

Supporting Statement
U.S. Small Business Administration
Paperwork Reduction Act Submission
All 7(a), 504, and Disaster Loan Programs
(OMB Control # 3245-0201)

OMB clearance is requested for the following forms:

1. SBA Form 159, Fee Disclosure and Compensation Form - This form combines the following currently OMB-approved forms:
 - a. SBA Form 159(7a), Fee Disclosure Form and Compensation Agreement for Agent Services In Connection With a SBA 7(a) Loan; and
 - b. SBA Form 159(504), Fee Disclosure Form and Compensation Agreement for Agent Services In Connection With an SBA 504 Loan.
2. SBA Form 159D, Fee Disclosure Form and Compensation Agreement.

Introduction:

SBA Form 159

SBA's Office of Financial Assistance (OFA) has made the decision to simplify this collection of information by combining the Form 159(7a) and Form 159(504) into one document named "SBA Form 159." The revised form will serve both the 7(a) and the 504 Loan Programs. The Form 159D will remain a separate collection used for disaster loans.

During the three years the current Forms 159(7a) and 159(504) were in use, suggested improvements were received from sources such as SBA District Offices, SBA's Office of Credit Risk Management, and SBA Lenders who work directly with small business Applicants. This submission reflects changes that were made in response to those suggestions.

Summary of Changes:

SBA Form 159

SBA Form 159(7a) and SBA Form 159(504) were combined and the following changes were made to the new form:

1. Eliminated duplication of information collected by each form;
2. Revised the regulatory citations to include the applicable regulations for both programs in the single revised form;
3. Changed the term "Lender" to the more accurate term "SBA Lender," which is defined in 13 CFR § 120.10 as a 7(a) Lender or Certified Development Company (CDC)."
4. Added citations to applicable SOP and CFR provisions in an effort to reduce replications of information found in Agency regulations and SBA SOP 50 10;

5. Revised the instructions for “Who must complete this form” to more clearly identify the parties that are required to complete the form;
6. Addressed areas on the form that were frequently misunderstood or misinterpreted by:
 - Redesigning the form to group all identifying information and information on compensation paid in one central and summarized location. This promotes transparency, ensures that the Applicant is fully informed of all fees being charged, and allows SBA to more easily carry out the legislative mandate to monitor fees paid by the Applicant or SBA Lender in any matter involving SBA assistance;
 - Adding a field for the SBA Lender to indicate its FIRS number, a unique identifier provided by SBA, in order to assist SBA in properly identifying SBA Lenders with the same or similar names when conducting lender oversight activities;
 - Adding check boxes so that the respondents can readily identify the type of Agent who provided the service and received the fee (e.g., an Agent or the SBA Lender);
 - Expanding the listing of “Types of Agents” to include accountant and consultant, both of whom may be required to complete the form but previously would have had to have been identified as “Other.” This addition helps to clarify the parties required to complete the form;
 - Adding a statement that the Agent may not be compensated by both the Applicant and SBA Lender for the same service. Furthermore, any Agent employed by the SBA Lender must be paid by the SBA Lender and those fees cannot be passed on to the Applicant;
 - Expanding the services provided selections by adding consulting;
 - Providing a check box to indicate that required itemization details are attached when the fee exceeds a pre-determined dollar threshold.
7. Added the following statement to the Applicant’s certification:
 - “Applicant must not sign this form until all required services and fee information is disclosed.”
8. Added the following statements to the SBA Lender’s certification:
 - “The undersigned SBA Lender further certifies that if SBA deems any portion or all of the fees charged in connection with the application for or making of the loan to be unreasonable or prohibited, the SBA Lender agrees to refund that amount to the Applicant.”
 - “The undersigned SBA Lender further certifies that it has consulted the System for Awards Management’s (SAM) Excluded Parties List System or any successor system to ensure that the Agent is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency. SBA Lender also certifies that any fees it has charged is not a standardized amount and all fees charged to the Applicant comply with SBA Loan Program Requirements.”

9. Revised the following statements in the Agent’s Agreement and Certification:

- “The undersigned Agent certifies that the information provided in this form accurately describes the types of services (s)he/it has provided to the Applicant or SBA Lender and the compensation described in this form is the only compensation that has been charged to or received from the Applicant or SBA Lender or that will be charged to the aforementioned parties for services covered by this form.”
 - o The previous version of the form referenced only services provided to the Applicant. SBA Lenders must also disclose fees paid by the SBA Lender for services received from Agents in connection with an SBA loan if those services are not covered by an SBA-reviewed Lender Service Provider Agreement or SBA-approved Professional Services Contract. Therefore, the statement was revised to refer to “compensation that has been charged to or received from the Applicant or SBA Lender.”
- “The undersigned Agent further certifies that if the SBA reviews the fees and deems any portion, or all, to be unreasonable or prohibited, the Agent agrees to refund the amount determined by the SBA to the Applicant.”
 - o The agreement of the Agent to refund the Applicant any amount that may be deemed unreasonable by SBA has been added for clarity and consistency with 13 CFR §§ 103.5(b) and 120.221(a), and SOP 50 10.

SBA Form 159D

There are no changes to this form and it will continue to be used to collect information about Agents and fees paid by Applicants for disaster assistance.

A. Justification

1. Explain the circumstances that make the collection of information necessary.

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.

SBA Form 159

Section 13 of the Small Business Act (15 U.S.C. 642) requires that no loan be made or equipment, facilities, or services furnished by the Administration under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise certify to the Administration the names of any attorneys, agents, or other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Administration for assistance of any sort and the fees paid or to be paid to any such persons.

The implementing regulations for this statutory requirement are provided in 13 CFR Part 103 and 13 CFR §§ 120.221 and 120.222. Agents (as defined in 13 CFR § 103.1) are required by 13 CFR § 103.5 to execute and provide to SBA a compensation agreement showing the

compensation charged for services rendered or to be rendered to the Applicant or SBA Lender in any matter involving SBA assistance.

SBA Form 159D

In addition to Section 13 of the Small Business Act (15 U.S.C. 642), SBA Form 159D requirements are established by the following regulation: 13 CFR § 103.5 requires any agent or packager to execute and provide to SBA a compensation agreement (“Agreement”).

2. How, by whom, and for what purpose will the information 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 form will be used by the 7(a) and 504 SBA loan programs to collect information about Agents, the services they provide, compensation rendered, and who paid the compensation. The information is instrumental to the integrity of the applicable SBA lending programs and is used to monitor the fees charged by Agents and the relationships between Agents and SBA Lenders. The information helps SBA determine, among other things, if Applicants are paying unnecessary, unreasonable, and/or prohibited fees.

SBA Form 159

SBA Form 159 is used by SBA Lenders and loan Applicants to disclose the name of any Agent involved in an application for SBA financial assistance and the fees paid or to be paid to the Agent(s). The form captures information about the Agent, the services provided, the fees paid, and if the fees were paid by the Applicant or SBA Lender. The information is instrumental to the integrity of the loan programs and is used to monitor fees charged to Applicants and SBA Lenders in connection with an SBA loan. It is also used by SBA to monitor relationships between Agents and SBA Lenders and helps SBA to determine, among other things, if Applicants are paying unnecessary, unreasonable, and/or prohibited fees.

The form may be completed at any point during the origination process with submission requirements outlined in the applicable SOP (for 7(a) loans submission must occur after there has been an initial disbursement on the loan and should be submitted in conjunction with a Lender’s 1502 report for the month; for 504 loans the form must be submitted annually in the CDC’s Annual Report). The requested disclosures on the form were re-formulated to ensure that the SBA is collecting all required information in such a way that the data could be used in a meaningful way.

In addition, as part of lender oversight activities, the SBA uses the information on this form and other documents to ensure SBA Lenders are originating loans meeting SBA Loan Program Requirements as it pertains to Applicant fees.

SBA Form 159D

SBA Form 159D collects information from Applicants and Agents that is used by SBA to establish that there is no appearance of unlawful or unethical activity by Agents who receive compensation in exchange for representing Applicants for a SBA Disaster 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 Form 159

Once approved, this form will be available on the SBA website as a PDF (fillable form) (<https://www.sba.gov/document>). SBA Lenders will also be able to assist respondents by generating the form through many third-party software platforms and 7(a) Lenders may generate and submit the form through SBA One.

After respondents complete the form, for 7(a) loans the respondent may submit the form electronically either through SBA One or by emailing the form as a .pdf or .tif file to SBA's Fiscal and Transfer Agent. CDCs will submit the form to SBA electronically as part of their Annual Report.

SBA Form 159D

This form is available on the SBA website as a PDF (fillable form) (<https://www.sba.gov/sites/document>).

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 Form 159

The information collected is unique to each application. All information must be collected by the SBA Lender during the origination of an SBA loan and there are no other sources for this information.

SBA Form 159D

In the SBA Disaster loan program some similar, but not identical, information is collected on SBA Form 5, Disaster Business Loan Application, and SBA Form 5c, Disaster Home Loan Application. Specifically, those forms collect the Agent's name, address, telephone number, and the compensation amount; whereas the purpose of Form 159(D) is to collect detailed information about the services provided, the length of time it took to provide that service, and the amount the

Agent charged for any such service. The information allows SBA to determine whether the compensation amount paid to the Agent is reasonable under the circumstances and is not available elsewhere. The duplicative information is minimally burdensome and facilitates SBA's correlation of Form 159(D) with the correct loan applicant.

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 159

Responsibility for completion of the form primarily resides with the SBA Lender; however, the Applicant and any applicable Agents must take time to review and execute the form. As it is possible that any/all of the respondents may be categorized as a small business, the Agency is cognizant of the burden completing the form places on the respondents. As the revised SBA Form 159 was drafted, the Agency made a concerted effort to ensure the form was more user-friendly without sacrificing its usefulness to the agency.

SBA Form 159D

SBA loan applicants are required to complete this form to identify Agents that receive a financial benefit from representing the applicant for a SBA Disaster (direct) loan. Some of the respondents are small businesses; however, the impact on such small businesses is minimal. Not all borrowers hire Agents; SBA only requires completion of this form when an Agent is receiving compensation from the Applicant.

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.

SBA Form 159

This collection of the information allows the Agency to provide small businesses access to capital in an efficient and timely manner while complying with its statutory and regulatory authority, and maintaining its fiduciary responsibility to the taxpayer. Failure to collect the information would result in SBA's non-compliance with the statutory requirement that it collect information from recipients of financial assistance about compensation paid to Agents and would hinder the Agency's ability to properly monitor the fees being charged in connection with SBA-guaranteed loans. Also, SBA would not be able to properly perform its lender oversight responsibilities and ensure its lending partners are complying with SBA Loan Program Requirements concerning permissible fees.

SBA Form 159D

Failure to collect the form 159D information would result in noncompliance with statutory and regulatory requirements to collection information from recipients of disaster financial assistance about compensation paid to Agents. In addition, if not completed, the Applicant risks being charged unreasonable fees.

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 April 17, 2017, at 82 FR 18202. 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.

No gifts or payments are provided to any 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.

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 the hourly burden of the collection of the information.

Provide estimates of the hour burden of the collection of information, as 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.

As explained in detail below, the total estimated number of respondents for this collection of information is 40,411; total estimated hourly burden is 3,364 hours; and the total estimated hour cost burden is \$84,170.

SBA Form 159

SBA Form 159 is only required when fees are paid in connection with an application for SBA financial assistance. In some instances, more than one form may be required, as a separate form is required for each Agent who performed services and will be paid in connection with the application. The estimated number of annual Form 159 remittances, is based on the number of Forms 159(7a) submitted to the SBA Fiscal Transfer Agent in FY 2017 (34,000) compared to the number of 7(a) loans approved in FY 2017 (62,430). SBA used the ratio of Form 159(7a) submissions to 7(a) loan approvals, plus a moderate growth factor, in order to estimate the number of future submissions of Form 159 for 7(a) loans. Therefore, assuming approximately 68,000 7(a) loans are approved in FY18, approximately 37,000 Forms 159 will be submitted for 7(a) loans.

It is estimated that approximately 6,000 504 loans will be generated in FY2018. It is reasonable to assume that the percentage of loans involving loan agents in the 504 program will be in line with the 7(a) program. Therefore, is estimated that 3,200 Forms 159 will be completed for the 504 loan program

Estimated cost is determined by taking the salary for a GS-11, Step 1 Federal employee's annual salary of \$53,062 or \$25/ hour (rounded to the nearest whole dollar) based on the 2018 General Schedule (Base). The GS-11 pay grade is utilized in preparing this estimate as it is equivalent to the position normally held by a white-collar employee in a mid-level position.

<i>Estimated Number of Forms 159 collected annually for 7(a) and 504 Loans</i>			
A	FY2018 (estimated)		40,200
<i>Estimated Burden Hours</i>			
B	Number of minutes to complete form		5
C	Total number of minutes to complete form (annually)		201,000
D	Converted to hours	C/60 minutes	3,350
E	GS-11, Step 1 loan officer's hourly rate		\$ 25
F	Annual cost to respondents – Form 159	D x E	\$ 83,750

SBA Form 159D

This form is only required if the fee paid to each agent exceeds \$500 for a disaster home loan and \$2,500 for a disaster business loan. It is estimated that only 1% of disaster loans approved annually require the use by the applicant of an agent or loan packager. In calculating the number of disaster loans approved annually, FY13 has been omitted because the majority of the loan applications submitted during FY13 were for the superstorm Sandy, which was an aberration and does not reflect normal activity. The average number of disaster loans approved annually over the last five years is 17,102. Therefore, the estimated number of submissions of Form 159D is 171.

The hourly rate for completion of the Form 159D is estimated as comparable to a Federal employee's salary at the GS-12, Step 1 pay grade based on the 2018 General Schedule (Base) and rounded to the nearest dollar.

<i>Estimated Number of Forms 159D collected annually for disaster loans</i>			
A	FY2017 (Estimated)		171
<i>Estimated Burden Hours</i>			
B	Number of minutes to complete form		5
C	Total number of minutes to complete form (annually)		855
D	Converted to hours	C/60 minutes	14
E	GS-12, Step 1 loan officer's hourly rate		\$ 30
F	Annual cost to respondents – Form 159(D)	D x E	\$ 420

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.

SBA Form 159 and Form 159D

There is no appreciable cost burden other than as reported in number 12 above for respondents related to either of these forms. The SBA Lender must maintain the original of the Form 159 in

the respective loan files; however, the cost to retain the forms does not materially contribute to the overall file retention cost. The Form 159D is maintained by SBA. The SBA maintains the form in the respective loan file; however, the cost to retain the form does not materially contribute to the overall file retention cost.

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.

SBA Form 159

The Form 159 is reviewed by analysts or contractors in the Office of Credit Risk Management. It is assumed that the average salary of the analysts reviewing the forms is at the GS-13, Step 1 pay grade, based on the 2018 General Schedule (Base) and rounded to the nearest dollar. There is no special equipment or overhead costs required to perform the review of Form 159. On average, the review of a Form 159 takes 30 minutes. Therefore, the estimated annualized cost to the federal government for Form 159 is \$723,600.

<i>Estimated Number of Forms 159 reviewed annually for 7(a) and 504 loans</i>			
A	FY2018 (estimated)		40,200
<i>Estimated Burden Hours</i>			
B	Number of minutes to review form		30
C	Total number of minutes to review form (annually)		1,206,000
D	Converted to hours	C/60 minutes	20,100
E	GS-13, Step 1 analyst’s hourly rate		\$ 36
F	Annual cost to federal government – Form 159	D x E	\$ 723,600

SBA Form 159D

Generally, the fee, if any, is below the threshold requiring the SBA Form 159D. In cases where the form is completed, it takes approximately 30 minutes to review. It is assumed that the average salary of the SBA analysts reviewing the forms is at the GS-12, Step 1 pay grade based on the 2018 General Schedule (Base) and rounded to the nearest dollar. There is no special equipment or overhead costs required to perform the review of Form 159D. Therefore, the estimated annualized cost to the federal government for Form 159D is \$2,656.

<i>Estimated Number of Forms 159D reviewed annually for disaster loans</i>			
A	FY2018 (estimated)		171
<i>Estimated Burden Hours</i>			
B	Number of minutes to review form		30
C	Total number of minutes to review form (annually)		5,130
D	Converted to hours	C/60 minutes	85.5
E	GS-12, Step 1 analyst's hourly rate		\$ 30
F	Annual cost to federal government – Form 159D	D x E	\$ 2,565

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.

Form 159

Changes in item 13 on the OMB Form 83-I are related to an increase in the total number of responses. The total number of responses for SBA Form 159(7(a)) and 159(504) has significantly increased from SBA's last PRA submission due to increased efforts by the Agency to clarify the policy that requires SBA Lenders and Agents to complete and submit the Form 159, as well as enhanced oversight and enforcement efforts to ensure that SBA Lenders and Agents are complying with the policy. Although monitoring of this reporting is an ongoing effort, SBA believes that the estimate in this PRA submission is much more reflective of realistic numbers of annual respondents and form submissions than in the past.

Form 159D

The number of responses for SBA Form 159D has increased slightly due to recent disasters causing increased loan volume.

Form	Paperwork Reduction Act Submissions					
	Annual Responses (#13a)		Estimated Burden		Hours Requested (#13c)	
	2018	2014	2018	2014	2018	2014
159	40,200	11,340	5	5	3,350	937
159(D)	171	162	5	5	14	13
Total	40,371	11,502	-	-	3,364	950
Difference	28,869		N/A		-2,414	

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.

Except for summary data that may be included in various Agency reports this information will not be published.

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.

This is not applicable; expiration date will be published.

18. Exceptions to the certification on 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.

There are no exceptions.

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 is not applicable.