

OMB FORM 83-I SUPPORTING STATEMENT

*PAPERWORK REDUCTION ACT SUBMISSION FOR
U.S. SMALL BUSINESS ADMINISTRATION'S (SBA)
SMALL BUSINESS INVESTMENT COMPANY (SBIC) PROGRAM*

INFORMATION COLLECTION 3245-0301

*SBA FORM 1941A: FINANCING ELIGIBILITY STATEMENT – SOCIAL DISADVANTAGE
(Member of a designated group)*

*SBA FORM 1941B: FINANCING ELIGIBILITY STATEMENT – SOCIAL DISADVANTAGE (Not
a member of a designated group)*

SBA FORM 1941C: FINANCING ELIGIBILITY STATEMENT – ECONOMIC DISADVANTAGE

A. Justification

1. Circumstances necessitating the collection of information.

The Small Business Administration (SBA) licenses and regulates small business investment companies (SBICs). Among current licensees are “specialized” SBICs (SSBICs) that were originally licensed under section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), to invest solely in small business concerns owned by “persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.” Section 301(d) was repealed on September 30, 1996, by Section 208(b)(3) (A) of Title II of the Omnibus Consolidated Appropriations Act of 1997 (Pub. L. 104-208); however, the repeal provision provided that SBA did not have to “cancel, revoke, withdraw, or modify any SSBIC licenses that had been issued prior to September 30, 1996. Currently there are nine active SSBICs in the SBIC program. Prior to providing financing to a small business, each remaining SSBIC must comply with section 308(h) of the Act, which requires it to obtain a certification from the small business concern that the company meets the eligibility requirements of the SSBIC program. Each SSBIC must also certify it reviewed the information related to the application for assistance and that such information supports the small business company’s eligibility.

13 CFR 107.50 sets forth the regulatory definition of a “Disadvantaged Business” that is eligible to receive financing from an SSBIC. Additional criteria for the determination of social or economic disadvantage are set forth in 13 CFR 124,103, SBA Policy and Procedural Release #2017, as summarized in Appendix 1 of each of Forms 1941A, B and C.

SBA seeks OMB’s approval to extend this collection of information, without revision, but with technical modifications to make the forms consistent with other approved information collections used in the SBIC program. Specifically, SBA has modified language in the forms to more clearly articulate:

- the “Use of information” and “Instructions for submitting completed form”;
- use of the terms “Applicant” and “Licensee”;
- fines and penalties that may be imposed on program participants for making false statements, provided in each of the “Warnings” to certifying Applicants and Licensees (fines and penalties have not changed); and,
- update SBA contact information for questions or comments concerning the estimated burden or other aspects of the information collection.

2. How, by whom, and for what purpose information will be used.

A small business concern can qualify as a Disadvantaged Business if it is at least 50 percent owned, controlled and managed on a day-to-day basis by a person or persons who qualify as either socially or economically disadvantaged. SSBICs and Applicants use SBA Form 1941A, B or C, as appropriate, to certify that the small business concern qualifies for assistance from an SSBIC because of social or economic disadvantage experienced by the business owner(s).

The completed form is retained by the SSBIC in its files as required by section 308(h) of the Act and 13 CFR 107.610. Completed forms are reviewed periodically by an SBA examiner as part of his/her examination of the SSBIC, which is required by statute to occur at least biennially (15 U.S.C. Section 687b(c)). SBA conducts these examinations pursuant to the statutory requirement of section 310(c) of the Act, and 13 CFR 107.690. The purpose of the examination as provided by statute is to determine, in part, whether or not the SSBIC has engaged “solely in lawful activities and those [activities] contemplated” by title III of the Act.

3. Technological collection techniques.

SBA Form 1941A, B and C are available to both Applicants and SSBICs on SBA’s web site: (<http://www.sba.gov/content/sba-form-1941a-financing-eligibility-statement-social-disadvantage-individuals-who-are-members-designated-group>; <http://www.sba.gov/content/sba-form-1941b-financing-eligibility-statement-social-disadvantage-individuals-who-are-not-members-designated-group>; <http://www.sba.gov/content/sba-form-1941c-financing-eligibility-statement-economic-disadvantage>). No provision has been made for electronic submission of the form, because it is retained by the SSBIC in its own files and generally only provided to SBA during an on-site visit.

4. Avoidance of Duplication.

SBA Forms 1941A, B and C are self-certifications of eligibility for SSBIC financing. This information is not reported in any other format. Therefore, there is no duplication of information with this form.

5. Impact on small business or other small entities.

Applicants asked to complete the form are small businesses, but the impact is not significant. The number of small business concerns receiving SSBIC financing has continued to decline with the decline of active SSBICs. SBA Forms 1941A, B and C have been designed to capture the minimum amount of information necessary to determine compliance with the Act and SBA regulations.

6. Consequences if collection of information is not conducted.

Without a certification of Applicant’s eligibility, businesses that do not conform to SBA criteria could benefit from a program created to assist only disadvantaged small businesses.

7. Existence of special circumstances.

Applicants are required to complete SBA Form 1941A, B or C prior to the provision of assistance by an SSBIC. The SSBIC, in turn, will certify that the small business does qualify as a Disadvantaged Business, based on all the information available to the SSBIC. Since the form must be completed in conjunction with each financing of a small business, the

frequency of collection may be more than quarterly. In SBA's experience, this procedure is necessary to ensure that the company receiving financial assistance is eligible. In addition, collection of the information prior to the provision of financial assistance is necessary to meet the statutory requirement for certification of a small business's disadvantaged status pursuant to section 308(h) of the Act.

8. Solicitation of public comment.

A notice was published in the Federal Register on Tuesday, November 1, 2016, 81 FR 75896. The comment period closed on January 3, 2017. No comments were received.

9. Payment or gifts.

No payments or gifts are provided to respondents.

10. Assurance of confidentiality.

Assurances of confidentiality to the extent permitted by law are provided to Applicants of SBIC financing responding to this collection. SBA Forms 1941A, B and C, include confidential financial data, which is protected from disclosure under the Freedom of Information Act; specifically, exemptions 4, 6 and 8, which allow SBA to withhold privileged or confidential financial data on individual companies. Records are maintained under conditions designed to preclude access by persons other than Agency personnel with a need to know.

11. Questions of a sensitive nature.

SBA Form 1941 A, B and C request confidential business and financial information, as well as information that may be considered sensitive (e.g., disadvantage experienced in connection with race/ethnicity, physical disability). SBA considers this information essential to the fulfillment of the requirements of the Act, which requires that companies seeking financial assistance from SSBICs provide such information to support their eligibility for SSBIC financial assistance. The information provided will be used for that purpose only, as explained on the forms. The information collected will be protected in accordance with the Privacy Act and the Freedom of Information Act. This information is needed to fulfill SBA's statutory responsibilities with respect to SSBIC examinations; it is not retrieved by individual identifiers.

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

There are currently 9 active SSBICs remaining that could potentially be required to respond to this information collection, per small business financing. However, the amount of time for an authorized official of an SSBIC to certify by signing and dating each submission is negligible, as each SSBIC would be reasonably assured of a small business's qualification for financing via normal due diligence, before getting to the point of negotiating a financing, and especially before the point of requiring the small business to certify such qualification via SBA Forms 1941 A, B, or C. Therefore, SBA does not include the SSBIC's time and cost in calculating the estimated burden. SBA estimates that approximately 5-10 new small businesses may be required to provide the information to one or more of the remaining 9 SSBICs for an estimated total of 10 respondents per year. Since there is one submission per small business and SSBIC, the estimated total number of responses is 10.

The estimated completion time is derived from estimates for similar forms used in SBA's 8(a) program (for which applicants must demonstrate social and economic disadvantage).

The estimated hourly cost to respondents is calculated using the mean hourly wage of \$36.40 (mean annual salary rate of \$75,710) for an accounting manager of a company or enterprise (rate obtained from the 2015 Bureau of Labor Statistics, Occupational Employment Statistics). Again, the burden on the authorizing official of an SSBIC is de minimus and therefore not included in the estimated cost burden.

Estimated number of respondents = 10

Estimated number of responses per respondent = 1

Estimated hours to complete form = 1.5 hours

Total burden hours = 15

Estimated total hour cost = [$\$36.40 \times 1.5$] $\times 10 = \$546$

13. Estimate of total annual cost burden.

There is no annual cost burden to respondents other than the cost of the hour burden provided in item 12.

14. Estimated annualized cost to the Federal government.

The information collected in SBA Forms 1941A, B and C is retained by each SSBIC in its own files. SBIC program examiners review the information collected at the time of their examination of an SSBIC. The review of these forms is a very small part of the total examination process. As a result, the cost to the Federal government is negligible.

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

Decrease in burden estimates reflect the anticipated number of respondents based upon the current number of active SSBIC licensees.

16. Collection of information whose results will be published.

Not applicable. Results of this collection of information will not be published.

17. Expiration date for collection of information.

Not applicable. The expiration date will be displayed.

18. Exceptions to certifications in Block 19 on OMB Form 83-I.

Not applicable. There are no exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB 83-1.

B. Collection of Information Employing Statistical Methods

This collection of information does not employ statistical methods.

Attachments:

- Authorizing Statutory and Regulatory Provisions
- Federal Register Notice
- SBA Form 1941A: Financing Eligibility Statement – Social Disadvantage (Member of a Designated Group)
- SBA Form 1941B: Financing Eligibility Statement – Social Disadvantage (Not a Member of a Designated Group)
- SBA Form 1941C: Financing Eligibility Statement – Economic Disadvantage