



LOUISIANA PUBLIC DEFENDER BOARD

*Effective: January 13, 2015
Last Updated: March 24, 2015*

Protocol For Management of the Capital Expert Witness Fund

1. Policy

1.1 This policy addresses the responsibility of the Louisiana Public Defender Board (“LPDB”) to efficiently and effectively manage the monies designated as the Capital Expert Witness Fund.

2. Purpose

2.1 The purpose of this policy is to formalize LPDB’s internal procedures for managing the Capital Expert Witness Fund (“EWF”). This policy defines the responsibilities of staff to effectively track and distribute monies from the Fund.

3. Reviewing Applications for Funding

3.1 Upon receipt of a completed application for expert witness funding, the Capital Case Coordinator shall confirm that all relevant and required case information has been entered into LPDB’s statewide case management system.

3.1.1 If the required information is not present in the case management system, the Capital Case Coordinator shall notify counsel that the application will not be accepted until the case management system is up to date.

3.2 Applications for expert witness funding will only be considered if signed and dated when submitted by counsel, with a completed application and all necessary documents attached thereto.

3.3 Applications for expert witness funding will be reviewed by the Capital Case Coordinator to determine that:

- a. The attorney seeking funding has established that the expert for which funds are being requested is relevant to the defense;
 - b. The requested expert's hourly rate is within the guidelines approved by the Board; and
 - c. The expert's expected maximum number of hours and anticipated travel and other expenses are within reasonable limits.
 - d. That the amount requested does not exceed the amount of available Expert Witness funds.
- 3.4 Upon approval in full or part of the application for expert witness funding, the Capital Case Coordinator shall notify lead counsel in writing and by email that the application has been approved and provide the maximum amount approved.
- 3.5 Upon denial of an application for expert witness funding, the Capital Case Coordinator shall notify lead counsel in writing and by email of the denial and reason for denial.

4. Tracking Approved Expert Witness Funds

- 4.1 Upon approval of an application for expert witness funds, the Capital Case Coordinator shall cause to be entered the pertinent case information, and the date of approval and maximum amount approved, into LPDB's Expert Witness Fund spreadsheet, database, or other tracking system.
- 4.1.1 All applications for expert witness funds will be reviewed to determine whether they are in proper order and meritorious. In the event the request for funding exceeds the amount of the funds available in the Expert Witness Fund, the application shall be placed in a queue and counsel shall be notified by email as to the application's position in the queue.
 - 4.1.2 The applications will remain in the queue in the order in which they were received. Once sufficient funding is accrued to fund the first application for approval, counsel will be notified of the approval and funding for the next application in line will begin to accrue.
- 4.2 At all times, the Capital Case Coordinator shall monitor and track the total amount of all maximum approvals for all cases statewide. LPDB shall not provide approvals totaling more than the maximum amount available from the Expert Witness Fund.

- 4.3 Expert Witness requests for approval are subject to the availability of funding. While Expert Witness requests may be approved to begin work immediately, they cannot be paid until funds are available.
- 4.4 Ninety (90) days after approval the Capital Case Coordinator shall contact lead counsel to determine whether the expert has begun work. Thirty (30) days before the funds are to be released, the Capital Case Coordinator shall notify lead counsel that the invoice for the expert must be submitted within thirty (30) days.
- 4.4.1 One hundred and eighty (180) days following approval of an application for expert witness funds, the Capital Case Coordinator shall notify counsel by letter and by email, with a copy to the expert, that any un-invoiced funds are being released back into the Expert Witness Fund.
- 4.4.2 Un-invoiced funds are released based on the passing of one hundred and eighty one (181) days following approval, not upon the receipt of a notice letter.
- 4.5 Should counsel require additional services from the expert after un-invoiced funds are released back into the Expert Witness Fund, the Capital Case Coordinator shall require counsel to submit a supplemental application for expert witness funding. Extensions may be granted for good cause shown.
- 4.6 Upon release of the un-invoiced funds, the Capital Case Coordinator shall note in LPDB's tracking system the date and amount of the funds being released and the net difference to the Expert Witness Fund.

5. Processing of Invoices

- 5.1 Upon receipt of an invoice by counsel for payment drawn on previously approved expert witness funds, the Capital Case Coordinator shall ensure that:
- a. The invoice has been reviewed and approved for accuracy and amount by counsel;
 - b. The invoice includes counsel's signed affirmation that counsel has reviewed and approved the expert's invoice and that payment is appropriate;
 - c. The invoice is for payment of work performed by the expert within the previous sixty (60) days;
 - d. The amount of the invoice, including the total of any previous invoices paid to the same expert, does not exceed the maximum amount approved.

- 5.2 After confirming that all appropriate documentation has been submitted with the invoice, including the Capital Expert Witness Fund Invoice Submission Form executed and signed by counsel, the Capital Case Coordinator shall review the invoice for approval of the amount submitted.
- 5.3 LPDB will consider an invoice for payment only if the invoice is submitted within sixty (60) days of the work being performed by the expert and all required documentation is submitted with the invoice. Absent exceptional circumstances, any invoice submitted after sixty (60) days of work being performed shall be deemed stale and not-payable by LPDB.
- 5.4 Once the invoice has been approved by the Capital Case Coordinator, he/she shall place the invoice in line for payment according to the First In – First Out payment principle.
- 5.5 Upon approval of the submitted invoice for payment by LPDB, the Capital Case Coordinator shall cause to be input the invoice amount, payment approval date, and payment amount into LPDB’s tracking system.
- 5.6 If the amount of the invoice approved for payment is less than the initial maximum amount approved for work, LPDB shall ensure that counsel has indicated in the Capital Expert Witness Fund Invoice Submission Form whether additional work is expected to be performed by the expert.
 - 5.6.1 If additional work is expected to be performed by the expert, the Capital Case Coordinator shall cause a notation to be made to that effect in LPDB’s tracking system.
 - 5.6.2 If additional work is not expected to be performed by the expert, the Capital Case Coordinator shall release any un-invoiced funds back into the Expert Witness Fund and notify counsel in writing and by email of the release.
- 5.7 Any invoice submitted without all appropriate documentation will be returned to counsel for re-submission. Any required re-submission must be made within sixty (60) days of the work being performed. Absent exceptional circumstances, a re-submission does not extend the time within which invoices must be submitted.
- 5.8 Invoices must be submitted by counsel, with all appropriate documentation. LPDB will not pay any invoice submitted directly from an expert.

6. Continual and Contemporaneous Tracking of the Expert Witness Fund

- 6.1 The Capital Case Coordinator shall be responsible for continual and contemporaneous tracking of the Expert Witness Fund, including the balance of approvals for services, invoices pending payment, invoices paid, and total funds remaining available.
- 6.2 The Capital Case Coordinator shall cease approving applications for expert witness funds should the total amount of approvals plus invoices paid and approved for payment equal the maximum amount available in the Expert Witness Fund.
 - 6.2.1 Should the maximum amount of the Expert Witness Fund be reached, the Capital Case Coordinator shall not approve any additional applications for expert witness funds until and unless additional funds become available by virtue of the release of funds for previously approved work or other action of the Board.
 - 6.2.2 In the event that approvals are ceased pursuant to Section 6.2.1 of this protocol, the Capital Case Coordinator shall notify any counsel seeking approval for funds that the maximum amount of the fund has been reached and that no approvals may be granted by LPDB until and unless additional funds become available or other action is taken by the Board. The notification shall estimate the month in which the Expert Witness Fund approval reasonably can be expected.