

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 audited financial statements for FY 2010.

**The results of the study are as follows: the cost for an FTE (staff attorney) in FY 2010 was \$68 per hour and the cost for a contract attorney was \$95 per hour.**

Here are the calculations and assumptions included in the study:

1. The cost information came from the agency's FY 2010 audited financial statements. The agency expended \$20,392,572 during FY 2010.
2. The average cost per FTE attorney with benefits and insurance is about \$35 per hour.
3. Contract attorneys are paid \$60 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 2010 the agency recorded the receipt of 27,660 new cases. Of these, 21,017 or 76% were assigned to FTE attorneys and 6,643 or 24% were assigned to contract attorneys. This 76/24% split was used to allocate most of the cost types between FTE and contract attorneys.
5. Total payments to contract attorneys during FY 2010 were \$4,949,966 or 24% of the total expended. This is a direct cost related only to the efforts of contract attorneys.
6. Total payments during FY 2010 for expert witnesses, mental health evaluations, and other outside services provided for client defense totaled \$759,966 or 4% of the total cost. This cost was allocated to FTE/contract attorneys on a 76/24% basis as both FTE and contractors use outside services in client defense.
7. The total amount expended during FY 2010 to provide central services to the agency was \$1,861,703 or 9% of the total cost. Much of this cost was allocated to FTE/contract attorneys on a 76/24% 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.
8. The remaining \$12,820,937 or 63% 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 2010 it is assumed that contract attorneys billed the agency about 82,499 hours. This calculation was based on the total cost of \$4,949,966 paid directly to contract attorneys divided by the rate of \$60 per hour. 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 80% of the time or 1664 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 or other tasks for 80% of the time or 1664 hours. Furthermore, their case work is limited to either 33% or 75% of that time, or between 549 and 1240 hours. This area will be explained in more detail below.
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 office, and a 60% FTE and 40% contract attorney allocation for the small regions (a region's size is based on its caseload). This distribution represents the fact that these functions provide management and oversight of both FTE and contact 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 \$1,804,392. 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 \$1,804,392 noted above, \$270,659 or 15% is allocated to the oversight and management of the contract attorneys that provide services to the agency while the remaining cost remains with the FTE attorneys.
13. The total FTE attorney counts were taken from the agency's FY 2010 staffing report by region. That report reflected 116.75 FTE attorneys.
14. FTE attorneys providing central office functions were assumed to work cases 33% of the time during FY 2010 (adjusted by the 80% rule noted in assumption 11 above).
15. FTE attorneys providing regional or program management were assumed to work cases 75% of the time during FY 2010 (adjusted by the 80% rule noted in assumption 11 above).
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 \$68 per hour rate was derived as follows:
  - a. The total cost allocated to FTE attorneys was \$12,525,446.
  - b. The total number of FTE attorneys was 116.75 and this was reduced to 110.24 based on assumptions 11, 14 and 15.
  - c. The total cost of FTE attorneys is \$12,525,446, divided by 110.24 or an average of \$113,620 per attorney.
  - d. The hourly cost is \$113,620 divided by 1664 hours (see assumption 10) or \$68 per hour.
18. Hourly cost per contract attorney – using the assumptions noted above the \$95 per hour rate was derived as follows:
  - a. The total cost allocated to contract attorneys was \$7,867,126.
  - b. The total hours billed based on assumption 9 above was 82,499.
  - c. The hourly cost is \$7,867,126 divided by 82,499 hours or \$95 per hour.