA. As SBA further modernizes its systems, the Agency may move toward a fully electronic process.

4. Avoidance of duplication. With the exception of the 7(a) Loan Program and the Disaster Program, SBA programs identified in paragraph A.1 only duplicate a request for basic identification information in questions 1 through 4 and 6. The 7(a) Loan Program and Disaster Program loan applications request screening information regarding past criminal involvement to determine whether a full Form 912 is required.
5. Impact on small businesses or other small entities. SBA Form 912 is designed to minimize the burden on respondents:
 - a. It calls only for basic identification information and a “yes” or “no” response to no more than five questions.
 - b. It requests follow-up information only if the respondent answers “yes” to one or more of the three criminal history questions or “no” to the U.S. citizen question.
 - c. It consolidates functions, combining on one page the information gathering and the authorization for SBA to obtain information from the FBI.

Finally, the burden imposed by SBA Form 912 is offset by the fact that completion is voluntary. Only respondents seeking a loan or other benefit from SBA need to complete it.

6. Consequences if collection of information is not conducted. Failing to collect the information requested on SBA Form 912 would increase SBA’s risk of making loans and providing benefits to persons of poor character and persons that are prohibited by law from receiving SBA assistance. SBA’s use of Form 912 has been cited as a significant prevention measure by the President’s Council on Integrity and Efficiency, now known as the Council of Inspectors General on Integrity and Efficiency. For the period from April 1, 2015 through September 30, 2015, the OIG reported that the use of this form resulted in over \$8.8 million worth of business loans and \$303,000 worth of disaster loans not being made due to adverse criminal background information. During the same period, SBA used information obtained through SBA Form 912 to deny 6 applications for participation in the 8(a) Business Development Program due to past criminal activity.

Eliminating the form would cause both practical and legal problems. The FBI would not provide the criminal background information needed without a substitute form. Even if this problem could be overcome in some manner, in the absence of an admission of a criminal history by applicants for SBA assistance, SBA would have to request criminal history information on all applicants and program participants. This alternative has been rejected in the

past as impractical due to excessive burden, and as unduly intrusive into individuals' privacy.

7. Existence of special circumstances. The form requests what is generally considered "confidential" information regarding an arrest record and criminal history. There are no other "special circumstances" of the sort mentioned in the Instructions for this questionnaire.
8. Solicitation of Public Comment. On October 22, 2015, SBA published a 60 day solicitation notice and request for comments (80 FR 64048). The comment period closed December 21, 2015; no comments were received.
9. Payment or gifts. Respondents do not receive payments or gifts for providing information on SBA Form 912. SBA uses the form, and other information, to determine eligibility for financial assistance and program participation.
10. Assurances of confidentiality. The standard protections of the Privacy Act of 1974 apply to the use of the information obtained, but SBA offers respondents no other specific assurances of confidentiality.
11. Questions of a sensitive nature. SBA Form 912 includes several personal identifiers such as social security number, name, date of birth and place of birth. This collection of information also contains questions of a sensitive or confidential nature, specifically, information about criminal history. The form explains that disclosure of an individual's social security number is voluntary. The other personal identifiers are required for a benefit, e.g., a loan. As indicated in the answer to question A.1, the information is needed to make sound decisions about the character of borrowers. Without such information, the Government may guarantee loans to, or do business with, ineligible parties. Privacy Act protections cover the information provided. Only SBA personnel with a need to know, i.e., those involved in the decision-making process are provided access to the information. SBA has instituted procedures to protect confidentiality to the extent permitted by law. Only summary, aggregate data, not individual information, are provided in public reports. 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. See 74 Fed. Reg. 14890 (April 1, 2009) for other published routine uses.
12. Estimate of the hourly burden of the collection of information. Although SBA believes the revision to Form 912 will reduce the number of responses from the regulated community and the number of Form 912s processed by SBA OIG, the Agency is retaining its figures from previous Paperwork Reduction Act submissions as a conservative burden estimate. Applicants for SBA loans

or other assistance have completed approximately 142,000 SBA Forms 912 annually since FY 2007. Form 912 takes approximately 15 minutes to complete, even with the proposed minor modifications. The form is normally submitted only once by each applicant for loan assistance or program participation. Therefore, we estimate that the burden imposed on the public by use of SBA Form 912 is 35,500 hours per year. (142,000 responses x ¼ hour = 35,500 hours.)

SBA estimates that the average salary of the respondent providing this information is equivalent to a GS-11 loan officer's salary, at an hourly rate of \$30.98. SBA has previously used the \$29.22 hourly cost burden for SBA Form 1919, but is adjusting that estimate in this submission for inflation and an increase in the hourly pay rate on the General Schedule. The respondent populations for those forms are similar to the respondent population for SBA Form 912. We believe, therefore, that the \$30.98 hourly cost rate is reasonable for the SBA Form 912. The cost to the average respondent for completing this form is estimated at \$7.75 ($\$30.98 \div \frac{1}{4} \text{ hour} = \7.75). The annual cost to all respondents would be 35,500 hours at \$30.98 per hour = \$1,099,790.

This cost should be considered in the context that the only citizens asked to complete the form are those seeking some type of benefit from SBA and who have something to disclose.

13. Estimate of total annual cost burden to respondents or record keepers from collection of information. There is no additional cost to respondents.
14. Estimated annualized cost to the Federal government. In FY 2015, SBA spent \$78,936.75 for the cost of FBI background investigations. Form SBA 912 takes approximately 30 minutes to process and is reviewed by an agency employee with an average grade of GS-10. We estimate handling roughly 3,100 name and fingerprint checks in the upcoming year. The estimated annualized cost to the Federal Government is, therefore, \$120,646.75 (\$78,936.75 payable to the FBI plus \$43,710 (calculated by GS-10 hourly rate of \$29.20 X 1550 hours) in employee salary costs.
15. Explanation of program changes or adjustments in Items 13 or 14 on OMB Form 83-I. The estimates for items 13 and 14 on Form 83-I are consistent with SBA's prior submission.
16. Collection of information whose results will be published. The number and dollar amount of assistance declined for reasons related to character are reported in the SBA OIG Semiannual Reports to Congress. The reports are published to cover the periods October 1 through March 31 and April 1 through September 30 of each fiscal year. Additionally, the aggregate data is reported by OIG in its GPRA Annual Performance Plan results. The data

included in these reports are tabulated and maintained by the OIG Investigations Division.

17. Expiration date for collection of information. Not Applicable.

18. Exceptions to certifications in Block 19 on OMB Form 83-I. Not Applicable.

B. Collection of Information Employing Statistical Methods

This collection of information does not employ statistical methods.