



Justice Administrative Commission Policies and Procedures

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For Due Process Vendors



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Section I – Due Process Costs

A. What Constitutes Due Process Costs

Due Process Costs Defined

Due process costs are those costs for which an indigent defendant is entitled to receive in order to obtain meaningful access to the courts. Generally, these services are necessary for the defense of the case. JAC is authorized to pay for due process costs as authorized by ss. 27.425, 27.5305, and 29.007, F.S. Florida law authorizes JAC to pay the following due process costs in court-appointed and indigent for cost cases:

- Reasonable court reporting and transcription services including the cost of transcribing and copying depositions.
- Reasonable foreign language and sign-language interpreters and translators at depositions or witness interviews.
- Private service of process when the sheriff is not available or unable to provide service.
- Confidential mental health experts appointed to assist the defense.
- Other expert witnesses authorized by the court to assist the defense.
- Private investigator services.
- Mitigation specialist services in capital death cases.
- Costs to obtain discovery-related materials and other documents such as medical records.
- Travel expenses for due process providers when authorized by law or court order.

Indigent Defendants

JAC processes for payment due process costs involving indigent defendants. The attorney or *pro se* defendant seeking costs has the burden to provide JAC with sufficient documentation to establish indigency. JAC cannot process for payment any due process costs until JAC receives sufficient documentation to establish the existence of a state liability. There are four types of cases where JAC is liable for due process costs.

- **Private court-appointed cases (other than capital collateral cases):**
Pursuant to ss. 27.40 & 27.5303, F.S., a court may appoint a lawyer to represent an indigent defendant when the public offices have a conflict of interest precluding representation. The attorney opens the case with JAC by providing a copy of the order of appointment and other supporting documentation. For JAC to pay due process costs, the attorney must have a JAC Registry Contract.
- **Private court-appointed cases (capital collateral):**
Pursuant to ss. 27.710 & 27.711, F.S., a court may appoint a lawyer to represent an indigent defendant sentenced to death when the public offices have a conflict of interest precluding representation. The attorney opens the case with JAC by providing a copy of the order of appointment and other supporting documentation. For JAC to pay due process costs, the attorney must have a JAC Capital Collateral Contract covering the case. JAC is only liable for costs associated with state court proceedings.

- **Indigent for costs cases with privately retained or *pro bono* counsel:**
Pursuant to s. 27.52(5), F.S., a privately retained attorney may have his or her client declared indigent for costs. To qualify for due process costs, the defendant must be otherwise entitled to court-appointed counsel. Prior to having a defendant declared indigent for costs, JAC must receive the following documents:
 1. The Motion to Declare the Defendant Indigent for Costs.
 2. The Clerk's Application for Indigency.
 3. The Affidavit Attesting to Attorney Fees.
 4. The Charging Document(s) (except for proceedings under Ch. 39, F.S.).
 5. The Order Declaring the Defendant Indigent for Costs.
 Until the attorney provides these documents, the case will not be opened for billing in JAC's systems. For JAC to pay due process costs, the attorney must have a JAC IFC Contract.
- **Indigent for costs cases involving a *pro se* defendant:**
In some instances, a defendant may elect self-representation despite being entitled to appointed counsel. In order to qualify for due process costs, the defendant must be entitled to court-appointed counsel pursuant to s. 27.52(5), F.S. An order finding the defendant indigent for costs. However, JAC will rely upon other court documents to establish indigency under appropriate circumstances such as a completed clerk's application finding the defendant indigent. When these policies and procedures refer to an action by an attorney, this also applies to *pro se* defendants in most instances.

B. Due Process Vendors Contracts

Types of Due Process Vendor Contracts

JAC has two types of due process vendors contracts:

- **The Type 1 Contract for Due Process Services** (Type 1 Due Process Contract) is for vendors providing ordinary due process services in private court-appointed cases such as court reporters, interpreters, videographers, private investigators, mitigation specialists, and private process servers. This contract provides that all services will be compensated at the rates established by the Legislature or by JAC where the Legislature has not established a rate. If a vendor bills in excess of the established rates, JAC will be authorized to adjust the billing to the correct rate and then process the billing for payment.
- **The Type 2 Contract for Due Process Services** (Type 2 Due Process Contract) is for vendors providing extraordinary services such as psychologists, psychiatrists, medical doctors, and experts. Although these services should be at the established rates, the contract provides a mechanism to exceed those rates where the vendor's expertise or other factors warrant compensation at a rate higher than established rates. Except in exceptional circumstances, the Type 2 Due Process Contract will not be executed with vendors of ordinary due process services such as court reporters and private investigators.

Instructions for completing the Due Process Contracts are available at:

https://www.justiceadmin.org/court_app_counsel/agreementscontracts.aspx#dpvendor

Electronic Completion/Submission of Contracts

JAC no longer posts executable copies of the Due Process Vendor contracts on its public website. Instead, executable contracts will only be available through [My JAC](#). A due process vendor who has not already set up an account will need do so before they can execute the contract. Information on how to set up an account is available at:

<https://www.justiceadmin.org/login/newVendorSteps.aspx>

Once a due process vendor has logged onto [My JAC](#), the vendor will click on the link for the due process vendor contract. The vendor will be directed to the webpage where the vendor can verify the information for the contract. If information needs to be updated, the vendor may do so at that time. Once the vendor has verified the information, the vendor will be able to generate a preview of the contract. Once the review is complete, the vendor may electronically sign the contract and submit it to JAC through [My JAC](#). The vendor will receive an e-mail confirmation that the contract has been submitted. Under Florida law, an electronic signature is deemed equivalent to a physical signature.

Alternatively, the vendor may print and execute the contract by signing it in blue ink and then mailing a single copy to JAC. Once JAC has completed its review and executed the contract, a copy will be e-mailed to you for your records.

Substitute Form W-9

All vendors obtaining payment from JAC are required to submit their Substitute Form W-9 directly to the Department of Financial Services (DFS). Information and the Substitute Form W-9 are available on DFS's website at:

<http://www.myfloridacfo.com/aadir/SubstituteFormW9.htm>

The Substitute Form W-9 must be submitted prior to execution of any contract with JAC. The form may be submitted electronically through DFS's vendor website:

<https://flvendor.myfloridacfo.com/>

If you have any questions regarding the Substitute Form W-9, you may contact DFS's Vendor Management Section at (850) 413-5519 or

FLW9@myfloridacfo.com

The JAC Help Desk cannot answer questions or otherwise provide assistance in the completion or submission of this form.

Due to identity theft concerns over the use of social security numbers (SSN) as tax identification numbers, it is highly recommended that attorneys and due process vendors use a federal employer identification number (FEIN) instead of a SSN when completing the Substitute Form W-9. If an attorney or due process vendor elects to use a SSN as a tax identification number, the attorney or due process vendor assumes the risk associated including potential interception, misuse, and identity theft.

Electronic Communications

Vendors must maintain sufficient internet capability, including an e-mail account, to communicate with JAC. Vendors must be prepared to accept communications including Billing Audit Deficiencies and Letters of Objection or No Objection via e-mail.

Section II – Payment of Due Process Services

A. General Practices and Procedures

Methods of Paying Due Process Services

JAC will reimburse for due process service costs in one of two ways: JAC pays vendor after the attorney certifies the due process services; or the attorney pays the vendor and is subsequently reimbursed by JAC.

Invoice/Voucher Cover

The Invoice/Voucher Cover is essential for the satisfactory billing for due process services. The attorney and the due process vendor must appropriately complete and submit the applicable Invoice/Voucher Cover, as well as all necessary supporting documents.

Invoice/Voucher Covers for due process services and corresponding instructions are available on JAC's website.

An intended billing for due process service costs is not considered submitted to JAC until and unless JAC receives an original Invoice/Voucher Cover signed by the attorney and the due process vendor, along with all necessary supporting documents.

The Voucher Cover may not be signed prior to the receipt of the services requested. For example, the attorney may not sign a Voucher Cover for a transcript until after the attorney has actually received the transcript. Any voucher cover signed prior to the receipt of the service will be returned.

A vendor should keep a copy of any voucher covers that he or she signs in relation to a court-appointed or indigent for costs case. Under the JAC contracts, the attorney and vendor are required to maintain copies of all records and these records are subject to inspection by JAC.

Billing submissions by due process vendors must be submitted through the Online Billing Submission system in [My JAC](#). In most instances, due process vendors will complete and submit their billings online by generating an electronic JAC Invoice/Voucher Cover. During the billing process, the due process vendor will provide the information necessary to complete the JAC Invoice/Voucher Cover. Once a due process vendor submits an electronic JAC Invoice/Voucher Cover, the attorney is notified by email that the billing is pending attorney review.

The attorney will log into [My JAC](#) and review the billing and supporting documentation and then either approve or reject the billing. Attorneys are required to approve or reject due process vendor billings within 10 business days. If the attorney approves the billing, it is then submitted for review by JAC staff. If the attorney rejects the billing, the vendor will be

notified of the reason for the rejection via email. The vendor will need to contact the attorney to resolve the issue. The JAC Help Desk cannot assist in this regard.

There are two main instances where scanned JAC invoice/Voucher Covers may be submitted. First, for cases involving *pro se* defendants because the *pro se* defendant will have to sign a physical document to certify the billing. Second, for cases involving appellate transcripts when the JAC Invoice/Voucher Cover is signed by an employee of the clerk's office instead of the attorney. Other than those two exceptions, due process vendor billings must will be submitted using JAC Invoice/Voucher Covers generated during billing submission.

Certification of Due Process Services Costs

Generally, intended billings for due process services shall be certified by the attorney (and the vendor when the vendor is billing JAC directly). Certification is provided on the applicable Invoice/Voucher Covers available on the JAC website. Additionally, corresponding instructions are also available on the JAC website.

The attorney cannot execute the certification on the JAC Invoice/Voucher cover until the work is actually completed. **If JAC receives an Invoice/Voucher cover that was executed prior to the date the vendor completed the service, then JAC will return the intended billing.**

Original Invoice

All intended billings for due process services must be submitted using the applicable JAC Invoice/Voucher Cover. Due process vendors may use their own original invoices as support for the JAC Invoice/Voucher Cover as long as the invoice contains sufficient detail to support the intended billing.

Prompt Review of Invoices

Any direct payment to a due process vendor is contingent upon the attorney providing any and all necessary documentation in support of a billing to JAC in an expeditious fashion. The attorney shall promptly review any billing for direct payment to a due process vendor for accuracy and completeness and must certify that the work was satisfactorily performed. In the event JAC issues a deficiency notice regarding any billing, the attorney or the due process vendor shall promptly resolve the deficiency so that JAC can process the billing for payment. The attorney must comply with all JAC policies and procedures in the submission of billings in order for JAC to make direct payment to a due process vendor. For billings submitted through the Online Billing Submission system, attorneys are required to approve or reject due process vendor billings within 10 business days.

Billing Audit Deficiency/Notice of Correction or Corrective Action

When JAC receives an intended billing for due process services which lacks the applicable forms, necessary documentation or requisite information, JAC may send the attorney and the due process vendor a Billing Audit Deficiency. The Billing Audit Deficiency will indicate the reason JAC is unable to process the intended billing and will request that the attorney or due process vendor resolve any deficiencies or provide the necessary documentation or information for JAC to process the billing for payment.

JAC may, at its discretion, send a Billing Audit Deficiency in an effort to resolve a math error, a rate error, or any other error/issue pertaining to the intended billing. A Billing Audit Deficiency is not a Letter of Objection and cannot be relied upon as a basis to file a motion for payment of due process services.

Alternatively, JAC may send a Notice of Correction or Corrective Action indicating the error in the billing and making the correction. In these instances, the billing will be processed for payment without the need for further action.

Responses to Billing Audit Deficiencies should be submitted through JAC's Online Billing Submission system in [My JAC](#). Alternatively, the response may be sent to pleadings@justiceadmin.org.

If the attorney or due process vendor fails to respond to a Billing Audit Deficiency within a reasonable period of time, JAC may take appropriate action including, but not limited to, rejecting the bill for payment, issuing a Letter of Objection to payment, or paying the amount authorized under the established rates or applicable court order. If the Billing Audit Deficiency is not responded to within a year, then the billing is deemed abandoned without further notice.

Returned Bills

JAC will return any intended billing for which it lacks statutory authority to pay. JAC will also return any intended billing that is duplicative of an intended billing previously received by JAC. JAC may also return an intended billing for other reasons.

If the attorney files a motion for payment of due process services, JAC is entitled to notice and an opportunity to be heard. JAC's return of an intended billing does not constitute a waiver of JAC's right to a hearing on the matter. Until and unless JAC specifically indicates it does not wish to appear at a hearing or otherwise waives its right to a hearing, JAC is presumed to desire a hearing on any matter relating to due process services when a bill is returned to an attorney or vendor.

Letter of Objection

When JAC objects to any portion of an intended billing for due process services, JAC will send the attorney and due process provider a Letter of Objection. The Letter of Objection will identify JAC's specific objection(s) and indicate JAC's corresponding reason for the objection(s). Upon receipt of the Letter of Objection, the attorney may file a motion for costs with service upon JAC a minimum of five days prior to any hearing on the motion.

If the Letter of Objection is not responded to within a year, then the billing is deemed abandoned without further notice.

Changes / Alterations

If a due process vendor bills in excess of the rates established by law, JAC reserves the right to correct the billing to the established rates and process the billing for payment at the corrected amount. When JAC corrects a billing, JAC will provide the attorney and due process vendor with a notice advising him or her of the correction(s).

JAC can accept a corrected voucher cover reducing the amount of a billing through the Online Billing Submission system prior to the attorney approving the billing. When increasing the amount, a new corrected voucher cover must be submitted to JAC. This should be done through the Online Billing Submission system on [My JAC](#) by appending an amended voucher cover into the existing billing.

Prohibited Practices

An attorney is prohibited from obtaining due process services for his or her indigent for costs clients from a due process vendor or other business entity of which the attorney or the attorney's spouse or child is an officer, partner, director, or proprietor or in which the attorney or the attorney's spouse or child, or any combination of them, has a material interest in any form whatsoever.

An attorney is prohibited from soliciting or accepting anything of value to the attorney, including a gift, loan, reward, promise of future employment, favor, or service, from a due process vendor or other business entity who provides due process services to the attorney's indigent for costs clients other than the services rendered on behalf of the indigent client. An attorney shall not procure services from a due process vendor with whom the attorney shares a financial interest such as joint ownership of property.

A due process vendor is prohibited from paying, offering or giving anything of value to an attorney including a gift, loan, reward, promise of future employment, favor, or service, as consideration or other remuneration for providing services in court-appointed or indigent for costs cases other than the services rendered on behalf of the indigent client. A due process vendor is prohibited from providing anything of value to an attorney beyond the scope of the JAC contract as consideration for the attorney retaining the vendor

Attorneys and due process vendors waive compensation for due process services in any form whatsoever where either indigent for costs counsel or the due process vendor has engaged in these aforementioned prohibited practices.

Contents of Motion Seeking Authorization for Due Process Services

A motion seeking authorization for due process services must establish the basis for the requested costs. The motion must indicate how the requested services are necessary for the defense of the case. A motion seeking authorization or additional funds for a private investigator, mitigation specialist, or an expert shall set forth the particularized need for the requested services based on the circumstances of the case.

The defense has the burden to establish that the requested services are reasonable and necessary for the defense of the case. For experts and mitigation specialists, the defense also has the burden to establish the particularized need for the services. Due process services are those services necessary to ensure a defendant's meaningful access to the courts.

B. General Compensation

Rates and Vendors for Due Process Services

JAC reviews due process service invoices to verify compliance with the established rates and amounts authorized as established pursuant to Florida law. Pursuant to s. 27.52(5), F.S., the rates applicable in indigent for costs cases are the same as the rates applicable in court-appointed cases. The rates are established annually in the General Appropriations Act. The current rates will be posted on the JAC's website. If the rate for a particular due process service has not been established, JAC may establish a rate. In establishing rates, JAC will rely upon its experience since July 1, 2004, as well as the recommendations of the Article V Indigent Services Advisory Board (ISAB), in determining the appropriateness of a rate charged and the total amount of compensation. The ISAB's recommendations are as follows:

Expert Witness Categories	Average	Suggested Ranges
Expert Witness Fees -Per Hour	\$154.17	\$150 -\$200
Expert Witness Fees -In Court -Per Hour	\$147.17	\$125 -\$150
Expert Witness Fees -Out of Court-Per Hour	\$111.20	\$50 -\$150
Exp. Wit. Fee -Waiting to Testify -Court -Per Hour	\$71.33	\$50 -\$75
Exp. Wit. Fee -Waiting to Testify -Depo.-Per Hour	\$66.83	\$50 -\$75
Expert Witness Fee -Travel -Per Hour	\$63.50	\$50 -\$75
Expert Witness Fees -Per Case	\$1,580.00	\$1,500-\$2,000
Psychological Exam -Per Exam	\$246.88	\$150 -\$400
Psychologist -In Court/Testify -Per Hour	\$136.60	\$125 -\$150
Psychologist -Waiting to Testify -Per Hour	\$84.80	\$50 -\$75
Medical Doctors -In Court or Depo. -Per Hour	\$156.43	\$150 -\$200
Medical Doctors -Out of Court -Per Hour	\$128.33	\$100 -\$125
Other Pre-Trial Expert -In Court -Per Hour	\$102.67	\$75 -\$100
Other Pre-Trial Expert -Out of Court -Per Hour	\$77.00	\$50 -\$75

Order Authorizing Due Process Costs

The order authorizing due process costs should contain sufficient information for JAC to process a billing for payment. The order should be entered prior to the defense incurring the costs at issue.

For deposition appearance fees, JAC may pay appearance fees without prior court authorization as long as the rates billed are consistent with the rates established by law. For deposition transcripts, the order needs to provide the name of each witness and the date of deposition. For hearings, the order needs to provide the type of hearing and the date of that hearing. For other transcripts, the order needs to provide sufficient information to identify the item to be transcribed. For example, the date of the recording and the name of the witness and/or the type of recording (such as 911 calls or jail phone calls). For appellate transcripts, the designation of the record filed with the clerk may be utilized in lieu of a court order authorizing transcripts.

For investigative services, the order only needs to contain the amount authorized (cap) for the investigator. If seeking additional investigative fees, it is helpful for the order to include both the additional amount authorized and the total amount authorized.

Service of process should be through the sheriff unless the sheriff is unable or unavailable to provide service of process. The sheriff must be used to serve in-county law enforcement. The need for an order for a private process server depends on whether there is an established rate for the circuit. For those circuits with an established rate, an order is not required for regular service on witnesses other than in-county law enforcement. For those circuits without a rate, an order is required setting the rate for service of process, typically \$20 to \$25 per service or attempt.

For a mitigation specialist services, the order should reflect the hourly rate (not to exceed \$75 per hour) and the amount authorized (cap) for the mitigation specialist.

Any order authorizing expert services should contain the type of expert (including the expert's name when a specific expert is being appointed), the services to be provided, the compensation rates for those services, and a maximum amount authorized (cap) for expert services. If the services are to be performed within the rates established by law, the lack of a rate will not prevent payment. However, if the rates exceed the rates established by law or there is no rate established for a service, the lack of a rate in the order will delay payment. Absent an order expressly authorizing a rate in excess of the established rates, JAC will only pay for expert services at the established rates.

Exhaustion of Amount Authorized

If an investigator, mitigation specialist or expert anticipates exhausting the amount previously authorized by court order, the attorney should file a motion to authorize additional services prior to exhausting the amount authorized. **It is important that the attorney inform the vendor of the amount authorized for the case.** Before the amount is exhausted, the due process vendor is responsible for notifying the attorney if additional services are required. The attorney can then file the appropriate motion with the trial court and obtain an order authorizing additional amounts before the vendor submits a billing which exceeds the amount previously authorized by court order.

Investigators

Any private investigator providing services in Florida must be licensed pursuant to Florida law. JAC is not authorized to pay for any private investigator services provided in Florida by a person not properly licensed pursuant to Florida law. If a due process vendor is providing services that require investigator licensing under Florida law, the vendor shall comply with the requirements to be licensed as an investigator. The vendor shall provide the investigative firm license (A license) and the private investigator license (C license) of the investigator contracting with JAC. If the private investigative firm employs more than one private investigator who will be providing services under the Due Process Contract, the vendor shall provide the private investigative license (C license) of the primary investigator for the firm. The vendor shall also provide the private investigator licenses (C and CC licenses) of all investigators who will be providing services to be compensated through JAC.

During the billing process, the services of each investigator providing services on a case will be entered separately as part of a single billing. In completing the online JAC Invoice/Voucher Cover, the services for each investigator will be entered separately by license number. The person submitting the billing will include the hours performed by each investigator who worked on the case as separate entries in the billing. This will permit JAC staff to track the number of hours worked by each investigator across their JAC cases.

The role of a private investigator is limited to providing investigative services such as locating and interviewing witnesses; locating and securing documents and other evidence relevant to the case; performing background checks; and researching any other factual issues relevant to the case such as credibility and character of witnesses. Where private service of process is authorized, an investigator can also serve subpoenas on ordinary non-law enforcement witnesses; however, the investigator can only bill the flat rates applicable for private service of process regardless of the amount of time spent serving the subpoena. An investigator is not a substitute for a paralegal or secretary and cannot be used to perform administrative tasks including, but not limited to, retrieving discovery from the state attorney; copying documents from a court file; delivering materials to the defendant; or any other tasks of a paralegal or secretarial nature.

When multiple investigators are assigned to the same case, only one investigator will be compensated for completing a single task. If multiple investigators attend the same meeting, only one investigator will be compensated for that time. If an investigation firm decides to divide up the work, any extra time spent as a result of using multiple investigators will be non-billable. Also, JAC will not pay for time associated with training investigators or investigator interns.

Absent specific court authorization, an investigator from another circuit will not be reimbursed for travel time or travel expenses for an investigator to travel to the circuit of the case. If an investigator makes a business decision to accept cases outside the investigator's home circuit, the investigator will generally not be compensated for time and expenses related to travel to the circuit of the case. Absent a showing that no local investigators are available to accept appointment to a case, an investigator waives any right to travel time or expenses. Generally, such travel time and expenses is only permissible

when an investigator is traveling to a rural county where investigator services are unavailable.

The due process contracts limit the submission of investigator billings by requiring either a billing represent an unpaid amount of at least \$500 (12.5 hours of work) or billing at the conclusion of investigator services on a case. If an investigator submits a billing for less than \$500 prior to completion of services on a case, the billing may be returned.

A private investigator providing services on a case shall not provide expert or mitigation specialist services on the same case. A person serving as an expert or mitigation specialist on a case is prohibited from also functioning as a defense investigator.

Service of Process

Service of process upon witnesses should be through the sheriff unless the sheriff is unable or unavailable to provide service of process. Under s. 57.081, F.S., the sheriff is available to provide service of process without prepayment in cases involving indigent persons. The sheriff must be used to serve in-county law enforcement absent exceptional circumstances. In order to use a private process server to serve in-county law enforcement officers, the attorney must file with service upon JAC a motion setting forth the exceptional circumstances requiring use of a private process server.

If there is adequate time for the sheriff to perfect service on non-law enforcement, the sheriff should be used absent exceptional circumstances. JAC may object to reimbursement of private process server fees on non-law enforcement if there appears to have been adequate time for the sheriff to handle service.

Mitigation Specialists

Mitigation specialists are only authorized in capital death cases. In other cases, an investigator should be employed to handle the development of mitigating evidence. The mitigation specialist is a specialty unique to capital cases in which the state is seeking a potential sentence of death. (With the exception of capital death cases, the rate for mitigation specialists cannot exceed the rate for investigators.)

Prior to the authorization of a mitigation specialist, the attorney should file a motion setting forth the specialized expertise, skills and education of the mitigation specialist that warrants compensation in excess of the rate normally authorized for a private investigator. The motion should also indicate the hourly rate requested for the mitigation specialist. **This hourly rate cannot exceed the hourly rate set forth in the General Appropriations Act (currently \$75 per hour).** If the motion is granted, the order will need to reflect the hourly rate and the maximum amount authorized for the mitigation specialist. Absent an order authorizing a higher hourly rate, a mitigation specialist will be compensated at the rate authorized for a private investigator.

Forensic Sentencing Expert for a Defendant Subject to a Sentence of Life Who Was a Juvenile at the Time of Offense

Although the trial court may not appoint a mitigation specialist in these cases, the court may appoint a forensic sentencing expert for purposes of conducting a forensic social evaluation pursuant to s. 921.1401, F.S. The rate for the service cannot exceed \$75 per hour. Under

these circumstances, an investigator will also need to be appointed (at the rate of \$40 per hour) for purposes of conducting the investigatory portion of the evaluation such as gathering records and obtaining pertinent information. The scope of the expert's services will be limited to performing the forensic social work up of the defendant.

Detailed Invoices/Hourly Statements

For due process vendors billing on an hourly basis, such as investigators, mitigation specialists, and experts, the hourly statement must contain sufficient detail for JAC to review the reasonableness of that invoice. Generally, the same requirements for attorney hourly statements as set forth in the Policies and Procedure for Private Court-Appointed Counsel apply to hourly statements from due process vendors.

If an individual person employed by a due process vendor provides more than 10 hours of services on a single date or more than 50 hours of services in a week, this information needs to be disclosed in the billing. It is the responsibility of the contracting party to keep track of the number of hours being worked by each person across all JAC cases. If the hours are being billed on a single case, then a brief explanation (such as final investigation before trial) will be sufficient. However, if the hours are being billed across multiple cases, the explanation should also provide the case information for the other cases involved.

Out-of-State Due Process Vendors

An attorney shall not seek authorization from the court for out-of-state experts or mitigation specialists, absent a showing that there are no such due process vendors with appropriate skills or expertise available, first, in the county in which the case was filed and, second, in any other county in the State of Florida. If the attorney obtains an out-of-state due process vendor without making such a showing, the attorney agrees not to request reimbursement for any travel expenses, including compensation for travel time, on behalf of the due process vendor. An order authorizing the employment must be in writing and contain specific findings regarding the unavailability of a qualified in-state expert or mitigation specialist.

Transcripts

JAC may pay for the cost of preparing a transcript of a deposition only if the attorney secures an order from the court finding that preparation of the transcript is necessary, in which case JAC may pay for one original and one copy only. The order should reflect the name of the witness and the date of the deposition to be transcribed.

A generic order authorizing transcripts prior to the taking of depositions will not suffice for payment purposes as a general rule. For example, language in the order finding the defendant indigent for costs authorizing the attorney to order "necessary" transcripts does not suffice for payment purposes.

JAC may pay for the cost of one original transcript of any deposition, hearing, or other proceeding. Any other payment for a transcript of that same deposition, hearing, or other proceeding, regardless of whether the transcript is an additional original transcript or a copy, shall be at the rate paid for a copy of a transcript. JAC does not pay original rates for transcripts when an original transcript has been previously created, regardless of the source of payment for the original.

In determining the number of pages to be billed, JAC pays for the following: a title page; index, appearance and/or contents page(s); the transcription of the testimony of the proceeding or deposition; one errata sheet for a deponent or witness; and necessary court reporter certification page(s) at the conclusion of the transcript. JAC does not pay for pages containing word indexes, summaries, or similar information unless specifically required by court rule. All transcripts must meet the formatting requirements set forth in Fla. R. Jud. Admin. 2.535(f).

Appearance Fees

For purposes of calculating the amount of an appearance fee for depositions involving multiple witnesses conducted by a court reporter, the amount is calculated per session, not per witness. The first hour is compensated at a rate of \$75 per hour and each hour thereafter is compensated at a rate of \$25 per hour. Unless there is a break exceeding an hour, the \$25 per hour rate continues to apply to any depositions taken in a case.

For example, the defense has depositions for a case from 8:00 a.m. to 12:00 p.m. The court reporter would bill a total of \$150 for this session (\$75 for the first hour and \$75 for the second, third, and fourth hours).

If there is a break of one hour or more, and the same court reporter returns following the break, the court reporter may bill the \$75 per hour for the first hour following the break. For example, if the defense has depositions from 8:00 a.m. to 11:00 a.m. and then from 1:30 p.m. to 4:30 p.m., then the court reporter could bill \$125 for the first session and \$125 for the second session.

When a break is less than an hour, then the session is considered ongoing. It is important to note that break time must be unbilled to be considered break time. Any wait time billed to JAC is not considered break time. For example, if one hour depositions are scheduled for 8:00 a.m., 9:00 a.m., 10:00 a.m., and 11:00 a.m., and the witnesses for 9:00 a.m. and 11:00 a.m. do not show but the court reporter remains onsite during the deposition session, then the court reporter would bill \$150 for the session (\$75 for the first hour and \$75 for the second, third, and fourth hours.) Because the court reporter is being paid for the wait time, the court reporter cannot bill \$75 for the fourth hour even though there was a break of 2 hours.

Certificates of Non-Appearance

The appearance fee paid by JAC includes payment of any certificates of non-appearance issued for witnesses that failed to appear during the deposition session. No additional fees beyond the appearance fee for a deposition session will be paid for a court reporter to prepare any certificate of non-appearance in relation to a witness's failure to appear during a deposition session.

Interpreters

JAC's role is to provide costs for foreign and sign language interpreting services **outside** of the courtroom (or other judicial proceedings) such as deposition or witness interviews. Insofar as the Type 1 Due Process contract, JAC does not provide costs for a privately

retained attorney to communicate with the attorney's client. This cost is a cost of representation rather than a due process cost.

JAC has included language authorizing an attorney to seek rates of up to ***\$50 per hour for Spanish and Creole interpreting services*** and ***\$65 per hour for other languages*** for certified and language-skilled interpreters. Normally, a vendor who signs a Type 1 Due Process contract is limited to payment at the established rates. This provision addresses recent changes adopted by the Florida Supreme Court in relation to foreign language interpreting services.

Prepayment/Retainers

JAC does not prepay or provide a retainer for due process services. An attorney shall not seek to have JAC prepay or provide a retainer for due process services.

Travel Time for Due Process Vendors

Other than investigators, due process vendors that bill at hourly rates may not bill for time spent traveling on a case unless a rate has been established by law or court order for travel time.

Statutory Exemption/Waiver of Prepayment

As delineated in s. 57.081, F.S., an indigent shall receive the services of the courts, sheriffs, and clerks, with respect to pending proceedings, despite his or her present inability to pay for these services including filing fees; service of process; certified copies of orders or final judgments; a single photocopy of any court pleading, record, or instrument filed with the clerk; examining fees; mediation services and fees; subpoena fees and services; service charges for collecting and disbursing funds; and any other cost or service arising out of pending litigation. The attorney is responsible for ensuring compliance with the terms of s. 57.081, F.S., including but not limited to (1) providing necessary documentation to the clerk of court or sheriff and (2) filing appropriate motions with the trial court to obtain such services pursuant to the exemption or without prepayment. JAC shall not reimburse the attorney, either directly or indirectly through a due process vendor, for charges paid to the court, the sheriff or the clerk or court, in relation to services which the indigent client was entitled to receive without prepayment pursuant to s. 57.081, F.S.

C. Methods of Paying Due Process Service Costs

JAC Pays Due Process Vendor after the Attorney Certifies

Upon receiving a bill or invoice from the due process vendor, after completion of the service, the attorney must certify the bill or invoice. Both the attorney and the due process vendor must sign the applicable JAC Invoice/Voucher cover. The billing process is completed through JAC's Online Billing Submission System. The attorney must have submitted the case opening documents before a due process vendor may be paid. JAC may then pay the due process vendor directly. Copies of court orders authorizing such costs must be provided with the intended billing. The attorney may not certify the work is completed until the work has actually been completed. If all procedures are not followed, or appropriate documentation is not provided, the attorney remains personally liable to pay the due process vendor. **Any Voucher Cover received by JAC that certifies the work was done prior to completion of the work will be returned.**

Counsel Pays and is Subsequently Reimbursed

The attorney may pay the due process vendor directly and then seek reimbursement from JAC. After certifying the bill or invoice, the attorney must submit the original bill or invoice with a completed applicable Invoice/Voucher Cover.

Online Billing Submission System

Due process billings must be submitted through the Online Billing Submission system on [My JAC](#). Due process vendors and attorneys may submit invoices to cases already open in the JAC system. (To open a new court-appointed case, an attorney may use the Online Case Opening system in [My JAC](#) to submit the order of appointment and required documentation.) Prior to beginning an online invoice submission, the due process vendor will need to have the necessary documentation ready. During the billing process, the due process vendor will complete an electronic JAC Invoice/Voucher Cover. Supporting documentation including any vendor invoices must be scanned to electronic files. All files must be in PDF or TIFF format only. During the online billing process, the vendor will be prompted to upload these files. Please make sure the scans of all documents are legible.

Once the billing packet has been submitted, a confirmation message will appear and the attorney and due process vendor will receive a confirmation email. The attorney will log into [My JAC](#) and review the billing and supporting documentation and then either approve or reject the billing. Attorneys are required to approve or reject due process vendor billings within 10 business days. To assist in submitting billings through this new system, additional instructions and tutorials are available on [My JAC](#).

D. Signing the JAC Invoice/Voucher Cover

JAC only accepts billings submitted using JAC Invoice/Voucher Covers. Any submission of an invoice without a voucher cover is deemed a nullity and is not considered or reviewed for payment purposes. When a due process vendor signs the JAC Invoice/Voucher cover, the vendor is certifying that the vendor completed the services as set forth in the JAC Invoice/Voucher Cover and any supporting documentation such as vendor invoices.

Section III – Timely Billing and Procedural Requirements

Timely Submission

Due process vendors billing JAC directly shall submit an intended billing for due process services and expenses **within 90 days after final disposition of the case**. Failure to submit a properly completed intended billing within 90 days will result in a mandatory contractual penalty on any due process services and expenses. See § 27.5304(4), F.S.

An intended billing will not be considered satisfactorily submitted with JAC until all applicable forms and necessary documentation required under the IFC and due process contracts, JAC's Policies and Procedures, and those local requirements promulgated pursuant to Florida law, whether implemented through an Administrative Order or by other means, have been appropriately completed and submitted.

The statute of limitations to initiate an action seeking payment of due process services commences once the case reaches final disposition.

Timely Submission with an Appeal Anticipated

Filing of an appeal does not stay the time for submitting an intended billing relating to representation at the trial court level, even if the attorney represents the client on appeal.

For example, if a case reaches final disposition at the trial level, but is appealed, the attorney must submit for due process services pertaining to representation at the lower court level within 90 days after final disposition of the case at trial level.

Timely Submission for Appellate Cases

For purposes of the penalty, the date of final disposition is the date of the issuance of the appellate mandate.

Timely Submission for Dependency Cases

A dependency case does not reach final disposition until the Court dismisses the petition as to a party or terminates protective supervision (with or without retaining jurisdiction).

Unique Invoice Number

Due process vendors are required to use a unique invoice number for each billing. This makes it easier to identify billings in the Florida Accounting Information Resource (FLAIR) system and reduce Department of Financial Services (DFS) inquiries regarding possible duplicate payments because billings from the same attorney or due process vendor share an invoice number.

Hourly Compensation Final for Billing Interval

When a due process vendor submits an hourly billing to JAC, once payment has been made by JAC and accepted by the due process vendor, the due process vendor cannot seek to bill for additional time for work done prior to the last date of service in the hourly billing. Acceptance of payment by JAC constitutes a final resolution of the amount payable under principles of accord and satisfaction.

Submission of Documents

Unless an original is required or requested by JAC, documents such as motions or court orders should be submitted through e-mail to:

pleadings@justiceadmin.org

Penalty for Untimely Billing

In accordance with s. 27.5304, F.S., for any intended billing for due process services and expenses that does not occur within 90 days after final disposition, or that is not satisfactorily submitted within 90 days after final disposition, the allowable costs and expenses shall be reduced by fifteen percent (15%). The fifteen percent (15%) reduction is a penalty for failing to submit in a timely fashion. As required by s. 27.5304(4), F.S., JAC will enforce the penalty by reducing the amount payable by fifteen percent (15%).

For cases that reach final disposition on or after July 1, 2010, for any intended billing for due process services that is not submitted or is not satisfactorily submitted on or within a year after final disposition, the allowable costs shall be reduced by fifty percent (50%). The fifty percent (50%) reduction is a penalty for failing to submit in a timely fashion. As required by s. 27.5304(4), F.S., JAC will enforce the penalty by reducing the amount payable by fifty percent (50%).

For cases that reach final disposition on or after July 1, 2010, for any intended billing for due process services that is not submitted or is not satisfactorily submitted on or within two years after final disposition, the allowable costs shall be reduced by seventy-five percent (75%). The seventy five percent (75%) reduction is a penalty for failing to submit in a timely fashion. As required by s. 27.5304(4), F.S., JAC will enforce the penalty by reducing the amount payable by seventy-five percent (75%).

In the event a due process vendor's bill is subject to this penalty, the attorney may be legally responsible for reimbursing the due process vendor in the event the failure to timely submit the intended billing was the fault of the attorney.

Legibility & Intelligibility

Any documentation submitted to JAC must be legible and intelligible. Any documentation submitted to JAC which is illegible or unintelligible will be returned and will not be considered satisfactorily submitted with JAC.

Sufficient Postage

Proper postage for letters and other packages sent to the Justice Administrative Commission (JAC) is the responsibility of the sender. JAC will not accept delivery of letters and other packages with insufficient postage or postage due.

Careful attention has to be paid to the size and dimensions of the package to insure proper postage is applied. Information regarding the US Postal Service's changed postage requirements and postage rate structure may be found on their website: <http://www.usps.gov>. Once again, it is each sender's responsibility to ensure proper postage is applied to letters and other packages being sent to JAC. Information describing the additional shape-based method for calculating proper postage is available on the website of the US Postal Service:

<http://pe.usps.com/text/dmm100/intro.htm>

Section IV – Necessary and Applicable Forms

Online Billing Submission

Due process vendors are required to submit billings through the Online Billing Submission systems available through [My JAC](#).

Guidelines and Tips for Submitting Files Through [My JAC](#)

- JavaScript should be enabled in your web browser.

- Disable pop-up blockers in your web browser for invoice billing submission.
- Prepare all invoice billing packet document files for invoice billing submission. Billing packet documents must be either PDF or TIFF file format. For Apple/Mac users, TIFF format is preferable.
- Total size for invoice billing submission packets must be less than 20 MB for all electronic files combined.
- When submitting documents online, please submit them as separate files, i.e., the travel voucher document should be submitted separately from the charging document. Do not create separate files for each page of the document. Please submit each document file in the appropriately named upload field textbox, or payment may be delayed.
- All documents submitted online should be legible and scanned right side up. Each page should consist of a full-sized single page of the original document. Documents should be scanned in black and white, with a resolution no greater than 300 DPI.
- For online billings, save your Invoice Billing Submission Tracking Number for future reference. This will allow you to amend or add to an electronic billing submission or submit a response to a Billing Audit Deficiency through the online billing system.
- Once documents are submitted online, please do not mail, fax, or e-mail paper backups or courtesy copies to JAC. This will help avoid duplication, confusion, and delay in payment.
- Please retain original signed copies of all documentation for your records.

Direct Pay of Due Process services

All necessary and applicable Invoices/Voucher Covers for direct pay of due process service costs are available on the JAC website. Corresponding instructions for each form are also available on the JAC website.

Travel Reimbursement

All necessary and applicable Invoices/Voucher Covers for travel reimbursement are available on the JAC website. Corresponding instructions for each form and a State of Florida Travel Tips guide are also available on the JAC website.

Section V – Confidentiality and Public Records

Public Records

Forms, bills, invoices, documents, correspondence and contracts submitted to JAC are public records. In limited circumstances, the court can order records to be kept confidential and under seal at JAC.

In considering any issue of access to government records, it must be recognized that in Florida reports generated by a public agency are public records subject to disclosure, unless specifically made confidential or exempt by the Legislature.[1] Any exemptions to the Florida Public Records Law are to be narrowly construed.[2] Where a public record contains information that is exempt or confidential, that portion of the record which falls within the

exemption may be redacted, while the remainder of the record must be produced for examination.

Fla. Att’y Gen. Op. 2001-54. The procedures for seeking sealing of court pleadings are available at Florida Rule of Judicial Administration 2.420. Absent an order in conformance with the rule, any documents provided to JAC will be subject to public records requests.

As a contractor with a state agency, some of the records possessed by attorneys and due process vendors may constitute public records pursuant Ch. 119, F.S. The failure to comply with a public records request could result in legal action by the requesting party. Under Florida law, the failure to comply with a public records request may result in an award of attorney fees and costs. Attorneys and due process vendors should be aware of this possibility. Attorneys should be familiar with Kight v. Dugger, 574 So. 2d 1066 (Fla. 1990), which concluded that files held in furtherance of representation of an indigent client are not public records. Due process vendors should contact the attorney who retained the vendor’s services if the vendor receives a public records request. JAC is not liable for any attorney fees or costs arising from a public records lawsuit involving an attorney or vendor.

Section VI – Due Process Vendor Travel

A. General Practices and Procedures

Travel

All travel must be pursuant to Florida law, particularly the requirements of s. 112.061, F.S. Travel reimbursement is limited to witnesses for which reimbursement will be claimed on a uniform travel voucher as promulgated by the Department of Financial Services. Travel expenses are compensable to the extent authorized by law.

Traveler’s Requirements:

- Include a valid court order identifying approved traveler with each travel request.
- Adhere to guidelines set forth in s. 112.061, F.S., Department of Financial Services Regulations, and the policies and procedures of the JAC.
- Review information regarding travel on JAC’s website:
https://www.justiceadmin.org/court_app_counsel/formsandrates.aspx#travel
- All travelers should maintain all original receipts (exception is where state standards for breakfast, lunch and dinner allowances apply).
- Bill only for authorized travel costs. Time spent making travel arrangements is considered clerical and is not reimbursable.

Court Order Required

For private court-appointed counsel, indigent for costs and pro se defense cases, JAC requires a court order approving travel. This order must be obtained prior to the travel. No commitment of state funds for such travel pursuant to s. 112.061, F.S., will be made without a court order.

B. Travel Reimbursement

Travel Voucher

Any request for reimbursement of travel expenses, including mileage, must be submitted using the travel voucher form issued by the Florida Department of Financial Services. JAC will not accept or consider any request for travel expenses except through the DFS travel voucher. Failure to submit a properly completed travel voucher constitutes a waiver of any right to obtain travel expenses.

Mileage

When authorized, mileage reimbursement will only be authorized for trips in excess of 50 miles one way. JAC will no longer accept mileage logs in lieu of a DFS Travel Voucher. Instead, any request for mileage must be submitted using the travel voucher form approved by the Florida Department of Financial Services pursuant to s. 112.061, F.S. Information on how to complete the travel voucher is posted on the JAC's website.

Reimbursement for mileage is limited to actual mileage traveled using a personal vehicle. JAC reimburses for the actual mileage incurred during a trip. When a traveler travels on multiple cases, the total amount of mileage billed across those cases cannot exceed the actual distance traveled. A traveler cannot seek reimbursement for the same mileage traveled in more than one case. Mileage must be apportioned appropriately so that the traveler receives compensation for the actual mileage traveled using a personal vehicle.

Travel must be via a usually traveled route from point-of-origin to point-of destination. In state, city-to-city mileage calculations can be found at

<http://www.fdot.gov/statistics/hwydata/intercity.shtm>

If an in-state travel destination is not included or available on this website, or if your travel is out-of-state, calculate your mileage using an internet map website that shows such mileage (i.e. www.mapquest.com).

Reimbursement

All original receipts are required. When travel is necessary and court-ordered, the individual (i.e. investigator, mitigation specialist, expert witness, etc.) should arrange the travel, pay for any related travel expenses, and upon completion of the travel, submit a billing and DFS travel voucher to JAC for processing of reimbursement payment.

All necessary and applicable Invoice/Voucher covers for travel reimbursement are available on the JAC website. Additionally, corresponding instructions for each form and a State of Florida Travel Tips guide are also available on the JAC website.

Hotels

Hotel accommodations exceeding \$150 per night require written justification. JAC requires the attorney to include three (3) internet or travel agency quotes for prices of nearby hotels if billing for more than \$150 per night. For additional information, please refer to the JAC website.

Competitive Carriers

The attorney or due process vendor is responsible for researching flight, lodging, and/or rental car rates, to obtain the most economical method of travel for each trip. When competitive carriers do not exist, documentation indicating that the reserved carrier is the sole provider for the area must be provided.