

Supporting Statement
National Credit Union Administration

**Contractor Budget (NCUA 3249a) and
Contractor Representations and Certifications (NCUA 3249b)
OMB No. 3133-0189**

A. Justification

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

The NCUA developed two forms for collecting information from prospective outside legal counsel. (1) NCUA 3249a, Contractor Budget, 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. (2) NCUA 3249b, Contractor Representations and Certifications, covers firm profile and expertise, malpractice insurance, price determination and contract solicitation methods, equal opportunity, lobbying, invoices, and conflicts of interest.

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.

The NCUA collects this information to comply with Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111-203 ("Dodd-Frank"). Although NCUA is exempt from the PRA when acting as the liquidating agent, the NCUA will 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.

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.

- 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.**

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.**

Respondents will respond to the request for information in connection with NCUA's solicitation of legal services. The 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.

8. Consultations with persons outside of the agency.

A 60-day notice was published in the *Federal Register* soliciting comments from the public on June 19, 2017, at 82 FR 27878. No comments were received in response to this notice.

9. Payment or gift to respondents.

No payments or gifts will be made to respondents.

10. Describe any assurance of confidentiality provided to respondents.

There is no assurance of confidentiality other than those provided by law. The Privacy Act statement informs 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.

No personally identifiable information (PII) is collected. The 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.

12. Provide estimates of the hour burden of the collection of information.

NCUA estimates the average time needed to complete the forms used for the information collection will be 2 hours jointly for the Contractor Budget and Contractor Representations and Certifications. 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.

Forms	# Responses	# Responses Per Respondent	# Annual Responses	Hours Per Response	Total Burden
Form 3249a, Contractor Budget	100	1	100	0.5	50
Form 3249b, Contractor Representations and Certifications	100	1	100	1.5	150
Total					200

NCUA estimates the annual labor cost will be approximately \$56,800, based on the national average hourly billing rate for attorneys of \$284.

13. Provide capital start-up or on-going operation and maintenance costs.

There are no capital start-up or on-going operation and maintenance costs.

14. Provide estimates of annualized cost to the Federal Government.

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, and update collection forms.

15. Explain the reasons for any program changes or adjustments.

This is an extension of a currently approved collection.

16. Plans for publicatoin.

The results will not be published.

17. Justification for non-display of expiration date for OMB approval.

The display of the expiration date may cause confusion among respondents when providing information by a prescribed date or within a specified timeframe. Non-display is requested.

18 Exception to the certification statement.

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods.

This collection does not employ statistical methods.