

SUPPORTING STATEMENT
Forms Relating to FDIC Outside Counsel,
Legal Support, and Expert Services Programs
(OMB Control No. 3064-0122)

INTRODUCTION

The Federal Deposit Insurance Corporation (FDIC) is requesting a three-year extension without revision of the information collection entitled “Forms Relating to FDIC Outside Counsel, Legal Support, and Expert Services Programs” (OMB Control Number 3064-00122). The information collected enables the FDIC to ensure that all individuals, businesses and firms seeking to provide legal support services to the FDIC meet the eligibility requirements established by Congress. The information is also used to manage and monitor payments to contractors, document contract amendments, expiration dates, billable individuals, minority law firms, and to ensure that law firms, experts, and other legal support services providers are in compliance with statutory and regulatory requirements. As currently approved, this collection consists of 18 forms. The current clearance expires on December 31, 2019.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

The Federal Deposit Insurance Act (the “Act”) authorizes the FDIC to enter into contracts using private sector contractors to provide goods or services (12 USC 1819). The Act and its implementing regulation also set forth certain minimum standards of contractor competence, experience, fitness, and integrity (12 USC 1822(f)(4), 12 CFR Part 366), and mandate inclusion, to the extent possible, of women and minorities and women- and minority-owned entities in all contracts (12 U.S.C. 1833e, 12 CFR Part 361).

The FDIC Legal Division has developed the forms in this collection to facilitate its procurement of and payment for outside counsel, expert, and legal support services and to ensure compliance with the aforementioned statutory and regulatory requirements.

2. Use of the information:

The information collected is used to permit the FDIC to make determinations with respect to disqualifying conditions or conflicts of interest, to budget and reimburse for services, to assess cost-effectiveness, to measure progress, and to monitor the participation of women and minorities in legal services contracts.

3. Consideration of the use of improved information technology:

The forms in this collection are on the FDIC’s external web site, available for on-line completion and electronic submission, as well as view-and-print capability.

4. Efforts to identify duplication:

This collection does not duplicate information provided elsewhere. The information is unique to the occasion to which the application relates.

5. Methods used to minimize burden if the collection has a significant impact on substantial number of small entities:

The forms have been designed to minimize burden on small entities, limiting the questions to those minimally necessary to obtain sufficient information to establish program eligibility and to reimburse legal contractors for services and expenses.

6. Consequences to the Federal program if the collection were conducted less frequently:

The forms are required when a law firm, expert or other legal support services provider enters into a contractual agreement with the FDIC, when changes occur that affect the contractor's initial representations, and when the contractor seeks payment for services and/or expenses. Less frequent collection would compromise the FDIC's ability to ensure compliance with statutory and regulatory requirements, and to effectively monitor contract compliance and expenditures. The information is collected only on an as-needed basis.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320.5(d)(2):

None. This information collection is conducted in accordance with the guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency:

On September 30, 2019, the FDIC published a Federal Register notice proposing to extend the Forms Relating to FDIC Outside Counsel, Legal Support, and Expert Services Programs existing information collection (84 FR 51566). The FDIC did not receive any comments addressing this collection of information.

9. Payments or gifts to respondents:

None.

10. Any assurance of confidentiality:

Information will be kept private to the extent allowed by law.

11. Justification for questions of a sensitive nature:

Questions about prior convictions, patterns or practices of defalcation, and

prohibitions from participating in banking activities are required by statute.

12. Estimate of hour burden including annualized hourly costs:

Summary of Annual Burden and Internal Cost								
Information Collection (IC) Description	Form Number	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Frequency of Responses	Estimated Time per Response	Frequency of Response	Total Annual Estimated Burden
Non-Litigation Budget Form	5000/26	Reporting	Mandatory	185	1	0.50	On Occasion	93
Amended Litigation Budget	5000/31	Reporting	Mandatory	100	1	0.50	On Occasion	50
Amended Non-Litigation Budget	5000/33	Reporting	Mandatory	50	1	0.50	On Occasion	25
Litigation Budget	5000/35	Reporting	Mandatory	100	1	0.50	On Occasion	50
Representations and Certifications for Legal Contractors	5200/01	Reporting	Mandatory	60	1	0.75	On Occasion	45
Expert Invoice for Fees and Expenses (EIF&E)	5210/01	Reporting	Mandatory	50	1	0.50	On Occasion	25
Legal Support Services (LSS) Provider Invoice for Fees and Expenses (IF&E)	5210/02	Reporting	Mandatory	30	1	0.50	On Occasion	15
Agreement for Services (Expert/Legal Support Services (LSS) Provider) Amendment	5210/03	Reporting	Mandatory	30	1	1.00	On Occasion	30
Agreement for Services (Expert/Legal Support Services (LSS) Provider) Rate Schedule	5210/04	Reporting	Mandatory	100	1	1.00	On Occasion	100
Legal Services Agreement (LSA) Amendment	5210/06	Reporting	Mandatory	50	1	1.00	On Occasion	50
Expert budget	5210/08	Reporting	Mandatory	80	1	0.50	On Occasion	40
Representations and Certifications for Experts and Legal Support Services Providers	5210/09	Reporting	Mandatory	65	1	1.00	On Occasion	65
Outside Counsel Legal Services Agreement Rate Schedule	5210/10	Reporting	Mandatory	65	1	1.00	On Occasion	65
Legal Invoice for Fees and Expenses	5210/11	Reporting	Mandatory	100	1	1.00	On Occasion	100
Firm Travel Voucher	5210/12	Reporting	Mandatory	100	1	1.00	On Occasion	100
Oral Representations and Certifications for Expert Legal Support Services Telephone Authorization For Expenditures Under \$5,000	5210/14	Reporting	Mandatory	50	1	0.50	On Occasion	25
Legal Support Services (LSS) Provider Budget Form	5210/15	Reporting	Mandatory	25	1	0.50	On Occasion	13
Legal Services Agreement (LSA)	5210/13	Reporting	Mandatory	65	1	0.25	On Occasion	16
TOTAL HOURLY BURDEN								907

Estimated Annual Burden

The estimated labor cost is calculated as follow:

Estimated Category of Personnel Responsible for Complying with the PRA Burden	Total Estimated Hourly Compensation	Estimated Weights	Estimated Total Weighted Labor Cost Component
Lawyers **	\$152.94	50%	\$76.47
Clerical ‡	\$32.19	50%	\$16.10
Total Estimated Weighted Average Hourly Compensation Rate		100%	\$92.57

Source: Bureau of Labor Statistics: "National Industry-Specific Occupational Employment and Wage Estimates: Depository Credit Intermediation Sector" (May 2018), Employer Cost of Employee Compensation (June 2019), Consumer Price Index (June 2019).

** Occupation (SOC Code): Lawyers, Judges, and Related Workers (231000)

‡ Occupation (SOC Code): Office and Administrative Support Occupations (430000)

The dollar value of the 907 hours of total estimated annual burden is \$83,960.99 (907 hours x \$92.57).

13. Estimate of start-up costs to respondents:

None.

14. Estimate of annualized costs to the government:

None

15. Analysis of change in burden:

There is no change in the method or substance of the collection. The hour burden has decreased by 1,828 hours from 2,735 hours to 907 hours. The change is due to a decrease in the estimated number of respondents.

16. Information regarding collections whose results are planned to be published for statistical use:

The results of this collection will not be published for statistical use.

17. Display of expiration date:

Not applicable.

18. Exceptions to Certification

None.

B. Collection of Information Employing Statistical Methods

Not Applicable.