

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, with 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 January 31, 2023.

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 October 19, 2022, 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 (87 FR 63498). 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:

Potential respondents to this ICR include entities providing legal and expert services to the FDIC. As there is no database that tracks responses to the ICs included in this ICR, the FDIC used the number of times each form was downloaded from the FDIC’s website between June 27, 2019 and June 27, 2022 to estimate the number of respondents to each IC. The numbers of respondents below are the annual averages of these download tallies, rounded to the nearest whole number. This methodology is a change from previous methodologies used; in the 2019 ICR, the FDIC used the volume of contracting for various legal services to estimate the number of respondents. This method of calculating respondents is the only change in this renewal request.

Estimated Annual Burden

Summary of Estimated Annual Burden (OMB No. 3064-0122)					
Information Collection (Obligation to Respond)	Type of Burden (Frequency of Response)	Number of Respondents	Number of Responses per Respondent	Time per Response (HH:MM)	Annual Burden (Hours)
1. Non-Litigation Budget Form, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	2	1	00:30	1
2. Amended Litigation Budget, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	4	1	00:30	2
3. Amended Non-Litigation Budget, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	1	1	00:30	1
4. Litigation Budget, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	6	1	00:30	3
5. Representations and Certifications for Legal Contractors, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	10	1	00:45	8
6. Expert invoice for Fees and Expenses (EIF&E), 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	2	1	00:30	1

7. Legal Support Services (LSS) Provider Invoice for Fees and Expenses (IF&E), 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	2	1	00:30	1
8. Agreement for Services (Expert Legal Support Services (LSS) Provider Amendment, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	3	1	01:00	3
9. Agreement for Services (expert or Legal Support Services Provider) Provider Rate Schedule, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	6	1	01:00	6
10. Legal Services Agreement (LSA) Amendment, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	8	1	01:00	8
11. Expert budget, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	2	1	00:30	1
12. Representations and Certifications for Experts and Legal Support Services Providers, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	5	1	01:00	5
13. Outside Counsel Legal Services Agreement Rate Schedule, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	10	1	01:00	10
14. Legal Invoice for Fees and Expenses, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	3	1	01:00	3
15. Firm Travel Voucher, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	3	1	01:00	3
16. Oral Representations and Certifications for Expert Legal Support Services, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	1	1	00:30	1

17. Legal Support Services (LSS) Provider Budget Form, 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	6	1	00:30	3
18. Legal Service Agreement (LSA), 12 CFR 361 and 12 CFR 366 (Mandatory)	Reporting (On Occasion)	15	1	00:15	4
Total Annual Burden (Hours):					64
Source: FDIC.					

The estimated labor cost is calculated as follow:

Summary of Hourly Burden Cost Estimate (OMB No. 3064-0122)						
Percentage Shares of Hours Spent by and Hourly Compensation Rates for each Occupation Group						Estimated Hourly Compensation Rate
Exec. & Mgr. (\$128.14)	Lawyer (\$158.72)	Compl. Ofc. (\$61.87)	IT (\$98.28)	Fin. Anlst. (\$96.85)	Clerical (\$36.22)	
0	50	0	0	0	50	\$97.47
Source: Bureau of Labor Statistics: 'National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)' (May 2021), Employer Cost of Employee Compensation (March 2021), and Employment Cost Index (March 2021 and March 2022). Standard Occupational Classification (SOC) Codes: Exec. And Mgr = 11-0000 Management Occupations; Lawyer = 23-0000 Legal Occupations; Compl. Ofc. = 13-1040 Compliance Officers; IT = 15-0000 Computer and Mathematical Occupations; Fin. Anlst. = 13-2051 Financial and Investment Analysts; Clerical = 43-0000 Office and Administrative Support Occupations.						

Total Estimated Cost Burden (OMB No. 3064-0122)			
Information Collection Request	Annual Burden (Hours)	Weighted Average Hourly Compensation Rate	Annual Respondent Cost
Forms Relating to FDIC Outside Counsel, Legal Support and Expert Services Programs	64	\$97.47	\$6,238
Total Annual Respondent Cost:			\$6,238
Source: FDIC.			

13. Estimate of start-up costs to respondents:

None.

14. Estimate of annualized costs to the government:

None

15. Analysis of change in burden:

The hourly burden has decreased by 843 hours from 907 hours to 64 hours. The change is due to a change in the methodology as described in section 12 and 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.