

1 Phase III Preparation of Reply and Motions for Evidentiary Development

2 Phase IV Evidentiary Development (if authorized by the Court)

3 1. Phase I

4 Phase I encompasses organization and review of the record, preliminary identification
5 of claims, and preliminary investigation. Counsel is immediately authorized to assemble and
6 review the record and to prepare a budget for Phase I. The presumptive guideline for reading
7 the record and taking notes is 60 pages per hour, which will assist counsel in developing a
8 time estimate for this task. Generally, there are duplicative materials contained in trial
9 counsel's files and the record of state court proceedings. Counsel should make every attempt
10 to subtract the duplicative materials from the total number of pages that compose the record
11 to be reviewed. Requests to convert paper records into electronic format will be denied
12 absent a particularized showing of necessity and cost-effectiveness. Likewise, requests to
13 photocopy an entire record for use by a second attorney will be denied absent a particularized
14 showing of necessity.

15 It is the Ninth Circuit Judicial Council's general policy to avoid duplication of work
16 with respect to reading the state court record. If two attorneys are appointed to work on a
17 case, the record should be divided up, and each attorney should summarize their portion of
18 the record. This allows the other attorney to pinpoint areas of the record that he or she might
19 need to review for information on the claims that he or she is working on. Accordingly, the
20 general practice is not to compensate both attorneys for reading the same portions of the
21 record, with the exception of core materials such as the trial transcript (from opening to
22 verdict), sentencing transcript, substantial motions, state appellate briefs and decisions, and
23 state post-conviction briefs and decisions. In addition, if paralegal services are utilized to
24 review and summarize the record, the Court expects counsel's record review time to be
25 reduced. Upon a particularized showing, the Court may order otherwise.

26 After the first case management conference, the Court will enter an order approving
27 a budget for Phase I. Counsel is authorized to submit interim vouchers bi-monthly during
28 Phase I and shall submit a final interim voucher for Phase I along with a proposed budget for

1 Phase II at least ten (10) calendar days before CMC #2, the date for which will be set at CMC

2 #1. Counsel shall complete review of the record prior to CMC #2.

3 2. Phase II

4 Phase II encompasses completion of issue identification and investigation, legal
5 research, and preparation of the petition. The presumptive guideline for research and drafting
6 is one pleading page per one hour of attorney time, which will assist counsel in developing
7 a time estimate for preparation of the petition and other pleadings. Issues that counsel can
8 anticipate in advance will require more than one hour per page to research and draft should
9 be identified in the proposed budget. Similarly, counsel should provide additional
10 explanation in billing statements if actual time expended on a pleading exceeds that
11 anticipated in the budget.

12 After CMC #2, the Court will enter an order approving a budget for Phase II. Phase
13 II is complete when the petition is filed. Counsel is authorized to submit interim vouchers
14 bi-monthly during Phase II and shall submit a final interim voucher for Phase II along with
15 a proposed budget for Phase III no later than ten (10) days after filing the petition.

16 3. Phase III

17 Phase III encompasses preparation of the reply, as well as any motion for evidentiary
18 development. The reply is primarily a responsive pleading but may also include affirmative
19 arguments regarding availability of state remedies, cause and prejudice, fundamental
20 miscarriage of justice, and/or equitable tolling. A motion for evidentiary development is
21 generally limited to the identification of the claims for which development is sought, the
22 evidence sought to be developed, and the applicable standards governing evidentiary
23 development. Oral argument on a motion for evidentiary development will be held only
24 upon a particularized showing that argument will assist the Court in resolving the motion.

25
26 Absent specific questions raised in counsel's Phase III budget proposal, the Court will
27 likely not hold a case management conference prior to commencement of Phase III; instead,
28 the Court will review the budget proposal and issue an order authorizing a Phase III budget.

1 Phase III is complete when briefing on any motions for evidentiary development is complete.
2 Counsel is authorized to submit interim vouchers bi-monthly during Phase III and shall
3 submit a final interim voucher for Phase III within ten (10) days *after* filing the reply or the
4 completion of briefing on any motions for evidentiary development, whichever is later. After
5 completion of Phase III, counsel is authorized to make periodic contact with Petitioner
6 pending a ruling by the Court on any motions for evidentiary development, or while the case
7 is otherwise under advisement, and may continue to submit interim vouchers to the Court on
8 a bi-monthly basis. The Court expects that no other fees or expenses will be incurred while
9 the case is under advisement, absent prior authorization of the Court.

10 4. Phase IV

11 If the Court grants a motion for evidentiary development or *sua sponte* directs further
12 evidentiary development, a case management conference will be scheduled and a deadline
13 set for submission of a Phase IV budget.

14 B. Automated Forms

15 Budgets in this District must be prepared and submitted electronically. A Microsoft
16 Excel-based spreadsheet has been developed to facilitate creation and management of
17 automated budgets. If counsel do not have access to Microsoft Excel, counsel must contact
18 Kristine Fox, Senior Capital Case Staff Attorney, at 520-205-4263, immediately upon receipt
19 of this Order. Similarly, if counsel has not attended an automated budgeting training session
20 offered by the Court, counsel must contact Ms. Fox to make arrangements for training and
21 to receive an automated budgeting manual. Samples of the automated forms, as well as the
22 Judicial Council's Amended CJA Capital Habeas Costs Policy, are available on the District's
23 website at www.azd.uscourts.gov under "Attorney Information."

24 The automated forms provide categories of activities designed to assist counsel in
25 planning work, developing a budget, keeping track of expended hours and hours left to use,
26 and completing interim vouchers. The tasks outlined in the automated budget forms are
27 typical tasks required for each phase and are listed as a guide for counsel. Some listed tasks
28 may not be applicable in a particular phase or case, while other unlisted tasks may be

1 appropriate. If the latter, counsel must identify these tasks in the budget declaration.

2 Upon entry of the instant Order, the Court’s staff will transmit to *lead* counsel, via
3 electronic mail, the automated forms for Phases I-III (each phase has its own spreadsheet).
4 For each phase, lead counsel shall complete the appropriate forms, estimating all
5 attorney/paralegal time, travel and non-travel expenses, and investigative/expert resources.
6 *For each phase, counsel shall also submit a detailed declaration in support of the proposed*
7 *budget.* The declaration shall explain and/or justify the hours, tasks, and expenses in each
8 category of the proposed budget and include any information that will assist the Court in
9 determining the reasonableness of the budget request. The declaration shall also provide
10 justification for any requested hourly pay rates that exceed the District’s presumptive
11 maximum for law clerks, paralegals, investigators, or experts, *see infra* Sections I (C) & II,
12 and include all factual and legal argument in support of requests for expert and investigative
13 resources, *see* 18 U.S.C. § 3599(f) & *infra* Sections I (G) & II. For Phase I, counsel shall
14 also prepare a Confidential Case Evaluation Form (CCEF), which is attached to this Order.
15 Counsel shall file under seal the proposed Phase I budget and accompanying declaration,
16 along with the CCEF, at least ten (10) calendar days before CMC #1, the date for which has
17 been set in the Order of Appointment and General Procedures.

18 The Court will review the proposed budget, CCEF, and declaration, and may discuss
19 the proposed budget with counsel at the conclusion of CMC #1. Once an order approving
20 a budget issues, the amounts of the approved budget will be entered in the “Authorized”
21 columns of the spreadsheet and returned to all counsel electronically. This file will serve as
22 the authorized budget as well as the mechanism for each counsel to generate interim
23 vouchers for payment of fees and expenses. *See infra* Section III. Court approval of a
24 budget serves as authorization for all expenditures. However, counsel is advised that the
25 budget must also be reviewed by the Judicial Council of the Ninth Circuit. Accordingly,
26 counsel may proceed based upon a budget approved by the Court, but will be contacted
27 should any clarification, information, or action be requested by the Judicial Council.

28 Counsel must not exceed an authorized budget during any phase without first seeking

1 amendment, explaining why additional funds are required and receiving the Court's
2 permission to incur any additional costs. Accordingly, counsel should request prior
3 permission to file any substantive pleading not anticipated in the budget and must submit any
4 proposed amendments to the budget far enough in advance to give the Court an adequate
5 opportunity to consider the request and issue a ruling thereon, without impeding the progress
6 of the litigation. Amendments to the budget, once approved by the Court, must be submitted
7 to the Ninth Circuit Judicial Council for its approval if the amount of the amendment exceeds
8 \$15,000 or is greater than 10% of the original budget.

9 The budget for each phase will be closed out when the work for that phase is
10 completed. Hours and expenditures will not be carried over to the next phase. Rather, a new
11 budget for each succeeding phase must be prepared by counsel and approved by the Court.
12 As the case progresses through each case management phase, counsel are responsible for
13 ensuring that the case is litigated within the established budget.

14 Please note that counsel will be compensated for reasonable time spent preparing a
15 proposed budget, but not for budget or Excel training, timekeeping, preparation of interim
16 vouchers, or time expended seeking reconsideration of any voucher reductions. To obtain
17 budgeting information or training, counsel should contact the District's Capital Case Staff
18 Attorneys. Questions regarding submission of vouchers and compensability of specific tasks
19 or expenses should be directed to the District's CJA Voucher Review Analysts.

20 C. Cost Effective Use of Staff

21 Appointed counsel is expected to utilize all means to minimize costs. Whenever
22 appropriate, without compromising the quality of the work, tasks should be undertaken by
23 the least expensive, competent staff member authorized by the Court and capable of
24 performing the work. Appointed counsel is not permitted to earn a profit from use of support
25 staff. *See Guidelines for the Administration of the Criminal Justice Act*, Ch. 2, Pt. C and Ch.
26 3, Pt. B. Reimbursement for independent contractors may not exceed the amount actually
27 paid. Reimbursement for in-house staff may not exceed the actual cost to appointed counsel
28 (including salary and benefits, but not overhead). The rates for all staff, whether on the

1 appointed attorney's staff or independent, may not exceed this District's presumptive rates,
2 unless otherwise authorized by the Court: \$75.00 per hour for associate counsel and \$45.00
3 per hour for paralegals. All paralegal expenses, whether by an independent contractor or in-
4 house staff, shall be claimed on a CJA Form 31.¹

5 Use of associates, paralegals, law clerks, summer associates, and law students must
6 be pre-approved in connection with case budgeting or a specific funding request; such
7 requests must detail the projected number of hours, the hourly rate, and any anticipated
8 expenses. If counsel is authorized to utilize associates, such persons may not appear on
9 behalf of Petitioner in court, absent prior approval from the Court.

10 Use of co-counsel is not presumed. When two counsel are appointed, counsel shall
11 develop a division of labor to ensure that each counsel will perform tasks in a relatively
12 independent manner, minimizing duplication and excessive staff conferencing. While the
13 Court recognizes that appointed counsel must confer from time to time in order to coordinate
14 activities and investigation, consult on the law, and prepare and revise drafts, compensation
15 for attorney conferences will be carefully monitored. Thus, counsel should minimize time
16 claimed for such items as internal conferences and memos, coordination between co-counsel,
17 and coordination between counsel and staff, such as investigators and paralegals.
18 Compensation will not be approved for unreasonable claims in these areas. Moreover,
19 conferences held merely for the exchange of information (particularly among attorneys of
20 similar expertise), to familiarize other attorneys with a matter for "back-up" purposes or to
21

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23 ¹ For in-house paralegal staff, counsel shall include the total requested for paralegal
24 expense in the "Other Expenses" section (Box 16c) of CJA Form 31. The voucher shall be
25 made payable to appointed counsel, as the amount billed is a reimbursement of an expense.
26 For each voucher submitted, counsel shall also provide a statement that the hourly rate
27 requested is less than or equal to the hourly cost of the paralegal to the firm (including salary
28 and benefits, but not overhead). If the paralegal is an outside contractor, that person shall
submit the Form 31 voucher directly to the Court after certification by counsel. The amount
billed for services will be entered in the "Compensation" section (Box 16a) of CJA Form 31,
and amounts billed for reimbursement of out-of-pocket costs shall be billed in the
"Expenses" sections (Boxes 16b and 16c).

1 transfer a matter among attorneys will not be compensated. In addition, the coordination of
2 efforts between members of the same firm working on a file (or between counsel and a
3 paralegal) is the responsibility of the firm and not a charge for which the Court will pay.
4 Unless counsel is preparing for an evidentiary hearing, the Court presumes that only one
5 person (an attorney, investigator, or paralegal) will be paid for time spent interviewing or
6 meeting with Petitioner, witnesses, or expert and investigative service providers. Absent
7 explicit authorization of the Court, compensation will not be allowed for attendance at court
8 conferences or hearings by associates or support staff, including law clerks, paralegals, and
9 investigators.

10 If the Court authorizes use of associates, paralegals, or law clerks, the Court will not
11 compensate such individuals for time spent achieving and maintaining a working knowledge
12 of the case. For example, the Court will not pay paralegal or associate time to attend attorney
13 conferences, or to read court orders and correspondence that are unrelated to a specific
14 assigned project. Paralegal and associate work is generally limited to reviewing,
15 summarizing, and indexing records and documents; conferring with the client; and
16 researching and drafting pleadings.

17 D. Travel

18 If case-related travel for counsel, an investigator, or an expert is authorized in a
19 budget, a Travel Request and Authorization Form must still be completed and signed by a
20 district judge for travel outside the district or for overnight travel within the district. At least
21 ten (10) business days before planned travel, counsel or the service provider must contact the
22 Court's CJA Department, who will verify that the proposed travel is authorized by the budget
23 and will prepare the Travel Request and Authorization Form for the district judge's signature.
24 Counsel may not make travel arrangements, whether through the National Travel Service or
25 on his or her own, until obtaining a signed authorization form. Counsel is cautioned that a
26 budget modification for additional travel funds cannot be obtained solely by requesting the
27 CJA Department to prepare a Travel Request and Authorization Form. Rather, counsel must
28 seek formal amendment of the budget by filing a motion with the Court. This is because the

1 signing of a travel authorization form is simply the procedure by which government rates for
2 travel are obtained; the form does not in and of itself function as approval of a travel budget.

3 If counsel is in travel status, travel and waiting time may be charged at the full hourly
4 rate only if work could not be performed during that time (i.e., while driving). Travel or
5 waiting time during which work can be performed will be reimbursed only for the time work
6 actually was performed on the case (i.e., reading a transcript while waiting for a flight).

7 E. Research Assistance

8 For assistance with the substantive law governing federal habeas corpus proceedings,
9 counsel should refer to the Capital Punishment Handbook, which is published by the Ninth
10 Circuit. It was written, compiled, and updated by the staff from the Office of the Circuit
11 Executive of the Ninth Circuit, and is provided free of charge to all attorneys involved in
12 capital cases in the circuit. The most recent edition of the Ninth Circuit Capital Punishment
13 Handbook is available at www.ce9.uscourts.gov. The handbook should serve to expedite
14 legal research by counsel.

15 In addition, counsel is encouraged to consult with the Habeas Assistance and Training
16 Project, which is funded by the Defender Services Division of the Administrative Office of
17 the United States Courts. The Project has an extensive brief bank and one of its mandates
18 is to share research with attorneys assigned to capital habeas cases. Contact information is
19 available at www.capdefnet.org. Counsel is cautioned however that if a substantial amount
20 of consultation is sought, at least a portion of it will be considered work that is inherently
21 necessary to practice and remain current in the areas of federal habeas law. Such work is
22 analogous to that of reading new case law, which is not directly attributable to a particular
23 case, but rather should be considered part of overhead.

24 F. Maintenance of Files

25 Appointed counsel is expected to maintain the records and files in this case in an
26 organized and accessible fashion to ensure that if substitution of counsel is required,
27 duplication of efforts will be minimized. The Court may condition final payment upon
28 compliance with this requirement.

1 G. Confidentiality

2 Because the information required by the Court from counsel to develop a budget is
3 likely to be protected by the attorney-client privilege or the attorney work-product doctrine,
4 all documents relating to case budgeting may be filed *ex parte* and under seal, without service
5 on the opposing party. Counsel should not file a separate application requesting that a budget
6 proposal be filed under seal. Rather, counsel shall reference this Order as justification for
7 having the materials filed under seal. In addition, when necessary to protect confidentiality,
8 and with notice to the opposing party, certain portions of case management conferences
9 relating to budgeting will be conducted *ex parte* and in camera.

10 If a budget proposal includes requests for investigative or expert resources, counsel
11 shall set forth in the budget declaration the facts supporting the need for confidentiality of
12 the resource request. *See* 18 U.S.C. § 3599(f) (providing that applications for investigative,
13 expert, or other services, if filed under seal, must contain “a proper showing . . . concerning
14 the need for confidentiality”).

15 II. FUNDING FOR EXPERT & INVESTIGATIVE SERVICES

16 A. Pleading Requirements

17 A petitioner in a capital habeas corpus case may be entitled to funding for
18 investigative, expert, and other services reasonably necessary for the representation of the
19 petitioner. *See* 18 U.S.C. § 3599(f). Under the District’s budgeting plan, requests for such
20 services are incorporated into counsel’s proposed budget as indicated on the appropriate page
21 within the Excel spreadsheet (including number of hours, hourly rate, and estimated
22 expenses). ***No expenditures for investigators, experts, or other services may be incurred***
23 ***until a budget is approved by the Court.***

24 Within counsel’s declaration, requests for investigative and/or expert assistance
25 should be detailed and present the factual and legal basis to support the request. In order to
26 approve the request, the Court must find that any requested expert or investigative assistance
27 is “reasonably necessary for the representation” of Petitioner. 18 U.S.C. § 3599(f). The
28 argument that a case must be reinvestigated simply because habeas counsel believes there is

1 an ethical duty to do so, without more, fails to establish reasonable necessity. In general,
2 information which would assist the Court includes, but is not limited to, a specification of:
3 (1) the evidence sought to be developed; (2) facts suggesting that such investigation, expert,
4 or other assistance is warranted; (3) whether the evidence existed at the time of the state trial;
5 (4) the purpose of the evidence for federal habeas review (e.g., the connection of the
6 evidence to a prospective claim or contention); and (5) an estimated budget for *each* task,
7 specifying the proposed billing rate, reasonableness of the rate, and the total amount of funds
8 requested.

9 Counsel should attach to the declaration the proposed service provider's curriculum
10 vitae or resume demonstrating the work experience and education of the person counsel
11 proposes be retained. *Every effort should be made to retain experts who work in the*
12 *geographic area in which the work is to be done.* Investigators retained for the interview of
13 witnesses shall avoid unnecessary expense by taking reasonable steps short of travel to locate
14 the interviewees before initiating any travel. In addition, telephonic interviews should be
15 utilized whenever practicable.

16 If the assistance of mental health experts is requested, Petitioner must summarize in
17 the supporting declaration the services performed by, and the findings of, all previous mental
18 health experts utilized in any type of capacity in the case, whether at the state level or in
19 federal proceedings. If the assistance of more than one mental health professional is sought,
20 counsel should make clear the tasks each expert is to complete, and how his or her work is
21 distinguishable from that of the prior and/or newly requested experts. Counsel is cautioned
22 that mental health experts will not be paid at their professional hourly rate for time spent
23 obtaining records. Arrangements should be made for an investigator or a paralegal to obtain
24 records that might be necessary for a mental health evaluation.

25 B. Voucher Submission

26 Upon approval of budget items for investigative, expert, or other services, counsel is
27 responsible for communicating with the service provider to ensure that services comply with
28 specific terms of the court order and do not exceed the amount authorized. Service providers

1 will not be paid in excess of amounts authorized, and payment will be authorized only at the
2 appropriate rate for the type of task performed (e.g., an investigator will only be paid
3 paralegal rate for paralegal tasks). *All approved experts and service providers are permitted*
4 *to submit bills on an interim basis.* Hourly rates for experts and investigators will not exceed
5 this District’s presumptive rates, absent express authorization of the Court: \$55.00 per hour
6 for investigators, \$200 per hour for psychologists, \$200 per hour for forensic experts, and
7 \$275 per hour for psychiatrists and other medically-licensed experts.

8 The voucher submission for fees and expenses of investigators, experts, and other
9 service providers must be made on a CJA Form 31, “Death Penalty Proceedings: Ex Parte
10 Request for Authorization and Voucher for Expert and Other Services.” The submission
11 must include a copy of the approved budget order authorizing employment of the person
12 whose services are being billed and an itemized statement of the service provider’s time and
13 expenses in a format similar to that required of appointed counsel. Travel expenses of
14 service providers must follow the procedures for court-appointed counsel as set forth in
15 sections IV (A) & (B), *infra*.

16 III. SUBMISSION OF CJA VOUCHERS

17 A. Interim Payment Procedures

18 Because of the expected length of this case and the anticipated hardship on counsel
19 in undertaking representation for such a period without compensation, pursuant to ¶ 2.30 B
20 of the *Guidelines for the Administration of the Criminal Justice Act*, the Court has authorized
21 the submission of interim vouchers during the course of counsel’s representation. On a bi-
22 monthly basis, counsel shall request payment on CJA Form 30, “Death Penalty Proceedings:
23 Appointment of and Authority to Pay Court Appointed Counsel,” as set forth in
24 Section I (A), *supra*.

25 As noted previously, the Microsoft Excel-based budget spreadsheets include a
26 mechanism for generation of interim vouchers. The automated CJA Form 30 voucher
27 contained in the program is designed to minimize attorney input. Once the authorized budget
28 Excel spreadsheet file is received, counsel will record time and expenses on the appropriate

1 spreadsheet page.² All of the time and expense data entered in the spreadsheet automatically
2 transfers to the voucher.

3 Compensation earned and reimbursable expenses incurred from the first to the last day
4 of every two-month period shall be claimed on an interim voucher submitted no later than
5 the tenth day of the following month, or the first business day thereafter, and shall include
6 all compensation and expenses claimed for the preceding two months, except when combined
7 fees and expenses total less than \$500 for any given period. In that event, fees and expenses
8 for that period may be combined with those incurred in the following period. Using the
9 Excel spreadsheet, counsel will review the voucher for accuracy and then print, sign, scan,
10 and electronically file the voucher and any supporting documents using the Court’s ECF
11 filing system, pursuant to General Order 07-16. For more information about electronic filing,
12 counsel are encouraged to review the materials available on the Court’s website,
13 www.azd.uscourts.gov, under “Electronic Case Filing.”

14 Separate from e-filing the voucher and supporting documentation, counsel must also
15 e-mail the Excel spreadsheet file to the Court’s Senior Capital Case Staff Attorney at
16 kristine_fox@azd.uscourts.gov. Upon receipt, the billing data for a particular voucher period
17 will be uploaded into a master Excel file for the case, and a new “interim” file (reflecting all
18 time billed to date) will be returned to counsel for use in preparing a voucher for the next
19 interim period. Failure to timely submit a bi-monthly CJA interim voucher may be
20 considered a basis for denying the requested compensation.

21 The Court will review the interim vouchers in light of the approved budget and for
22 reasonableness and compensability under the Criminal Justice Act. Variances in excess of
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24 ² If counsel elect to use the Excel spreadsheet as the sole timekeeping mechanism, the
25 entries on the spreadsheet must be detailed in accordance with Section III (B)(1), *infra*. In
26 that case, supporting worksheets do not have to be submitted to the Court. However, if
27 counsel use a separate timekeeping program for billing which already contains the detail
28 required in Section III (B)(1), counsel’s entries in the Timesheet portion of the Excel
spreadsheet may be summarized (i.e., a date range in the description column and hours
totaled by category), and supporting worksheets must be separately submitted to the Court.

1 the budgeted amounts must be pre-approved and will be authorized only for good cause. The
2 Court also will authorize payment for all miscellaneous expenses such as postage, copying,
3 etc., reasonably incurred and properly documented, subject to national and district policies
4 and procedures.

5 Within 30 days of the conclusion of proceedings in this Court, counsel shall submit
6 a final voucher seeking payment for representation provided during the final interim period.

7 **B. Supporting Documentation**

8 In addition to a signed copy of the CJA Form 30 generated from the Excel
9 spreadsheet, counsel shall submit to the Court, with each interim voucher, itemized time
10 worksheets (unless such detail is already included within the spreadsheet, *see supra* n.2), as
11 well as receipts for *all* travel expenses and any non-travel expense in excess of \$50.00.

12 **1. Timekeeping**

13 Counsel is expected to maintain accurate time records; such records are subject to
14 audit and must be maintained for a period of six years and three months after approval of the
15 final voucher. Hours billed must be divided into tenths of an hour. Fees shall be listed
16 chronologically with individual narrative entries showing the date of service, a precise
17 description of the service including relevance to the habeas proceeding if not apparent, and
18 the actual time expended. Each time entry shall reflect discrete individual tasks and shall not
19 simply list multiple tasks performed in a specified block of time unless counsel is combining
20 tasks that individually took less than 1/10 of an hour (i.e., reading and replying to brief email
21 messages). Information should be provided in sufficient detail so as to permit meaningful
22 review. For example, work related to witnesses or other people should identify those people
23 by name and, if necessary, identify their relevance to the case; work related to obtaining or
24 reviewing documents should identify the documents or source of the documents, including
25 the number of pages reviewed; legal research or drafting should identify the topic or claim
26 being research or drafted; conferences with co-counsel or other providers should identify the
27 topic(s) discussed. *Aggregate time blocks or entries which are vague or ambiguous will not*
28 *be approved for payment.* If the level of detail is insufficient for auditing purposes, a

1 voucher may be returned to counsel for resubmission with adequate detail or the Court may
2 reduce the total amount approved for payment.

3 2. Support Staff

4 Vouchers for independent contractors such as paralegal, law clerk, or law student
5 services, should be submitted directly to the Court by the individual(s) performing the service
6 on a CJA Form 31, Request for Authorization and Voucher for Expert and Other Services.
7 A detailed description of the services rendered, including dates each task was performed,
8 must be attached to the voucher. *See supra* n.1.

9 For in-house staff, counsel must seek reimbursement for the cost on a CJA Form 31,
10 listing counsel as the payee. Counsel shall submit to the Court as supporting documentation
11 attached to the voucher: (1) worksheets detailing the paralegal's time as set forth in Section
12 III (B)(1), *supra*, and (2) an affidavit declaring that the hourly rate billed for the paralegal's
13 service is equal to or less than the hourly cost of the paralegal to the firm, including benefits
14 but excluding overhead. *See supra* n.1

15 3. Noncompensable Services

16 Compensation will not be approved for administrative, clerical, secretarial, or word
17 processing services, regardless of whether the person performing the function is an attorney,
18 law clerk, paralegal, or secretary, even if counsel has no regularly employed secretary.
19 Administrative work includes copying, faxing, and filing. Compensation will not be
20 approved for work performed which is exclusively related to exhaustion in state court or is
21 necessary to practice and remain current in the area of federal habeas law, such as review and
22 analysis of new caselaw. Nor will compensation be approved for tasks related to Petitioner's
23 prison conditions or any appeals (whether from interlocutory orders or final judgments) or
24 other work related to the review of proceedings before this Court. Counsel is to seek
25 compensation for work done at the appellate level from the Ninth Circuit Court of Appeals
26 after having obtained an appointment as counsel of record from that court.

27 4. District Benchmarks

28 In addition to the guidelines set forth herein, benchmarks adopted by the District for

1 the review of CJA vouchers are available at the Court’s website, www.azd.uscourts.gov
2 (under “Attorney Information” and “CJA Panel Information”). These benchmarks include
3 limiting billable time for “boiler-plate” motions such as motions to continue to no more than
4 .3 hours and minute entry review to .1 hours. In addition, billable hours per day should not
5 exceed 10 hours (unless an evidentiary hearing is in progress).

6 IV. REIMBURSABLE EXPENSES

7 Counsel may be reimbursed for out-of-pocket expenses reasonably incurred incident
8 to representation of Petitioner. *However, counsel must seek prior approval for any*
9 *expenditure in excess of \$300.00.*

10 Subject to the guidelines in ¶¶ IV(A) & (B), *infra*, when traveling outside of the
11 district for the purpose of consulting with the client or his/her former counsel, interviewing
12 witnesses, etc., expenses such as air fare, mileage, parking fees, meals and lodging, are to be
13 claimed as itemized expenses. Proof of payment by an original paid receipt, legible copy of
14 a paid receipt, or copy of an invoice and canceled check shall be submitted for any individual
15 expense. Receipts must be detailed (i.e., contain a breakdown of lodging and meal costs).

16 Reimbursable expenses are subject to the following additional guidelines:

17 A. Case-related travel by privately-owned automobile should be claimed at the
18 current government authorized rate for mileage, plus parking fees and tolls. Transportation
19 other than by privately owned automobile should be claimed on an actual expense basis.
20 Every effort must be made to obtain the lowest possible fares or rates.

21 B. Reimbursement for meals will not be allowed unless in overnight authorized travel
22 status. Actual expenses incurred for meals and lodging while traveling either outside of the
23 district or overnight within the district must conform to the prevailing rates placed upon
24 travel and subsistence expenses of federal judiciary employees in accordance with existing
25 government travel regulations. Alcohol is not reimbursable. All overnight travel must be
26 pre-approved in conjunction with the case budget or specific funding request. Appointed
27 attorneys and experts must take advantage of government travel rates through the
28 government authorized travel service when most economical. Air travel in First Class is

1 prohibited.

2 C. Telephone toll calls, photocopies, facsimiles, and photographs are reimbursable
3 expenses if reasonably incurred. However, general office overhead, such as rent, secretarial
4 help, telephone service, publications, supplies, and costs related to educational seminars, or
5 time expended for preparation of vouchers are not reimbursable expenses, nor are
6 expenditures for personal items for the client.

7 Photocopying will be reimbursed at actual cost or \$0.10 per page, whichever is less.
8 Large copy orders of 500 or more pages shall be reproduced by an outside copy service
9 unless in-house photocopying is more economically efficient. Counsel must include an
10 explanation for in-house copy orders of more than 500 pages; vouchers submitted without
11 such explanation will be reimbursed only at \$0.03 per page. Facsimiles will be reimbursed
12 at actual cost or \$0.10 per page, whichever is less.

13 D. Reimbursement is permitted for the actual cost of case-related regular U.S.
14 postage. Counsel is to make every effort to use regular U.S. mail whenever possible.
15 Reimbursement for the actual cost of other postal services or for the use of non-federal
16 carriers (such as overnight or two-day delivery) will be permitted only if there is a genuine
17 necessity for such a service. A copy of an itemized bill and statement detailing the requisite
18 necessity for expedited delivery is required for reimbursement.

19 E. Computerized research fees are considered office overhead, as are fees for books
20 and publications, office supplies, and costs related to educational seminars. Given the
21 availability of flat-fee subscriptions for computerized research services, the Court will
22 reimburse counsel for the costs of computerized research only upon a showing of good cause,
23 such as that fees imposed are outside the scope of the flat-fee plan or an explanation of why
24 a flat-fee plan is not feasible.

25 F. In the event transcripts from this proceeding are required, counsel should arrange
26 with the court reporter(s) to bill the Court directly through use of a CJA Form 24. Counsel
27 shall not include the cost of transcripts as an out-of-pocket expense on a CJA Form 30.

28 G. In the event an evidentiary hearing or depositions are authorized by the Court,

1 expenses for service of subpoenas on fact witnesses are not reimbursable, but rather are
2 governed by Rule 17 of the Federal Rules of Criminal Procedure and 28 U.S.C. § 1825.
3 Reimbursement of court reporter and transcript fees for any authorized depositions should
4 be sought as an “Other Expense” on Form CJA 30.

5 H. Counsel may be required to provide further documentation substantiating the fees
6 or expenses claimed, or to submit a declaration under penalty of perjury detailing counsel’s
7 compliance with the standards and procedures established herein.

8 **IT IS SO ORDERED.**

9 **IT IS FURTHER ORDERED** that the Clerk of Court provide a copy of this Order
10 to the CJA Voucher Review Office.

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