Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of Contractual Review

PPM 50—Attorney Case Handling Guidelines and Billing Procedures (LAC 4:V.Chapter 47)

Title 4
ADMINISTRATION
Part V. Policy and Procedure Memoranda
Chapter 47. Attorney Case Handling Guidelines and Billing Procedures—PPM Number 50

§4701. Goal

A. For executive branch agencies that hire attorneys under professional services contracts controlled by Chapter 16 of Title 39 of the Louisiana Revised Statutes (controlled by Chapter 17 of Title 39 commencing January 1, 2015), the Commissioner of Administration and the Division of Administration (DOA) expects to work with those agencies to hire and to retain attorneys in an efficient and cost conscious manner consistent with ethical obligations. Nothing contained herein is intended to restrict an agency or its contract counsel's exercise of professional judgment in rendering legal services. Contract counsel bears ultimate responsibility for all work performed pursuant to the contract and/or billed to the file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:258 and R.S. 39:1490(A); Act 864 of 2014 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:0000 (September 2014).

§4702. Authorization and Legal Basis

In accordance with R.S. 39:1490(A) which authorizes the Office of Contractual Review (Office of State Procurement commencing January 1, 2015) to consider and decide all matters of policy relative to professional, personal, consulting and social services, and which mandates the periodic audit and review, implementation of rules and regulations, and policy determinations regarding professional, personal, consulting and social services contracts, notice is hereby given as to the establishment and implementation of Policy and Procedure Memorandum No. 50—Attorney Case Handling Guidelines and Billing Procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(A); Act 864 of 2014 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:0000 (September 2014).

§4703. Policy

A. To control costs, to increase efficiencies and to insure quality and standard billing practices, in addition to all legal requirements, any agency that contracts for attorney services under Title 39 of the Louisiana Revised Statutes, shall, by January 1, 2015, institute case handling guidelines and billing procedures to be incorporated by reference into all professional contracts for attorney services entered into.

B. Effective September 20, 2014, all professional contracts entered into for attorney services under Title 39 of the Louisiana Revised Statutes after September 20, 2014, and all case handling guidelines and billing procedures in existence or which shall be thereafter instituted, shall include the following minimum requirements which may be referred to by reference by citing PPM 50.

1. Attachment to all Attorney Contracts. These case handling guidelines and billing procedures supplement, but do not replace, an agency's existing attorney case handing and billing procedures, and shall not supersede any rules or regulations in effect for legal contracts. To the extent that these requirements are more stringent than an agency's existing requirements, they shall supersede those requirements.

2. Attorney Rates. Unless justification is provided and approval is received, all attorney billing rates shall conform to the standard rates set by the Attorney General.

3. Billing Management. Each contracting agency shall designate in writing the employee authorized to approve work and travel performed pursuant to the contract, and who is responsible for ensuring that attorney case handling guidelines and billing procedures are followed.

4. Budgeting. Within 60 days of entering into a contract for attorney services, the contracting attorney shall prepare a legal budget after assessing the underlying case. If it is anticipated that the budget will exceed the maximum value of the contract, then the agency shall immediately take the necessary steps to increase the contract's maximum value. An agency shall prepare a report when 80% of the established budget has been expended which shall project the final cost of the attorney services expected to be provided under the contract.

5. Clerical Work. Clerical work, including work performed by law clerks, paralegals and secretaries shall not be billed unless written justification is submitted and approved.

6. Depositions/Inspections/Hearings on Motions. Unless approved in advance by the contracting agency, only one attorney shall attend and bill for depositions, inspections and hearings on motions.

7. Documentation of Reimbursed Expenses. The contracting attorney must retain and provide all receipts and other documentation of expenses where reimbursement has been preapproved. Advanced court costs by state agencies is not required under the law in most situations. Payment of advanced court costs will not be reimbursed until a lawsuit is completed unless preapproval for the payment of same is obtained.

8. Dual or Overlapping Billing. Billing for work for other clients or for unrelated State matters simultaneously while performing work under the billed contract shall be prohibited. Billing by two approved attorneys simultaneously should be avoided unless or approved by the agency in advance.

9. Duplication of Work. Duplication or repetition of effort among attorneys shall be avoided.

10. Maximum Amount. All contracts for attorney services entered into shall provide for a maximum value which shall not be exceeded through addendum, amendment, or renewal without the contractor and the agency documenting the justification in writing.

11. Minimum Billing Increments. All billing items shall be billed at increments of .10 (six minute increments). No block billing shall be accepted.

12. Non-Conforming Bills. Any bill which does not conform to these billing requirements shall not be paid until such time as it is determined that the non-conforming items have been corrected. Any payment dispute under a contract for attorney services shall be administratively determined pursuant to Chapter 16, Title 39 of the Louisiana Revised Statutes.

13. Office Overhead; Copying Phone Charges, etc. All office overhead, including costs for copying, facsimile, email, internet or phone charges shall not be billed unless an agency has agreed in advance under the terms and conditions of its contract approved by OCR to reimburse the actual cost of these items.

14. Record Retention. Daily time sheets maintained by attorney name, caption, and case number shall be utilized. Attorneys are required to maintain any and all bills and supporting documentation, including daily time sheets, for five years. Billing records are subject to audit by DOA, the Inspector General and the Legislative Auditor.

15. Reports. A contracting agency shall not pay for any time charged for preparation of reporting forms or status reports other than those specifically requested or specifically required under the terms and conditions of the contract. Any report that does not contain significant new information or developments with a clear explanation of the impact on the case should not be requested or required by the contracting agency. Automatic periodic reporting in increments of less than three months should be avoided.

16. Research. Legal research per contract shall not exceed five hours without additional approval by the using agency.

17. Routine Matters. Routine scheduling, mail handling, new file set up, calendar maintenance, transcribing, copying, faxing, data entry enclosure letters, simple letters to clerks of court, and other similar routine matters are non-billable.

18. Staffing. Only those attorneys who are directly contracted, and approved staff, may work under the contract. Any staffing changes must be discussed and approved prior to engaging in billable work.

19. Task and Item Billing. Specific task and item billing must occur under every contract for attorney services, even where an attorney is retained by an agency to provide general legal services and advice. Billing for attorney services shall occur, at a minimum, monthly. All billing statements shall reference the contract number under which it is being submitted.

20. Term of Contract. No contract for attorney services shall be longer than three years. Prior to such a contract entering into the third year of its term, however, the attorney and the contracting agency shall provide written justification to continue the contract into the third year. Failure to provide written justification to extend a contract may result in cancellation of the contract.

21. Travel. Travel time shall be preapproved and shall be billed at one-half the agreed upon attorney pay rate. Travel time for a specific task shall not be approved to exceed eight hours per day without written justification. All related travel expenses shall also be preapproved and will be reimbursed in accordance with PPM 49—Louisiana State Travel Rules and Regulations.

22. Trial Preparation and Attendance. Trial preparation and attendance shall be billed only at the regular rate established in the contract. Tasks associated with trial preparation should occur once and only within a reasonable timeframe prior to trial. Unless approved in advance, only one attorney shall bill for trial preparation and for attending trial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:0000 (September 2014).

§4705. Effective Date

A. This policy shall apply to all new contracts by reference entered into on or after September 20, 2014, and shall remain in existence after January 1, 2015, when the Office of Contractual review is merged into the Office of State Procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(A) and Act 864 of 2014 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:0000 (September 2014).

§4707. Notice to Agencies Regarding Electronic Billing Platforms

A. The DOA is currently conducting a pilot program regarding a web-based electronic billing platform for the submission and review of attorney bills by executive branch agencies. Until the pilot program is concluded, no executive branch agency at the department level shall pursue or issue a contract for a new electronic billing platform for attorney services, and shall not extend any existing contract for such a platform, without the approval of the Office of Contractual Review and the Office of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561(B) and R.S. 39:1490(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:0000 (September 2014).

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