



LOUISIANA PUBLIC DEFENDER BOARD

*Effective: September 17, 2013
Last Updated: September 6, 2013*

Protocol For Obtaining Funds From the Capital Expert Witness Fund

1. Policy

1.1 This policy recognizes the Louisiana Public Defender Board's responsibility to adopt rules regarding the provision of reasonably necessary services associated with capital proceedings pursuant to LAC 22:XV, Chapter 2.

2. Purpose

2.1 The purpose of this policy is to formalize and publish the rules and regulations for the management of the Capital Expert Witness Fund.

2.2 The policy addresses the process for applying for funding, counsel's responsibility to monitor the delivery of services, the timely submission of invoices and distribution of payment for services, and the deadlines that apply to the process of requesting and receiving expert witness funding.

3. Application for Funding

3.1 Prior to applying for any expert witness funding, counsel must ensure that all relevant and required case information is entered into LPDB's statewide case management system.

3.1.1 For those cases previously entered into the case management system, counsel shall ensure that all case information is up-to-date in the system prior to applying for expert witness funds.

3.1.2 In the event the case is contracted out to counsel unaffiliated with a public defender office, it shall be the obligation of the District Defender to secure a database password for counsel and instruct counsel that access to the Capital Expert Witness Fund is contingent on entry of up-to-date case information into the database.

3.2 To apply for funds from the Capital Expert Witness Fund, counsel must fully complete the Application for Capital Expert Witness Funds. (Attachment A).

3.2.1 The Application Form requires two attachments:

- a. The proposed expert's curriculum vitae, and
- b. The proposed expert's fee schedule

3.2.2 Counsel shall provide: (1) the expert's hourly rate; (2) the expected maximum number of hours required for the expert to complete the work; (3) the amount and description of any travel or other related expenses; and (4) the estimated total costs for the expert's services.

3.3 Counsel shall submit the completed application to the Capital Case Coordinator via Email to capital@lpdb.la.gov and hardcopy by U.S. Mail.

3.4 Counsel shall await a reply from the Capital Case Coordinator regarding the approval or denial of the request for funds.

3.4.1 The reply by the Capital Case Coordinator may be made by Email to counsel. In all cases, a letter stating the approved maximum amount shall be sent by U.S. mail to lead counsel by the Capital Case Coordinator.

3.4.2 Under no circumstances should counsel permit the expert to commence work on the case until and unless counsel receives written approval by the Capital Case Coordinator.

3.4.3 Any work performed by the expert prior to counsel's receipt of notification of approval will not be the LPDB's responsibility.

4. Monitoring the Delivery of Services

4.1 Once approval of the application for capital expert witness funds is obtained by counsel, counsel shall advise the expert of the approved maximum amount.

4.2 Once approval is obtained, counsel should instruct the expert that he or she may begin providing services.

4.3 Counsel is responsible for monitoring the expert's work to ensure the delivery of high quality services.

4.4 Counsel is to monitor the hours worked and the expenses incurred by the expert to ensure that they do not exceed the maximum amount approved.

4.4.1 In the event that the approved maximum amount becomes insufficient for the expert to complete all required work, counsel shall apply for additional funding prior to the expert exceeding the approved maximum amount. A request for additional funding shall be submitted by counsel upon completion of a supplemental application for capital expert witness funds. In addition to the basic required information, requests for additional funding shall also provide a detailed explanation of the reason the expert will exceed the approved maximum amount and the need for any additional work¹.

5. Submitting Invoices

5.1 Invoices for payment of expert fees and expenses shall be submitted by counsel to the Capital Case Coordinator via Email to capital@lpdb.la.gov or by U.S. Mail. LPDB will not accept invoices sent directly from the expert.

5.1.1 Prior to submission for payment, counsel shall review the expert's invoice for accuracy both in the amount invoiced and the services rendered.

5.1.2 Counsel shall submit the invoice to the Capital Case Coordinator with a written affirmation signed and dated by counsel that counsel has reviewed and approved the invoice by the expert and that payment is appropriate.

5.1.3 Invoices shall be submitted for payment within sixty (60) days of the work being performed. Any invoice submitted after sixty (60) days shall be deemed stale and not-payable by LPDB. Absent exceptional circumstances, counsel shall have responsibility for paying any expert invoice that is submitted after sixty days of the work being performed.

¹ Supplemental requests for the same expert do not require the submittal of the expert's CV and fee schedule unless it has changed significantly from the initial submittal.

5.1.4 Within 30 days of the completion of the case (e.g., completion of trial or reduction of the case to non-capital), counsel shall submit all outstanding expert invoices to the Capital Case Coordinator and indicate that the invoice(s) being submitted is(are) final. Any un-invoiced funds will be automatically released.

6. Distribution of Payments

- 6.1 Payments for expert services are distributed directly from the Expert Witness Fund to the district, program or private counsel for which the services were provided.
- 6.2 Upon receipt of payment from the Expert Witness Fund to the district or program office, it is the responsibility of the district, program or private counsel office to issue immediate payment to the expert.
- 6.3 Upon transmission of payment from the district, program or private counsel office to the expert, the office remitting payment shall copy the Capital Case Coordinator on the transmittal letter to the expert witness with a copy of the check issued to the expert.

7. Unused Funds

- 7.1 All approved but un-invoiced funds shall become unavailable for use six (6) months from the date of their approval. Once unavailable, the funds shall be released back into the Expert Witness Fund.
 - 7.1.1 After release of the funds, should counsel still need the services of the previously-approved expert, counsel will be required to re-apply for funding of that expert, updating all relevant information regarding the expert.



LOUISIANA PUBLIC DEFENDER BOARD

Application for Capital Expert Witness Funds

I. Attorney Information

Counsel's Name: _____ Office Phone No.: _____

Office: _____

Mailing Address: _____

Email Address: _____

Alternate Phone No.: _____ circle: cell home other

II. Case Information

Client's Name: _____ Docket No.: _____

Parish Where Pending: _____ Judicial District Court _____

Status of case: Pretrial (no stay): _____, Pretrial (stay): _____, Trial Date Set: _____, Post Trial: _____

III. Expert Information

Proposed Expert's Name: _____

Address: _____

Email Address: _____ Phone No.: _____

(a) Expert's Hourly Rate: \$ _____ Expected Maximum Number of Hours: _____

(b) Expected Amount of Travel and Other Reimbursable Expenses: \$ _____ Describe Nature of Anticipated Travel and Other Reimbursable Expenses: _____

Estimated Total Costs for Services (total of (a) and (b) above): _____

Please attach to each application:

1. Proposed expert's curriculum vitae
2. Proposed expert's fee schedule

Please check box to confirm:

This case is included in the LPDB database and all current database information is accurate.

By signing and submitting this application, I certify that the requested expert witness funds are being sought for an indigent client who is currently under a capital indictment for first degree murder. I understand these funds are subject to future funding by the Louisiana Legislature.

Counsel's Signature

Date

Last Updated: 8/30/2013