IDS CONTRACT ATTORNEYS:

FREQUENTLY ASKED QUESTIONS

ABOUT

DATA REPORTING

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Data Reporting Frequently Asked Questions:

In accordance with Section 6 of each contract for legal services executed pursuant to an RFP, each contractor is required to report certain data to IDS. Below are the answers to some of the frequently asked questions about these data reporting obligations.

1. *How do the contractors report case-related information to IDS?*
IDS has developed a web-based Contractor Case Reporting System that allows attorneys to log into the system from anywhere and at any time to provide the required reporting. Because the system is web-based, at a minimum, attorneys must have access to a computer with Internet access. The system can be accessed at https://contracts.ncids.org/ and contractors are encouraged to consult the User Guide. IDS will not accept reports via email or facsimile once the web-based system is in place.

At this time, the Contractor Case Reporting System is limited to adult criminal cases. The system will be expanded in the future to cover additional specialized case types and per session courts.

2. *What data do contractors have to report?*
The data reporting requirements differ slightly depending on the contract category. Below are the requirements for each contract category.

Adult Criminal and Juvenile Delinquency (per case reporting):
With respect to adult criminal and juvenile delinquency cases, contractors are required to provide basic information about newly assigned cases ("Newly Assigned Case Reporting"). This information includes the date of appointment, client name, and data about the most serious offense. Then, as cases are resolved, contractors provide additional information about the disposition of the case ("Case Disposition Reporting"). This information includes such details as client contact information, date and method of first interview, name of presiding judge, court type, most serious disposition, and time spent on the case both in and out of court. In the event that a contractor withdraws from a case, that fact should be reported as part of the Case Disposition Reporting as well. For the most part, the information being reported mirrors the information requested on AOC-CR-225 (the Non-Capital Criminal Trial Level Fee Application) and AOC-J-411 (the Juvenile Delinquency Fee Application). All Newly Assigned Case Reporting and Case Disposition Reporting must be entered and the accuracy of such entries must be certified within seven (7) calendar days of the end of each month to trigger payment.

Special Proceedings (per case reporting):
With respect to special proceedings, as cases are resolved, contractors will provide basic information about each case ("Case Reporting"). This information will include the date of appointment, original proceeding, client contact information, name of presiding judge or clerk, county, court type, disposition, disposition date, and time spent on the case both in and out of court. In the event that a contractor withdraws from a case, that fact should be reported as part of the Case Reporting as well. For the most part, the information being reported mirrors the information requested on AOC-G-200 (the Civil Case Trial Level Fee Application). All Case

Reporting must be entered and the accuracy of such entries must be certified within seven (7) calendar days of the end of each month to trigger payment.

Abuse/Neglect/Dependency and Termination of Parental Rights (per hearing reporting):
With respect to A/N/D & TPR cases, contractors will provide Newly Assigned Case Reporting. For these cases, this information will include the date of appointment, client contact information, date the petition was filed, and the original proceeding. Then, as hearings are held, contractors will provide additional information about each hearing and its outcome ("Substantive Hearing Reporting"). This information will include such details as the name of the presiding judge, the court type, the time spent on the hearing, the parties involved in each outcome, the hearing type, the hearing outcome, and the method of resolution. The information being reported mirrors the information requested on AOC-G-200 (the Civil Case Trial Level Fee Application) but will be more extensive. All Newly Assigned Case Reporting and Substantive Hearing Reporting must be entered and the accuracy of such entries must be certified within seven (7) calendar days of the end of each month to trigger payment.

Child Support Contempt, Treatment Court, Truancy Court, and Other Per Session Courts Identified in an RFP (per session reporting):
With respect to child support contempt, treatment court, truancy court, and other per session courts identified in an RFP, contractors will provide basic information about each session ("Session Reporting"). This information will include the date and start time of each session worked that reporting period, the total number of cases on the various dockets that reporting period and their status, and the total time spent on the cases both in and out of court during that reporting period. All Session Reporting must be entered and the accuracy of such entries must be certified within seven (7) calendar days of the end of each month to trigger payment.

3. ***Why do contractors have to track and report the time spent on each case or hearing when they are not being paid by the hour?***
It remains important for contractors to track and accurately report the time they spend on each case or hearing for a number of reasons. First, accurate time data will be critical to IDS' ability to assess the appropriateness of contractors' workloads and monthly pay over time. Second, IDS will need access to accurate time data to evaluate requests for extraordinary pay or a reduction in the contractual caseload based on an extraordinary case. Third, judges will continue to determine the value of contractors' services for recoupment purposes based on the hourly rate that would otherwise apply to the case, just as they currently do with public defenders.

4. ***What happens if I am appointed as standby counsel in a case?***
Contractors do not need to distinguish between a traditional appointment and an appointment as standby counsel when reporting their case data. Contractors who serve as standby counsel will receive the same dispositional credit as traditional counsel and may seek additional compensation for an extraordinary case or reimbursement of an extraordinary expense

5. ***How should I report a Class 3 misdemeanor case committed on or after December 1, 2013 if the court appointed me for the limited purpose of representing a pretrial detainee?***
For Class 3 misdemeanor offenses allegedly committed on or after December 1, 2013 where the defendant does not have more than three prior convictions, there is no statutory right to appointed counsel and IDS does not have authority to provide dispositional credit to contractors.

However, IDS policy and AOC's assignment or denial of counsel form (AOC-CR-224, Rev. 12/13) allow for one limited exception to this general rule. Specifically, if a defendant is in pretrial custody for a Class 3 misdemeanor and the court does not intend to modify the conditions of release to allow him or her to be released without posting a secured bond, the court may appoint counsel during the time period of the pretrial confinement on the Class 3 misdemeanor charge for the limited purpose of ensuring that the defendant has the constitutionally required meaningful access to the courts. The court can make this limited appointment of counsel for a pretrial detainee by selecting Option 2.b. in Part I. of form AOC-CR-224 (Rev. 12/13). Please note that this type of appointment would constitute a limited appearance pursuant to G.S. 15A-141(3) and 15A-143. An attorney so appointed would have authority to represent the defendant both for purposes of modifying the conditions of release and in the underlying Class 3 misdemeanor case, but the appointment would end at the time of the defendant's release from custody.

If a contractor has a misdemeanor contract and is assigned to such a case, he or she should do the following:

- In the online reporting system, report the Most Serious Class of Offense as "Misdemeanor 3 (offense after 12/1/13, pretrial detainee released from custody)" if the pretrial detainee was released from custody prior to final disposition of the case or "Misdemeanor 3 (offense after 12/1/13, pretrial detainee remained in custody)" if the pretrial detainee remained in custody through final disposition of the case.
- If the pretrial detainee is released from custody prior to final disposition of the case, the contractor will receive 0.5 credit toward the expected range of annual dispositions. In such a case, the contractor should report the disposition in the online reporting system as "Class 3 Misd. Pretrial Detainee Released from Custody" and report the disposition date as the date of the client's release.
- If a contractor represents the defendant through final disposition because he or she remains in custody, the contractor will receive 1.0 credit toward the expected range of annual dispositions. In such a case, the contractor should report the actual case disposition and the actual disposition date.
- If the pretrial detainee bonds out before the contractor does any work on the case, the contractor should either not report the case at all or check the box labeled "Withdrawn Before Substantive Work – No Case Credit."

6. ***If a contractor was appointed to represent a defendant before the effective date of the contract, is assigned to additional charges against the same defendant after the effective date of the contract, and has a contract for that level of case or a more serious case category, how should the contractor report those charges?***

If the charges are disposed separately, the contractor should file one or more final fee application(s), as appropriate, listing the file numbers that were assigned before the effective date of the contract and reporting all time expended on those file numbers, to be paid at the applicable standard hourly rate for private assigned counsel. The contractor should then enter into the web-based Contractor Case Reporting System one or more disposition(s), as appropriate, for the file numbers that were assigned after the effective date of the contract, provide the appointment date after the effective date of the contract, and report in that system all time expended on those file numbers.

If all of the charges are disposed on the same day in the same court before the same judge, the contractor should file one fee application listing all of the file numbers (regardless of when they were assigned), specifying the appointment date prior to the effective date of the contract, and reporting all time expended prior to the appointment date of the contract case, to be paid at the applicable standard hourly rate for private assigned counsel. The contractor should then enter into the web-based Contractor Case Reporting System one disposition for all of the file numbers (regardless of when they were assigned), report all time expended after the appointment date of the contract case, and, if the case is recoupment-eligible, print a recoupment application from the Contractor Case Reporting System. The disposition reported in the Contractor Case Reporting System should reflect the appointment date after the effective date of the contract.

Both the fee application for pre-contract services and, if the case is recoupment-eligible, the recoupment application for post-contract services should be presented to the court at the same time.

7. *If a contractor was appointed to represent a defendant before the effective date of the contract, is assigned to additional factually-related charges against the same defendant after the effective date of the contract, but only has a contract for a less serious case category, how should the contractor report those charges?*
The contractor should file one or more final fee application(s), as appropriate, to be paid at the applicable standard hourly rate for private assigned counsel.

8. *If a contractor was appointed to represent a defendant pursuant to a contract ("Contract #1"), the case is still pending at the time the contract expires, and the contractor is assigned to additional charges against the same defendant after the effective date of a subsequent contract ("Contract #2"), how should the contractor report the additional charges?*
If the charges are disposed separately, the contractor should enter the first charge or set of charges under Contract #1 with the appointment date for that charge or set of charges, and then enter the second charge or set of charges under Contract #2 with the appointment date for that charge or set of charges, even if the case is in a less serious contract category for which the contractor does not actually have a contract.

If all of the charges are disposed on the same day in the same court before the same judge and the charge or charges that were assigned under Contract #1 are in a *more* serious contract category than the charge or charges that were assigned under Contract #2, the contractor should enter the most serious charge under Contract #1, enter the file number(s) for the additional charge(s) in the "Additional File Number" field for the case that was entered under Contract #1, and provide the appointment date for the first charge or set of charges.

If all of the charges are disposed on the same day in the same court before the same judge and the charge or charges that were assigned under Contract #1 are in a *less* serious contract category than the charge or charges that were assigned under Contract #2, the contractor should delete the case under Contract #1, enter the most serious charge under Contract #2, and enter the file number(s) for the additional charge(s) in the "Additional File Number" field for the case that was entered under Contract #2. The contractor should also enter the appointment date for the charge or charges that were assigned under Contract #2 and check the box immediately under the appointment date that states: "Check here if you were appointed to represent this client on one or

more charges before the effective date of this contract and pursuant to a prior contract with IDS, but the charge(s) was disposed with other cases assigned pursuant to this contract."

Example #1: A contractor handles low-level felonies pursuant to Contract #1 (with a term of January 1, 2010 through December 31, 2012) and Contract #2 (with a term of January 1, 2013 through December 31, 2015). The contractor does not have a contract for misdemeanors. The contractor is assigned a low-level felony case (e.g., second-degree burglary) on December 1, 2012, before the expiration date of Contract #1, and that case is still pending on December 31, 2012 when Contract #1 expires. The client is subsequently charged with a misdemeanor (e.g., simple assault) that is assigned to the contractor on February 1, 2013, after Contract #1 expired but during the term of Contract #2. If the charges are disposed separately, the contractor should enter the burglary case under Contract #1 for 1 credit under his low-level felony contract position and enter the assault case under Contract #2 for .5 credit under his low-level felony contract position. If all of the charges are disposed on the same day in the same court before the same judge, the contractor should enter the burglary case under Contract #1, enter the file number for the assault case in the "Additional File Number" field, and provide the appointment date for the burglary case.

Example #2: A contractor handles low-level felonies and high-level felonies pursuant to Contract #1 (with a term of January 1, 2010 through December 31, 2012) and Contract #2 (with a term of January 1, 2013 through December 31, 2015). The contractor is assigned a low-level felony case (e.g., second-degree burglary) on December 1, 2012, before the expiration date of Contract #1, and that case is still pending on December 31, 2012 when Contract #1 expires. The client is subsequently charged with a high-level felony (e.g., second-degree murder) that is assigned to the contractor on February 1, 2013, after Contract #1 expired but during the term of Contract #2. If the charges are disposed separately, the contractor should enter the burglary case for 1 credit under her low-level felony contract position under Contract #1 and enter the murder case for 1 credit under her high-level felony contract position under Contract #2. If all of the charges are disposed on the same day in the same court before the same judge, the contractor should delete the burglary case under Contract #1, enter the murder case under Contract #2, and enter the file number for the burglary case in the "Additional File Number" field. The contractor should also enter the appointment date for the second-degree murder charge and check the box indicating that he or she was appointed to represent this client on one or more charges before the effective date of this contract and pursuant to a prior contract with IDS, but the charge was disposed with other cases assigned pursuant to this contract.

9. *If a contractor is appointed to represent one client in multiple cases, how should the contractor report those cases?*

Section 1.6(b) of IDS' standard terms and conditions of contract define a disposed case as all of the charges or matters that are finally disposed at the trial level on behalf of the same contract client before the same judge on the same day in the same court. Thus, the general rule is that, if a contract attorney represents one client in multiple cases, and all of the cases are disposed of before the same judge on the same day in the same court, the contract attorney should only report one case under the most serious original charge and should provide the additional file numbers in the "Additional File Numbers" field.

Because it is typically in clients' best interest to resolve multiple pending charges together, there generally should only be one pending record per client in the Contractor Case Reporting System. However, if a contractor has a client where the particular facts of the case make the contractor certain that all pending charges will not be resolved together, the contractor should enter separate pending records for the client. If the cases ultimately get resolved together, the contractor should delete all but one of the pending records, provide the file number of the most serious charge in the "Primary File Number" field, and provide the remaining file numbers in the "Additional File Numbers" fields.

However, if a contract attorney was appointed to handle multiple cases involving the same client, and one or more of the cases arose out of a different transaction, was assigned to counsel at a different time, and resulted in an acquittal or was dismissed by the prosecution on the same day as the unrelated cases but *not* as part of a plea agreement in the unrelated cases, the contract attorney should separately report the acquitted or dismissed case that arose out of a different transaction and will receive two case credits.

10. ***If a contractor has contracted to handle cases in two different contract categories (e.g., misdemeanor and low-level felony), how should the contractor report dispositions for a client with charges in both categories?***

If the two charges are all disposed on the same day in the same court before the same judge, the contractor should enter into the web-based Contractor Case Reporting System one Case Disposition Report under the higher level contract. The Case Disposition Report in the web-based system should identify the most serious offense and list the file number of the other offense disposed at the same time as an additional file number. Upon completion of the Case Disposition Report, the contractor will receive one dispositional credit under the higher level contract.

If the two charges are disposed of separately, the contractor should enter into the web-based Contractor Case Reporting System two Case Disposition Reports. The contractor will enter one Case Disposition Report for the felony disposition under the higher level contract, which is worth a full dispositional credit under that contract. The contractor will also enter a second Case Disposition Report for the misdemeanor disposition. Where to enter that second disposition is at the contractor's discretion. The contractor may enter it under the higher level contract for one half of a dispositional credit or under the lower level contract for a full dispositional credit.

11. ***If a contractor's appointed client has charges that the contractor was not appointed to handle (e.g., VL or FTA) and the contractor disposes of these charges separately from the charges he or she was appointed to handle, how should the contractor report these dispositions?***

Contractors should only report dispositions for charges that they were appointed to handle. If contractors choose to dispose of charges that they were not appointed to handle, they are doing so at their own expense. If a contractor wants to receive dispositional credit for this work, he or she needs to get appointed to handle the charges prior to disposing of them.

12. ***If a contract client enters a felony plea in superior court pursuant to which the State agrees to dismiss pending misdemeanor charges in district court, does the contractor report all file numbers under the superior court case or does the contractor report the dismissals in district court as a second case?***
Under these circumstances, the contractor should report all file numbers under the superior court case and should not report the dismissals in district court as a second case. The district court dismissals would only be reported as a second case if the superior court plea does not encompass the district court cases and the misdemeanor charges are dismissed for other reasons.

13. ***How much time will all of this reporting take?***
Since the data being reported is substantially similar to the data currently being reported via fee applications, the time spent on reporting should not change. However, as with all new systems, there will be a learning curve, so some additional time may be required at first until the user becomes familiar with the new system.

14. ***Is there another reporting option for contractors who are not computer savvy?***
No. However, IDS has developed a User Guide for the reporting system and is happy to provide additional support for those who need it. In addition, attorneys are permitted to authorize a staff member, who may be more computer savvy, to assist them with their reporting obligations.

15. ***Can a legal assistant or paralegal report this information on behalf of a contractor?***
Contractors are permitted to request that another staff member within their office be given access to the web-based Contractor Case Reporting System. This staff member can then enter information on behalf of the attorney. IDS does not have any problem with a staff member entering the case or session reporting data; however, IDS strongly recommends that the attorney review the data prior to certifying its accuracy.

16. ***Why does IDS require contractors to report this information?***
IDS is responsible for overseeing the provision of legal representation to indigent clients, including maintaining the quality and cost effectiveness of such representation. The data provided via the web-based reporting system will enable IDS staff to analyze and report costs per case for the various case types broken down into cases that were resolved by trial and cases that were resolved without a trial. Moreover, IDS needs this data to track how well each attorney is meeting his or her contractual caseload or session obligations. This will enable IDS staff to alert the local assigning authority to stop assigning attorneys cases under their contract so that target caseloads are not unintentionally exceeded, or to realign assignments if certain contractors are receiving more cases than other contractors with the same number of caseload units.

17. ***Can this reporting system be used as a case management system?***
Unfortunately, the reporting system is not robust enough to serve that purpose. However, IDS is aware that this would be beneficial and will, if at all possible, strive to meet that need in the future.

18. ***How secure is the web-based reporting system?***
All web-based systems have some degree of vulnerability, but the reporting system has been developed with an eye toward providing a high level of security. The database itself is protected by the state's firewall and, to access the system, a user must enter a valid user name and the

associated password. Once in the system, users can only see data associated with their cases or, if a user is designated as the primary contact for a firm with multiple participating contract attorneys, that user can see data associated with all of the participating attorneys from the firm.

19. ***When will contractors report this information to IDS and how will IDS enforce this requirement?***
All Newly Assigned Case Reporting, Case Disposition Reporting, Case Reporting, Substantive Hearing Reporting, and Session Reporting for cases assigned or disposed, and for hearings and sessions held in the previous month, must be certified within seven (7) calendar days of the end of each month. In the event that a contractor fails to certify his or her data within this timeframe, IDS may withhold contractual payments until the required reports are received and/or impose financial penalties for incomplete or late reports. Failure to track and certify Newly Assigned Case Reporting, Case Disposition Reporting, Case Reporting, Substantive Hearing Reporting, and Session Reporting in the specified timeframe may also constitute breach of contract allowing IDS to terminate the contract for cause.

20. ***Do contractors still need to submit fee applications?***
For cases assigned pursuant to a contract, all reporting should be done via the web-based Contractor Case Reporting System described above, not via fee applications. However, fee applications will still be completed for cases handled outside of the contract system.

21. ***If there is no fee application, how will the court enter a civil judgment against the client or a responsible person in recoupment-eligible cases?***
The recoupment procedures differ slightly depending on the contract category. For recoupment purposes, judges will still be asked to calculate the amount of the judgment based on the hourly rates paid to private assigned counsel. Below are the procedures for each contract category.

<u>Adult Criminal:</u>
In all recoupment-eligible adult criminal contract cases, attorneys should use the web-based Contractor Case Reporting System to generate and print a completed recoupment application. Training on the new reporting system will demonstrate how this can be done at the click of a button. Once printed, this recoupment application should be submitted to the presiding judge for entry of a civil judgment for attorney fees and the attorney appointment fee pursuant to G.S. 7A-455 and 7A-455.1.

<u>Juvenile Delinquency and Chapter 5A Contempt:</u>
In all recoupment-eligible juvenile delinquency and Chapter 5A contempt contract cases, attorneys should use the web-based Contractor Case Reporting System to generate and print a completed recoupment application. Training on the new reporting system will demonstrate how this can be done at the click of a button. Once printed, this recoupment application should be submitted to the presiding judge for entry of a civil judgment for attorney fees pursuant to G.S. 7A-450.2 and 7A-450.3.

<u>Abuse/Neglect/Dependency and Termination of Parental Rights:</u>
In all recoupment-eligible abuse/neglect/dependency and termination of parental rights contract cases, attorneys should use the web-based Contractor Case Reporting System to generate and print a completed recoupment application. Training on the new reporting system will

demonstrate how this can be done at the click of a button. Once printed, this recoupment application should be submitted to the presiding judge for entry of a civil judgment for attorney fees pursuant to G.S. 7B-603.

Child Support Contempt:
In all recoupment-eligible child support contempt contract cases, attorneys should prepare an AOC-G-200 fee application form and submit that to the presiding judge for entry of a civil judgment for attorney fees pursuant to G.S. 7A-455.

22. ***Why does the Contractor Case Reporting System indicate that cases that end in a deferral or diversion are recoupment eligible?***
In general, IDS does not believe that recoupment should be ordered in cases that end in a successful deferral or diversion. However, the online system allows contractors to print recoupment forms in such cases because attorney fees are sometimes collected in deferred prosecution cases through voluntary arrangements where the deferral is conditioned on the defendant's agreement to repay fees. In addition, some judges disagree with IDS' interpretation of the law in this area, and whether to order recoupment of attorney fees is ultimately a decision for the presiding judge to make based on his or her understanding of the law.

IDS advises contract attorneys not to submit a recoupment form to the court until a deferral or diversion is complete and the court knows whether it was successful or unsuccessful. However, contract attorneys should comply with any contrary directive from a Court. If a recoupment form is submitted at the time a deferral or diversion is entered and another form reporting additional attorney time is submitted when the case is dismissed or the defendant is convicted, contract attorneys should take steps to ensure that the second form does not include the attorney time that was reported on the first form.

23. ***Why are contractors required to continue to handle pending contract cases without additional pay after expiration or termination of the contract?***
Contractors will not be assigned more cases than they are expected to dispose pursuant to their contract without their consent and a renegotiation of their compensation. However, contractors are required to complete all pending assigned cases at the expiration or termination of their contract because they have been paid set monthly fees throughout the contract term that represent up-front payment for the expected number of dispositions or hearings. Because contractors are being paid in advance, they should not be permitted to withdraw from pending contract cases after contract expiration or termination unless the court is fully satisfied that a conflict of interest exists or that other compelling circumstances justify withdrawal. Contractors who continue to handle pending contract cases after contract expiration or termination are still eligible to seek additional compensation for an extraordinary case or reimbursement of an extraordinary expense.

24. ***How are cases disposed after the expiration or termination of a contract reported?***
After the expiration or termination of a contract, attorneys continue to be obligated to provide IDS the same information outlined above via the web-based Contractor Case Reporting System and in accordance with the timeframes outlined in their contract. Consequently, attorneys will continue to have access to the web-based reporting tool until their reporting obligations are complete.

25. ***Who do I contact if I have questions about my data reporting obligations?***
Please contact Jennifer Howard at Jennifer.M.Howard@nccourts.org or 919-354-7212 with any questions you have about data reporting or the web-based Contractor Case Reporting System.