

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 3245-0109
SBA FORM 857: REQUEST FOR INFORMATION CONCERNING PORTFOLIO
FINANCING*

A. Justification

1. Circumstances necessitating the collection of information. The Office of Investment and Innovation (OII) of the Small Business Administration (SBA) is required to examine Small Business Investment Companies (SBICs) pursuant to Section 310 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. Section 687b, and the implementing regulations at 13 CFR 107.690-691. The purpose of the examination, as provided by statute, is to determine, in part, whether or not an SBIC has engaged “solely in lawful activities and those [activities] contemplated” by Title III of the Small Business Investment Act. As part of its effort to meet this statutory requirement, SBA’s Office of SBIC Examinations collects information on SBA Form 857, Request for Information Concerning Portfolio Financing, as a means of gathering independent information relevant to each SBIC examination, which is required by statute to occur at least biennially (15 U.S.C. Section 687b(c)).

SBA seeks OMB’s approval to extend this collection of information (approved under control number 3245-0109). The form has been revised to request information regarding application, closing and financing fees, and expense reimbursements paid in connection with SBIC financing received by the small business, as well as information relating to management consulting and similar services provided to the business. See 13 CFR § 107.860 and § 107.900 respectively. Although the fees and expenses are not new, SBA has placed an emphasis on compliance in this area, and desires outside confirmation about the amounts and nature of the amounts charged. Minor, non-substantive changes to other sections have also been made, including an update of the SBA logo.

2. How, by whom, and for what purpose information will be used. SBA Form 857 is used by an SBIC examiner as part of an examination of an SBIC. In advance of the scheduled on-site part of the exam, the SBA examiner mails the form directly to a sample of portfolio concerns (usually 5 to 10 small businesses) that received financing by the SBIC being examined. The voluntary responses are used by the SBA examiner to verify information reported or otherwise provided to SBA regarding the SBIC’s financing activities and/or to obtain additional insight from the portfolio company concerning the nature of its financing arrangement with the SBIC. The information collected by SBA Form 857 assists SBIC examiners in determining an SBIC’s compliance with various statutory and regulatory provisions, including those governing conflicts of interest, maximum allowable interest rates, and use of financing proceeds by portfolio companies.

3. Technological collection techniques. This information collection does not employ technological collection techniques. SBIC examiners select the small businesses (respondents) from the portfolio of the SBIC being examined and contact them directly via mail with the information collection and an accompanying, self-addressed envelope for returning the completed form. Each respondent is selected based upon its relationship with the SBIC being examined, and each respondent is in direct contact with an SBIC examiner at the time the information is requested and collected. SBA believes this method is appropriate, as it is typical of an auditor's request for confirmation of information by third parties.
4. Avoidance of Duplication. Although some of the information covered by the Form 857 is provided to SBA by the SBICs, SBA Form 857 provides SBIC examiners with independent verification by the financed small businesses of certain information reported by the SBICs. Questions 1, 2 and 3, cover information on, among other things, the terms of the financing; such information is also reported by SBICs on SBA Form 468 (financial statement), which is submitted annually (or quarterly for SBICs with SBA leverage). Question 2, regarding equity financings, and Question 4 regarding the portfolio company's use of proceeds, are also reported by SBICs on SBA Form 1031 (Portfolio Financing Report). Questions 5 and 6, regarding the portfolio company's affiliation with the SBIC, cover information that is required to be maintained and/or provided by SBICs under the regulations, but not otherwise provided to SBA directly. Question 7 deals with certain fees and expense reimbursements that are found in financing and support documents that the examiner may review, but the Form 857 provides an independent confirmation by the small concerns charged the fees and reimbursements. Likewise, Question 8 deals with management consultant services provided by the SBIC or SBIC affiliate to the small concern; although a similar question is asked on SBA Form 856/856A (completed by the SBIC), the Form 857 provides an independent confirmation by the small business regarding such services.
5. Impact on small business or other small entities. The portfolio companies asked to complete SBA Form 857 are small businesses, but the impact of the information collection on these small businesses is not significant. Responses are voluntary and requests are made by SBIC Examiners no more often than once a year. The information requested is not extensive and is the type of information that a portfolio company would maintain in the normal course of business. Additionally, Question 9 provides the opportunity for a portfolio company to report directly to an SBIC examiner any dispute or concern about its relationship with an SBIC. This information may help SBA identify and address any SBIC actions that could be deemed detrimental to small business and/or contrary to the laws, rules and regulations, and established policies governing the SBIC program.
6. Consequences if collection of information is not conducted. This collection provides financial information that is current at the time of an SBIC examination and may provide valuable insight regarding the SBIC's financing activities that may not be detectable solely from information provided by the SBICs. Verification from the SBIC's portfolio companies helps to determine whether the SBIC is in compliance with certain key

regulations, including those governing conflicts of interest, size standards, maximum allowable interest rates, related party transactions, fees and reimbursements, management services contracts, and permissible uses of financing proceeds. Without independent confirmation, SBA would be unable to evaluate key aspects of an SBIC's financial health and regulatory compliance, thereby increasing the risk of financial loss to the government. The collection also helps to maintain the integrity of the SBIC program, because: (1) awareness of this aspect of SBA oversight may act as a deterrent to SBICs from submitting incorrect information; and, (2) verification of reported financial information may allow SBA to identify problems and take timely action, if necessary, to minimize financial losses to the government.

7. Existence of special circumstances. This collection of information requests voluntary response within 10 days of receipt by respondents. The requested turn-around time is intended to limit the time involved in performing examinations, and thus enable SBA to allocate limited resources to meet statutory mandates for all program licensees. SBA believes the 10-day response time balances SBA's need to limit the duration of each examination and the time needed by portfolio companies to respond to each request.
8. Solicitation of public comment. A notice was published in the Federal Register on Friday, November 23, 2018, 83 FR 59440. The comment period closed January 22, 2019. No comments were received.
9. Payment or gifts. Not applicable. No payment or gifts are provided to respondents.
10. Assurance of confidentiality. Assurances of confidentiality to the extent permitted by law are provided to portfolio concerns that are responding to this collection, as SBA Form 857 includes confidential business and financial information of a portfolio company. This financial data is protected from disclosure under the Freedom of Information Act; specifically, exemptions 4, 6 and 8, which allow SBA to withhold 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 857 requests confidential business and financial information of a portfolio company, which SBA reviews to verify information reported by an SBIC and to determine whether an SBIC has engaged in prohibited actions. Although this information is needed to fulfill SBA's statutory responsibilities with respect to SBIC examinations, it is not retrieved by individual identifiers.
12. Estimate of the hourly burden of the collection of information. The estimated annual hour burden of this information collection is based upon:

SBIC program size: 300 SBICs (5-10 portfolio concerns per SBIC= 7.5)
Number of respondents: $300 \times 7.5 = 2,250$
Number of responses per respondent: 1
Hours to complete form: 1.25
Total estimated burden hours: 2812

SBIC examiners previously observed portfolio concern representatives complete this information collection within 30 minutes. However, SBA estimates 1.25 hours on average to allow for circumstances where the respondent is either unfamiliar with the form and/or the transactional details of the SBIC financing to the portfolio company, and to account for additional time to provide new information requested in the updated version of the form.

The estimated hourly cost to respondents is calculated using the mean hourly wage of \$69.02 (mean annual salary rate of \$143,560) for a financial manager of a company or enterprise (rate obtained from the 2018 Bureau of Labor Statistics, Occupational Employment Statistics):

Estimated total hour cost: $[\$69.02 \times 1.25] \times 2,250 = \$194,116$

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 estimated annual cost of this information collection to the Federal government is calculated using the base hourly rate of \$53.85 (base annual salary of \$112,393) for a GS-13, Step 5 (rate obtained from the 2019 General Services schedule for the Locality Pay Area of Washington-Baltimore-Northern Virginia):

Number of respondents: 2,250

Hours to prepare/mail/review, per form: 1.25

Total annualized cost: $[\$53.85 \times 1.25] \times 2250 = \$151,453$

15. Explanation of program changes in Items 13 or 14 on OMB Form 83-I.
The burden per submission has increased as a result of the additional information being request. This has seen a corresponding increase in the total burden for the collection.
16. Collection of information whose results will be published. Not applicable. The 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 83-1. 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. Collections of Information Employing Statistical Methods

This collection of information does not employ statistical methods.

Attachments:

- SBA Form 857, Request For Information Concerning Portfolio Financing
- Federal Register Notice
- Authorizing Statutory and Regulatory Provisions