

“Application for Accreditation as a Claims Agent or Attorney, Filing of Representatives’ Fee Agreements and Motions for Review of Such Fee Agreements”

OMB 2900-0605

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify legal or administrative requirements that necessitate the collection of information.

a. VA Form 21a and Recertifications: The Department of Veterans Affairs (VA), through its Office of the General Counsel (OGC), accredits representatives of recognized service organizations, claims agents, and attorneys who represent claimants in the preparation, presentation, and prosecution of claims for benefits under laws administered by VA. *See* 38 U.S.C. §§ 5901-5904. Through the recognition and accreditation process, the Secretary ensures that claimants for VA benefits have responsible, qualified and competent representation. *See* 38 U.S.C. §§ 5902 and 5904(a); 38 C.F.R. § 14.626. Representatives, agents, and attorneys may not lawfully represent claimants without completing and maintaining accreditation requirements. *See* 38 C.F.R. §§ 14.629(a)-(b); 14.633(b). Attorneys and agents must annually recertify to OGC that they are in good standing in every court, bar, or Federal or State agency to which they are admitted to practice or otherwise authorized to appear. 38 C.F.R. § 14.629(b)(4). As part of the annual certification, attorneys and agents must certify, that during the first 12-month period following initial accreditation, and every two years thereafter they completed 3 hours of state-bar approved Continuing Legal Education (CLE) training covering Veterans benefits law and procedure. *See* 38 C.F.R. § 14.629(b)(1)(iii), (iv). For those years, such certifications must include the title of the CLE, date and time of the CLE, and identification of the CLE provider. *Id.*

b. Filing of Fee Agreements and Motions for Review: Accredited agents and attorneys are required by statute to file with VA any agreement for the payment of fees charged for representing claimants before VA. 38 U.S.C. § 5904(c)(2). Subject to certain limitations, attorneys and agents may enter into agreements with claimants that direct the Veterans Benefits Administration (VBA) to withhold funds from the claimants’ past-due benefits and pay those funds directly to the agent or attorney as compensation for their representation. 38 U.S.C. § 5904(d); 38 C.F.R. § 14.636(h). These types of fee agreements are filed with, and maintained by, VBA. 38 C.F.R. § 14.636(g)(2), (3). To process a direct payment of fees, VA requires that an agent or attorney file the fee agreement calling for VA to directly pay the agent or attorney fees from the claimant’s past-due benefits within 30 days of its execution. 38 C.F.R. § 14.636(g)(3), (h)(4).

OGC is authorized to review a fee agreement to determine whether the fees charged are excessive or unreasonable on its own motion or upon the request of the claimant who is a party to the agreement. *See* 38 U.S.C. § 5904(c); 38 C.F.R. § 14.636(i). In cases where OGC reviews a direct-payment fee agreement, OGC obtains a copy of the agreement from VBA. In cases where the fee agreement does not request for VA to direct the payment of the fee to the attorney or agent from the claimant’s past-due benefits, the attorney or agent is required to file their fee agreement with OGC within 30 days of its execution to be maintained by OGC for the possible review of the agreement for compliance and reasonableness of the fee. 38 C.F.R. § 14.636(g)(3), (i).

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

a. VA Form 21a and Recertifications: VA Form 21a, Application for Accreditation as a Claims Agent or Attorney, is used to obtain basic information necessary to determine whether an individual may be accredited as an agent or attorney for purposes of representation of claimants before VA. The information requested includes basic identifying information, as well as certain information concerning training and experience, military service, and employment. The information is used to evaluate qualifications, ensure against conflicts of interest, and to establish that statutory and regulatory eligibility requirements, e.g., good character and reputation, are met. 38 U.S.C. § 5904(a); 38 C.F.R. § 14.629(b)(1).

Once completed, VA Form 21a is submitted by the applicant to OGC to determine whether initial eligibility requirements are met. If a potential area of concern is identified on the application additional information may be requested. VA also uses the information to conduct basic background checks on all claims agent applicants and on some attorney applicants. VA contacts character references listed on the form for claims agent applicants and for attorney applicants when there is a potential concern. Claims agent applicants who are preliminarily determined to have the good character and reputation necessary to represent veterans are then notified that they are eligible to take the VA accreditation examination. These applicants are advised to contact their local OGC District Counsel's Office to schedule the examination. All completed examinations are graded by OGC employees in the Benefits Law Group. Agent applicants who did not achieve a passing score on the examination may retake the examination at a later date. See 38 C.F.R. § 14.629(b)(6). Claims agent applicants who pass the examination, whose character references are satisfactory and establish their good character and reputation, and who otherwise demonstrate that they are competent to prepare, present, and prosecute VA claims are issued a letter notifying them that they are authorized to represent claimants. For attorney applicants, OGC uses publicly available data from the state(s) in which they are licensed to practice law to verify that they are a member in good standing. Attorney applicants are not required to pass an examination.

All applicants who are denied accreditation by the Chief Counsel of the Benefits Law Group are informed of the reasons for their denial. Without this form, VA would have no standardized formal means of documenting applicant qualifications.

The contact information from the VA Form 21a for individuals who are accredited by VA is used in OGC's online directory of VA-accredited practitioners. The directory can be searched by location and type of practitioner. The directory allows claimants to find qualified representation in their local area to assist them with their claims. In addition, false statements on the VA Form 21a may be used in OGC's disciplinary reviews to demonstrate violations of the standards of conduct set forth in 38 C.F.R. § 14.632. Applicants who become accredited as agents and attorneys may not lawfully represent claimants without completing and maintaining accreditation requirements. See 38 U.S.C. § 5904(a); 38 C.F.R. §§ 14.629(b); 14.633(b). The information collected with regard to an attorney or agents good standing with other courts, bars, and Federal and State agencies and completion of their ongoing CLE requirements is used by OGC in monitoring accredited attorneys and agents to determine whether they continue to have the appropriate character and reputation and that they remain fit to prepare, present, and prosecute VA benefit claims. Without this

information, OGC would have no way to ensure that agents and attorneys continue to be qualified to provide VA claimants with responsible, qualified and competent representation. *See* 38 U.S.C. § 5904(a); 38 C.F.R. § 14.626. The revised VA Form 21a requires the same information as prior versions of the forms.

b. Filing of Fee Agreements and Motions for Review: The information included in the fee agreement is used by OGC to associate the fee agreement with the attorney or agent of record and for potential use in a reasonableness review. The fee agreement information is used by VBA to associate the fee agreement with the claimant's claims file for potential use in processing as the direct payment of a fee from the claimant's past-due benefits award. The information provided in the fee agreements are used by both VBA and OGC to determine whether they are in compliance with the statutes and regulations governing paid representation. The information in motions for review of such fee agreements is used to determine the reasonableness of an agent or attorney fee from a claimant's award of VA benefits and, in cases where the claimant receives an award of benefits and has retained more than one attorney or agent who has been found eligible for direct payment of fees must come to OGC for review to determine each of the attorney's or agent's contribution to and responsibility for the ultimate outcome of the claimant's claim.

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.

a. VA Form 21a and Recertifications: VA Form 21a is available on the VA website in a fillable electronic format. Respondents can fill in the blanks, print and sign the form, and fax or mail the form to OGC. OGC currently hosts this form on a secure server. VA regulations do not require a particular form for submitting recertifications. Respondents can submit recertifications to OGC by email, fax, or mail. Efforts within VA are underway to acquire electronic submission capability for the VA Form 21a and recertifications.

b. Filing of Fee Agreements and Motions for Review:

(1) Fee Agreements. Fee agreements filed with VA are written, signed contractual agreements similar to those customarily used in the practice of law. VA does not control the methodology used to produce fee agreements nor, with minor exceptions, the content of the agreements. Procedures for completing fee agreements online, electronic signature, and electronic filing are not practicable, inasmuch as these agreements are prepared primarily for the use of the parties, not for the government. Fee agreements are required by law to be in writing and signed by both the claimant and the agent or attorney. *See* 38 U.S.C. § 5904(c); 38 C.F.R. § 14.636(g). Efforts within VA are underway to acquire electronic submission capability for fee agreements.

(2) Motions and Responses to Motions. VA regulations require that claimants seeking OGC's review of fee agreements file their motions in writing with OGC and serve them on the agents or attorneys. *See* 38 C.F.R. § 14.636(i). VA regulations provide agents and attorneys the opportunity to submit written responses to claimants' motions and require them to serve their response on the claimant. Because the content of motions and responses to the motions are unique

in each case and must be served on the other party, automated procedures for requesting OGC review of fee agreements are not practicable.

4. 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.

a. VA Form 21a and Recertifications: Procedures were reviewed to identify potential areas of duplication; however, none were found to exist. Note with regard to recertifications that the periodic certification of CLE compliance is included in the annual good standing reporting requirement so that there is only one reporting requirement each year. *See* 38 C.F.R. 14.629(b)(1)(iii). There is no known department or agency that maintains the necessary information, nor is it available from other sources within this Department. VA is considering ways that information collected for the purpose of VA accreditation can be shared with other VA offices that also interact with claims agents and attorneys.

b. Filing of Fee Agreements and Motions for Review: The purpose for which this collection exists requires use of unique information specific to each case. Information that is only “similar,” should it exist, would be irrelevant. VA has previously removed a requirement that an agent or attorney file a direct-pay fee agreement with both OGC and the agency of original jurisdiction, i.e., the VA regional office.

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

a. VA Form 21a and Recertifications: Although the collection of information may have some effect on solo practitioners or small law firms that might qualify as small businesses or entities, it will not have a significant impact on a substantial number of small businesses or entities. The information collected from applicants is minimized inasmuch as the amount and frequency of information collected are the minimum required to accomplish the purposes of the form and recertification.

b. Filing of Fee Agreements and Motions for Review:

(1) Fee Agreement. Attorneys and agents customarily require execution of written retainer agreements in the normal course of business. These agreements already contain most of the information VA needs, such as the names of the parties to the agreement and fee calculation and payment terms. The only information required in these agreements over and above that which would normally be included in them is (1) a readily available VA file number, which enables VBA to associate the fee agreements filed with them with the veteran’s claims file and OGC to locate the relevant claims file if, and when, it is necessary to review an agreement for the reasonableness of the fee and, (2) at the option of the parties, a clause which enables VA to make direct payment of fees to the attorney or agent out of past-due benefits awarded to a claimant, as permitted by 38 U.S.C. § 5904(d). VA has previously removed a requirement that an agent or attorney file a direct-pay fee agreement with both OGC and the agency of original jurisdiction, i.e., the VA regional office.

(2) Motions and Responses to Motions. Information required is limited to that necessary to identify the case and to factually determine whether a fee agreement is in compliance with the

law and calls for a reasonable fee in light of the circumstances. Motions, and responses thereto, may be set out as ordinary letters with the evidence attached that the parties choose to submit.

6. Describe the consequences to 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.

a. VA Form 21a and Recertifications: Absent the information provided on VA Form 21a and via recertification, VA would have no way of determining whether applicants for accreditation as claims agents or attorneys meet the requirements of 38 U.S.C. § 5904(a) and 38 C.F.R. § 14.629(b). In addition, this information is also used to identify the attorneys and agents who may no longer be representing veterans due to death, incapacity, or simply by choice. When attorneys and agents do not submit their recertifications, OGC informs them of their delinquency and then, if not corrected, cancels their accreditations. This helps OGC keep its online directory current so veterans can locate representation.

b. Filing of Fee Agreements and Motions for Review: This information is unique in each case and must be collected in each case to fulfill the statutory and regulatory purposes in 38 U.S.C. § 5904(c) and 38 C.F.R. § 14.636. Absent the information requested, VA would be unable to discern whether an attorney or agent was charging a fee to a claimant and the amount of the fee. VA would also be unable to associate the fee agreements, depending on their type, with either the claimant's claims file or with the information maintained by OGC on the attorney or agent of record. Last, VA would be unable to directly pay an attorney from the claimant's past-due benefits, which could potentially have a chilling effect on qualified attorneys from representing veterans on their claims. .

7. Explain any special circumstances that would cause an information collection to be conducted more often than quarterly or require respondents to prepare written responses to a collection of information in fewer than 30 days after receipt of it; submit more than an original and two copies of any document; retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years; in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study and require the use of a statistical data classification that has not been reviewed and approved by OMB.

These collections of information are conducted in a manner consistent with guidelines in 5 C.F.R. § 1320.5(d)(2). There are no special circumstances that would require respondents to prepare or submit the documents outlined above or respond in fewer than 30 days.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the sponsor's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the sponsor in responses to these comments. Specifically address comments received on cost and hour burden.

The Department notice was published in the Federal Register on Thursday, July 25, 2019, Volume 84, No. 143, pages 35929-35930. No comments were received.

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

a. VA Form 21a and Recertifications: No payment or gift has been authorized for respondents.

b. Filing of Fee Agreements and Motions for Review: No payment or gift has been authorized for respondents.

10. Describe any assurance of privacy, to the extent permitted by law, provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

VA complies with the provisions of 38 U.S.C. § 5701 and the Privacy Act of 1974 (5 U.S.C. § 552a).

a. VA Form 21a and Recertifications: VA notifies respondents at the time that they apply for accreditation through a notice at the top of each form that information provided may be disclosed outside VA for certain routine uses, which have been published in the Federal Register. A summary of the pertinent routine uses is provided on each form under VA system of records 01VA022.

b. Filing of Fee Agreements and Motions for Review : Assurances of confidentiality are provided in the systems of records identified as Compensation, Pension, Education and Vocational Rehabilitation and Employment Records—VA, 58VA21/22/28; Veterans Appellate Records System—VA, 44VA01; and Accreditation Records—VA, 01VA022.

11. Provide additional justification for any questions of a sensitive nature (Information that, with a reasonable degree of medical certainty, is likely to have a serious adverse effect on an individual's mental or physical health if revealed to him or her), such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private; include specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

a. VA Form 21a and Recertifications: VA Form 21a includes questions designed to enable the OGC to determine whether the applicant is of good moral character and reputation, qualified to render claimants valuable service, and is otherwise competent to assist claimants in presenting claims before VA. *See* 38 U.S.C. § 5904. To that end, VA Form 21a collects information that may be considered sensitive and includes questions regarding an applicant's criminal history, health, and record of admission to practice before State or Federal agencies. Accredited attorneys and agents are asked to provide information about their record of admission to practice before State or Federal agencies. These questions are similar in nature to those asked by other State or Federal licensing entities and are necessary to determine whether an applicant is capable of providing competent representation to claimants seeking VA benefits.

b. Filing of Fee Agreements and Motions for Review: None of the information solicited for this collection is considered to be of a sensitive nature.

12. Estimate of the hour burden of the collection of information:

Estimate of Information Collection Burden: Totals at u. through y. below.

VA Form 21a

- a. Number of Respondents: 1,850
 - b. Frequency of Response: One time
 - c. Estimated Completion Time: 45 minutes/response
 - d. Annual Burden Hours: 1,387.5 hours
 - e. Estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.: \$77,890.75
- | | | | |
|--|---|--|---------------|
| 1,300 initial responses by attorneys | X | \$69.34 x 975 hours
(1,300 x 45 minutes/response) | = \$67,606.50 |
| 300 initial responses by non-attorneys | X | \$24.98 x 225 hours
(300 x 45 minutes/response) | = \$5,600.50 |
| 250 follow-up responses by non-attorneys | x | \$24.98 x 187.5 hours
(250 x 45 minutes/response) | = \$4,683.75 |

VA estimates that 1,300 attorneys apply for accreditation annually. OGC estimates that \$69.34 would be a reasonable cost per hour for these responses. This figure is equal to the most recent United States average hourly wage for lawyers published by the U.S. Department of Labor Bureau of Labor Statistics, in this case data for May 2018. This is based on occupational code: 23-1011. https://www.bls.gov/oes/current/oes_nat.htm

VA estimates that 300 non-attorneys apply for accreditation as claims agents annually. OGC estimates that \$24.98 would be a reasonable cost per hour for these responses. VA cannot make further assumptions about the population of respondents because of the variability of factors such as the educational background and wage potential of respondents. Therefore, this figure is equal to the most recent United States average hourly wage for “All Occupations” published by the U.S. Department of Labor Bureau of Labor Statistics, in this case data for May 2018. This is based on occupational code: 00-0000. https://www.bls.gov/oes/current/oes_nat.htm

Recertifications

- f. Number of Respondents: 4,500
- g. Frequency of Response: One time
- h. Estimated Completion Time: 10 minutes/response. OGC estimates that it might take 10 minutes per response to recertify admission information provided previously and information about completed CLE that would be readily available at the site of the CLE

course.

- i. Annual Burden Hours: 750 hours
- j. Estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.: \$52,005.00. Because there are considerably more accredited attorneys than accredited agents, OGC estimates that \$69.34 would be a reasonable cost per hour for these responses. This figure is equal to the most recent United States average hourly wage for lawyers published by the U.S. Department of Labor Bureau of Labor Statistics, in this case data for May 2018.

Filing of Fee Agreements

- k. Number of Respondents: 15,000. VA estimates that agents and attorneys will file 15,000 fee agreements annually.
- l. Frequency of Response: One time.
- m. Estimated Completion Time: 60 minutes per response for first time filers, and 10 minutes per response for repeat filers. Additional information to be added to a fee agreement that might not normally be included in the representative's usual course of business consists chiefly of the VA file number and, for parties wishing to have fees paid by VA directly to the representative out of past-due VA benefits, a clause stating that payment arrangement. This file number is readily available in all VA benefits cases (it is routinely provided to claimants and it appears in VA correspondence about the case). Adding the file number to the fee agreement should result in no measurable additional cost. A representative who does not customarily perform VA benefits case work might spend 1 hour researching and drafting a direct payment clause. Many representatives before VA who use this arrangement represent a number of VA clients and this information is prepared once and then incorporated into their usual and customary fee agreement, thus entailing no additional time or expense in any but the first case. VA estimates that no more than 5% of respondents (750) would require this initial setup work and would therefore estimate that no more than 750 hours are expended annually in contract modification to comply with this collection.
- n. Annual Burden Hours: 3,125 hours
- o. Estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.: \$216,688.00. Assuming that this work will primarily be done by attorneys, OGC estimates that \$69.34 would be a reasonable cost per hour.

14,250 Repeat Filers	X	\$69.34 x 2,375 hours (14,250 x 10 minutes/response)	= \$164,683
----------------------	---	---	-------------

750 First Time Filers	X	\$69.34 x 750 hours (750 x 60 minutes/response)	= \$52,005
15,000 Total Filers	x	\$69.34 x 3,125 hours (2,375 hours + 750 hours)	= \$216,688

Motions for Review of Fee Agreements

- p. Number of Respondents: 210. VA estimates that 140 fee reasonableness reviews will be initiated annually. OGC estimates that 14 motions will be properly filed by a claimant and 126 initiated by OGC. Many of those motions will involve more than one attorney or agent because a claimant for VA benefits may change his or her representative during the pendency of the claim and it is often necessary for OGC to determine the appropriate share of the total fee that should be paid to each attorney or agent. OGC estimates that approximately 70 of the motions will seek a response from two attorneys or agents, so OGC has added an additional 70 responses.
- q. Frequency of Response: One time.
- r. Estimated Completion Time: 2 hours per response. Time spent by a party in preparing a motion to file with OGC, or in responding to a motion originating with the OGC or filed by a claimant, will vary depending upon the complexity of the party's statement or argument, the evidence gathered in support of, or in response to, the motion, the recordkeeping of the party, and the amount of legal research the party wishes to conduct. VA estimates that the amount of time for either a motion or a response to a motion will average 2 hours.
- s. Annual Burden Hours: 420 hours.
- t. Estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories: \$27,880.72. As responses to motions may be filed by any party to the fee agreement, some of the responses will be drafted by claimants (typically non-lawyers) and others by attorneys or agents. For the motions filed by claimants, OGC estimates that \$24.98 would be a reasonable cost per hour. VA cannot make further assumptions about the population of respondents because of the variability of factors such as the educational background and wage potential of respondents. Therefore, this figure is equal to the most recent United States average hourly wage for "All Occupations" published by the U.S. Department of Labor Bureau of Labor Statistics, in this case data for May 2018. For the remaining responses, most of which will be filed by attorneys, OGC estimates that \$69.34 would be a reasonable cost per hour.

196 Responses	x	\$69.34 x 2 hours	\$27,181.28
14 Responses	x	\$24.98 x 2 hours	\$699.44

Totals from a. through t.

- u. Total Number of Respondents: 21,560
- v. Frequency of Response: One time.
- w. Estimated Completion Time: Varies as specified above.
- x. Total Annual Burden Hours: 5,682.5
- y. Total estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.: \$374,464.47. Details above.

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

a. VA Form 21a and Recertifications: There are no anticipated capital and start-up cost components resulting from this collection of information.

b. Filing of Fee Agreements and Motions for Review: There should be no costs to respondents other than those identified in question 12. No ongoing accumulation of information or special purchase of services, supplies or equipment, is required. Attorneys and agents customarily maintain data to support their billing in the normal course of business.

14. Provide estimates of annual cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Estimated Costs to the Federal Government: \$506,509.48

VA Form 21a and Recertifications:

Total cost to the Federal Government is \$161,990.83.

1,600 new applications X \$35.56 (GS 11/3) x 90 minutes/form = \$85,344.00
for paralegal review

300 initial responses for staff attorney review	X	\$63.64 (GS 14/5) x 60 minutes/response	=	\$19,092.00
300 initial responses for supervisory review	X	\$74.86 (GS 15/5) x 45 minutes/response	=	\$16,843.50
25 initial responses for additional level of supervisory review	X	\$84.76 (SES Level 3) x 20 minutes/response	=	\$706.33
4,500 self-certifications for paralegal review	X	\$35.56 (GS/11/3) x 15 minutes/response	=	\$40,005.00
		Sub-total 21A and Recert cost	=	\$161,990.83

Filing of Fee Agreements and Motions for Review:

Filing of Fee Agreements

OGC – 3,300 Non-Direct Pay Fee Agreements Filed & Processed	X	\$35.56 (GS11/3) x 20 minutes/fee agreement	=	\$39,116.00
VBA – 11,700 Direct Pay Fee Agreements Filed & Processed at agency of original jurisdiction	X	\$45.29 (GS12/5) x 15 minutes/fee agreement	=	\$132,473.25
		Sub-total Filing Costs	=	\$171,589.25

Motions to Review Fee Agreements

140 Motions for Admin. Review	X	\$35.56 (GS11/3) x 360 minutes/fee agreement	=	\$29,870.40
140 Motions for Attorney Review		\$63.64 (GS14/5) x 480 minutes/fee agreement	=	\$71,276.80
140 Motions for Supv. Atty. Review	X	\$74.86 (GS15/5) x 240 minutes/fee agreement	=	\$62,882.40
140 motions for additional Supervisory Review	X	\$84.76 (SES Level 3) x 45 minutes/response	=	\$8,899.80
		Sub-total Motions to Review Fee Agreements	=	\$172,929.40

Total Cost to Government = \$344,518.65

Note: The hourly wage information above is based on the hourly 2019 General Schedule (Base) Pay that includes the applicable locality adjustment for the locality pay area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/DCB_h.pdf).

15. Explain the reason for any burden hour changes since the last submission.

a. VA Form 21a and Recertifications: The adjustment is a program adjustment due to recharacterization of burden hours to provide for greater specificity and change in estimate of the

burden hours for the Government. VA did not previously differentiate the burden hours for the applications from those for recertifications. With regard to the Government's burden hours, historically, VA focused on approving accreditations in order to give veterans more choices in who they could select as their representative. In recent years the profession has gained immense popularity—now, with approximately 30,000 practitioners—the pendulum marking our program's needs, and the profession's needs, has shifted. In 2013, the U.S. Government Accountability Office reviewed VA's procedures for ensuring that accredited representatives have good character and knowledge. GAO informed VA that OGC needed to improve its review of applications and monitoring of representatives. See GAO-13-643, "VA BENEFITS: Improvements Needed to Ensure Claimants Receive Appropriate Representation." Part of the reason of the need for closer review by OGC is that there has been an increase in the level of interest in representing veterans and particularly an increase by individuals looking to gain VA accreditation to target veterans based on veterans' potential eligibility for VA's pension benefit. Accordingly, the greater need now is to ensure that veterans are receiving quality representation—meaning that the practitioners continue to have the appropriate character and reputation and that they remain qualified and competent to provide representation. In response to this shift, the OGC accreditation program is focusing on reviewing more closely who VA accredits and monitoring accredited individuals for compliance with continuing requirements.

b. Filing of Fee Agreements and Motions for Review: The adjustment is a program adjustment due to change in estimate number of filings. The number of motions for review have increased because of an increase in cases where a claimant has retained more than one attorney or agent and the effect of the applicable law on those cases. Where a claimant and an attorney or agent have entered into an agreement providing that the fee "is to be paid to the agent or attorney by [VA] directly from any past-due benefits awarded on the basis of the claim; and . . . is contingent on whether or not the matter is resolved in a manner favorable to the claimant," VA may pay a fee that does not exceed 20 percent of past due benefits awarded on the basis of the claim directly to the attorney or agent out of the claimant's past-due benefits. 38 U.S.C. § 5904(d). When a claimant retains multiple attorneys or agents during the course of a case, the total fee paid directly by VA to the representatives pursuant to section 5904(d) cannot exceed 20 percent. *Scates v. Principi*, 282 F.3d 1362, 1365-1366 (Fed. Cir. 2002). Therefore, every case where the claimant receives an award of benefits and has retained more than one attorney or agent who has been found eligible for direct payment of fees must come to OGC for review to determine each of the attorney's or agent's contribution to and responsibility for the ultimate outcome of the claimant's claim.

c. Motion for Review of Representative's Charges: VA may have a need to collect information for purposes of reviewing the expenses of agents and attorneys under 38 C.F.R. § 14.637; however, the information does not constitute a collection of information because of its infrequency of occurrence. See 5 C.F.R. 1320.3(c). Because (c) is not a collection of information for purposes of 5 C.F.R. part 1320, VA will not request that it be included in this collection.

16. For collections of information whose results will 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.

There are no plans to publish the information collected.

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.

a. VA Form 21a and Recertifications: This form will display an expiration date placeholder. Additionally, this collection is governed by a regulation, 38 C.F.R. § 14.629, that will display the appropriate OMB control number.

b. Filing of Fee Agreements and Motions for Review: There is no VA form for submitting the information, and VA understands that display is not required. This collection is governed by a regulation, 38 C.F.R. § 14.636, that will display the appropriate OMB control number.

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

This submission does not contain any exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

This collection of information does not employ statistical methods.