

Guide to Judiciary Policy

Vol 7: Defender Services

Pt A: Guidelines for Administering the CJA and Related Statutes

Appx 3C: Procedures for Interim Payments to Service Providers in Capital Proceedings

1. The district court issues a Memorandum Order to persons providing investigative, expert, and other services under [18 U.S.C. § 3006A\(e\)](#), and [18 U.S.C. § 3599\(f\)](#) and [\(g\)\(2\)](#), outlining payment procedures and specifically addressing payment for actual expenses, travel, and compensation. **See:** Sample Memorandum Order, below.
2. If excess payment (i.e., more than \$7,500 for all such services in a case) is anticipated, written approval of the procedure must be obtained from the chief judge of the circuit or his or her delegate prior to issuance of the Memorandum Order. If excess payment was not anticipated, but becomes apparent during the provision of services, approval must be obtained at that point.
3. Once it is issued, a copy of the Memorandum Order should be furnished to the CJA claims coordinator.
4. [Form CJA 31](#) should be submitted for each service provider with full documentation of all expenses claimed on the voucher.
5. Assign a number to each voucher processed for payment.
6. Item 17 of the [Form CJA 31](#) must be completed to indicate the time period covered by the voucher and whether it is for the final payment or for an interim payment.
7. If the court has selected OPTION A of the Sample Memorandum Order, the final voucher should:
 - (a) set forth in detail the time and expenses claimed for the entire case;
 - (b) reflect all compensation and reimbursement previously received;
 - (c) show the net amount remaining to be paid; and
 - (d) be approved by the chief judge of the circuit or his or her delegate if the total claim for the case is in excess of the statutory limits.

8. If the court has selected OPTION B of the Sample Memorandum Order and established intervals for the submission of cumulative vouchers for the balance of amounts withheld from the interim vouchers, each cumulative voucher should:
 - (a) be labeled "Cumulative Voucher";
 - (b) set forth in detail the time and expenses claimed for the pre-established time interval;
 - (c) reflect all compensation and reimbursement previously received during the pre-established time interval;
 - (d) show the net amount remaining to be paid; and
 - (e) be approved by the chief judge of the circuit or his or her delegate.

**Sample Memorandum Order
(To Be Used in Capital Proceedings)**

Memorandum to All Service Providers Under Subsection (e) of the Criminal Justice Act (CJA), [18 U.S.C. § 3006A](#), and [18 U.S.C. § 3599 \(f\)](#) and [\(g\)\(2\)](#), in the Case of

Name

Number

RE: Interim Payments for Services Other Than Counsel

Because of the expected length of the proceedings in this [federal capital prosecution] [federal capital habeas corpus case], and the anticipated hardship on persons providing services under [18 U.S.C. § 3006A\(e\)](#), and [18 U.S.C. § 3599 \(f\)](#) and [\(g\)\(2\)](#), for such a period without payment, in accordance with the *Guide to Judiciary Policy* (Guide), Volume 7A, § 660.40, the following procedures for interim payments apply during the period of time in which you provide services in connection with this case:

1. Submission of Vouchers

Persons providing services under [18 U.S.C. § 3006A\(e\)](#), and [18 U.S.C. § 3599 \(f\)](#) and [\(g\)\(2\)](#), shall submit to the court clerk, twice each month, an interim [Form CJA 31](#), Death Penalty Proceedings: *Ex Parte* Request for Authorization and Voucher for Expert and Other Services. Compensation earned and reimbursable expenses incurred from the first to the fifteenth days of each month shall be claimed on an interim voucher submitted no later than the twentieth day of each month, or the first business day thereafter. Compensation earned and reimbursable expenses incurred from the sixteenth to the last day of each month shall be claimed on an interim voucher submitted no later than the fifth day of the following month, or the first business day thereafter. The first interim voucher submitted must reflect all compensation claimed and reimbursable expenses incurred from the date on which your services were first retained to _____, and shall be submitted no later than _____; thereafter, the vouchers shall be submitted twice each month according to the schedule outlined above. Claimants must complete Item 17 of each interim voucher submitted. Each interim voucher will be assigned a number when processed for payment. Interim vouchers shall be submitted in accordance with this schedule even though little or no compensation or expenses are claimed for the respective period. All interim vouchers must be supported by detailed and itemized time and expense statements. The Guide, Volume 7A, Chapter 6 and Chapter 3, outlines the procedures and rules for claims by

persons providing services under [18 U.S.C. § 3006A\(e\)](#), and [18 U.S.C. § 3599 \(f\) and \(g\)\(2\)](#), and should be followed regarding each voucher.

I will review the interim vouchers when submitted, particularly with regard to the amount of time claimed, and will authorize compensation to be paid for 80 percent of the approved number of hours. This compensation will be determined by multiplying 80 percent of the approved number of hours by the applicable rate. I will also authorize for payment all reimbursable expenses reasonably incurred.

[Select Option A or B]

OPTION A

At the conclusion of the period during which you provide services in this case, you shall submit a final voucher seeking payment of the 20 percent balance withheld from the earlier interim vouchers, as well as payment for services rendered during the final interim period. The final voucher must set forth in detail the time and expenses claimed for the entire case, including all appropriate documentation. A statement should be attached to the voucher that reflects all compensation and reimbursement previously received, as well as the net amount remaining to be paid at the conclusion of the case. After reviewing the final voucher, I will submit it to the chief judge of the circuit, or his or her delegate, for review and approval. I will certify that the total payment amount is necessary to provide fair compensation for services of an unusual character or duration. If the total payment for a service provider does not exceed \$7,500, and if it is anticipated that the combined payments for all providers of investigative, expert, and other services will not exceed \$7,500, then I will approve the final voucher.

OPTION B

Every _____ months, counting from the submission date for the first interim voucher, until the conclusion of the services, claimants shall submit a cumulative interim voucher seeking payment of the outstanding 20 percent balance withheld from all earlier interim compensation paid out during the preceding _____-month interval, as well as payment for services rendered during the last interim period of the interval. The cumulative interim voucher shall be labeled as such and must set forth in detail the time and expenses claimed for the entire interval, including all appropriate documentation. A statement must be attached to the cumulative interim voucher, which reflects all compensation and reimbursement previously received, as well as the net amount remaining to be paid at the end of the interval. At the conclusion of the period during which you provide services in this case, you shall submit a final cumulative voucher seeking payment of the 20 percent balance withheld from the interim vouchers processed during the final interval, as well as payment for services rendered during the last interim period of the interval. After reviewing the cumulative interim voucher, I will submit it to the chief judge of the circuit, or his or her delegate, for review and approval.

I will certify that the total payment amount is necessary to provide fair compensation for services of an unusual character or duration. If the total payment for a service provider does not exceed \$7,500, and if it is anticipated that the combined payments for all providers of investigative, expert, and other services will not exceed \$7,500, then I will approve the final cumulative voucher seeking payment of the 20 percent balance withheld from the interim vouchers processed during the final interval, as well as payment for services rendered during the last interim period of the interval.

2. Reimbursable Expenses

Persons providing services under [18 U.S.C. § 3006A\(e\)](#), and [18 U.S.C. § 3599 \(f\)](#) and [\(g\)\(2\)](#), may be reimbursed for out-of-pocket expenses reasonably incurred incident to the rendering of services.

The following additional guidelines may be helpful:

- (a) Case related travel by privately owned automobile should be claimed at the rate of ___ cents per mile, plus parking fees, ferry fares, and bridge, road, and tunnel tolls. Transportation other than by privately owned automobile should be claimed on an actual expense basis. Air travel in “first class” is prohibited. For service providers requiring air travel, counsel are encouraged to contact the clerk for air travel authorization at government rates.
- (b) Actual expenses incurred for meals and lodging while traveling outside of the city/county of _____ in the course of this representation must conform to the prevailing limitations placed upon travel and subsistence expenses for federal judiciary employees in accordance with existing government travel regulations. For specific details concerning high cost areas, counsel should consult the clerk.
- (c) Telephone toll calls, telegrams, photocopying, and photographs can all be reimbursable expenses if reasonably incurred. However, general office overhead, such as rent, secretarial help, and telephone service, is not a reimbursable expense, nor are items of a personal nature. In addition, expenses for service of subpoenas on fact witnesses are not reimbursable, but rather are governed by [Fed.R.Crim.P. 17](#) and [28 U.S.C. § 1825](#).

3. Further Guidance

Answers to questions concerning services provided pursuant to [18 U.S.C. § 3006A\(e\)](#) and [18 U.S.C. § 3599](#), can generally be found in (1) these statutes; (2) the Plan of the United States District Court for _____, available through the clerk; and (3) the

Guide, Vol 7A (Guidelines for Administering CJA and Related Statutes), published by the Administrative Office of the U.S. Courts, also available through the clerk. Should these references fail to provide the desired clarification or direction, counsel should address their inquiries directly to me or my staff.

United States District Judge

Date

Approved:

Chief Judge of the United
States Court of Appeals for the
_____ Circuit

Date