



## **GUIDELINES FOR OUTSIDE ENGINEERING VENDORS INVOLVED IN SURETY MATTERS (revised 12/1/20)**

### **Introduction**

These guidelines apply in all matters where Liberty Mutual Surety (LMS) retains outside engineering vendors. These guidelines, however, do not restrict nor are they intended to impede any engineer's independent exercise of professional judgment in rendering professional services to LMS.

### **Budgets**

Budgets are useful in our evaluation of each matter where we retain vendors. Although we recognize they are only a best prediction based on currently available and often ever-changing information, we require them in all instances where we retain outside vendors and the expenses are anticipated to equal or exceed \$100,000 for large contract matters, and \$50,000 for Surety Plus matters. Thus, the outside vendor must submit a written estimate of the fees and expenses within 45 days of any engagement. For invoices that are to be paid in Counsel Link, the budgets must be submitted on LMS's approved budget form, utilizing the costs codes provided. Vendors shall submit budget updates with each invoice that track the following: Current Budget, Amount Previously Invoiced, Amount Invoiced This Period, and The Total Amount Invoiced to Date. This budget tracking will be required for invoices submitted through Counsel Link, as well as Invoices for Performance Matters that are sent directly to Liberty's In-house engineer assigned to the file. Invoices submitted without the budget reconciliation will not be processed until it is received. Upon our request or as developments in the case warrant, outside vendor will submit an updated written estimate.

### **Staffing**

Outside vendor should designate one professional to have primary responsibility for the matter. Other personnel may be assigned to the matter as workload and efficiency require but consistency is expected in the staff assigned to the matter. Overall staffing considerations should be discussed with the LMS In-House Engineer and/or Claim Representative (or Legal Counsel, when so retained) at the beginning of the assignment and as needed when events warrant changes in strategies and assignments.

### **Billing**

#### **Billing Procedure**

#### **Frequency of Billing**

Invoices should be submitted monthly, any invoices submitted more than 3 months after services were rendered will be paid within the discretion of the in-house engineer and/or claims handler.

### **Billing Content**

Engineers shall submit separate invoices for salvage related activity and expenses (P400 Codes and salvage related E Codes) from all other activity and expenses (P100, P200, P300, P500 & P600) and non-salvage related expenses (E Codes). Invoices containing both salvage related codes and non-salvage related codes or coded incorrectly shall be rejected.

### **Billing Format**

**Invoice Description** must include a caption of the file including the full name of the Principal/Project and correct use of **Task Codes**. The Liberty Mutual Group requires that firms are Uniform Task-Based Management System (UTBMS) compliant and able to provide UTBMS information in an industry format.

### ***ENGINEERING TASK CODES***

UTBMS Codes to be used by LMS Engineers

#### P100 Project Administration

- Types of expense you would expect to be invoiced under P100 include: All activities performing an Initial Investigation including planning, budgeting, initial reviews and meetings.

#### P200 Fact Gathering/Due Diligence

- Types of expenses you expect to be invoiced P200 include: All activities performing a Books and Records Review, including site visits, meetings, obtaining documents, analysis, PAT preparation and all related communications, correspondence and reports.

#### P300 Structure/Strategy/Analysis

- Types of expenses you expect to be invoiced under P300 include: All activities included in Project Monitoring and/or Project Relets, schedule reviews, cost reviews, site visits/meetings/reports, project management activities and reports, preparation of re-let packages, bid solicitations/analysis, contract preparation and awards.

#### P400 Salvage Related Activities

- Types of expenses you expect to be invoiced P400 include: Any and all activities related to salvage activities including affirmative claims analysis or preparation.

#### P500 Other

- Types of expenses you expect to be invoiced under P500 include: All activities performing payment bond claim analysis and support and all investigation and analysis, and related communications not captured more specifically in the P100, P200, P300, P400 and P600 codes set forth in this document.

#### P600 Completion/Closing

- Types of expenses you expect be invoiced under P600 include: All activities performing project closeout including transactions relating to closing out a project and getting acceptance of project close out such as attendance at meetings and/or release approval of final retainage.

Typical Expense Codes you would expect on the Engineering Invoices include but are not limited to:

E101 Copying

E107 Delivery services/messengers

E108 Postage

E109 Local travel (mileage)

E110 Out-of-town travel (airfare, hotel, car rental)

E111 Meals

E124 Other

**Body.** The invoice must be prepared with daily entries showing:

1. Date the work was performed;
2. Initials of the person providing the service;
3. Description of the work performed, by single activity, with the associated UTBMS phase, task and/or expense code, if applicable, and should inform of the nature, purpose or subject of the work performed, and the specific activity or project to which it relates;
4. Grouping multiple activities under a single time charge greater than one-tenth of an hour ("block billing") should not be employed, absent authorization from the LMS; and,
5. Actual time in tenths of an hour for each single activity.

**End of Invoice Summary.** The invoice must include:

1. Full name of each professional;
2. Status of each timekeeper (i.e., engineer);
3. Hourly rate of each timekeeper;
4. Total hours and total amount charged for each timekeeper during the billing period;
5. Aggregate amount and hours charged to-date on the assigned matter; and,
6. Summary level UTBMS data with subtotal amounts for both fees and expenses.

### **Electronic Invoice Submission**

The LMS is committed to electronic submission of professional services invoices through a secure web-based process. It is required in all surety matters. Invoices should be submitted through CounselLink Lexis-Nexis. Contact SuretyLEX@LibertyMutual.com for additional details.

### **Maximum daily time**

Consultant shall charge for services based upon their actual time spent working on the file. Total time charged for a single day shall not exceed 10.0 hours unless approved by LMS in advance. The maximum time is a combination of working hours and travel hours. Exception approvals may be requested in writing to the In-House Engineer.

### **Travel time**

The billable rate for travel time shall be at one-half the billable hourly rate for travel outside normal business hours. Travel time within the normal workday shall be at full rate. In no event shall the maximum daily time exceed 10 hours (combination of work time and travel time) without prior written authorization from the In-house engineer.

### **Compensation**

### **Hourly Billing Rate**

Outside Vendors may submit revised hourly billing rates every two years to LMS for approval. Once approved, these rates will be adjusted for all new and existing matters, whether submitted through CounselLink or directly on Performance matters, that the vendor has with LMS and remain in effect for a minimum of two years. No adjustment in the billing rates will be considered during that two-year period following an approved rate increase.

### **Multiple Attendance**

Outside Vendor must obtain our approval to attend trial, any court appearances, meetings, depositions, witness interviews, inspections, intra-firm conferences and other similar functions, where LMS already has representatives attending.

### **Depositions**

Outside vendor must obtain LMS approval before attending depositions, unless outside vendor is ordered by the Court.

### **Disbursements - Overhead Expenses**

In the absence of an advance agreement to the contrary, LMS anticipates that incidental expenses and routine or recurrent tasks are considered the firm's overhead. Any associated cost or expense is assumed to have been incorporated within the firm's agreed to hourly rate or fee structure.

The following items, though not exclusive, are included in this category:

- Bates stamping/document numbering
- Books, magazines, subscriptions, and educational materials
- Budget, invoice, and audit preparation and responding to billing inquiries
- Computer software, hardware, programming, and maintenance
- Conflicts of interest checks
- Continuing education seminars
- Courier charges, including in-house messenger service
- Equipment purchase or rental (e.g., copier, fax, postal machine, etc.)
- Facsimile charges (incoming and outgoing)
- Group outings/hospitality • Mark-ups or surcharges added by the firm
- Meals, excluding those during billable travel including refreshments during meetings
- Office supplies
- Overtime
- Professional associations or other fees
- Rent on facilities – storage unit charges are ok
- Support staff service charges
- Telephone bills (including cell phones and long distance)
- Temporary help
- Training materials or sessions
- Utilities

### **Disbursement - External Expenses**

The firm will be reimbursed without mark-ups or surcharges for the following, when agreed to following LMS' approval:

- Imaging/Scanning
- Overnight travel (see per diem rate below for meals and miscellaneous expenses)
- Photocopy charges

Disbursements should be itemized on the firm's statement with the following information:

- the name of the vendor
- the date incurred
- a specific description of the expense

**Note:** If photocopying is performed in house, the firm will be reimbursed at the rates of \$0.10/page b&w and \$0.50/page color.

### **Travel Expenses**

**Local Travel.** Travel within a 50-mile radius of the firm is considered local travel. Expenses and disbursements incurred in local travel are considered overhead and within the firm's rate structure. Mileage reimbursement for local travel is not allowed.

**Non-local Travel.** Outside vendor must obtain LMS' approval prior to incurring non-local travel expenses. What constitutes reasonable reimbursement for hotel accommodations, meals, and ground transportation depends upon the locale visited. First class travel, luxury hotel accommodations are not considered reasonable in any locale. Mileage will be reimbursed at the IRS rate prevailing on the date of travel.

### **Per Diem**

Effective 1/1/21, all meals and miscellaneous expenses will be paid for on a per diem rate of \$65.00 per regardless of locale. This is inclusive of first and last day travel.

Lunches & Dinners with Liberty – Surety Claims Personnel:

- While Liberty does not require outside vendors to purchase meals for its staff while working on a matter, if the outside vendor would like to pay for the surety claims personnel's meals, the outside vendor may apply the per diem rate to those meals but must absorb any costs in excess of the per diem.
- If purely entertainment, large group lunches and dinners are discouraged, unless tied to larger industry events such as ABA, SCI, etc. but should not be submitted to Liberty for reimbursement under any circumstances; and

**Professional Services**

Consultants must obtain LMS' approval prior to incurring expenses for outside experts or other professional services. Expenses for professional services will be reimbursed at actual cost.

**Receipts**

Itemized receipts for expenses billed and costs advanced must accompany invoices. Credit card statements without itemized receipts is not acceptable.

**Secretarial and Clerical Activities**

Secretarial and clerical work is considered overhead within the firm's rate structure. As examples and not as a complete list, secretarial and clerical work includes receipt and distribution of mail, new file set up, maintenance of office and calendars, transcribing, copying, posting, faxing, e-mailing, inserting documents into and retrieving documents from the file, maintaining order in the file, stamping documents, tabbing sub-files, and assembling materials.

**Invoice and File Review/Audit**

Outside vendor recognizes that the LMS has the right to review and audit all invoices for services and disbursements pertaining to the matter for which the firm has been engaged by the LMS and, further, that the LMS has the right to review and audit outside vendor's file. However, such invoice and file review and audit, including the review of documents, must be done in a manner that does not compromise the attorney-client privilege, reveal client confidences or diminish the protection afforded defense counsel's work product. Payment of invoices and expenses on a file does not constitute a waiver of any of the LMS's rights to request reimbursement resulting from an evaluation or audit of your firm's invoices.

**Internal Billing Dispute Resolution**

If LMS adjusts an invoice, explanation for such action shall be given by LMS and the firm shall be given the opportunity to explain the disputed items.

**Escrow Accounts**

The scope of your work may involve disbursing funds to claimants, subcontractors and material suppliers through an Escrow Account. In such cases, you will be required to comply with LMS' Guidelines established for Escrow Accounts. These guidelines will be supplied separately.

**Record Retention**

Outside counsel must retain materials for a minimum ten (10) years from the conclusion of the underlying action on behalf of the LMS. Outside counsel shall provide the LMS with access to or copies of retained materials upon request of the Surety. It is the Firm's responsibility to maintain an inventory of documents throughout the project.

**Consultant Retention**

In those circumstances wherein Counsel has retained the outside engineering consultant, all communications shall be submitted through the attorney. In those instances, budgets and invoices will still be submitted to LMS.