

**RISK MANAGEMENT FUND
SPECIAL ASSISTANT ATTORNEY GENERAL
BILLING POLICY**

GENERAL BILLING PRINCIPLES:

1. If the special assistant attorney general has any doubt about whether a particular activity or expense is compensable, the attorney should contact the Office of Attorney General before incurring the expense.
2. The State retains a particular attorney to handle a particular matter. No attorneys other than the special assistant attorney general appointed to handle the particular matter will be paid for their work on that matter.
3. As stated below, work done by a paralegal, law clerk, investigator, or nurse consultant under the special assistant attorney's supervision may be compensated. Accordingly, the special assistant attorney general shall consider whether tasks can be performed efficiently by paralegals or clerks or whether there are other ways in which the time required of the attorney can be minimized without compromising the quality of representation. All tasks should be staffed at the most cost-effective level (i.e., the lowest billing rate consistent with required skills needed, efficiency, and quality).

BILLING FOR FEES:

4. The description of all fees for which compensation is requested shall be broken out by person, the matter on which the work was performed, the date on which the work was performed, a description of the work performed, and the time spent on that work.
5. The description of the work performed shall identify each task separately and in sufficient detail to permit the State to ascertain the benefit derived. It is not sufficient, for example, to state, "Conference with Mr. Smith," or "Trial preparation." An acceptable entry would state: "Conference with Mr. Smith regarding settlement offer," or "Trial preparation: Review and prepare witness DOE." If legal research is performed, the purpose, topic, and related work product should be identified. It is not sufficient, for example, to state: "Legal research." An acceptable entry would state: "Legal research on highway design immunity defense for summary judgment brief." Time entries for conferences and telephone calls should identify the participants and the topic of the communication.
6. No time may be billed in increments of greater than six minutes. Incidental tasks that take significantly less than six minutes (such as listening to a phone mail message or attempting a call) may not be billed.
7. Billings shall be based on actual time spent performing a task, not for a unit charge (that is, there can be no automatic billing of one-third of an hour for a phone call that may have taken only five minutes).
8. Billings shall be submitted on the basis of time sheets completed on the day of the related time devoted to services in the matter for which the special assistant attorney general has been retained. Time sheets shall be completed throughout the day rather than at the end of the day.
9. All charges will be specified and not grouped or clustered into one billing charge.

10. Special assistant attorneys general shall be compensated for legal services at the same hourly rate that is billed for legal services provided by Assistant Attorneys General or at the attorney's law firm's hourly billing rate for the attorney, whichever is less, unless a different hourly billing rate is stated in the Special Assistant Attorney General Appointment and Representation Agreement.
11. Independent tasks which are performed by a paralegal, law clerk, investigator, or nurse consultant and which are not purely clerical will be paid at the law firm's regular hourly billing rate for that person if that rate has been pre-approved by the Solicitor General. All work must be billed at the hourly rate of the person who actually did the work.
12. No separate charge may be claimed for clerical time for completion of documents or other purely clerical tasks. Clerical tasks include scheduling and traveling arrangements, setting up and organizing files, numbering documents, proofreading, and similar activities.
13. Time charges may not be made for preparing or discussing expense reports, time sheets, bills, audits, or investigations, or for conflict of interest checks or defending a motion to disqualify the special assistant attorney general for a conflict of interest.
14. The special assistant attorney general may not bill for reviewing a file unless some specific action in connection with the file is required; that is, the attorney will not be compensated for an automatic review of a file each month.
15. Time spent in developing a work product for another client may not be charged.
16. Fees and expenses will be paid for only one person to attend meetings, depositions, and arguments, except that fees and expenses for two or more persons may be allowed for trials, major hearings, or meetings, if that additional staffing has been approved in advance by the Solicitor General. Travel by more than one person will be compensated only in unusual circumstances and only if approved in advance.
17. Travel time will be paid at one-half the billing rate this policy authorizes for the person traveling, unless a different hourly billing rate is stated in the Special Assistant Attorney General Appointment and Representation Agreement.
18. The maximum number of hours that the State will pay per day for any individual (except during a trial) is ten unless deviation from that limit has been approved by the Solicitor General.

COSTS:

19. All costs for which payment is sought, including travel expenses, shall be itemized separately in the monthly bills.
20. All costs incurred in the defense of litigation must be reasonable and necessary. Because government funds are involved, the Attorney General expects special assistant attorneys general to incur costs in a financially conservative way.
21. All statements for reimbursement of costs shall include receipts for the claimed costs or an explanation for how the cost is calculated. Permissible computer legal research costs, such as for Westlaw or Lexis, will be reimbursed only if a copy of the bill the special assistant attorney general's firm received for those costs is provided to the State with the special assistant attorney general's request for reimbursement. The special assistant attorney general may redact all portions of any such bill provided to the State that relate to legal research or services for other clients.

22. Photocopying will be reimbursed at the rate of \$.10 per page.
23. There will be no reimbursement for in-coming faxes. Reasonable and necessary telephone line charges for long-distance out-going faxes will be reimbursed.
24. Other reasonable, necessary expenses not itemized in this billing policy (such as long distance charges and transcript costs) will be paid at cost upon verified statements from the special assistant attorney general. "At cost" means at the actual out-of-pocket cost incurred by the special assistant attorney general. Neither the special assistant attorney general nor the special assistant attorney general's firm may charge for costs in a manner that will result in the attorney or firm making a profit from that charge. Requests for all such costs must be itemized and supported by documentation.
25. No reimbursement will be made for secretarial or word processing services (normal, temporary, or overtime) or for other staff service charges, such as meals, filing, or proofreading, regardless of when those costs were incurred.
26. No reimbursement will be made for computer time other than for computer legal research. Reimbursement will be made for charges for computer legal research, such as Westlaw and Lexis, as long as those resources are used in a reasonable, efficient, and cost-effective manner and are billed to the State at cost.
27. There will be no reimbursement for local telephone expenses or office supplies.
28. No reimbursement shall be made for the purchase or lease of office space, furnishings, equipment, or software unless approved in advance by the Solicitor General.
29. Mail charges will be reimbursed, but the use of priority overnight mail services will be reimbursed only if a justifiable basis exists for using the service. The use of such services may not be routine.
30. No reimbursement shall be made for alcoholic beverages, entertainment, gratuities, laundry, local meals, or what might otherwise be considered normal living expenses.
31. Special assistant attorneys general shall be reimbursed for reasonable travel expenses for necessary travel as follows:
 - a) Special assistant attorneys general shall be reimbursed for meals at the per diem rates authorized for state employees. Because out-of-state rates vary by location, the attorney should check with the Office of Attorney General for the rates for particular locations.
 - b) Hotel rooms will be reimbursed at the rate actually paid if that rate is reasonable.
 - c) Mileage, for travel in excess of 25 miles round-trip may be billed at the current reimbursement amount authorized for state employees.
 - d) Airfare will be reimbursed at the lowest available coach class fare. The State will not reimburse the costs of first-class or business-class travel and expects that travel arrangements will take advantage of any cost-effective discounts or special rates.
 - e) All car rentals will be limited to an economy or a mid-size rental vehicle.
 - f) Other miscellaneous travel expenses shall be reimbursed to the extent and in the manner authorized by state regulations for state employees.

EXPERTS AND CONSULTANTS:

33. The Solicitor General must approve in advance the hiring of all consultants and expert witnesses and the fees those consultants or expert witnesses will be paid. When the special assistant attorney general considers it necessary to engage a consultant or expert, the attorney shall identify to the Solicitor General the subject for which the consultant or expert will consult or testify, his or her fee schedule, and the attorney's estimate of the total cost for the expert or consultant. Subject to these conditions, the State shall pay the fees of consultants and expert witnesses retained for the matter.

AUDIT:

34. If the Office of Attorney General so desires, it shall have the right to perform an audit of legal services performed and to take whatever action is reasonably required to exercise this right. The special assistant attorney general and his or her firm shall cooperate fully with any audit or other investigation of any billing(s) of the attorney or firm in the matter for which the special assistant attorney general was retained. The special assistant attorney general agrees to retain all billing records relating to the services provided to the State of North Dakota for a period of five years after funds are distributed or received or until audited, whichever is sooner.

MISCELLANEOUS:

35. In particular cases or instances and for good reason, the Office of Attorney General and the Risk Management Fund may agree to deviate from the policies stated in this document. However, any modification of this policy must be approved in advance and in writing by the Office of Attorney General and the Risk Management Fund.