

OUTSIDE COUNSEL GUIDELINES

These guidelines apply to all Outside Counsel retained by the County of Berks (“the County.”) The purpose of these guidelines is to set forth the general terms and conditions governing Outside Counsel in its delivery of legal services on behalf of the County. The County Solicitor’s Office strives to provide the County with the highest quality legal services in the most cost-effective manner possible. It is critical that Outside Counsel share in this philosophy in order to achieve this mission. In the event a matter is covered by a County insurance policy, Outside Counsel shall follow the insurance company’s guidelines.

These guidelines along with an executed engagement letter or other agreement shall constitute a contract between Outside Counsel and the County for any legal services provided on behalf of the County. Outside Counsel will have deemed to have accepted the terms and conditions of these guidelines upon providing legal services to the County.

These guidelines shall be effective for all invoices submitted after June 1, 2016 regardless of the date of service. Outside Counsel shall require all attorneys, paralegals, administrative and clerical employees who are assigned to work on legal matters on behalf of the County to follow these guidelines. Any provision in these guidelines may be waived with or without cause with the prior consent of the Solicitor or Board of Commissioners.

CONFLICTS OF INTEREST

For purposes of these guidelines, conflicts of interest occur if Outside Counsel represents a client in a matter in which the client’s interests are adverse to the County. No law firm with an attorney-client relationship with the County of Berks may represent any person or other entity in any manner or engagement where the County has an interest and the interest of such person or entity actually or potentially conflicts with the County’s interest.

The County expects a strong degree of loyalty from its Outside Counsel. The County Solicitor’s Office does not routinely waive conflicts of interest. Counsel who requests a conflict of interest waiver must do so in writing. The request must include an identification of the cases or matters that create a conflict and the reasons why counsel believes that a waiver is appropriate, including an analysis of the applicable ethical rules and guidelines.

STAFFING

The County expects Outside Counsel to staff legal matters in as lean, cost-effective and efficient manner as possible. The County retains Outside Counsel because of their expertise. Outside Counsel shall not shift assigned personnel without prior approval of the Solicitor’s Office.

The County expects that only one (1) attorney will attend trial, court appearances, meetings, depositions, witness interviews, inspections and other functions. Prior approval must be obtained for those unusual circumstances in which counsel believes participation by another attorney or paralegal

would be appropriate. Accordingly, time spent educating or training lawyers with the firm on applicable law shall not be billed to the County. The use of paralegals under the direction and supervision of defense counsel is encouraged to reduce overall defense costs with the understanding that the quality of the work must be maintained. The County will only pay for work completed by attorneys or paralegals. The County will not pay an hourly rate or flat rate or fee for work that is secretarial, clerical, or administrative in nature.

Outside Counsel should utilize model documents, pleadings, memorandums, briefs, and appropriate documents from similar matters. The County's costs should reflect only the cost of tailoring these documents to the County's needs.

INSURANCE

Outside Counsel shall maintain professional liability insurance coverage in amounts sufficient in relation to the types and sizes of matters which Outside Counsel engages in, including the legal services being performed on behalf of the County. At a minimum, Outside Counsel shall carry professional liability insurance in the amount of one million dollars (\$1,000,000) per occurrence and two million (\$2,000,000) aggregate. If insurance coverage is cancelled for any reason, Outside Counsel shall immediately notify the Solicitor's Office.

MEDIA CONTACTS

Outside Counsel shall not, directly or indirectly, comment or discuss with the media any County legal matter without prior approval of the Solicitor's Office. Outside Counsel shall immediately notify the Solicitor's Office if they are contacted by the media regarding a County legal matter.

COMMUNICATIONS

To provide efficiency and control costs, Outside Counsel should communicate via email whenever possible.

Within forty-five (45) days after receipt of a litigation assignment, Outside Counsel shall provide the Solicitor's Office with an initial report containing the following information:

- (a) Summary of the allegations in the Complaint, factual basis for the litigation, a summary of information developed, and a preliminary evaluation of liability and damages;
- (b) Litigation Action Plan, to include identification of all significant activity proposed by counsel; identification of discovery and motions which have been, or are likely to be initiated by other parties; discussion of potential exposure on the case and recommendations on a proposed course of action.

Outside Counsel shall provide regular updates to the Solicitor's Office on the status of the case. At a minimum, status updates shall be provided every ninety (90) days. These summaries shall include, if

applicable, a discussion of all significant developments in the case including discovery served and received, status of motion practice and updated liability evaluation. All significant decisions regarding the case must be discussed in advance with the Solicitor's Office.

Copies of all pleadings, filings, and correspondence in the case shall be sent to the Solicitor's Office. Delivery via email is preferred whenever possible.

SETTLEMENT AUTHORITY

The County retains sole authority to settle or compromise all litigated matters and no settlement agreement can be entered into without the County's prior consent and approval by the Solicitor's Office.

BUDGET

In certain legal matters, the County may request a budget, estimating costs to handle or defend a legal matter. Any deviation from the approved budget that exceeds ten percent (10%) of the approved amount must have been approved prior to incurring the additional fees and/or expenses. Failure to seek approval of a budget increase will result in the additional fees and/or expenses being rejected for payment.

BILLING PRACTICES

Outside Counsel shall invoice the County on a monthly basis. Each separate legal matter shall be billed separately with distinct invoice number. The County reserves the right not to pay for charges if Outside Counsel fails to comply with these billing guidelines, or for charges which are excessive, unreasonable, or unauthorized.

All entries by attorneys and paralegals shall be recorded daily based upon their actual time in one-tenth (1/10) hour increments; however, if multiple tasks are performed in six (6) minutes or less, such activities should be grouped under a single time charge of one-tenth (1/10) of an hour.

The time for each activity must be separately stated. Block billing is not acceptable.

The County requires the descriptions of services in sufficient detail that state the nature, purpose, or subject of the work performed and the specific task to which it relates.

ALLOWABLE FEES/EXPENSES

The following fees/expenses are permitted by the County:

- (a) Photocopies, at the rate of \$.10 per page, for external use. The number of pages must be stated;
- (b) Court filing fees;
- (c) Common carrier fees (UPS or FedEx);

- (d) Courier fees as necessary to meet filing deadlines;
- (e) Actual long distance telephone charges;
- (f) Expert fees, if prior approval is obtained;
- (g) Transcript fees;
- (h) Outside vendor fees, at actual cost, if prior approval is obtained;
- (i) Other travel expenses (hotel, rental car), if prior approval is obtained;
- (j) Court reporter fees;
- (k) Travel time billed at ½ of the normal hourly rate and not at all if time is spent on other legal matters;
- (l) Subpoena expenses and witness fees; and
- (m) Any other expense exceeding \$1,000 must be approved in advance.

DISALLOWED FEES/EXPENSES

- (a) Any mark-up on allowed expenses;
- (b) Local telephone calls;
- (c) Cell phone charges;
- (d) Meals, including alcohol;
- (e) Parking fees, tolls and mileage;
- (f) Fax charges;
- (g) In-house delivery services;
- (h) Office supplies;
- (i) Time spent opening or closing files;
- (j) Conflicts checks;
- (k) Preparing invoices;
- (l) Routine postage;
- (m) Bates stamping documents;
- (n) Billing individual charges for the same document sent to multiple people;
- (o) Routine file review;
- (p) Computer legal research costs (i.e. Westlaw and Lexis);
- (q) Interoffice conferences;
- (r) Responding to billing inquiries; and
- (s) Responding to request from auditors on behalf of the County.

INVOICE DETAILS

All invoices must contain the following information:

- (a) Outside counsel's name, address, telephone number and tax identification number;
- (b) Date of the invoice, the name of the invoice matter, and time period included in the invoice;
- (c) Each time entry must include the date work was performed, the name or initials of attorney or paralegal performing the work, detailed single task description of

work performed, the rate of the person performing the work, and the total cost of that date entry;

- (d) All expenses must be itemized and listed separately from billable time lines;
- (e) All invoices must contain the following summary:
 - (1) Full name of attorney or paralegal;
 - (2) Status of time keeper (i.e. partner, associate, paralegal);
 - (3) Total hours and total amount charged for each time keeper during the invoicing period;
 - (4) Total reimbursable expenses during the invoice period; and
 - (5) Each invoice period must show cumulative total billed on the matter from its inception through the date of the bill.

AUDITS

The County reserves the right to audit and review all bills for services and disbursements to Outside Counsel using in-house auditors or the services of an independent auditor. The originals of all records shall be retained by Outside Counsel and made available for inspection and copying by the County and/or its representatives, along with the files to which they pertain throughout the pendency of the matter and two years after the final invoice is paid.

The County reserves the right to decline to pay or reduce and/or seek reductions for any charge that fails to comply with these billing guidelines, or which are excessive, unnecessary, unreasonable or unauthorized.

If the County inadvertently pays a bill that, upon further review, proves not to be in compliance with the engagement letter or these guidelines, the County retains the right to obtain from Outside Counsel reimbursement of such charges or to deduct such payment from subsequent payments due to Outside Counsel.

OWNERSHIP OF MATERIALS

Any and all legal work done on behalf of the County including, but not limited to: forms, agreements, briefs, motions, research (including computerized and on-line data base research) Memoranda (internal and external) reports, analysis, exhibits, and emails shall become the sole property of the County. Any other information and data given to, prepared or assembled by Outside Counsel in furtherance of work performed on behalf of the County, and any other related documents or items shall be delivered to the County without restriction on future use and shall be the sole property of the County and shall be forwarded to the County if requested. Outside Counsel may make copies of any and all documents for its files at its sole cost and expense. Outside Counsel shall retain the case file, in paper or electronic format, for any matters handled on behalf of the County for a period of seven years from the time the case was assigned.