

OFFICE OF THE STATE PUBLIC DEFENDER

Calculations and Assumptions to Determine the Hourly Cost per FTE and Contract Attorney

This paper provides the calculations and underlying assumptions behind the agency study that produced a cost per hour for an FTE attorney and for a contract attorney. The costs included in this study are from the agency's financial statements for FY 2014.

The results of the study are as follows: the cost for an FTE (staff attorney) in FY 2014 was \$88 per hour and the cost for a contract attorney was \$91 per hour.

Here are the calculations and assumptions included in the study:

1. The cost information came from the agency's FY 2014 financial statements. The agency expended \$29,158,065 during FY 2014 (excluding capital defense costs).
2. The average cost per FTE attorney with benefits and insurance is about \$41 per hour.
3. Contract attorneys are paid \$62 per hour. They are also reimbursed for certain other costs including travel, lodging, etc. which are an insignificant part of the total cost.
4. During FY 2014 the agency recorded the receipt of 31,705 new cases. Of these, 22,749 or 72% were assigned to FTE attorneys and 8,956 or 28% were assigned to contract attorneys. This 72/28% split was used to allocate most of the central office cost types between FTE and contract attorneys.
5. Total payments to contract attorneys during FY 2014 were \$8,549,728 or 29% of the total expended. This is a direct cost related only to the efforts of contract attorneys.
6. Total payments during FY 2014 for expert witnesses, mental health evaluations, and other outside services provided for client defense totaled \$1,388,189 or 5% of the total cost. This cost was allocated to FTE/contract attorneys on a 72/28% basis as both FTE and contractors use outside services in client defense.
7. The total amount expended during FY 2014 to provide central services to the agency was \$2,154,280 or 7% of the total cost. Much of this cost was allocated to FTE/contract attorneys on a 72/28% basis. The cost related to the agency's human resources department was only allocated to the FTE attorney area and the costs associated with contract management were allocated 100% to the contract attorney area. The conflict coordinator management function was \$228,123 or 1% of the total during FY 2014. This function is not part of central services and is allocated 100% to the contract attorney area.
8. The remaining \$16,837,745 or 58% of expenditures was for regional public defender operations, the major crimes unit, and for the appellate program. This cost was allocated as per assumption 12 noted below. These operations use both FTE attorneys and contract attorneys to provide services to clients.
9. During FY 2014 it is assumed that contract attorneys billed the agency about 140,159 hours. This calculation was based on the total cost of \$8,549,728 paid directly to contract attorneys divided by the average rate of \$61 per hour (the \$60 per hour rate was in effect July 1-December 31, 2013; the rate increased to \$62 per hour January 1, 2014). This number was used to derive the contractor cost per hour in assumption 18.
10. Non-managerial FTE attorneys are assumed to be paid for 2080 hours during the fiscal year, during which they are assumed to work on cases at least 72% of the time or 1500 hours. This calculation was necessary to develop the number that would be used to calculate the FTE attorney cost per hour in assumption 17.

11. Management FTE attorneys are assumed to be paid for 2080 hours during the fiscal year, during which they are assumed to work on cases in accordance with agency policy 114. This policy sets the number of hours to be worked by managers on cases between 375 and 750 hours depending on factors noted in the policy.
12. Regional and appellate costs are allocated between FTE and contract attorneys for their respective areas using an 85% FTE and 15% contract attorney allocation for large and medium regions and the appellate, and a 60% FTE and 40% contract attorney allocation for the small regions (a region's size is based on the caseload of a region and not in terms of geography). This distribution represents the fact that these functions provide management and oversight of both FTE and contract attorneys serving clients in their respective areas. For example, the Kalispell region's costs, excluding those paid to contract attorneys and to other contractors, total \$2,387,799. Offices in Polson and Kalispell include both public defender and regional operations. Regional personnel manage all FTE and contract public defender activities in the Kalispell region (comprised of all of the courts and clients in Flathead, Lake, Lincoln, and Sanders counties). Of the \$2,387,799 noted above, \$358,170 or 15% is allocated to the oversight and management of the contract attorneys that provide services to the region while the remaining cost remains with the FTE attorneys.
13. The total FTE attorney counts reflect 138.50 FTE attorney positions. This includes both permanent and modified FTEs, some of whom did not work for a full year.
14. FTE attorneys providing central office functions were assumed to work cases zero percent of the time during FY 2014. These attorneys include the Chief Public Defender, the Training Coordinator, and the Contract Manager.
15. Other FTE attorneys providing regional or program management that are not listed in assumption 14 above, were assumed to work cases in accordance with agency policy 114. If an attorney in this category worked more or less than noted in agency policy 114 and these increased or decreased hours were used in the calculations, the hourly cost per FTE would decrease or increase as the case may be. The study assumes that any overages or shortages offset each other.
16. Hours worked by an FTE attorney over the 2080 hours were not included in this study. If excess hours were included, the cost per hour would be reduced from the current hourly rate. However, hours *not* worked by an FTE aside from the allowances noted above were also excluded. The study assumes that any overages or shortages offset each other.
17. Hourly cost per FTE attorney: using the assumptions noted above, the \$88 per hour rate was derived as follows:
 - a. The total cost allocated to FTE attorneys was \$16,384,566.
 - b. The total number of FTE attorneys was 138.50 and this was reduced to 124.42 based on assumptions 11, 14 and 15.
 - c. The total cost of FTE attorneys is \$16,384,566, divided by 124.42 or an average of \$131,687 per attorney.
 - d. The hourly cost is \$131,687 divided by 1500 hours (see assumption 10 above) or \$88 per hour.
18. Hourly cost per contract attorney: using the assumptions noted above, the \$91 per hour rate was derived as follows:
 - a. The total cost allocated to contract attorneys was \$12,773,499.
 - b. The total hours billed based on assumption 9 above was 140,159.
 - c. The hourly cost is \$12,773,499 divided by 140,159 hours or \$91 per hour.

Note: The hourly costs for investigators are \$30.00 per hour for FTE and \$46 per hour for contractors. The fee schedule for contract mental health services follows.