



Justice Administrative Commission Policies and Procedures

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Executive Director

For Indigent for Costs Counsel
(Privately Retained or Pro Bono Attorneys)



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Checklist for Due Process Services

For due process service costs to be paid, JAC must have received the following documents:

- Written Motion to Declare the Client Indigent for Costs.
- Clerk's Application for Indigency.
- Affidavit Attesting to Estimated Amount of Attorney Fees.
- Order Declaring the Client Indigent for Costs.
- Charging Document.
- Signed JAC IFC contract (submitted through *My JAC*).
- JAC Invoice/Voucher Cover (Submitted through JAC's Online Billing Submission System (JACOBS))
- Order authorizing specific due process services unless costs are authorized pursuant to the order declaring the client indigent for costs.
- Proof of Payment if seeking reimbursement for due process services paid on behalf of the Client

Section I - Case Opening Documents

A. Having a Client Declared Indigent for Costs

Written Motion Required

In order to have a client declared indigent for costs, privately retained counsel must file a written motion to declare the client indigent for costs. As required by s. 27.52(5), F.S., the attorney must also file a clerk's application for indigency and an affidavit attesting to the amount of attorney fees and the source thereof. All of these documents must be submitted to the trial court for the court's consideration before a client is declared indigent for costs.

Service on JAC

The attorney must serve a copy of the written motion along with the affidavits upon JAC prior to the court declaring the client indigent for costs. Under s. 27.52(5), F.S., the attorney is required to serve a copy of the motion on JAC prior to the trial court considering the motion. JAC is entitled to notice and an opportunity to be heard before a court declares a client indigent for costs. JAC has standing to participate in any hearing on the motion and is authorized to appear telephonically at any hearing on the motion. JAC may seek to vacate any order declaring a client indigent for costs if JAC is not afforded an opportunity to participate in the proceeding to declare the client indigent for costs. JAC must receive a minimum of 5 business days' notice of any hearing on a motion to declare a client indigent for costs. An order declaring a defendant indigent for costs without notice to JAC is unenforceable upon JAC.

Presumption of Non-indigency

As part of assessing whether a defendant is indigent for costs, the trial court must consider the amount of the attorney fees and the source of those fees. If the estimated fees are greater than \$5,000 in a non-capital case or greater than \$25,000 in a capital case where the state is seeking death, there is a presumption of non-indigency. To overcome this presumption, the defense has the burden to show through clear and convincing evidence that the fees are reasonable based on the nature and complexity of the case. In making this determination, the trial court shall consider the amount of fees a private court-appointed attorney would receive for that type of case.

Court Order Required

In order for JAC to pay any due process services, the court must enter a written order finding the client indigent for costs. The provision of due process services in an indigent for costs case must be effectuated through a written court order. If the attorney is representing a defendant on more than one case, the order finding the client indigent for costs must reference all cases in which the defense is seeking due process services.

Costs Must be Specified

The motion must specify the particular due process services requested as well as the amount requested for those services. The order declaring the client indigent for costs must also specify the particular due process services that are authorized and the amount authorized for those costs. If the order only finds a client indigent for costs without specifying the costs authorized, then the attorney will need to obtain a separate order

authorizing the particular due process services. JAC is always entitled to notice and an opportunity to be heard before a court approves any due process services.

Consistent Case Number

The case number that appears on the original motion to declare a person indigent for costs provided by the attorney must be used identically on all further submissions by the attorney for that case.

Not Retroactive

An order finding a defendant indigent for costs is prospective only. JAC will not pay due process services incurred prior to the effective date of the order. An attorney may not seek payment or reimbursement for costs incurred prior to the date the court found the client indigent for costs. In extraordinary circumstances, the date of indigency for costs may relate back to the date the attorney filed the written motion to find the client indigent for costs. The indigent for costs order will need to indicate the effective date of the finding (such as the date of the filing of the motion). However, JAC is not liable for any costs incurred prior to the date the attorney initially sought to have the client declared indigent for costs.

B. Case Opening Documents

Required Documents

Prior to having a defendant declared indigent for costs, the attorney must submit the following documents to JAC:

1. The Motion to Declare the Defendant Indigent for Costs;
2. The Clerk's Application for Indigency; and
3. The Affidavit Attesting to Attorney Fees.

In order for JAC to pay any due process services, the attorney must also submit the following documents:

1. The Order Declaring the Defendant Indigent for Costs, and
2. The Charging Document(s).

Please also include any specific orders approving costs. The attorney must also have a current IFC contract.

Timely Submission

The attorney must submit the required case opening documents ***within 30 days of the date the client is declared indigent for costs***. Until these documents are submitted, JAC will not process any invoice for payment.

Submission of Documents

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

pleadings@justiceadmin.org

Legal pleadings including orders will not be deemed served on JAC until an electronic copy has been provided.

Any response to a Billing Audit Deficiency that does not contain a legal pleading should be submitted through JAC's Online Billing Submission system in [My JAC](#). Alternatively, the response may be sent to pleadings@justiceadmin.org. The attorney shall not send more than one electronic copy of any legal pleading or other document to JAC. Prior to resubmitting any document, the attorney shall verify that JAC has not received the document. Absent exigent circumstances, the attorney shall not provide any legal pleading or other document to JAC via facsimile without prior consent.

Forms or documents requiring an original signature must be mailed to JAC at:

**Justice Administrative Commission
227 North Bronough Street, Suite 2100
Tallahassee, Florida 32301**

To distinguish originals from photocopies, all originals must be signed in blue ink. Please be advised that many of these documents are required to be submitted through [My JAC](#) through the Online Billing Submission system. Attorneys and due process providers are no longer authorized to submit billing documents via mail.

Responsibility

The attorney is responsible for verifying and ensuring that the required case opening documents are timely and properly submitted, that JAC has received the required case opening documents, and that JAC has entered the case into JAC's database. The attorney may verify that a case has been opened through [My JAC](#).

Case Numbering Consistency

The case number that appears on the order declaring the client indigent for costs must be used on all further submissions by the attorney for that case. If the court consolidates the original case with any subsequent case, or the case receives a new case number when it enters a new stage, any case-related submissions should reference both the original case number and any subsequent case numbers.

For example, if the order of appointment in a Ch. 744, F.S., guardianship case has an "MH" designation in the case number, but later converts into a guardianship "GA" case number, the attorney must continue to reference both the "GA" and "MH" numbers in all documents provided to JAC.

Case Closure and Accounting

The attorney must also provide JAC with notice after a case is completed or a client is no longer indigent to enable JAC to close the case in the database.

If a criminal defendant is convicted, the attorney is responsible for providing an accounting to the trial court of any defense costs expended through the state on behalf of the defendant. This accounting needs to detail any due process costs or related expenses paid

or to be paid through JAC (or other state entities) so that those costs can be imposed as a lien against the defendant. Pursuant to s. 27.52(5), F.S., a defendant found indigent for costs is required to repay the state for defense costs upon conviction.

In criminal cases, the attorney is responsible for providing an accounting to the court of all costs paid or to be paid within 90 days after disposition of the case notwithstanding any appeals. The court is responsible for entering an order establishing the amount the defendant needs to repay. Repayment of such costs will be through the clerk of court. If the attorney fails to provide a complete accounting such that costs are omitted from the lien, then JAC is not authorized to pay or reimburse any such costs that remain unpaid.

Upon application, JAC will provide a certificate indicating the amount of invoices paid through JAC and the amount of invoices received by JAC that have not been processed for payment. The form to request a certificate is posted on JAC's website:

<https://www.justiceadmin.org/IFC/application%20for%20certification%20of%20costs.pdf>

The certificate will only address billings that JAC has received as of the date of application which have been paid or remain pending. It will not include any billings rejected for payment. It is the attorney's responsibility to ensure that all billings paid or to be paid through JAC are included in the accounting submitted to the Court.

A copy of the accounting filed with the trial court must be served on JAC. A model accounting and lien order is available on JAC's website:

<https://www.justiceadmin.org/documents/Motions/IFC%20Accounting%20and%20Lien%20Order.pdf>

Once a criminal case reaches final disposition with a conviction, JAC may decline payment of any further due process services on that case until JAC receives a copy of an accounting including the cost for which payment or reimbursement is sought. If the accounting is filed more than 90 days after final disposition, a copy of the order imposing the costs as a lien against the defendant will also need to be provided.

Pro Bono Attorneys Representing Children with Special Needs in Dependency Cases

Pro bono attorneys seeking to have a dependent child with certain special needs pursuant to s. 39.01305, F.S., declared partially indigent for costs must file a written motion seeking to have the child declared partially indigent for due process costs pursuant to s. 39.01305, F.S. The motion needs to indicate that the attorney is providing services on a pro bono basis and the specific special need(s) under s. 39.01305(5), F.S; and must be served on JAC five (5) days prior to any hearing on the motion. The order declaring the child partially indigent for due process costs needs to find that the child meets one or more of the criteria specified in s. 39.01305, F.S., and that the attorney is willing to provide services on a pro bono basis. Pro bono representation of a dependent child with certain special needs continues in effect until the attorney is allowed to withdraw, is discharged by the court, the case is dismissed, or protective supervision is terminated. If the attorney arranges for supplemental or separate counsel to represent the client in appellate proceedings, this arrangement shall be implemented through the requirements of this subparagraph. Except

when consent of a natural guardian or other appropriate person is obtained as authorized by s. 744.301, F.S., or other provision of Florida law, the attorney shall not initiate a civil, administrative, or appellate action on behalf of the child without Court authorization. A finding of indigency for costs will not continue to apply if a new attorney is court-appointed for compensation pursuant to s. 39.0105, F.S. However, if the new attorney undertakes representation on a pro bono basis, then the finding of indigency will continue to apply and no new finding is necessary.

C. Contract

IFC Contract

As directed by ss. 27.52 (5)(d) and 29.007, F.S., an attorney whose clients are declared indigent for costs is required to execute the Agreement for Due Process Services for Persons Who Are Indigent for Costs (IFC contract). No invoices will be paid on a case until an IFC contract executed by the attorney has been received by JAC.

JAC has replaced the single client indigent for costs contract with an annual indigent for costs contract covering all cases for which the attorney has a client declared indigent for costs pursuant to s. 27.52(5), F.S., or other applicable provision of Florida law. The term of the IFC Contract runs with the state fiscal year (July 1st through June 30th) and terminates on June 30th of each year. Once an attorney executes the IFC contract, the attorney will not need to execute any further agreements during the term of the IFC contract. The IFC contract will cover any of the attorney's clients declared indigent for costs under s. 27.52(5), F.S., or other applicable provisions of Florida law authorizing due process services for indigents through JAC. The IFC contract will remain in place for existing and new cases found indigent for costs through the term of the IFC contract (even after the term of the IFC contract expires) unless the attorney executes a superseding IFC contract. Once an attorney executes the new annual IFC contract, it will supersede any prior IFC contracts executed by the attorney. This will allow the attorney to function under a single contract covering all of his or her indigent for costs clients including those clients found indigent for costs prior to the execution of the new IFC contract.

Electronic Completion/Submission of Contracts

JAC no longer posts an executable copy of the IFC contract on its public website. Instead, executable IFC contracts will only be available through [My JAC](#). Attorneys who have not already set up an account will need do so before they can execute the IFC contract. Information on how to set up an account is available at:

<https://www.justiceadmin.org/login/login//Quick%20Reference%20Guide-Attorney%20Login.pdf>

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

electronic signature is deemed equivalent to a physical signature. The attorney rather than an assistant must be the person who electronically signs the contract.

Alternatively, the attorney 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 emailed to you for your records.

Substitute Form W-9

If the attorney intends to seek reimbursement for due process services paid by the attorney or the attorney's firm, a properly completed Substitute Form W-9 must be submitted to the Department of Financial Services. Information and the Substitute Form W-9 are available on DFS's website at:

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

If the attorney intends to seek reimbursement of costs in any case, 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

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

The attorney must also be capable of accepting legal pleadings including but not limited to responses to motions for attorney fees, due process services, or related expenses by email.

D. Charging Documents

Criminal Cases

An indictment or information is required for all criminal matters or cases where such a pleading is filed.

Juvenile Delinquency Cases

The petition for delinquency is required.

Violation of Probation (VOP) or Violation of Community Control (VOCC)

The petition or affidavit seeking to revoke probation or community control is required for all criminal and delinquency VOP and VOCC cases.

Post Conviction Proceedings

The attorney is responsible for providing enough of the motion so that JAC can identify the type of motion and the issues presented therein. If the motion is less than 10 pages, then the entire motion should be provided. Because the conviction is final, the right to due process costs in postconviction proceedings is very limited.

Dependency Cases / Termination of Parental Rights Cases (TPR)

Unless specifically requested, a charging document is generally not required as long as the order declaring the client indigent for costs is clear as to the nature of the proceeding. The same applies to pro bono attorneys representing children with special needs.

General Civil Cases

A copy of the initial pleading (initial petition) is required.

Appeals

A copy of the Notice to Appeal is required including the order(s) being appealed, as well as a copy of the charging document for the underlying case except for dependency and termination of parental rights cases.

Section II – Due Process Services

A. General Practices and Procedures

Obligation

The attorney billing for due process service costs shall follow the requirements of Florida Law, the IFC contract, and JAC's Policies and Procedures. Any forms and documents submitted to JAC should include the attorney's name and bar number.

Due Process Vendor Contracts

Pursuant to ss. 27.40 and 27.425, F.S., those due process vendors who desire direct payment from JAC must enter into a due process contract with JAC to facilitate direct payment. JAC only makes direct payment to those due process vendors who have executed a due process contract with JAC. Although a contract is generally not required for other state entities, a Florida state entity must be willing to bill JAC directly in order for JAC to make direct payment to the due process vendor.

If a due process vendor or other entity providing services to the defense does not have a due process contract with JAC or is unwilling to bill JAC directly, then the attorney pays the due process vendor or other entity and then seeks reimbursement from JAC. To the extent that the attorney pays in excess of the established rates or in excess of the amounts authorized by the court, JAC shall reimburse the attorney for the amounts reimbursable under Florida law or court order.

JAC has established two types of vendor contracts.

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

The JAC Due Process contracts are posted on JAC's website.

Methods of Paying Due Process Services

JAC will reimburse for due process service costs in one of two ways: JAC pays the 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.

An attorney should keep a copy of any voucher covers that he or she signs in relation to an indigent for costs case. Under the IFC and due process 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 Cover 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 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 resolve any deficiencies or the due process vendor provide the lacking 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 a due process vendor fails to respond to a Billing Audit Deficiency or fails to provide necessary documentation 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 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).

The receipt of JAC's Letter of Objection is a mandatory condition precedent to the attorney's filing of a motion for payment of due process services. 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. Pursuant to s. 27.5304, F.S., and the IFC contract, the attorney shall not file or set for hearing a motion for payment of due process services until JAC issues a Letter of Objection or a Letter of No Objection. Any motion for payment of due process services must specify whether JAC objects to any portion thereof or the sufficiency of documentation. The attorney shall attach JAC's Letter of Objection to the motion. The attorney must serve a copy of the motion on JAC along with all attachments including JAC's Letter of Objection.

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 or due process vendor with a notice advising him or her of the correction(s).

JAC can accept a request to reduce the amount of a billing through the Online Billing Submission system or via email. However, to increase the amount of a billing, the corrected voucher cover must be an original. 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.

The 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 the 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 the attorney or the due process vendor has engaged in these aforementioned prohibited practices.

Appointment of Co-Counsel

Pursuant to s. 27.52(5), F.S., a finding that a defendant is indigent for costs is not a basis for a court to appoint co-counsel to assist the defense where the defendant is already represented by privately retained and paid counsel.

B. Service and Notice

Standing of JAC

JAC shall only pay for due process services reasonably required for the defense of the case as set forth in s. 29.007, F.S. JAC has standing to contest the authorization for any due process service costs and the amount of said due process service costs. The attorney shall have the burden to establish that the due process service costs are reasonable and necessary to the defense of the case.

If the attorney obtains services without prior court approval, then the attorney may be personally liable to reimburse the due process vendors. JAC is not privy to any agreement between the attorney and due process vendors and in no way accepts responsibility or liability for quality of service, terms and conditions, or any other aspects of any agreement between the attorney and due process vendors.

Notice

Except for those services expressly approved in the order declaring the client indigent for costs, the attorney must serve JAC with a copy of the motion for due process services prior to a court entering an order regarding any other due process services. A court order is always required for any due process services in excess of rates established by law. The existence of an administrative order or local rules authorizing costs without prior court approval does not relieve an attorney from filing a motion seeking prior approval or authorization for due process services. Absent express waiver from JAC, all due process services must be approved by the court through specific court order.

A written motion for due process service costs must specify the type of due process service requested, the rate requested, and an estimated maximum amount of costs required. **The motion shall be properly served on JAC a minimum of five (5) business days prior to**

the date of the hearing on the motion. Pursuant to the IFC contract, to be considered served, an electronic copy of the pleading must be submitted via email to

pleadings@justiceadmin.org

JAC's failure to respond to such a motion shall not constitute a waiver of JAC's right to be heard regarding the matter. JAC will not pay for due process vendors that are obtained in violation of these requirements. The attorney is solely responsible for compensating a due process vendor obtained in violation of these requirements.

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.

C. General Compensation

Rates and Vendors for Due Process Services

JAC reviews due process service invoices to verify compliance with the established rates and amount 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

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.

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.

Diligent Efforts

If an attorney intends to procure due process services at a rate higher than the established rates, the attorney must make a showing that the particular due process service is necessary to the defense of the case and that the attorney has made a diligent effort to find the service within the established rates. Diligent effort includes, but is not limited to, evidence that the attorney sought the services of at least three due process vendors willing to work on the case but none were willing to work at the established rates. If a court authorizes due process services in excess of the established rates, the order should contain findings as to the diligent efforts the attorney made to obtain services within the rates established by law.

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. The attorney shall submit a copy of the order to JAC.

If a due process vendor has a Florida address and enters into a Type 1 or Type 2 Due Process contract with JAC, the vendor will not be reimbursed for travel expenses for travel to Florida in most instances. In particular, an expert who lists a Florida address, but who resides out-of-state, cannot seek travel expenses to travel to Florida in the event the expert is called to testify at trial.

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. The attorney shall not obtain judicial preapproval of transcripts absent exigent circumstances

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.

Transcripts should not be ordered as a matter of course. It is anticipated that an attorney will be taking notes during any depositions. Except in complicated cases involving numerous witnesses, deposition transcripts should not be ordered merely to prepare for trial except where the attorney was not physically present at the deposition. Instead, deposition transcripts should only be ordered where the transcript is necessary for use at trial such as to impeach state witnesses or for use in support of a motion such as a verified motion to dismiss.

The court order authorizing transcripts must be attached to the intended billing for the transcripts. The attorney must provide the court reporter with a copy of the order of appointment and the order authorizing the transcript. For any intended billing in which JAC will directly pay the court reporter, upon receipt of a completed invoice from a court reporter, the attorney shall promptly review and sign the invoice.

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

Once JAC pays an appearance fee for a deposition, indigent for costs, the attorney is entitled to a copy of any recordings, stenographic notes, computer files, or other documents related to transcribing the deposition in the event a court reporter or court reporting firm is unable or unwilling to prepare a transcript of the deposition. The costs of providing a copy of any recordings, stenographic notes, computer files, or other documents related to transcribing the deposition is incorporated into the appearance fees paid to the court reporter or court reporting firm. No additional fees will be paid to provide these records.

If a court reporter or court reporting firm is unable or unwilling to prepare a transcript for a deposition for which JAC has paid an appearance fee, then the court reporter shall turn

over a copy of any and all recordings, stenographic notes, computer files, or other documents related to transcribing the deposition to the attorney representing the indigent client or another court reporter or court reporting firm able and willing to perform the work as designated by the attorney. In particular, if a court reporter or court reporting firm is unwilling to transcribe or prepare a transcript within the established rates under Florida law and any applicable due process contract and there is another approved or qualified court reporter or court reporting firm within the State of Florida willing to transcribe the deposition within the aforementioned established rates, then the transcript must be prepared by a firm willing to work within the established rates.

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. If a due process vendor requires prepayment or a retainer, the attorney shall pay the amount and seek reimbursement only after the due process vendor has completed the services for which the prepayment or retainer was paid. The attorney shall only be reimbursed the amount necessary to compensate the due process vendor at the appropriate hourly rate, irrespective of the amount of the retainer.

Budget for Capital Cases

For capital cases in which the State has not waived the death penalty, as soon as practicable after the defendant is declared indigent for costs, the attorney shall set a hearing for the trial court to determine a reasonable budget for due process service costs. Timely and proper notice of the hearing shall be provided to JAC. This budget shall be based on the circumstances of the case, the amount needed to provide the defendant with the basic tools of defense as mandated by due process concerns under the state and federal constitutions, the amount appropriated for due process service costs in the General Appropriations Act, and the amount the Office of Public Defender for the applicable circuit expends for similar capital cases. The attorney shall make diligent efforts to remain within this budget. Prior to authorizing expenditures in excess of this budget, the attorney will set the matter for hearing, again with timely and proper notice to JAC.

Deposition of State Attorney's Expert

If the attorney seeks to depose the State Attorney's expert witness, the attorney must obtain a court order authorizing any compensation for the expert. The expert will bill the attorney just like any other expert. The attorney will then appropriately complete and execute the applicable forms for due process services, as well as submit all necessary supporting documents, for payment of the expert. The expert cannot be paid rates beyond those established by law without a court order which details the reason for deviating from rate established by law. If there is no rate set, then a court order must contain detailed justification for the rate. JAC will not pay any more than the compensation rate paid by the State Attorney for the expert.

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.

Non-reimbursable Expenses

The attorney shall not bill for purchase of any office equipment, electronic equipment, office supplies, legal materials, books, clothing, personal items, haircuts, manicures, dry cleaning, or other such personal services for the attorney, the client, or a due process vendor. The attorney shall not bill for any purchase of computer equipment including portable flash and hard drives.

D. Methods of Paying Due Process Service Costs

JAC Pays Due Process Vendor after Counsel 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. The attorney must also provide proof of payment. Copies of court orders authorizing such costs must be provided with the billing. The attorney is entitled to reimbursement only if all procedures have been followed and appropriate documentation has been provided to JAC. Absent express court approval, the attorney may not be reimbursed to the extent the costs exceed the rates or limitations established by law or court order.

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. For a case to be open for billing purposes, JAC must have received the motion to declare the defendant indigent for costs, a completed application for indigency, an affidavit attesting to the estimated amount of attorney fees and the source of those fees, the charging document, and an order declaring the defendant indigent for costs.

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 attorney or 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](#).

E. Signing the JAC Invoice/Voucher Cover

When an attorney signs the JAC Invoice/Voucher cover, the attorney is certifying the validity of the services listed on the voucher cover. Signing a JAC Invoice/Voucher Cover prepared by a due process vendor is much more than a ministerial task. The attorney signing the voucher cover is certifying that the services were satisfactorily performed and necessary for the representation. For transcripts, the attorney is further certifying the number of pages billed. If an attorney has any concerns regarding the accuracy of a billing, the attorney should resolve those concerns prior to signing the voucher cover. Pursuant to the IFC contract, an attorney may be liable for overpayments made to a due process provider when **the attorney knew, or should have known, that the Invoice/Voucher cover was inaccurate at the time the attorney executed it.**

Section III – Timely Billing and Procedural Requirements

Timely Submission

The attorney (or 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

Attorneys and 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 email to:

pleadings@justiceadmin.org

Forms or documents requiring an original signature such as Invoice/Voucher Covers, invoices, and travel reimbursement forms, **may not be faxed or emailed**. Accordingly, such documents should either be submitted through the Online Billing Submission systems available on [My JAC](#) or be mailed to JAC at:

Justice Administrative Commission
227 North Bronough Street, Suite 2100
Tallahassee, Florida 32301

To distinguish originals from photocopies, all originals must be signed in blue ink.

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>

Late Fees/Interest/Cancellation Fees

The attorney shall reimburse JAC for any due process service costs, such as an interest charge, loss of prompt payment discount, or other cost or expense incurred by JAC due to delay in payment of a due process service bill or invoice attributable to the attorney's error, omission, or untimely submission. JAC has no responsibility for and will not pay for any cancellation fees or loss of business charges. The attorney shall attempt to resolve any dispute between the attorney and a due process vendor without JAC intervention.

Section IV – Necessary and Applicable Forms

Online Billing Submission

Attorney and 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 email 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.

Counsel Reimbursement of Due Process services

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

Travel Prepayment / Reimbursement

All necessary and applicable Invoices/Voucher Covers for travel prepayment or 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.

Witness Reimbursement

All necessary and applicable Invoices/Voucher Covers for witness payment are available on the JAC website. Corresponding instructions for each form 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.

Confidential Information Should Be Redacted

JAC does not require confidential information in order to process payment of submittals. To assist with auditing, JAC has been given the statutory authority to inspect court dockets under chapter 39, and the authority to inspect and copy records under chapter 985. Accordingly, the attorney does not have to reveal confidential information when providing a submittal to JAC. The case number and name of the person represented by the attorney are usually enough to allow JAC to set the case up in the JAC database and process payment of the submittal. The attorney should redact any confidential information from documents submitted to JAC. However, documents must not be redacted to the point where the document is meaningless.

Section VI – Witness 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.

Privately Retained Counsel

In cases where the attorney is privately retained, JAC does not pay for the attorney's travel expenses unless the attorney is representing the client *pro bono*.

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.dot.state.fl.us/planning/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 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.

C. Travel Prepayment

Prepayment of Limited Travel Expenses

In appropriate circumstances and at its discretion, JAC may prepay for travel expenses for ordinary witnesses. Prepayment is generally limited to purchase of airline tickets and hotel rooms. Travel expenses of attorneys and due process providers is through reimbursement only. If JAC prepays for travel expenses for ordinary witnesses, any credit or refund as a result of changes to the reservation or for cancellation are due to the State of Florida and should be directed to JAC in the manner directed by JAC. The attorney is responsible for ensuring that any credit or refund is directed to JAC. For JAC to prepay travel, the attorney must supply JAC with all necessary documentation to arrange the travel and a DFS travel voucher signed by the traveler and the attorney as soon as feasible following the completion of any prepaid travel.

All necessary information required by JAC, such as the hotel and flight information, is required to be provided in writing and submitted by the attorney. Because airline policy requires third-party purchase of tickets at a minimum of five (5) days prior to the flight, JAC requires that all necessary information required to buy the ticket be provided in writing and submitted by the attorney at least ten (10) business days in advance of the flight.

Any attorney who fails to complete timely the DFS travel voucher and supply all necessary documentation will be barred from having JAC prepay travel expenses including hotel or airline bills. All subsequent travel will need to be paid by the attorney and processed for reimbursement only after the travel has occurred

Applicable Procedure for Any Travel Prepayment Request:

- Obtain a valid court order authorizing travel and submit a copy to JAC. Research flight, lodging, and/or rental car rates, as necessary (When competitive carriers do not exist, please provide documentation indicating that the reserved carrier is the sole provider for the area. 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.)
- When possible, request that each vendor hold the intended travel arrangements until JAC processes the travel request and formally reserves the arrangements via payment. (JAC requires at least 24 hours from receipt of all necessary information and documentation to provide payment).
- Promptly submit to JAC, via email, all intended reservations and at least two additional comparative rate quotes for each type of reservation (i.e., common air carriers, lodging facilities, car rental companies, etc.).
- Appropriately complete, execute, and submit the necessary and applicable Invoice/Voucher Cover for travel prepayment (i.e. Travel Expense Request Form; Court-Appointed Attorney Program Travel Related Purchasing Request Form; Court-Appointed Counsel Authorization for Agent to Arrange Travel), as well as all necessary supporting documentation. All necessary and applicable Invoice/Voucher Covers for travel prepayment are available on the JAC website.

- Upon satisfactory submission, JAC shall review for completeness and compliance with contractual and statutory requirement, whereby JAC will contact and process payment to the designated vendor.

JAC realizes that some travel providers will not hold travel arrangements without prepayment or credit card. The attorney should not use a personal credit card to hold a reservation for which prepayment will be sought. Instead, the attorney needs to provide JAC with detailed information as expeditiously as possible. As time is an essential element, JAC cannot guarantee specific accommodations.

If, after a reservation has been acquired, an intended traveler does not travel, the attorney who requested the travel should provide JAC with an explanation for the cancellation including, but not limited to:

- The full name of the intended traveler and whether a subpoena was issued to this person.
- Facts related to the nonappearance (i.e. Did traveler fail to appear? Was traveler's testimony no longer required? Was there a sudden travel inability due to weather, illness, death? etc.).

Upon Completion of Travel:

- Once the travel is complete, the attorney must provide JAC with all receipts and supporting documentation as expeditiously as possible.
- JAC staff will assist the attorney in completing the travel voucher.
- The travel voucher must be signed by the attorney and the traveler. The attorney is responsible for mailing returning the signed/executed voucher back to the appropriate JAC staff.