

**Office of the Attorney General
Department of Justice**

**2019-20 Legal Services Revolving Fund (LSRF)
Cost Recovery Legal Billing Rates**

Frequently Asked Questions

1. What are legal billing rates and why does DOJ use them?

The Department of Justice (DOJ) administers the Legal Services Revolving Fund (LSRF), which is used by the Attorney General for investigation and litigation activities, and for competent legal representation of state agencies and employees in any judicial or administrative adjudicative proceeding. Government Code 11044 authorizes DOJ to charge an amount sufficient to recover the costs incurred in providing these legal services, and therefore, clients are charged corresponding hourly billing rates for attorney, paralegal, and auditor/research analyst services.

Government Code 11044:

(a) The Legal Services Revolving Fund is hereby created in the State Treasury. The Department of Justice shall administer this fund. Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General for investigation and litigation activities taken on behalf of the state agencies employing the legal services of the department and for investigation and litigation activities funded through judgments or settlements.

(b) For state agencies, departments, or programs that are charged for the costs of legal services rendered by the Attorney General, the Attorney General shall charge an amount sufficient to recover the costs incurred in providing the legal services. These funds shall be deposited into the Legal Services Revolving Fund.

(c) Upon the request of the Attorney General in the form prescribed by the Controller, the Controller shall transfer the amount of the charges for services rendered from the agency's appropriation to the appropriation for the support of the Attorney General's office using the Controller's direct transfer process. Payments for these charges shall be credited to and in augmentation of the appropriation for the support of the Attorney General's office from which the cost of the services was or will be paid.

(d) A state agency that has a dispute regarding charges for legal services provided by the Attorney General shall notify the Attorney General, in writing, of the dispute and the basis for it. All disputes shall be resolved in accordance with subdivision (l) of Section 8474.1 of Chapter 8400 of the State Administrative Manual. Upon resolution of the dispute in favor of the state agency, the Attorney General shall provide a credit to the state agency for the amount of the charges in dispute.

2. Who is affected by the legal billing rates?

All DOJ legal clients for whom billable work is performed.

**Office of the Attorney General
Department of Justice**

**2019-20 Legal Services Revolving Fund (LSRF)
Cost Recovery Legal Billing Rates**

Frequently Asked Questions

3. What was the old rate?

From July 1, 2009 through August 31, 2019, the DOJ legal billing rates were:

Attorney \$170
Paralegal \$120
Analyst \$ 99

4. What is the new rate and when does the new rate take effect?

Effective September 1, 2019, the revised DOJ legal billing rates are:

Attorney \$220
Paralegal \$205
Analyst \$195

5. Why is DOJ increasing its rates? Why is the increase so large?

DOJ's legal billing rates have been updated only six times in the last 20 years, with the last increase occurring in 2009.

Previous Billing Rate Increases					
FY	Budget Letter	Eff.	Attorney	Paralegal	Analyst
2000	00-23	7/1/2000	\$106	\$53	\$63
2001	01-11	7/1/2001	\$112	\$53	\$63
2004	04-37	7/1/2004	\$139	\$91	\$63
2005	04-37	7/1/2005	\$146	\$92	\$63
2006	05-27	7/1/2006	\$158	\$101	\$63
2009	08-29	7/1/2009	\$170	\$120	\$99

The old legal billing rates are no longer sufficient to cover DOJ's operational LSRF costs. On an annual basis, DOJ is assessed general salary and benefit adjustments to support the costs associated with annual increases in employee compensation and employer's retirement contributions. Pro Rata assessments are also charged to the LSRF on an annual basis to support statewide central administrative services. The cumulative impact of annual cost increases such as these that have occurred over the past 10 years, compounded by the insufficient legal billing rates, has led to the insolvency of the LSRF. The various annual budget adjustments require funding which are supported by revenues deposited into the LSRF. To mitigate the insolvency, the rates were re-evaluated and adjusted to ensure the full recovery of costs in order to continue providing critical legal services to clients.

**Office of the Attorney General
Department of Justice**

**2019-20 Legal Services Revolving Fund (LSRF)
Cost Recovery Legal Billing Rates**

Frequently Asked Questions

6. Will the rates continue to increase? How frequently?

DOJ will reassess its legal billing rates on an annual basis to ensure sufficient recovery of operational costs each fiscal year. The level of increase and its frequency will be determined based on the condition of the fund.

7. How were clients notified of the rate increase?

In the January 10, 2019 Governor's Budget indicated a potential increase in DOJ's billing rates. See page 11 of the linked 2019-20 GB:

<http://www.ebudget.ca.gov/2019-20/pdf/BudgetSummary/PublicSafety.pdf>

Letters were sent on July 3, 2019 notifying clients of the rate increase effective July 1, 2019. Follow-up letters were sent on July 12, 2019 notifying clients of the adjusted effective date from July 1, 2019 to September 1, 2019.

8. How were the new rates determined?

Various annual cost increases have occurred since the rates were last increased in 2009. On an annual basis, DOJ is assessed general salary and benefit adjustments to support the costs associated with annual increases in employee compensation, and employer's retirement contributions. Pro Rata assessments are also charged to the LSRF on an annual basis to support statewide central administrative services. In 2017-18, the LSRF's fund reserves were entirely depleted.

The increase in legal services costs and the insufficient rates at which costs were recovered, created a disparity in expenditures and recoveries, which limited DOJ's ability to take on additional LSRF workload that the previous legal billing rates did not capture. Due to the insufficient collection of revenue, DOJ has been unable to fully expend its annual appropriation (budget), thereby limiting the level of services that the department can offer its client agencies.

Billing rate calculations are based on DOJ's total LSRF spending authority, excluding costs that are billed directly to the client such as expert witness fees, contracted services, professional studies, etc. The revenue required in 2019-20 to fully recover costs to the LSRF is \$242,723,000, which was the amount used to calculate the revised billing rates.

The cost recovery amount per professional type was calculated based on the percentage of total staff funded by LSRF. Professional types are classified as

**Office of the Attorney General
Department of Justice**

**2019-20 Legal Services Revolving Fund (LSRF)
Cost Recovery Legal Billing Rates**

Frequently Asked Questions

either Attorneys (DAGs, SDAGs), Paralegals (Legal Analysts, Sr. Legal Analysts), or Analysts (Auditors and Research Analysts).

***Formula:**

Rate = Total Required Recovery per Professional Type ÷ Billable Hours per Professional Type

Rate Calculation						
Professional	Billable Positions	Recovery Total	Billable Hours Per Position	Total Billable Hours	Calculated Rates	Proposed Rates
Analyst	10	\$3,232,000	x 1,600	16,000	\$202	\$195
Paralegal	99	\$31,997,000	x 1,600	158,400	\$202	\$205
Attorney	551	\$178,083,000	x 1,600	881,600	\$217	\$220
SDAG	91	\$29,411,000	x 800	72,800		
Total	751	\$242,723,000		1,128,800		

*The rates are set for the purposes of recovering DOJ legal services costs by professional type.

9. Who determines the final rate?

Effective July 1, 2019, the DOJ is required to provide the Joint Legislative Budget Committee and the fiscal committees of each house of the Legislature with a report that outlines its new billing rate structure, how the new structure differs from the existing one, and how this new structure ensures its costs of providing legal services are fully covered. DOJ conducts the rate analysis and determines the necessary recovery rates, but the implementation must be approved by the Department of Finance, the Legislative Analyst's Office, and the Joint Legislative Budget Committee.

10. Does DOJ generate revenues by charging the legal billing rates?

No, the DOJ legal billing rates only recover costs incurred in the LSRF, and the DOJ may only spend this revenue as authorized by the Legislature.

**Office of the Attorney General
Department of Justice**

**2019-20 Legal Services Revolving Fund (LSRF)
Cost Recovery Legal Billing Rates**

Frequently Asked Questions

11. What DOJ costs do the rates cover?

Billing rate calculations are based on DOJ's total LSRF spending authority. Costs recovered include salaries and wages, staff benefits, and all operating expense and equipment costs with the exception of costs billed directly to the client such as expert witness fees, contracted services, professional studies, etc.

12. Will I receive better service now that the new rates have gone up?

Because the rates have not increased for a decade, DOJ was limited in aligning staffing levels to the service level needs of the clients. With the revised rates, the recoveries will appropriately fund legal services costs, and as a result, will allow DOJ to fully utilize its LSRF authority, and provide flexibility in adding resources as needed by the clients.

13. What steps have DOJ taken to keep its costs down?

Historically, to work within insufficient revenues, DOJ has attained savings by holding vacancies, postponing backfills, delayed hires, shifting costs to future years, implementing spending restrictions to limit expenditures to the level of revenues available, etc. On an ongoing basis, the DOJ will continue efforts to utilize all resources in the most efficient, effective, and fiscally prudent manner.

14. Do I have to use DOJ for legal services?

Yes. The employment of the Attorney General as counsel for the representation of state agencies and employees in judicial and administrative adjudicative proceedings is mandated by statute, and ensures the overall efficiency and economy in state government.

Reference:

Government Code Sections 11040 through 11045

15. What options are available to clients that cannot afford the new rates?

Pursuant to Control Section 5.00 of the Budget Act of 2019, departments are encouraged to work with the Department of Finance to determine if an appropriation adjustment is necessary to support the increased legal services costs.

**Office of the Attorney General
Department of Justice**

**2019-20 Legal Services Revolving Fund (LSRF)
Cost Recovery Legal Billing Rates**

Frequently Asked Questions

16. Who can I contact if there are additional questions?

For questions specifically about the DOJ legal billing rates, contact Maria Celerio at maria.celerio@doj.ca.gov.