

**OMB Clearance for SBA Forms 1086/1502
(Secondary Participation Guaranty Agreement)
Control No: 3245-0185**

Introduction

The SBA secondary market for 7(a) loans is an evolving \$30.5 billion dollar market designed to facilitate the availability of capital to lenders serving the small business community. When a lender sells the guaranteed portion of a SBA-guaranteed loan, it is required to use SBA Form 1086, Secondary Participation Guaranty Agreement, for the transaction.

SBA Form 1086 serves as the legal contract between the parties to the secondary market transaction. These parties include: the lender, the investor, SBA, and SBA's Fiscal and Transfer Agent (FTA). In completing SBA Form 1086, the following information is collected: information on the terms of the sale (for example; interest rate, fees, and price); lender's name and contact information; investor's name, contact, and taxpayer identification information; borrower's name and contact information; SBA servicing office name and location; date lender executed SBA Form 750, Loan Guaranty Agreement (Deferred Participation) (SBA's blanket lending agreement); loan information (note date, original loan amount, outstanding principle balance); date SBA guarantee fee paid; loan disbursement dates; date interest paid to; interest calculation method; fees; date of lender legend on note; and certain disclosures, some of which are required by statute (e.g., expected yield). The data listing above consists of most of the information collected, but it is not exhaustive.

In signing SBA Form 1086, the lender agrees to, in the future, collect and submit information on loan payments to SBA's FTA monthly. That information is collected on SBA Form 1502. The collection of information is necessary to determine that the loan is being sold on the secondary market. Collection is also necessary to identify the lender that made and sold the loan. SBA Form 1502 collects monthly borrower payment information and loan status information, as well as, SBA ongoing fee payments for all 7(a) loans.

Summary of Changes:

SBA has not made any changes to Form 1502 but has made several changes to the Form 1086. Some of the changes merely correct or clarify language throughout the document but SBA also made the following substantive changes: removed all references to SBA Form 1084 and Form 1085 because they are no longer used; corrected allocation of part of the late payment penalty; tightened the response time frames for lenders, investors, the FTA and SBA for loan servicing actions and prepayments; renamed 1502 elements; reordered prepayment procedure; and set forth new language for lender demand deposit accounts in which borrower payments are deposited prior to remittance to the FTA.

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.

15 U.S.C. § 634(f)(1) authorizes lenders to sell the guaranteed portion of SBA loans according to SBA's regulations and procedures governing secondary market sales. (copy of relevant statutory provisions attached) SBA secondary market transactions are governed by the contract between secondary market participants (SBA Form 1086-Secondary Participation Guaranty Agreement), the Secondary Market Program Guide, and SBA regulations codified at 13 CFR Part 120 Subpart F – Secondary Market. <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=786320be5971b87f5c1dce1992e21c59&mc=true&n=sp13.1.120.f&r=SUBPART&ty=HTML>. These regulations and SBA's Secondary Market Program Guide require lenders selling loans into the secondary market to execute SBA Form 1086-

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.

Form 1086:

SBA uses the information collected on SBA Form 1086 to facilitate and administer secondary market transactions in accordance with 15 U.S.C. § 634(f)(3) and to satisfy the statutory certification and disclosure requirements provided in 15 U.S.C. § 634(f)(1). SBA also uses this information to assist in monitoring the program and in determining whether the program is meeting its objectives. In addition, SBA uses the information collected to comply with the requirement in 15 U.S.C. § 639(h) to submit an annual report to Congress on the secondary market program. Lenders and investors use the information to analyze and evaluate their transactions. Finally, as SBA Form 1086 sets forth many of the rights and responsibilities of the parties to the secondary market transaction, all parties use the form as legal guidance with respect to the rights and responsibilities of each party in the transaction. Ultimately the form may be used to enforce those rights and responsibilities.

Form 1502:

SBA uses SBA Form 1502 to collect borrower payment information and the lender's ongoing guaranty fee that is due to SBA. The agency uses the information collected to monitor the loan portfolio and determine the status of all 7(a) loans. The FTA uses SBA Form 1502 to allocate funds received from the lender on loans sold in the secondary market.

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.

The SBA Forms 1086 and 1502 are currently available to the public in an electronic format on the website of SBA's fiscal and transfer agent. The completed SBA Form 1502 can be submitted electronically. The loan information contained in SBA Form 1086 can be submitted electronically. The Signature Page of SBA Form 1086 has to be submitted in hardcopy.

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.

This is the only source available to document initial secondary market sales activities. The information collected is unique to the individual secondary market sale transaction.

The SBA Form 1502 captures borrower payment activity for each loan associated with that particular lender, and details the payment streams and program guarantee fees remitted by lenders to the FTA in connection with their participation in the 7(a) loan program. Each monthly submission represents transaction data that is different from the prior month's and is not available from other sources.

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 Form 1086 information is collected from lending institutions participating in the secondary market program. While the major portion of SBA secondary market sales volume accrues from large lenders, a number of small lenders also participate in the secondary market program. However, SBA Form 1086 only requires the minimum amount of information that is necessary to provide investors with sufficient data to make informed decisions; to comply with secondary market reporting requirements; and to facilitate an efficient secondary market program in general. SBA Form 1502 is submitted by all 7(a) lenders, some of which may also be deemed small entities. As is the case with SBA Form 1086, the information collected has been reduced to the minimum data necessary to monitor individual loan status and evaluate overall program performance.

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.

If SBA did not collect the information on SBA Form 1086, the Agency would risk not administering and facilitating the program in accordance with 15 U.S.C. § 634(f)(3) and could not report on the program annually as required by 15 U.S.C. § 639(h). In addition, investors would not have sufficient information to make informed decisions to invest, as investors rely on the information disclosed in SBA Form 1086. This could prevent the program from operating and meeting its objectives of providing liquidity to lenders and enabling lenders to further expand small business access to capital on reasonable terms and maturities to improve our nation's economy. Finally, because SBA Form 1086 sets forth many of the legal rights and responsibilities of the parties involved with the secondary market sale of the guaranteed portion of SBA loans, failure to collect the information could result in litigation to establish the terms, rights, and responsibilities of the parties.

With regard to SBA Form 1502, collection of this information provides SBA with monthly payment data on loans with an outstanding government guaranty and serves as a mechanism for lenders to remit guaranty fees. Failure to collect this information could impair the Agency's efforts to (a) properly evaluate and manage the program risk attributed to the loans made by its lender participants; and (b) to ensure guaranty fees are collected in a uniformly consistent manner from all lenders.

7. Existence of special circumstances.

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

Collection of information could not be conducted less frequently than one time per transfer transaction. Lenders submit SBA Form 1086 on a loan by loan basis. No other special circumstances exist to cause an information collection to be conducted in the manners referenced in question #7.

Information contained on SBA Form 1502 is captured monthly in order for SBA to monitor and manage the aggregate financial risk of its 7(a) loan portfolio. If information was collected less frequently or not at all, SBA would have outdated and inadequate data to make program decisions.

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.

The required public comment notice was published in the Federal Register on August 15, 2016, at 81 FR 54174. The comment period ended on October 14, 2016; no comments were received. See Attachment – Federal Register Notice

9. **Payments or gifts.**

Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Neither payment nor gift will be provided to the respondents.

10. **Assurances of confidentiality.**

Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No assurance of confidentiality is expressly provided to respondents ; however, any confidential or privileged information that is collected will be protected to the extent permitted by law, including but not limited to the Freedom of Information Act, 5 U.S.C. § 552 and the Right to Financial Privacy Act, 12 U.S.C. § 3401.

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.

SBA collects the Registered Holder’s tax identification number on SBA Form 1086 in order to determine compliance with IRS backup withholding requirements.

The data collected on SBA Form 1502 includes small business borrower loan payments of principal and interest, other loan terms and conditions, and the associated loan numbers. Such data is used to determine the payment status of the loans held by the lender and to assess the credit risk for the Agency as represented by the payments, or lack thereof reported by SBA lenders.

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 total amount of time spent annually to complete this data collection (Forms 1086 and 1502) is 60,000 hours. SBA estimates that completion of SBA Form 1086 takes no more than 1.0 hour per response. There are about 12,000 loans sold on average per year. The additional 48,000 hours estimated in this data collection centers on an allotment of time for the 4,000 active lenders to update the status of each loan at 1 hour per month per SBA

Form 1502. The estimates are based on informal consultation with SBA lenders and with the SBA FTA.

SBA Form 1086 Completion	
Estimated Number of Respondents	625
Estimated Number of Responses	12,000
Hours per Response	1 hour
Total Annual Burden Hours	12,000

SBA Form 1502 Transmission	
Estimated Number of Respondents	4,000
Estimated Number of Responses	48,000
Hours per Response	1 hour
Estimated Annual Burden Hours	48,000

Based on a loan officer's annual salary of \$63,430 broken down to an hourly rate of \$30 per hour, the annual cost to respondents would be 60,000 hours x \$30 = \$1,800,000. The \$63,430 is based on statistics from the Department of Labor Occupational Outlook Handbook Earning Survey.

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.

There are minimal costs other than those outlined in #12 such as photocopying and postage.

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.

The cost to the Federal Government is approximately \$48,000. This assumes a cost for SBA of \$1.00 per response per 1502 submission to process SBA Form 1502 when we receive the monthly 1502 data file from the FTA. The primary cost for processing SBA Forms 1502 and 1086 is related to the cost of our contract with the FTA. The cost for processing batch data received from the FTA is de minimis.

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.

Total burden estimates have increased slightly since the previous submission. There has been an increase in the number of responses for SBA Form 1086 based on an increase in annual loan sales.

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.

Information collected is published in the aggregate as part of the reports SBA is required to submit to the President and Congress annually as mandated by 15 U.S.C. 639. In addition, SBA may publish summary data on an ad hoc basis (e.g., number of loans sold into the secondary market, average terms, etc.)

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.

OMB expiration date will be displayed.

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.

In Section 19 of OMB Form 83-I, item I indicates the use of statistical survey methodology in the collection of information. Because each sale is unique to the underlying loan and its individual terms and because SBA must account for each sale, SBA cannot employ a statistical survey methodology to obtain the required information for the secondary market program. The uniqueness of each sale translates to the uniqueness of each payment stream, so accounting for each SBA Form 1502 cannot employ a statistical survey methodology to obtain the required loan status and payment information.

B. Collections 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 does not employ statistical methods.