

## **COUNSEL GUIDELINES**

**Certain provisions do not apply to cases covered under the annual fixed fee or billed on per case basis for normal cases over the maximum.**

### **INTRODUCTION**

The guidelines set forth below are applicable to each matter a Firm handles on behalf of the City of Baltimore. The City Solicitor must approve any exceptions to these Guidelines. The City may end the Firm's engagement or refuse to pay invoices for services that do not comply with these Guidelines.

### **ASSIGNMENT OF MATTERS**

- The City Solicitor will approve, in writing, the assignment of each and any matter to the Responsible Partner.
- The Responsible Partner shall have primary responsibility for the matter; however, the Responsible Partner may assign another partner or partner-level attorney to serve as Lead Counsel and use associates and paralegals, as appropriate. No more than one partner may bill on any matter without the express consent of the City Solicitor (break-out cases only).

### **CONFLICTS CHECK**

- Within forty-eight (48) hours of assignment, the Firm will initiate and complete a conflicts check.
- Any actual or potential conflict (including any adverse representation by the Firm) must be discussed with, and disclosed in writing to, the City Solicitor.
- The City Solicitor has the sole discretion to decide whether a conflict of interest exists.
- If a potential or actual conflict does exist, the issue must be resolved to the City's satisfaction, and reflected in a writing signed by the City Solicitor.
- Any Firm request that the City Solicitor waive a conflict must be in writing and disclose all relevant factors.

### **NEWS MEDIA**

- The Firm shall not respond to any substantive inquiries from the news media without the approval of the City Solicitor.
- The Firm should direct the news media to the City Solicitor.

### **PERFORMANCE OF WORK**

- *Responsibility*
  - The Department of Law has ultimate responsibility for the management of all legal assignments.

- The City Solicitor or his respective designee (Responsible Chief or Assistant Solicitor) must approval all significant decisions associated with these matters.
- *Strategy*
  - Upon request, the Lead Counsel will meet with the Responsible Chief or Assistant Solicitor to define the objectives to be achieved, any strategy, and the Firm's role and duties.
- *City Personnel*
  - The Firm shall advise the Responsible Chief or Assistant Solicitor in advance of city or Baltimore Police Department ("BPD") employees or others the Firm wishes to interview and obtain guidance for such interviews.
  - The Firm should generally not consult City personnel outside the Law Department for decisions or guidance involving legal issues or legal strategy.
  - In those cases where the Law Department has approved the Firm's direct contact with City or BPD personnel outside the Law Department, the Firm will keep the Law Department timely advised of all significant communications and developments as they occur.
- *Copies of Documents*
  - The Firm will send copies of all documents and correspondence sent to other city or BPD personnel to the Law Department in order to ensure proper coordination of the assignment.
  - As and to the extent directed by the Responsible Assistant Solicitor, the Firm shall forward copies of correspondence, pleadings, etc., to the Responsible Chief or Assistant and send proposed draft documents of substance in sufficient time for review before filing or sending to other parties.
  - Upon request, the Firm shall forward deposition or trial transcripts, motion papers, briefs, exhibits or other documents disclosed to opposing counsel to the Solicitor's Office.
- *Research*
  - The Law Department has retained the Firm in part because of its expertise and overall knowledge of the law, and in some instances, because the Firm specializes in a particular area of the law.
  - The Firm shall not bill for any basic legal research to educate the Firm's lawyers in the primary field of the lawsuit or the Firm's specialty (break-out cases).
  - The Firm shall obtain prior authorization for all significant legal research from the Responsible Chief or Assistant Solicitor (break-out cases).
  - When the Firm completes any legal research, regardless of whether it is in the form of handwritten notes or a formalized memorandum, it shall provide a copy of such notes or memoranda to the Responsible Chief or Assistant Solicitor.

- *Communications*
  - The Firm shall communicate with the Responsible Chief or Assistant Solicitor and all others by the least costly and most efficient and effective means for that particular communication, i.e., telephone, or email, and then correspondence only when truly required (break-out cases).
  
- *Staffing – Break-out Cases*
  - The Firm shall use good judgment in staffing to provide excellent service without incurring unnecessary expense.
  - Junior lawyers and/or paralegals will perform basic research, assembling and filing documents, summarizing of testimony and the like.
  - Only one attorney from the Firm with an appropriate level of experience shall attend meetings, arguments and depositions. The Responsible Chief or Assistant may approve or serve as a “second chair” for trials and major hearings.
  - The City will only pay for one person’s time for conferences and meetings involving only firm personnel unless such multi-person conversations have been approved by the Responsible Chief or Assistant.
  
- *Civility in Practice, Waivers Resolutions and Settlements*
  - The Responsible Chief or Assistant Solicitor must expressly approve the Firm’s waiver of any regulatory, statutory or court deadlines.
  - Without the express authority and approval of the Responsible Chief or Assistant Solicitor, the Firm shall not:
    - in litigation threaten sanctions against opposing counsel;

[bullet]The terms of any settlement must be approved by the City Solicitor.
  
- *Litigation*
  - The Firm will make all important decisions with respect to litigation with the Responsible Chief or Assistant Solicitor’s involvement, concurrence and direction where it is feasible to include him/her in such decisions.
  - The Responsible Chief or Assistant Solicitor must review drafts of all substantive correspondence and pleadings and be copied on all final correspondence and pleadings.
  - The Firm shall advise the Responsible Chief or Assistant Solicitor of all deposition dates.
  - Following a deposition, the Firm shall provide the Responsible Chief or Assistant Solicitor a written report of important events pertaining to the deposition, including impressions of the parties, problem areas and or/strategies.
  - When requested, the Firm shall provide the Responsible Chief or Assistant a deposition summary in as much detail as is reasonably requested within

- fourteen (14) days of the completion of any deposition.
- Prior to the engagement of any expert, the Firm must obtain approval from the Responsible Chief or Assistant for both the expert and his/her fees where and when the fee is likely to exceed \$1,800.00.
  - The Firm shall coordinate with and provide the Solicitor's Office with the maximum possible lead time to help the Firm respond to discovery requests. When submitting discovery requests, the Firm shall indicate its recommendations for proposed responses.

**BUDGET (Applicable to break-out cases only)**

- Within 30 days of assignment and break out designation, the Firm will propose staffing and a budget for the matter.
- The budget, at a minimum, must include assumptions with regard to:
  - anticipated staffing (including hourly rates), strategies and objectives;
  - significant phases of the assignment;
  - approximate amount of time the assignment will take; and
  - estimates of the cost of each phase of the assignment.
- If the matter involves litigation, the Firm shall prepare:
  - a budget of all fees and expense through discovery, including experts; and
  - within 30 days after the discovery deadline, a trial budget.
- The Responsible Partner shall provide periodic updates on the proposed budget and shall bring any probable change in the anticipated fees and expenses to the attention of the Responsible Chief or Assistant Solicitor.
- The Responsible Partner will submit a status report to the Office of Legal Affairs with the monthly bill. The report need not repeat information in the bill.
- Hourly rate must be consistent with the Response and may only be changed upon the Solicitor's prior written approval.

**BILLING (Hourly fee portion applies to break-out cases only)**

- The Firm will submit monthly invoices for services provided during the preceding month.
- The Firm will provide the Responsible Chief or Assistant Solicitor with the billing rates for each of the attorneys, paralegals and others who work on the assignment and will provide 30 days' advance notice of any proposed changes in billing rates.
- THE FIRM'S HOURLY RATES CHARGED FOR ANY MATTER MUST NOT EXCEED THE LOWEST RATE THE FIRM CHARGES TO ANY OTHER PUBLIC SECTOR CLIENT.

- The Firm shall not bill any standard minimum charges for any services performed such as telephone calls, file review, etc.; the Firm shall charge only for actual time expended.
- Invoices shall include the following information:
  - reference to the matter;
  - name of the individual performing the work;
  - billing rate of the individual performing the work;
  - number of hours devoted to the activity in 6 minute increments;
  - date of activity;
  - a specific description of the work performed including, for telephone calls/conferences/meeting, a description of the general content and purpose of the telephone call conference meeting and the names of those individuals participating and/or attending.
  - Itemization of expenses
- The minimum billing charge is 6 minutes.
- Bills shall be formatted in the following manner:

<u>Date</u>	<u>Format</u>	<u>Description</u>	<u>Hourly Rate</u>	<u>Time Charges</u>
1	2	3	4	5    6

1. Date services were performed.
2. The initials of individual performing the work.
3. A line description of services.
4. Hourly billing rate of individual performing the activity.
5. Specific accurate time in tenths per hour.
6. Total dollar charge for that line.

- Travel
  - The Firm must obtain prior Authorization for overnight travel from the Responsible Chief or Assistant Solicitor.
  - The City will reimburse air travel at coach rate only.
  - Unless authorized in advance, the City will not pay for travel by more than one attorney to the same location for the same purpose.
  - Expenses for lodging, meals and transportation shall be at reasonable rates.
- **The Firm shall not bill the City for the following expenses:**
  - word processing
  - computer charges (unless pre-authorized)
  - overtime
  - support staff and attorney meals
  - office supplies
  - file maintenance and record storage

- unspecified or miscellaneous costs advanced
- travel-related expense such as:
  - rental movies
  - personal grooming services
  - private limousine transportation
  - luxury auto rental
  - first class air travel
- *Incoming or outgoing fax, hand deliveries or courier, unless specifically authorized by the Responsible Chief or Assistant or below as agreed on amount.*
- Limits on Expenses. The Firm will not charge the City:
  - in excess of 20¢ per page for photocopying. If photocopying will exceed a total of \$50 for any document or groups of documents, the Firm will contact the Law Department.
  - in excess of the rates charged by the service provider for telephone charges for long distance telephone charges.
  - in excess of the rates charged by the service provider for computerized legal research specifically authorized in advance;
  - for any other computer or automated services;
  - for preparation of bills;
  - for attorney travel time before or after business hours. Attorney travel time during business hours is chargeable to the City only to the extent that work for other clients is not performed during travel.
- Documentation
  - The bill shall itemize:
    - all travel by attorney, date, transportation costs, lodging, meals;
    - all other cash disbursements incurred; and
    - all other charges being billed as costs.
  - If the Firm pays for court reporters and other outside service firms, invoices for those services shall be available as support.
  - In certain circumstances, the Firm may be required to provide additional billing information.
- Only bills which include the information set forth above will be paid.

**FINAL BILL AND CLOSING SUMMARY**

- With thirty (30) days from the end of a matter, the Firm shall submit to the Responsible Chief or Assistant Solicitor a final bill for fees and expenses. Fees, expenses and invoices not submitted with thirty (30) days will not be paid. (Break-out cases only).
- Whenever requested, the Firm shall provide (and may bill for) the Responsible Chief or Assistant with a “debriefing.” The debriefing should include:
  - A clear, easily comprehended summary of the matter;

- The final version of the most important documents, including research memoranda, both printed and electronic, and, where necessary, a cover sheet explaining how the document relates to the matter;
- An explanation of how this matter relates to other work the Firm has done for the City;
- A list of the lawyers and any outside experts or consultants who worked the most on the matter.

**CHANGES TO THE GUIDELINES**

- A Firm's Response must indicate any proposed changes to these Guidelines.