

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 (OMB Control Number 3245-0172)
SBA FORM 1405: STOCKHOLDERS' CONFIRMATION (CORPORATION)
SBA FORM 1405A: OWNERSHIP CONFIRMATION (PARTNERSHIP)*

A. Justification

1. Circumstances necessitating the collection of information. The Office of Investment (OI) 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 the 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 uses SBA Form 1405, Stockholder’s Confirmation (Corporation), and SBA Form 1405A, Ownership Confirmation (Partnership), as a means of gathering information relevant to each SBIC examination. The examinations are 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. SBA has not modified the information collected by SBA Forms 1405 and 1405A, with the exception of one minor addition to Question 5 of SBA Form 1405A to clarify the information being requested. Under Question 5, examiners have generally relied on investors in licensed SBICs organized as partnerships to disclose the existence of any ‘side letter’ agreements between the investor and the SBIC and/or its general partner as approved by SBA. There is no need for a corresponding clarification in SBA Form 1405 as this information is neither required nor requested from investors in a licensed SBIC organized as a corporation.

2. How, by whom, and for what purpose information will be used. SBA Forms 1405 and 1405A are used by SBIC examiners as part of all on-site SBIC examinations; initially used for confirming ownership of newly licensed SBICs and subsequently used for confirming the ownership interests of 10% or greater and/or any significant changes to ownership that may have been reported by the licensed SBIC after the date of the last on-site examination. The two versions of the form collect the same basic information, but the language varies depending on whether the SBIC is organized as a partnership (Form 1405A) or a corporation (Form 1405). The appropriate form is mailed to the SBIC’s stockholders or partners. The completed forms are used to: (1) confirm each owner’s equity interest in the SBIC; (2) ensure that any borrowed funds used to acquire the equity interest comply with regulatory restrictions; (3) identify any restrictions associated with the owner’s capital contribution or capital commitment; and, (4) identify certain financial relationships between the SBIC and its investors.

3. Technological collection techniques. This information collection does not employ technological collection techniques. SBIC examiners select the SBIC investors (respondents) for the SBIC being examined and contact them directly via mail with the information collection. SBA has considered the use of email to transmit forms to respondents, but this has proved to be impractical as SBA's examiners do not have access to respondents' email addresses. 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 both requested and collected. The completed and signed forms are typically faxed back or scanned and emailed to the SBA examiner. SBA does not currently allow electronic submission of the forms, because examiners do not have the means to receive documents with electronic signatures that can be authenticated.
4. Avoidance of Duplication. SBA Forms 1405 and 1405A provide SBIC examiners with independent confirmation of the information previously reported by the SBICs. Questions 1 and 2 of both forms cover information regarding the respondents' ownership and capital commitment; such information is also reported by SBICs on SBA Form 468 (Annual or Quarterly Financial Statement) although not necessarily as of the same date. The timetable for scheduling SBIC examinations is dependent upon mutual availability and typically does not coincide with the scheduled reporting dates for SBICs to submit financial reports to SBA. The remaining questions on both forms cover information that is required to be maintained and/or reported by SBICs under the regulations but not necessarily collected by SBA directly beyond the time of licensing.

The information on Forms 1405 and 1405A is necessary for SBA to independently verify information provided by SBICs, thereby allowing the agency to carry out its statutory mandate to determine SBICs' compliance with laws, regulations and established policies governing the SBIC program. It is a standard principle of auditing that evidence obtained from an independent source is more reliable than that secured from the audited organization. This type of independent confirmation is a standard tool used in virtually every type of audit.

5. Impact on small business or other small entities. Owners of equity interests in SBICs asked to complete SBA Forms 1405 or 1405A include a wide range of businesses and other entities, as well as individuals. Therefore, some of the respondents are expected to be small businesses or other small entities. The impact on these respondents is not significant. Responses are voluntary and requests are made by SBIC Examiners no more often than once a year per SBIC. The information requested is not extensive and is the type of information that companies would generally maintain in the normal course of business. Most of the questions call for a simple "yes" or "no" answer; further response is necessary only in the unusual case where a discrepancy is noted. This information may help SBA identify and address any SBIC actions that could be deemed detrimental 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 equity owners that may or may not be detectable solely from the SBIC's reported financial statements. Without independent confirmation, SBA would be unable to verify capitalization information reported by SBICs, increasing the risk of

financial loss to the government. Confirmation from an SBIC's investors helps SBA to verify whether or not the SBIC is in compliance with certain key regulations, including those governing minimum capital requirements, collectability of capital commitments, and eligibility for SBA financial assistance. The collection also helps to maintain the integrity of the SBIC program, because: (1) SBIC awareness of this aspect of SBA oversight may act as a deterrent to the submission of incorrect information; and, (2) confirmation 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 responses within 10 days of receipt by the respondent. The requested turn-around time is intended to minimize the time involved in the conduct of each SBIC examination, which is required by statute to occur at least biennially (15 U.S.C. Section 687b). To comply with this statutory mandate using limited examination staff resources, SBA must limit the time consumed by each examination as much as possible. SBA believes the 10-day response time is reasonable and balances SBA's need to limit the duration of each examination with the time needed by SBIC investors to respond to each request.
8. Solicitation of public comment. A notice was published in the Federal Register on Friday, June 21, 2019, 84 FR 29275, with a public comment deadline on or before Tuesday, August 20, 2019. No comments were received.
9. Payment or gifts. No payment or gifts are provided to respondents.
10. Assurance of confidentiality. Assurances of confidentiality to the extent permitted by law are provided to owners of equity in SBICs responding to this collection. SBA Forms 1405 and 1405A 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 Forms 1405 and 1405A request confidential business and financial information of an SBIC's investors, 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/personal identifiers.
12. Estimate of the hourly burden of the collection of information. A small sample of respondents was consulted regarding the amount of time required to prepare SBA Form 1405 and 1405A. The estimated annual hour burden of this information collection is based upon:

SBIC program size: 302 SBICs
Number of respondents: 302 x 2 (on average) = 604
Number of responses per respondent: 1
Estimated hours to complete form: 1 hour
Total burden hours: 604

The estimated hourly cost to respondents is calculated using the mean hourly wage of \$37.89 (mean annual salary rate of \$78,820) for an accountant manager of a company or enterprise (rate obtained from the May 2018 Bureau of Labor Statistics, Occupational Employment Statistics):

Estimated total hour cost: $[\$37.89 \times 1] \times 604 = \$22,886$

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 assumes all collection activities via U.S. Mail and is calculated using 2019 postage rates (\$1.00 for outgoing First-Class Mail Flat/Large Envelope with \$0.55 enclosed/return First-Class Mail letter) and the 2019 General Schedule (Base) salary for a GS-13, Step 5 (annual salary of \$86,911 with hourly rate of \$41.64):

Number of respondents: 604

Hours to prepare/mail/review, per form: 0.5

Postage (to and from respondents): $[\$1.00 \times 604] + [\$0.55 \times 604] = \$936.20$

Total hour cost: $[604 \times 0.5] \times \$41.64 = \$12,575.28$

Total estimated annual cost: $\$936.20 + \$12,575.28 = \$13,511.48$

15. Explanation of program changes in Items 13 or 14 on OMB Form 83-I. Minor decrease in burden estimates reflects the anticipated number of respondents based upon the current size of the SBIC program.
16. Collection of information whose results will be published. Not applicable. Results of this collection of information will not be published.
17. Display of 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:

- SBA Form 1405, Stockholder's Confirmation (Corporation)
- SBA Form 1405A, Ownership Confirmation (Partnership)
- Federal Register Notice
- Authorizing Statutory and Regulatory Provisions