



CJA CASE BUDGETING POLICY AND PROCEDURE

U.S. DISTRICT COURT, DISTRICT OF MAINE

INTRODUCTION

Pursuant to the District of Maine CJA Plan at VII(A)(2), case budgeting forms should “be submitted to the Court, *ex parte*, in representations that appear likely to be extraordinary in terms of potential cost.” In general, “extraordinary” means a representation on behalf of an individual CJA defendant that has the potential to exceed 300 attorney hours or exceed what would be 300 times the prevailing CJA panel attorney non-capital hourly rate, rounded up to the nearest thousand (\$39,000 as of 1/1/2015), for appointed counsel and services other than counsel.

It is the responsibility of counsel to initiate a case budget when they become aware that a representation on behalf of an individual CJA defendant has the potential to exceed the 300-hour/300-times threshold; but the Court may direct the initiation of a budget as well. It is counsel’s responsibility to modify and resubmit their budget as the case progresses or changes.

Case budgeting ensures that the Court is made aware of representations in which substantial resources are necessary to represent the accused, while fulfilling its duty to monitor and assess the expenditure of public funds. Failure to submit a budget in an applicable case could result in the provision of inadequate resources, delays in payment or, ultimately, a voucher reduction.

TYPES OF CASES SUBJECT TO CASE BUDGETING

1. Capital Cases: All death-eligible cases are subject to case budgeting.
2. Capital Habeas Corpus Petitions: Habeas Corpus proceedings in the District Court from death-related convictions are subject to case budgeting.
3. Mega-Cases: A case that has the potential to exceed 300 attorney hours or 300 times the prevailing non-capital CJA rate in total expenditures for counsel and expert services. While there are no specific criteria or elements of a case which, in and of itself, makes a case achieve “mega” status, some distinguishable factors, if present in a particular case, could indicate the case will become a mega-case, such as the following:
 - a) Large volume of discovery;

- b) Complex facts or legal issues;
- c) Multiple-defendant crimes;
- d) Non-English speaking clients or witnesses, especially where the language spoken is exotic or unusual;
- e) A defendant who has mental health issues;
- f) Large indictments with multiple counts;
- g) Indictments where terrorism is alleged;
- h) Securities or other major fraud indictments;
- i) Wiretap cases, especially where foreign languages are involved;
- j) RICO cases;
- k) Organized crime cases;
- l) Drug trafficking/Drug kingpin cases;
- m) Gang cases;
- n) A plea appears out of the question because of such factors as immigration status or deportation consequences; and
- o) Any case which appears, from an early stage, destined for trial.

CJA counsel assigned to a case where one or more of the above factors are present, or where it is believed the case may achieve mega status, should initiate a case budget to be submitted to the Court *ex parte* via the eVoucher email box eVoucher@med.uscourts.gov.

Questions about whether or not a case is appropriate for case budgeting should be directed to Case Budgeting Attorney Michael Andrews (contact information below).

CASE BUDGETING PROCESS

FORMS AND TIMING OF BUDGET SUBMISSION

When it has been determined that there is a potential for extraordinary costs in a case, and counsel has sufficient information to provide a budget (typically once pretrial motions have been decided), CJA counsel should complete **CJA Case Budgeting Forms 28 A through H** and submit them to the Court *ex parte* via the eVoucher email box eVoucher@med.uscourts.gov. The forms and instructions can be found on the Court's website:

<http://www.med.uscourts.gov/cja-criminal-justice-act>

CJA Forms 28A through H include both detailed and summary worksheets for each of the four types of services: attorney, investigator, expert and other. Both detailed and summary work-sheets should be completed and emailed to the Clerk's Office. It is important that a realistic and carefully formulated budget be developed. Counsel is encouraged to monitor ongoing costs and hours as their case proceeds so revisions to the budget can be made and re-submitted for approval.

PROCESSING

The Clerk's Office will direct the case budgeting forms (*ex parte*) to the Judge presiding in your case for review. If the Court has questions or requires revisions, the Clerk's Office will schedule an *ex parte* meeting or telephone call between counsel and the Court. If accepted, counsel will be notified and the case budget forms will be held by the Clerk's Office until revised or until the final CJA voucher is submitted.

MODIFYING THE CASE BUDGET

Revisions to the budget can be made at any time. As the case develops, as counsel assesses the nature of the defense, or as the discovery process is completed, the budget may need to be modified.

If the budget is modified for any reason, please revise accordingly and resubmit the budget to the Court for approval of additional resources.

SUBMISSION OF FINAL OR INTERIM VOUCHER

At the conclusion of the case, or at the time a motion for interim payment is filed, counsel will submit:

1. Their CJA 20 voucher and worksheets. The approved case budget forms which the Court has been holding will accompany the voucher when submitted to the judge for review and approval.
2. A letter in support of a voucher claim in excess of the statutory case maximum. The submission of a case budget does not preclude the necessity for a letter.
3. If the total voucher claimed exceeds the case budget figures, and the case budget was not modified as the case developed, the letter in support of the claim in excess should also include an explanation of why the voucher total exceeds the projected case budget total.

The CJA 20 voucher (or interim voucher), along with the budget forms will be transmitted to the First Circuit for review and approval.

RECAP

- What to submit:** CJA Forms 28A-H
- How to submit:** *Ex parte* via the eVoucher email box at eVoucher@med.uscourts.gov to the Clerk's Office.
- When to submit:** --As soon as counsel has enough information to do so
--Revise and resubmit as case progresses or changes

For questions or assistance regarding case budgeting forms and procedure, please contact Michael C. Andrews, First Circuit CJA Case Budgeting Attorney, at Michael.Andrews@ca1.uscourts.gov and at (617) 748-9104.