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POINTS OF INTEREST

JAC'S NEWSLETTER FOR COURT-APPOINTED
AND INDIGENT FOR COSTS ATTORNEYS AND
DUE PROCESS VENDORS

A Word From JAC's Executive Director

Greetings from the Justice Administrative Commission (JAC)! I hope you find this latest edition of Points of Interest (JAC's Newsletter for Court-Appointed and Indigent for Costs Attorneys and Due Process Vendors) helpful and informative. I am happy to introduce the upcoming Online Billing Submission system for due process vendors. This system will allow due process vendors to submit their billings to JAC electronically through JAC's secure website, "My Access." I also want to thank those attorneys and due process vendors who participated in JAC's second external survey. The information and comments provided will help JAC continue to improve the billing process. Thank you for taking time to read the newsletter. It is my hope that it will help us work together to get your bills paid efficiently. As always, please let us know how we can serve you better.



Rip Colvin
JAC Executive
Director

Online Billing Submission for Due Process Vendors

Following the success of the Attorney Online Billing Submission system, JAC will soon roll out Phase I of the Due Process Vendor Online Billing Submission system, which will allow registered vendors and attorneys to submit Due Process invoices along with supporting documentation through JAC's secure website, "My Access." Vendors and attorneys who have registered an account with "My Access" may submit invoices only to cases already open in the JAC system. (To open a new **court-appointed** case, an attorney may use the "Online Case Opening" system in "My Access" to submit the order of appointment and required documentation.) Please send suggestions and feedback regarding Due Process Vendor Online Billing to feedback@justiceadmin.org. JAC appreciates any suggestions or concerns raised by vendors and attorneys as the new online billing

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Changes to Fiscal Year 2015-2016 Contracts

Several provisions of the JAC Agreements for Court-Appointed Attorney Services have been revised for Fiscal Year 2015 – 2016. Before going into these amendments, please be advised that because most JAC contracts run concurrent with the state fiscal year, July 1, 2015 - June 30, 2016, the footer of those contracts now denotes the termination date. The contracts that have been amended are: the Agreement for Attorney Services for registry attorneys (Registry); the Non-Standard Agreement for Attorney Service for off-registry appointments (Off-Registry); Agreement for Attorney Services for Private Capital Collateral Counsel (Capital Collateral); Attorney

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Online Billing Submission for Due Process Vendors (Continued)

submission system for due process vendors is implemented.

The new system will allow either the due process vendor or the attorney to submit the billing through “My Access.” Prior to beginning an online invoice submission, please have your JAC Invoice/Voucher cover completed and signed by both the attorney and due process vendor, and scanned to an electronic file. Supporting documentation files must also 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.

The appropriate voucher cover can be obtained from the "Forms and Rates" section of JAC's public website. Vendor invoices should be scanned together with the corresponding JAC Invoice/Voucher cover. Please make sure the scans of all documents are legible.

Guidelines and Tips for Submitting an Invoice Billing Packet

- 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. NOTE: 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.
- 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 an audit deficiency through the online billing system.
- Once documents are submitted online, please do not mail, fax, or e-mail 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.

Overview of Online Billing Submission for Due Process Vendors

Start your invoice submission by logging in to JAC's secure website, “My Access.” Once logged in to “My Access,” a link to submit Due Process invoices will be available to both attorneys and vendors on the left side navigation bar, as well as on your “My Access” home page.

Click on the Due Process Invoice Submission link to search for the case for which you plan to submit an invoice. If you are a due process vendor, please enter the Bar ID of the attorney for the case (if you are submitting an invoice for a *pro se* defendant, please check the box indicating this is a *pro se* case). If you are an attorney, the process is the same; however you will not need to enter your Bar ID. You may search for the case by entering either the sequence number or the defendant's first or last name.

Search results will appear; please click on the applicable case number to go to the invoice submission screen. Please make sure that you are submitting a billing under the correct case. If the case does not appear, the attorney will need to open the case.

Online Billing Submission for Due Process Vendors (Continued)

Due process vendors will need to contact the attorney so that the **attorney** can provide the case opening documents to JAC.

On the Invoice Submission screen, you will see the Case Details section at the top and the Invoice Submission section below it. Links to Guidelines and Invoice/Voucher covers are available if needed. For more information or help with an item, click on a blue question mark for more detailed information.

Start by entering your Invoice Number. For attorneys submitting billings on behalf of due process vendors, the vendor's Tax ID must be entered. Next, select the JAC Voucher Type to be submitted. After the JAC Voucher Type is selected, the Service Type section appears. Make your service type selections based on the services rendered on the JAC Invoice/Voucher cover.

Based on the Service Type(s) selected, the Supporting Documentation section is set up for you to submit your documents. (Attorneys may also submit case documents as well.) Please upload your electronic documentation here, starting with the JAC Invoice/Voucher cover & Vendor Invoice. Upload all documentation for your invoice submission for the case. Once all documentation has been entered, please agree to the JAC Online Billing Certification to continue the billing process. After you have executed the certification, you can then submit the Billing Packet using the "Submit Billing Packet" button. A confirmation message will appear and you will receive a confirmation e-mail with a Tracking Number.

To assist in submitting billings through this new system, additional instructions and tutorials will be available on JAC's secure website; "My Access." As noted above, JAC desires constructive feedback regarding this new process so that JAC can better serve

New Designated Help Desk Phone Line

JAC is pleased to announce a new toll free, dedicated phone line for the Help Desk: (844) JAC-LINE (522-5463) (effective Wednesday, June 10, 2015). When using this new toll-free number, your calls will no longer be routed through JAC's Front Desk. (Please know that Help Desk calls made to JAC's Front Desk will also be transferred to the new Help Desk line.) The calls will go directly to the Help Desk voicemail, and, as usual, will be returned by the Help Desk as soon as possible. We request that when you use the voicemail, you leave not only your phone number but also an e-mail address. The e-mail helpdesk@justiceadmin.org or the [Help Desk web form](#) are also a fast and efficient way to reach the JAC Help Desk. When leaving a message, please provide as much detail as possible to assist the Help Desk in providing an appropriate response to your inquiry. For example, information such as the case number, invoice number, and specific factual details will assist the Help Desk.

Top Searches on JAC's Website

The JAC Help Desk receives many inquiries asking where to find current flat fees, the due process rates and voucher covers on our website. While there are multiple ways to find this information, the easiest by far is the JAC Top Searches section. This section is located on the very bottom of our homepage and includes direct links to a variety of frequently used pages on our site.

The following are a few of the topics that are currently featured in the JAC Top Searches section:

- Attorney and Due Process Voucher Covers
- Attorney Flat Fee and Due Process Vendor Rates
- Due Process Vendor Search
- Link to Online Invoice Submission for Attorneys
- JAC's Attorney and Due Process Vendor Newsletter

Changes to Fiscal Year 2015-2016 Contracts (Continued)

Agreement for Due Process Services for Persons who are Indigent for Costs (IFC); and the Type 1, Type 2, and Non-Standard Agreement for Due Process Services (Due Process). Paragraph citations refer to the JAC Agreement for Attorney Services for registry attorneys (Fiscal Year 2015-2016). Please note that the same amendment may be found in a different location in the other JAC contracts. Specifically, the substantive amendments include the following:

1. **My Access:** In order to accommodate online billing, a paragraph has been added regarding JAC's secure website, My Access. (Paragraph II, 7 – 8, page 3). This provision places the responsibility on the person registering the account to ensure the security of that account (including changing passwords when necessary). Second, a paragraph has been added to the Registry, Off-Registry, and Capital Collateral contracts requiring attorneys to submit their billings using JAC's Online Billing Submission system.
2. **Investigator Services:** The paragraph relating to investigator services in the contracts has been amended to address several issues. (Paragraph IV, 11, page 7). In particular, the amendment addresses compensation when multiple investigators are assigned to the same case. Generally, only one investigator will be compensated for completing a single task. Similarly, 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. The provision is also amended to bar reimbursement for travel time or travel expenses for an investigator to travel to the circuit of the case absent court authorization. JAC has noted a significant number of billings where an investigator has unnecessarily traveled substantial distances from the investigator's home circuit to the circuit of the case, and then sought to bill for the time and expenses for that travel. If an investigator makes a business decision to accept cases from outside the investigator's home circuit, the investigator will generally not be compensated for time and expenses related to travel under this amendment.
3. **Interpreting Services:** A paragraph has been added to the contracts relating to foreign language interpreting services. (Paragraph IV, 16, page 9). This provision clarifies that JAC's role is to provide costs for foreign language interpreting services **outside** of the courtroom (or other judicial proceedings) such as deposition or witness interviews. Insofar as the IFC contract, the provision further provides that JAC does not provide costs for an attorney to communicate with the attorney's client. This cost is a cost of representation rather than a due process cost. Insofar as the Type I Due Process contract, 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 I Due Process contract is limited to payment at the established rates. This provision is intended to address the recent changes adopted by the Florida Supreme Court in relation to foreign language interpreting services.
4. **Court Reporting Services:** The provision relating to court reporting services in the contracts has been amended to clarify the pages that can be billed for transcripts. (Paragraph IV, 18, page 9). The provision allows for payment for 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. It does not allow for payment for word indexes, summaries, or similar information unless specifically required by court rule. The provision also requires that transcripts meet the formatting requirements set forth in Fla. R. Jud. Admin. 2.535(f).
5. **Signing Invoice/Voucher Covers:** A paragraph has been added to the Registry, Off-Registry, Capital Collateral, and IFC contracts relating to signing JAC Invoice/Voucher Covers for due process vendors reiterating that the execution of these documents is far more than a ministerial act. (Paragraph IV, 25, page 10). There have been instances where attorneys have signed voucher covers that resulted in overpayments to the due process vendor that could have been avoided had the attorney acted

Changes to Fiscal Year 2015-2016 Contracts (Continued)

with due diligence. **The amendment places liability on the attorney for repayment of any overpayments when the attorney knew, or should have known, that the Voucher Cover was inaccurate at the time the attorney executed it.** This should help ensure that attorneys review billings for accuracy before the billing is submitted to JAC for payment. Additionally, the IFC contract has been amended to allow for recoupment of overpayments from the attorney. (This provision is already in place for the other attorney contracts.)

7. Expiration of Audit Deficiency/Letter of Objection: A paragraph has been added to the contracts stating that letters and audit deficiency notices will expire one year after issuance. (Paragraph X, 20, page 16). The billing will be deemed abandoned without notice to the attorney or vendor if the letter or notice has not been acted upon in that time frame. This provision will allow JAC to close out billings administratively after a year has passed without action from the attorney or due process vendor.

8. Public Records: A paragraph has been added to the contracts regarding public records. (Paragraph XII, 8, page 18). 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. This provision simply advises attorneys and due process vendors of this possibility. It also cites to *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. In the Due Process contracts, the vendor is advised to contact the attorney who retained the vendor's services if a public records issue arises. The provision further provides that JAC is not liable for any attorney's fees or costs arising from a public records lawsuit involving an attorney or vendor.

9. Scope of Representation: A paragraph has been added to the Registry and Off-Registry contracts to clarify that the scope of representation is limited to state court proceedings. (Paragraph XVIII, 17, page 24). With the exception of a petition for writ of certiorari following affirmation of a death sentence by the Florida Supreme Court, JAC only has authority to pay for representation in state court proceedings pursuant to s. 29.007, F.S. This provision indicates that JAC will not be liable for payment of attorney's fees, costs, or related expenses for other representation in federal court.

10. Professional Etiquette: Lastly, a paragraph has been added to the contracts requiring that attorneys and vendors interact with JAC employees in a professional and respectful manner. (Paragraph XVIII, 18, pages 24-25). In recent months, there have been incidents in which JAC employees felt uncomfortable after untoward comments from an attorney or due process vendor. This provision is designed to avoid situations that could create a hostile work environment for JAC employees including sexual harassment, verbal bullying, and abusive language.

Contracts Tips

It is the new contract season for the State Fiscal Year 2015-2016. To help ensure a smooth transition into the new year some helpful contract tips are listed below:

- Please be advised, JAC does not **place** attorneys on the circuit registry. JAC posts the current registry when received from each circuit. If you wish to be on a court-appointed registry for a specific circuit, please contact the registry clerk for that circuit to obtain an application. Once you have been approved for the registry by the Chief Judge in that circuit, the registry clerk will send JAC your information. At that time, you will be sent an e-mail directing you to JAC's website to execute a contract. We receive new attorney registries from each circuit starting in early June prior to the commencement of the fiscal

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Contract Tips (Continued)

year. Any questions regarding the registries should be directed to the registry clerk. ***The JAC Help Desk cannot assist you in this area.***

- JAC does not assign cases to attorneys. Instead, the courts appoint attorneys pursuant to s. 27.40, F.S.
- To be removed from the registry, attorneys must contact the registry clerk in that circuit, who will in turn notify JAC of the removal.
- For all attorneys and vendors, prior to executing your contract, please ensure that you have filed your Substitute W-9 and Electronic Funds Transfer forms directly with the Department of Financial Services (not JAC).
- It is the responsibility of the attorney/vendor to ensure that their address, telephone number, and e-mail address remain up to date. Please note, if you are a MyFloridaMarketplace vendor, YOU must make these changes through MyFloridaMarketplace, so that the information appears correctly on the Department of Financial Services site. YOU will also need to update your information through JAC's secure website, "My Access."
- For attorneys, to avoid delays in payment and possible removal from the registry by the circuit, it is important to execute your contracts as soon as feasible after receiving the e-mail from JAC that the contract is available to you. For vendors, please execute your contracts as soon as they are available for the 2015-2016 fiscal year (which starts on July 1st) to avoid any delays in payment.
- The JAC will include vendor information on our website for public view and search; however, the JAC does not assign work or cases to due process vendors. The information posted on the website is based upon the information provided by vendors. JAC does not independently verify this information.

JAC appreciates your efforts in this new contract season. As noted above, please execute your contracts as soon as feasible once available in order to avoid any delays in payment.

Tips for Investigator Billing

Investigators have an important role in a defendant's case. JAC is committed to processing all investigators' vouchers in a timely manner. Below are the most common reasons why investigator vouchers (as well as other due process vendor billings) may receive an audit deficiency notice or a notice of returned voucher.

- Missing case documents (such as the attorney's order of appointment and the motion and order for investigator services).
- Missing indigent for costs (IFC) case documents. To process a billing for an IFC case, JAC must have received:
 1. Written motion to declare the defendant indigent for costs;
 2. Clerk's application for indigency;
 3. Affidavit attesting to estimated attorney's fees and the source thereof;
 4. Order declaring the defendant indigent for costs;
 5. Charging document(s); and
 6. JAC Agreement for Indigent for Costs Cases executed by the attorney.
- Lack of an investigator cap. Investigator motions and orders must have the maximum amount authorized for investigator services. If the investigator will be obtaining case-related documents, the order should also include the amount authorized to obtain such documents.

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Tips for Investigator Billing (Continued)

- Exceeding the statutory rate. The rate for investigator services cannot exceed \$40 per hour.
- Exhausted investigator orders. The amount of the billing exceeds the amount authorized by court orders. An investigator should keep track of the amount to be billed and advise the retaining attorney when it is necessary to exceed the amount authorized by the court.
- Defendant name/case number on JAC Invoice/Voucher cover does not correspond to orders authorizing investigator services.
- No current Due Process Vendor contract with JAC. JAC's due process contracts run concurrent with the State's Fiscal Year and expire on June 30th of each year. An investigator or other due process vendor will need to execute a new contract each year in which services are provided.
- Incorrect or missing Tax ID number on the JAC Invoice/Voucher cover.
- Investigator License number not on JAC Invoice/Voucher cover. If multiple investigators worked on the case, the license number of each investigator must be included on the detailed vendor invoice.
- JAC Invoice/Voucher cover does not have the signature of both investigator and attorney.
- Investigator detailed invoice is vague:
 - ◇ Provide the amount of time spent on each activity and detail as to how that time was spent. The detail should be sufficient for JAC staff to objectively assess the reasonableness of the work completed;
 - ◇ Provide the length of audio/video recordings reviewed (in minutes);
 - ◇ Provide the estimated number of pages reviewed for each entry (by date). Do not provide total numbers across multiple dates;
 - ◇ Provide the number of pages (length) for reports generated by the investigator;
 - ◇ Avoid use of abbreviations. Abbreviations have different meanings and connotations to each person and can lead to confusion; and
 - ◇ Avoid repetitive entries lacking specific detail as to tasks performed.
- Lack of proof of payment for reimbursed expenses (Invoices must have a zero balance and cancelled check, front and back).
- DFS travel voucher not submitted or is incomplete:
 - ◇ Mileage requires FDOT map;
 - ◇ Travel voucher not signed by both investigator and attorney (as supervisor); and
 - ◇ Missing supporting documents for miscellaneous travel expenses, such as receipts showing proof of payment.
- Inappropriate file format. When submitting documents to JAC, please submit documents only in PDF or TIFF format. JAC does not accept ZIP files due to security concerns. JAC also does not accept links to clouds or file sharing services.

General Reminders for Due Process Vendor Billings:

If you receive an audit deficiency notice, please send responses only to compliancereview@justiceadmin.org (or through the Online Billing Submission system when available) and include the signed audit deficiency reinstatement letter. Multiple submissions of the same document(s) may delay the processing of audit deficiency responses since all documents must be verified.

If a JAC Invoice/Voucher is returned, please remember to submit a new voucher cover signed by the investigator and attorney.

Additional Helpful information regarding the investigative billing process can be found at:

<http://www.justiceadmin.org/FAQ/Training%20Modules/InvestBillingI.pdf>



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Prepaid Travel (Ordinary Witnesses)

In limited circumstances, JAC can prepay for certain travel expenses for witnesses testifying at hearing or trial. When a criminal case has witnesses who need to travel for trial, the costs may cause financial hardship on the attorney or witnesses. In an effort to assist the attorney in providing his or her client with effective representation, JAC has the ability to prepay for the witnesses' airfare and lodging. Other travel costs are paid through reimbursement only.

Prepaid travel is generally limited to ordinary witnesses. (Absent truly exceptional circumstances, expert witness and attorney travel is through reimbursement only.)

Counsel wishing to have JAC prepay for witness travel must provide JAC with the required documentation in a timely fashion prior to the travel. All case documentation must be on file with JAC. There are often challenges when arranging third party travel. To allow ample time to correct any issues, JAC requests all documentation be submitted ten (10) business days prior to the date of departure. The forms necessary for prepayment of travel are located on [JAC's website](#) under the Travel tab.

The process begins with a motion served on JAC and filed with the court. JAC will respond stating its position. If the court approves the travel, the court order must be provided to JAC. The order must list the traveler's name, approximate dates of travel, purpose of travel as well as the origination and destination.

JAC generally pays for only one night's lodging. In situations that require the witness to be present for more than one day, the motion for travel expenses needs to delineate the need for the witness to be present longer. Absent a need for the witness to be present, JAC does not provide funds for the witness to attend the entire trial.

Once the travel order is received, the attorney will need to submit the **Court-Appointed Counsel Authorization for Agent to Arrange Travel** form which allows JAC to secure the travel arrangements. The attorney will also need to submit the **Travel Expense Request Form** which details the traveler's personal information, and the desired flight and hotel information. These forms and supporting documentation should be submitted to pleadings@justiceadmin.org. It is the attorney's responsibility to identify the desired flight and hotel. JAC does not choose the flight or hotel accommodations nor does it coordinate the travel details with the traveler. Once this travel packet is complete, it can be submitted to JAC to prepay the travel. JAC cannot prepay travel without these forms.

Upon receipt of the travel packet, JAC will purchase the airline tickets and reserve the hotel room. Please note that JAC is prohibited from purchasing insurance on airfare, therefore changes cannot be made once the tickets have been purchased. Confirmation numbers and ticket information will be provided to the attorney by e-mail.

After the travel has concluded, the **State Travel Voucher for Reimbursement** (Travel Voucher) and supporting documents should be submitted to JAC as soon as feasible. JAC pays for these travel expenses using a state purchasing card (credit card). The Travel Voucher must be signed by the traveler and the attorney (the attorney signs in the Supervisor box). JAC is required by the Department of Financial Services to submit the signed Travel Voucher to process the travel payment in order to obtain the funds needed to repay the credit card. Please be sure to have the traveler sign the form **before they depart** and submit the form to JAC immediately thereafter.

For hotel or other lodging, JAC pays for the room only. Generally, JAC does not pay for valet parking, room service, movies, or phone calls. JAC will need a receipt reflecting a zero balance after the guest checks out. This receipt needs to be submitted along with the Travel Voucher.

By submitting the necessary documents and information in a timely fashion, the attorney helps JAC process a smooth travel itinerary and have the witness available for trial as needed.