Eight Things an Expert Should Know:

1. JAC has created a secure website that contains information about a vendor's paid and unpaid bills.

JAC has created a secure website through which an expert or other due process provider can obtain information regarding both unpaid and paid bills submitted to JAC. Through this website, a vendor can determine whether JAC has received a billing and whether JAC has approved the billing for payment. A vendor can also access letters and notices related to the billing such as audit deficiencies and letters of objection.

Instructions on how to setup access to the secure website is available at:

https://www.justiceadmin.com/faq/Quick%20Reference%20Guide-Vendor%20Login.pdf

The JAC Help Desk can assist an expert or other due process provider in setting up secure access and in using the vendor website.

2. The rates for expert services are established each year in the General Appropriations Act.

Pursuant to s. 27.425, F.S., the rates for experts are set each year by the legislature. JAC posts the current rates for each circuit on its website. If there is no rate set for the type of expert requested, then the court will need to set a rate when it authorizes the expert's services. Absent an order expressly authorizing a rate in excess of the established rates, JAC will only pay or reimburse for expert services at the established rates. If the attorney procures services at a higher rate, the attorney may be responsible for paying the difference.

3. A court order authorizing expert services is required.

In order for JAC to pay for expert services, a court order authorizing expert services is required for JAC to process a billing for expert services for payment. The order authorizing expert services should be obtained prior to the commencement of any work on the case. Generally, the attorney will need to file a motion for expert services prior to the expert commencing work on the case.

The motion needs to establish the basis for the expert services by setting forth the reason why the expert's services are necessary for the defense of the case. The defense has the burden to show the particularized need for the expert's services. The motion needs to be served on JAC prior to the court considering the motion. If the court grants the motion, the order authorizing expert services should indicate the amount authorized for expert services as well as the hourly or other rates authorized if

the rates authorized exceed the established rates or if there is no rate established for that type of expert service.

When an attorney seeks to procure expert services in excess of the established rates, the motion filed with the trial court will need to justify services in excess of the established rates. The attorney has the burden to establish that the expert's services are necessary to the defense of the case and that the attorney made diligent efforts to obtain the services within the established rates. JAC is not authorized to pay any rate in excess of the established rates absent an order specifically authorizing such rates.

4. If the amount authorized by court order is exhausted, an order authorizing additional services should be obtained.

If an expert exhausts the amount previously authorized by court order, then the attorney should file a motion to authorize additional services prior to the expert providing additional services in the matter. The attorney should inform the expert of the amount authorized by the court for the case. When this amount is exhausted, the expert should immediately notify the attorney if additional services are required so that the attorney can file the appropriate motion with the trial court. JAC cannot pay more than the amount authorized by the court absent an order authorizing additional services. As with any other motion, JAC should be served with the motion prior to a court considering the motion. If the court grants the motion, the order should reflect the additional amount authorized for expert services.

5. A billing for expert services must be supported by a detailed itemized invoice.

Experts must submit a detailed invoice including an hourly statement when being compensated on an hourly basis. When preparing the hourly statement, the expert needs to list the date and amount of time, the type of service provided, and brief description for each service. The expert may not aggregate activities into block entries covering more than one date. **The statement should be billed in hours and tenths of hours.** As a general rule, the expert needs to provide sufficient information so that JAC can assess the reasonableness of the billing.

6. JAC does not pay retainers or prepay for expert services.

JAC is not authorized to pay retainers or other forms of prepayment for expert services. If an expert requires a retainer, the retaining attorney is responsible for paying the retainer and then seeking reimbursement after the expert has completed the services. The retaining attorney will only be reimbursed the amount necessary to compensate the expert at the authorized hourly rate irrespective of the amount of the retainer or other prepayment. If the expert services do not exhaust the retainer or prepayment, JAC will not reimburse the attorney for the difference.

7. The retention of out-of-state experts is generally not authorized absent specific court findings.

The use of out-of-state experts is not authorized when there are competent experts available within Florida. An attorney may not seek authorization from the court for out-of-state experts absent a showing that there are no providers with appropriate skills or expertise available, first, in the county in which the case was filed, and second, in any other county in Florida. If an attorney retains an out-of-state expert without such a showing, then the attorney or expert cannot obtain reimbursement through JAC for travel expenses, including compensation for travel time. Any order authorizing the employment of out-of-state experts must be in writing and contain specific findings regarding the unavailability of a qualified in-state expert.

8. In order to receive direct payment, an expert must execute a JAC Agreement for Due Process Services.

JAC only makes direct payment to due process vendors who have executed a JAC Agreement for Due Process Services. The current JAC Agreements are available at:

https://www.justiceadmin.org/court_app_counsel/agreementscontracts.aspx?contractview=4

JAC has three types of Agreements for due process providers: the Type 1 Agreement; the Type 2 Agreement; and the Non-Standard Agreement. The Type 1 and 2 Agreements are for an annual term commencing from July 1st through June 30th. The Non-Standard Agreement is a contract covering a specific case.

If an expert is willing to provide services at the established rates, then the expert should execute the Type 1 Due Process Agreement. This agreement binds the expert to provide services at those rates. If the expert may seek compensation in excess of the established rates, the expert should execute the Type 2 Due Process Agreement. This Agreement allows for the court to authorize higher rates upon an appropriate showing. The execution of Type 2 Agreement, by itself, will not allow for compensation in excess of the established rates. Any authorization for services in excess of the established rates must be through a specific court order. The execution of a Type 1 or Type 2 Agreement indicates a general willingness to provide service in court-appointed and indigent for costs cases.

Execution of a Non-Standard Agreement will typically occur when use of an out-of-state expert is authorized by the court or where an expert only desires to provide services in a specific case. As a general rule, JAC does not enter in Type 1 or Type 2 Agreements with out-of-state experts.