

Paperwork Reduction Act Collection Justification
Proposed New Collection
3133-XXXX
PART 1

REQUEST FOR OMB REVIEW AND APPROVAL, 3133-XXXX
SUMMARY OF NEW INFORMATION COLLECTION
CONTRACTOR BUDGET, REPRESENTATIONS, AND CERTIFICATIONS

OMB FORM #: 3133-XXXX

The NCUA has developed two forms for collecting information from prospective outside legal counsel. One form relates to a budget or estimate of the legal fees, costs, and expenses that outside counsel would expect to invoice on a particular legal matter. The other form includes representations and certifications, covering firm profile and expertise, malpractice insurance, price determination and contract solicitation methods, equal opportunity, lobbying, invoices, and conflicts of interest.

NCUA will provide the forms to prospective outside legal counsel when soliciting proposals for legal advice and assistance with respect to its authorities and activities in both its agency capacity and its capacity as conservator or liquidating agent for federally insured credit unions. Prospective legal counsel must submit the completed forms to NCUA in order to be considered for a particular engagement. The information will enable the NCUA to further standardize the data it uses to select outside counsel, consider additional criteria in making its selections, and improve efficiency and record keeping related to its selection process.

Although it has statutory authority to initiate this information collection without following the procedures of the Paperwork Reduction Act, the NCUA will voluntarily comply with the Act's provisions in this circumstance.

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March 2013
PART 2

- 1. Explain the circumstances that make the collection of information necessary, including identification of any legal or administrative requirements that necessitate the collection.**

NCUA will provide the forms to prospective outside legal counsel when soliciting proposals for legal advice and assistance with respect to its authorities and activities in both its agency capacity and its capacity as conservator or liquidating agent for federally insured credit unions. Prospective legal counsel must submit the completed forms to NCUA in order to be considered for a particular engagement. The information will enable the NCUA to further standardize the data it uses to select outside counsel, consider additional criteria in making its selections, and improve efficiency and record keeping related to its selection process. In addition, the NCUA will collect the information to better comply with Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111-203 (“Dodd-Frank”). Finally, although exempt from their requirements, the NCUA will collect the information to voluntarily comply with and require compliance from its outside legal counsel with the following statutes and regulations: 38 U.S.C. 4212 and 41 CFR 60-300.5; 41 CFR Parts 60-1 and 60-2; 31 U.S.C. 1352; and 41 U.S.C. 3301 and 3901.

- 2. Indicate how, by whom, and for what purpose the information is to be used and the actual use the agency has made of the information received from the current collection.**

The NCUA will use the information to fulfill its role as regulator, conservator, and liquidating agent for federally insured credit unions. The information will also facilitate compliance with Section 342 of Dodd-Frank and enable voluntary compliance with the statutes and regulations identified above. The NCUA’s Office of General Counsel will use the information to further standardize the data it uses to select outside counsel, consider additional criteria in making its selections, and improve efficiency and record keeping related to its selection process.

- 3. 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 burden.**

Respondents will receive electronic copies of forms on which they can submit the requested information. Respondents will be able to fill out the forms electronically and submit them electronically or in hard copy, at their discretion. Using electronic means will reduce burden and cost and facilitate NCUA’s record keeping.

- 4. Describe efforts to identify duplication.**

Respondents must submit updated information in response to each solicitation, if they wish to offer services. NCUA will send only one solicitation notice to a respondent and the respondent will have one point of contact with NCUA for submission and follow-up to prevent duplication.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

NCUA will require all respondents, regardless of size, to submit the same information for NCUA to consider their offer of services. The information request minimizes burden for all respondents by requiring the minimum amount of information necessary to assess a respondent's qualifications with respect to required services and to ensure legal compliance. For example, three of the certifications and representations required in the information requests apply only to contracts of \$100,000 or more.

6. Describe the consequence to the federal program or policy activities if the collection were not conducted or were conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Respondents will voluntarily respond to the request for information in connection with NCUA's solicitation of legal services. The voluntary responses may occur only once or be periodic, with intervals ranging from a few months to years, depending on the matter and respondent. NCUA would be significantly less likely to consider a respondent's offer of services without up-to-date certifications on matters such as malpractice insurance, minority profile, and compliance with lobbying restrictions. If NCUA did not request the information at the times specified above, it would risk falling short of its statutory and fiduciary duties as regulator, conservator, and liquidating agent for federally insured credit unions.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines on 5 CFR 1320.6.

NCUA will conduct the collection within the guidelines outlined in 5 CFR 1320.6. However, since NCUA will request the information in connection with its contracting activities, it is exempt from Paperwork Reduction Act requirements. NCUA will nevertheless voluntarily comply with the Paperwork Reduction Act and 12 CFR 1320.6.

8. 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. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, the frequency of collection, the clarity of instructions and record keeping, the disclosure, or reporting format, and the data elements to be recorded, disclosed, or reported.

Notice of the proposed collection and a request for comments was published in the Federal Register on March 11, 2013 (78 FR 15379) and on May 3, 2013 (78 FR

26088). In determining the data elements, frequency of collection, clarity of instructions, disclosure, and formatting, the NCUA reviewed the following:

- (a) corresponding forms for collecting information developed by the FDIC;
- (b) instructions and formatting used by other federal agencies for similar information collections, including the FDIC;
- (c) comments received in response to the 60-day notice; and
- (d) statutory and regulatory requirements.

NCUA reviewed the comment received and doesn't believe any changes to the forms would be considered in response.

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

The only benefit to respondents will be the potential awarding of a contract.

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

The information requests will tell respondents how NCUA intends to use the information and the instances where NCUA could potentially disclose the information (i.e. to a congressional office making an inquiry, to law enforcement agencies to determine compliance, etc.). The information requests will also inform respondents that responses are voluntary but that failure to provide a complete response could preclude a contract award. With respect to any budget estimate submitted, responses are likely exempt from disclosure and release under the Freedom of Information Act, 5 U.S.C. 552, pursuant to 12 CFR 792.11(a)(4). Any budget revisions submitted in the course of a representation may be attorney/client privileged. In addition, the template cover letter that NCUA will send with the information requests makes clear that responses are voluntary.

11. Provide additional justification for any questions of a sensitive nature, etc.

The proposed new information collection will ensure compliance with various federal laws and is critical for NCUA to evaluate offers for services and select counsel that will best serve the interests of the NCUA and federally insured credit unions. Questions of a sensitive nature, if any, are required for compliance with the statutes and regulations cited in response to question 1, above.

12. Provide estimates of the hour burden of the collection of information. The statement should provide the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

NCUA estimates the average time needed to complete the forms used for the information collection will be 2 hours. NCUA estimates it will receive approximately 100 responses annually to the information collection, which equates to an annual hour burden of 200. NCUA arrived at these estimates by evaluating the time it believes a respondent will need to provide the information, by comparing its evaluation to

similar estimates by other agencies, and approximating the number of solicitations for outside counsel that it has made in prior years.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

Without including the cost of any hour burden, NCUA estimates the cost to be \$0. If including the hourly burden, NCUA estimates the annual cost will be approximately \$56,800, based on the annual hour burden and the national average hourly billing rate for attorneys of \$284.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include 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.

Staff

Office of General Counsel	
Paralegal Specialist	\$3,480
Attorneys	\$5,000

Printing, Assembly, and Mailing \$250

TOTAL ANNUAL FEDERAL GOVERNMENT COST: \$8,730

The estimate of annual costs to the Federal Government includes all costs associated with the collection, processing, and distribution of information. Staff costs include time for a Paralegal Specialist to compile and organize information submitted in a central database. Staff costs also include the time required to prepare the collection forms, submit the information collection to OMB for approval, update collection forms, and renew OMB numbers. Total cost to the Federal Government does not include savings that could result from the information collection's efficiencies compared to prior practices or savings that could result from increased competitiveness in solicitation responses.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

No changes or adjustments are reported since this is a new information collection.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The results will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

NCUA is not seeking approval to not display the expiration date for OMB approval of the information collection.

18 Explain each exception to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions,” of OMB Form 83-I.

There are no exceptions to the certification statement.