3 Submitting An Invoice

OVERVIEW

This chapter covers the procedures for completing an invoice package and submitting it to the FDIC. As discussed in Chapter 2 (Setting Up A Budget), you must have an approved budget from the FDIC before you can be paid. An approved budget gives you the "all clear" to submit an Invoice Package for payment of your services.

Once you have an approved budget and have performed the work for the FDIC, you can submit an invoice package and be paid!

Ensure that your invoice package consists of the following before you submit duplicates (original and copy) to the FDIC:

- Legal Invoice for Fees and Expenses (LIF&E) form (see sample in Appendix B)
- Legal invoice (typically generated from your accounts receivable system)
- Necessary receipts
- Other supporting documentation (e.g., travel vouchers).

This chapter gives you information on the following:

⇒ When to Submit the Invoice
⇒ Where to Submit the Invoice
⇒ Completing the Invoice
⇒ Reconsideration for Disallowances

SCENARIO

Receipts? What Receipts?

Paralegal Sherri Roberts was helping her boss with a bankruptcy case for the FDIC. Upon completion of one phase of the matter, Sherri's boss asked her to prepare the paperwork so the firm could be paid by the FDIC. Sherri prepared the FDIC's Legal Invoice for Fees and Expenses (LIF&E) form and got the firm's invoice from the accounting department. After her boss signed off on everything, Sherri submitted the invoice package to the FDIC.

A few days later Tyrone Manning from the Legal Division of the FDIC called Sherri and told her the Invoice Package was incomplete – Sherri had forgotten to submit the receipts for her boss's expenditures. Tyrone reminded Sherri that there is a complete list of which expenditures need to be itemized and which require receipts in Chapter 3 of the **Outside Counsel Deskbook**.

Don't forget to include receipts for all expenditures when submitting your invoice package.

Sherri made a mental note to move her copy of the Deskbook from the bookshelf to a place on the corner of her desk so she wouldn't forget to refer to it next time.

WHEN DO I SUBMIT AN INVOICE?

You should submit invoices on a monthly basis unless the amount (fees and expenses) to be invoiced is less than $500. If the amount (fees and expenses) is less than $500, you should submit an invoice on a quarterly basis, unless doing so would cause undue hardship to your firm.

You must submit invoices for fees and expenses within 30 days of the last day in your billing period, except as noted elsewhere. While law firms are to submit timely invoices, the FDIC Oversight Attorney may approve bills for payment outside the 30 day time period when i is in the best interest of the Corporation. The FDIC will notify you if such approval is granted.

WHEN DO I SUBMIT AN INVOICE? (cont.)

The Legal Division recognizes that firms may experience delays in receiving supporting documentation for expenses included in your invoice to the FDIC. Therefore, you should submit invoices for such expenses within 60 days of the last date in your billing period.

At the conclusion or termination of the matter, you must submit your final invoice for fees and expenses within 90 days of the matter's conclusion or termination.

NOTE: *Failure to submit invoices in a timely manner as set forth above may significantly delay the FDIC's invoice processing and payment.*

WHERE DO I SUBMIT AN INVOICE?

The distribution and mailing instructions are unique to the type of matter and to the location where the matter is being supervised See your referral letter for these instructions.

COMPLETING THE INVOICE

The Invoice Package you will submit (in duplicate) to the FDIC consists of the following:

- LIF&E form (See sample in Appendix B)
- Legal invoice (typically generated from your accounts receivable system; if you are a sole practitioner, a simple, typed invoice is fine)
- Necessary receipts
- Other supporting documentation (e.g., travel vouchers).

COMPLETING THE INVOICE (cont.)

Complete separate invoices for each matter you have been assigned. The FDIC assigns each matter a different matter number. Therefore, each matter should have its own invoice. The FDIC considers an original litigation, a subsequent appeal, and even a bankruptcy case on a single matter as three separate matters. Each matter is charged to a different account and is often supervised by a different FDIC Oversight Attorney.

What Expenses and Fees Are Allowed?

Check that any item for which you are billing the FDIC is on the list below. You may bill the FDIC for the following:

- Copy charges (no more than $0.08 per copy, unless previously approved by the FDIC)
- Fax charges (telephone long distance charge is the standard acceptable charge with limited exceptions)
- Long distance telephone charges
- Overnight delivery
- Electronic research
- Extraordinary Postage (i.e., Bulk or Certified Mail)
- Travel time at 50% of the standard LSA rate
- Allowable travel expenses.

The FDIC will reimburse you for reasonable charges of these types, so make sure you include them on the invoice.

NOTE: *You may not bill the FDIC more than once per month. You also may not bill for overlapping services periods (e.g., May 1 through May 31 and then May 15 through June 15).*

COMPLETING THE INVOICE (cont.)

What Expenses and Fees Are Not Allowed?

There are some expenses and fees that the FDIC will not reimburse.

Expenses

You may **not** bill the FDIC for the following expenses unless otherwise instructed:

- Ordinary postage
- Charges related to word processing or computer time other than Westlaw or Lexis, unless previously agreed upon by the FDIC
- Time other than "actual time" charges for Westlaw or Lexis
- Photocopying charges at more than $0.08 per copy
- Clerical time for photocopying, sending facsimiles, etc.
- Excessive overnight mail charges
- Meals outside of approved travel
- Local travel
- Any costs relating to filing fees in United States District Courts or Courts of Appeal which the FDIC is not required to pay (pursuant to 12 U.S.C. 1819(b)(4)).

Don't bill any items on this list to the FDIC. You won't be reimbursed!

NOTE: *Invoices with amounts less than $500 should be submitted on a quarterly basis, unless this would cause you undue hardship.*

COMPLETING THE INVOICE (cont.)

What Expenses and Fees Are Not Allowed? (cont.)

Fees

You may **not** bill the FDIC for the following fees:

- A service that is customarily included in the normal overhead or administrative expense of running a law firm (e.g., rent, electricity, local telephone charges, HVAC, storage, bill preparation)
- An excessive number of attorneys performing services in a matter (e.g., excessive intra-office conferences or excessive intra-office phone calls), unless previously agreed upon with the FDIC
- Secretarial or clerical overtime that has not been approved by an Oversight Attorney
- Excessive intra-office conferences between attorneys or paralegals for the purpose of providing instruction or status
- Excessive time spent on “file review”
- Excessive time spent on “review and revision” of documents that you prepare
- Educational or development costs for you to become familiar with statutory and case law
- Charging attorney time for tasks that could be performed efficiently and effectively at less expense by a paralegal or secretary, or charging paralegal time for tasks that could be performed by other clerical workers.

COMPLETING THE INVOICE (cont.)

What Expenses and Fees Are Not Allowed? (cont.)

Fees (cont.)

- Hours charged at the senior partner rate when a matter could be performed efficiently and effectively by a less senior attorney

NOTE: *You must not combine different types of activities in one entry on the invoice; time billed for each activity must be identified separately. "Block billing" of fees is not acceptable, even if the activities were performed by the same individual. Billing increments less than 0.1 billing hours are unacceptable.*

Overbudget Invoices

If the full payment of the invoice causes the legal matter to exceed the grand total for all phases of the budget, the FDIC will notify you. The FDIC will prevent invoice payment until an amended budget is approved. See Chapter 6 (Amending a Budget) for more information.

NOTE: *The Invoice Package will be returned to you with a notice that an approved amended budget is required before the invoice can be properly submitted for payment.*

If your invoice exceeds your budget, you will have to submit an amended budget and wait until it is approved by the FDIC before you can receive payment.

COMPLETING THE INVOICE (cont.)

Legal Invoice

The legal invoice is usually generated by your accounts receivable system. The formatting guidelines and charges you must itemize in the legal invoice are shown below.

Use the following format when totaling the hours and charges for all services.

Date of Service	Description of Service	Name/ Initials of Individual	Approved Hourly Rate	Time Charged	Amount (Rate x Time)
06-13-96	Draft Motion to Dismiss Complaint	jfd	$40.00	5 hrs.	$200.00

Use the following format to present charges for a particular cost or expense.

Date	Description of Cost/Expense	Amount
08/28/96	Airfare - J. Smith	$350.00

Use the following format for recapitulation of the total services billed on your statement for each matter.

Service By	Title	Hours	Hourly Rate	Total
John Brown	Senior Partner	16.10	$150.00	$2,145.00
Jane Smith	Partner	31.50	110.00	3,465.00
Brian Jones	Paralegal	10.00	45.00	450.00

Expense		Amount
Photocopy	(46 * .08/pp)	$ 3.68
Faxes	11/28/96 (617-261-9192)	.26
Telephone	01/02/97 (617-262-8119)	6.78

COMPLETING THE INVOICE (cont.)

Legal Invoice (cont.)

Itemized Expenses

The following charges must be itemized on your legal invoice.

Office

- Copy charges (unit cost multiplied by unit amount)
- Fax charges (date, phone number, and amount); time charge is the standard acceptable charge with limited exceptions
- Long distance telephone charges (date, phone number, and amount)
- Overnight delivery (date and amount)
- Electronic research (date and amount)
- Extraordinary Postage (i.e., Bulk or Certified Mail) (date, amount, and description).

Itemize any or all of these office charges.

Travel

- Per diem
- Lodging
- Airfare (Coach)
- Taxis, rental automobile, etc.
- Mileage.

COMPLETING THE INVOICE (cont.)

Legal Invoice (cont.)

Itemized Expenses (cont.)

NOTE: *Claims for travel related expenses must be made using a Law Firm Travel Voucher, provided by the FDIC (see sample in Appendix C). Refer to Chapter 5 (Understanding Travel Policy) for more details.*

Steps for Submitting an Invoice

The steps for submitting an invoice are as follows:

1. Complete your invoice package, which includes:
   - Legal invoice
   - LIF&E form
   - Necessary receipts
   - Supporting documentation.
2. Submit the invoice package (in duplicate) to the FDIC.
3. The FDIC Legal Information Technician reviews the package and does one of two things:
   a. Forwards it to the Oversight Attorney for approval or,
   b. Rejects it – if your invoice is rejected, the FDIC Oversight Attorney or Legal Information Technician will contact you.

COMPLETING THE INVOICE (cont.)

Checklist for the Legal Invoice

The following checklist will help you submit your invoice correctly.

Use this checklist to ensure you have completed the legal invoice correctly.

- ☑ Has the actual time you spent on each activity, along with the description of that activity, been stated separately on the invoice?

- ☑ At the top of each invoice, have you listed the following?

  - Firm name
  - Name of the financial institution and financial institution number
  - Matter caption
  - Date the billing was prepared
  - Firm invoice number
  - Matter number assigned by the FDIC
  - Matter type.

- ☑ For each matter, have you fully itemized the listing of fees and services, along with the following individual narrative entries?

  - Date of service
  - Precise description of the service(s) performed

COMPLETING THE INVOICE (cont.)

Checklist for the Legal Invoice (cont.)

- Name or initials of individual(s) providing the service
- Approved hourly rate of individual providing the service
- Time consumed for that service
- Calculation of rate/hours equaling the charge for the individual entry.

☑ Have you totaled the hours and charges for all services?

☑ Have you presented charges and any necessary itemization required to describe a particular cost/expense?

☑ Have you provided a recapitulation for the total services billed on your statement for each matter? The recapitulation should list each individual's name, title, hours billed, hourly rate, and total fees billed.

Checklist for the LIF&E Form

Use the following checklist when completing the LIF&E form.

☑ Does each invoice have a number unique to the law firm or law firm office that is submitting the invoice?

☑ Is each invoice number no longer than 20 characters? Omit any dashes, slashes, spaces, leading zeros, or other special characters.

COMPLETING THE INVOICE (cont.)

Checklist for the LIF&E Form (cont.)

NOTE: *If you are submitting multiple invoices, make sure you have a separate LIF&E form for each invoice.*

- ☑ Does the original LIF&E form have original signatures?
- ☑ Have you submitted the invoice package in duplicate?
- ☑ Does the amount billed for each matter reach a minimum threshold of $500? Only submit invoices for amounts less than $500 on a quarterly basis, unless this causes undue hardship to your firm.
- ☑ Have the law firm and financial institution involved with the legal matter been identified?
- ☑ Has the billing information been completed according to the correct phase?
  - Litigation and Professional Liability (PLS) matters – five phases
  - Bankruptcy matters – three phases
  - Non-Litigation/Transactional matters, matters with budgets under $5000, and fixed fee matters – one phase
  - Appellate matters – one phase

This checklist will help you complete the LIF&E form correctly.

COMPLETING THE INVOICE (cont.)

Checklist for the LIF&E Form (cont.)

- ☑ Is each billing period at least monthly, not semi-monthly? For example:
  From: 01/01/97 *Through*: 01/31/97
  From: 01/15/97 *Through*: 03/15/97.

- ☑ Are there any unpaid billings being carried over to the current invoice? If there are expenses incurred for anything other than the present billing period or the immediately preceding billing period, ensure that the expenses have not been previously paid.

- ☑ Do the totals of the phase amounts for *Fees Billed* and for *Expenses Billed* equal the respective subtotals for *Fees Invoiced* (All Phases) and *Expenses Invoiced* (All Phases)?

- ☑ Does the amount of Total Attorneys' Fees Billed (all phases) match totals for *Male* and *Female* attorney billings in Part III, Women & Minority Attorney Participation?

- ☑ Does the invoice *Grand Total* (plus all prior invoice payments for that matter) exceed the *Grand Total of All Phases* budgeted for the matter? If so, an approved amended budget is required before processing can continue.

- ☑ For each ethnic classification of attorneys, have you listed the proportionate amount of Total Attorneys' Fees Billed (dividing the amounts by gender for each classification)?

- ☑ Have you signed the bottom of the form to certify that the LIF&E is true and correct?

COMPLETING THE INVOICE (cont.)

Checklist for the LIF&E Form (cont.)

Check that you have **not** done either of the following:

- ☑ Billed more than once this month
- ☑ Used overlapping service periods.

Be aware of vague billing. It could delay your payment.

Checklist for Expenses and LSA Rates

Use the following checklist when calculating your expenses and LSA rates.

- ☑ Have you attached all necessary receipts and itemized all expenses?
- ☑ Have you made all necessary calculations?
- ☑ According to the rate structure, are all providers on the invoice actually billing at the agreed LSA or negotiated rates?

NOTE: *The Legal Division of the FDIC disallows higher rates and will notify you if the rate needs to be corrected for future invoices.*

- ☑ Have you billed "actual time" only for Westlaw and Lexis?
- ☑ Are photocopying costs $0.08 per page or less?
- ☑ Are facsimile charges at the actual cost? Time charge is the standard charge with limited exceptions.
- ☑ Have you billed travel time at 50% of the standard LSA rate?

COMPLETING THE INVOICE (cont.)

Checklist for Expenses and LSA Rates (cont.)

- ☑ Was the work or service you performed necessary to represent the FDIC effectively?
- ☑ Was the means or method of accomplishing the work or providing the service appropriate (e.g., generally an attorney should not perform the service if a paralegal or a secretary can perform it as efficiently and effectively at less expense)?
- ☑ Is the amount of time charged efficient and reasonable in all respects?
- ☑ Has the documentation of each charge been fully itemized as to the services rendered?
- ☑ Do the services and the manner in which those services are rendered conform fully with ethical standards?
- ☑ Has an excessive amount of time been expended in "file review?"
- ☑ Has an excessive amount of time been expended in "review and revision" of documents prepared by the firm?

COMPLETING THE INVOICE (cont.)

Checklist for Expenses and LSA Rates (cont.)

WARNING: Check that you have **not** billed for any of the following unless approved:

- ☑ Costs related to conversion of your firm's computer programming to comply with FDIC legal invoice processing or reporting requirements
- ☑ Charges relating to word processing or computer time other than Westlaw or Lexis
- ☑ Clerical time for photocopying, sending facsimiles, etc.
- ☑ Excessive overnight mail charges
- ☑ Federal filing fees
- ☑ A fee or cost that represents a service that is customarily included in the normal overhead or administrative expense of running a law firm (e.g., rent, electricity, local telephone charges, HVAC, storage, bill preparation)
- ☑ Secretarial or clerical overtime not approved by an Oversight Attorney; if such approval was granted, the approval should be stated on the invoice
- ☑ Unnecessary intra-office conferences between attorneys or paralegals for the purpose of providing instruction or status.

COMPLETING THE INVOICE (cont.)

Checklist for Expenses and LSA Rates (cont.)

Check that you have **not** billed for any of the following unless approved:

- ☑ An attorney(s) or paralegal(s) on the invoice who was not listed in the LSA
- ☑ A rate higher than the approved rate
- ☑ Educational or development costs for Outside Counsel to become familiar with statutory and case law
- ☑ Local travel
- ☑ Multiple attorneys performing duplicate services
- ☑ Any costs relating to filing fees in United States District Courts or Courts of Appeal (pursuant to 12 U.S.C. 1819(b)(4)).
- ☑ Meals outside approved travel

RECONSIDERATION FOR DISALLOWANCES

You may submit to the FDIC Legal Information Technician requests for reconsideration for disallowances from a prior billing period. The request must include matter number, invoice number, and the amount disputed, along with justification (e.g., copies of missing documentation, narrative rationale). You must submit all requests for reconsideration within 90 days from receipt of payment, notice of disallowance, or partial payment.

NOTE: *Firms are notified of disallowances at the time of payment; such information appears on the check stub.*

FREQUENTLY ASKED QUESTIONS

Below you will find answers to questions often raised by Outside Counsel when submitting invoices.

Can I have my subcontractors call you when they have questions about their payment?

No. Subcontractors should address all payment questions to you. The FDIC does not maintain any information on your subcontractors, so the FDIC would be unable to answer any of their payment questions.

When should I submit an invoice?

On a monthly basis, if the total equals $500.00 or more. If your total is less than $500.00, submit your invoices quarterly, unless this causes undue hardship.

Can I bill the FDIC for computer charges other than Westlaw or Lexis?

No, unless this has been previously agreed upon with the FDIC.

May I bill for clerical or secretarial overtime?

No, unless such overtime is requested by the Legal Division or occasioned by an emergency situation created by the FDIC. In any case, consult with the Oversight Attorney assigned to your matter before billing for clerical or secretarial overtime.

I know I can bill the FDIC for overnight and other extraordinary postage charges? Can I also charge for ordinary postage?

No.

FREQUENTLY ASKED QUESTIONS (cont.)

What common mistakes should I avoid when submitting my invoice?

Make sure you use a different invoice number for each invoice you submit.

Make sure you submit an original and copy of your invoice package.

Ensure the totals on your invoice equal the totals on the LIF&E form.

Don't forget to submit all necessary receipts.

Make sure your "billing to" and "billing from" dates on the LIF&E form match the fee and expense breakdown on your invoice. For example, if you are billing for expenses from February 1 through February 28, your "billing from" date should be February 1 and your "billing to" date should be February 28. If these dates do not match exactly, your payment will be delayed.

Be sure to itemize attorney and paralegal fees separately.

My in-house photocopying charges were $0.10 per page. Can I bill the FDIC for this total?

Only if specifically agreed to by the FDIC. The normal allowable charge is $0.08 per page. The FDIC has established criteria that you must satisfy to have the page per cost limitation waived.

FREQUENTLY ASKED QUESTIONS (cont.)

What information do I need to include regarding fax and phone charges?

You need to include the date, phone number, and charge for each call.

What happens if there is something wrong with my invoice?

An FDIC Legal Information Technician will notify you via phone or fax. If certain expenses are disallowed, you will be notified on your check stub.