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## Functional Bureau Strategy

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Office of the Legal Adviser (L)

**FOR PUBLIC RELEASE**

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## **1. Executive Statement and Mission Statement**

The Office of the Legal Adviser's (L) mission is to provide world-class legal services in support of America's global foreign affairs goals and objectives by developing, explaining, and defending U.S. legal and legal policy positions regarding domestic and international law.

As counsel to and advocate for the Department of State, the Office of the Legal Adviser plays an indispensable role in supporting all of the Department's Joint Strategic Plan (JSP) goals and objectives. L advises on all domestic and international law matters that arise in connection with the work of the Department, providing advice and counsel on policies that advance our highest priority foreign policy goals, including with respect to national security, climate change, health, trade and investment, international law enforcement cooperation, refugee and migration issues, respect for human rights and the rule of law, and consular affairs, including visa issuance and refugee admissions. In addition to upholding the Constitution and laws of the United States, L supports U.S. government efforts to promote U.S. foreign policy abroad by negotiating and drafting international agreements, as well as resolutions at the U.N. Security Council and other fora; defending the United States in litigation before international tribunals; and defending Department, U.S. foreign policy, and international legal interests in U.S. courts. In these activities, L achieves tangible results that promote and strengthen the American economy, deepen relationships and cooperation with America's allies, including in efforts to fight terrorism, and strengthen the U.S. role as a world leader.

L is dedicated to supporting U.S. promotion of security, economic prosperity, freedom, justice and the rule of law. L partners with and advises its clients in order to achieve their foreign policy goals while ensuring that initiatives are consistent with obligations under U.S. and international law, using a combination of legal expertise; creative and solution-oriented thinking; and thorough, timely analysis. For example, L continues to develop and explain the international legal justification for the United States' global counterterrorism efforts, including its efforts to degrade and ultimately defeat groups like ISIL and al-Qaeda. Moreover, L regularly advises on sensitive law enforcement and intelligence-related matters and develops legal options across the foreign policy spectrum, including with regard to domestic and multilateral sanctions and trade policies, nonproliferation of weapons of mass destruction, bilateral and multilateral treaty regimes, and litigation and arbitration risks and opportunities. L also supports Department management by providing critical legal advice on domestic operations, including expenditure of assistance and operating funds; provision of consular services, including passport and visa operations; public diplomacy initiatives, including countering terrorism and violent extremism; buildings and acquisitions issues; and employment and ethics matters.

Furthermore, L defends the Department and represents its interests in litigation in both domestic courts and in international fora. This includes claims under bilateral investment treaties and free trade agreements, as well as claims by Iran in the International Court of Justice and the Iran-United States Claims Tribunal (the bulk of which involve multi-billion dollar claims against the United States). Similarly, L advises on current and anticipated construction claims litigation arising from new Embassy construction in Baghdad, Oslo, London, Jakarta and elsewhere, where current claims exceed \$500 million, and those likely to be asserted in the near future may double that number. Such ongoing efforts to mitigate litigation exposure for the Department require exceptional legal expertise and sustained resources.

## 2. Bureau Strategic Framework

**Bureau Goal 1:** Develop, explain, and defend U.S. legal and legal policy positions regarding domestic and international law.

- **Bureau Objective 1.1:** Provide timely, expert legal advice on all domestic and international legal issues arising in the course of the Department's work.
- **Bureau Objective 1.2:** Represent the Department's interests in domestic and international litigation, arbitration, administrative, and Congressional oversight proceedings, and advise the Department of Justice as appropriate on international law and foreign relations equities in such proceedings.
- **Bureau Objective 1.3:** Engage in bilateral, multilateral, and public legal diplomacy efforts to explain and defend U.S. legal and legal policy positions regarding international law and encourage the positive development and continuing importance of international law and the rule of law.
- **Bureau Objective 1.4:** Engage with interagency lawyers as necessary to confirm U.S. domestic and international legal positions, as well as to ensure that respect for international law and Department legal interests are represented in U.S. government decision-making.

**Bureau Goal 2:** Support Department efforts to protect American interests abroad.

- **Bureau Objective 2.1:** Support the Department's efforts to protect American citizens and diplomats abroad through negotiating and advising on overseas citizen services functions and on diplomatic and other immunities.

- **Bureau Objective 2.2:** Assist clients in promoting foreign policy interests, including U.S. trade and economic interests abroad, advancement of human rights initiatives, engagement on international environmental, health and science initiatives, international law enforcement, arms control initiatives, the rapid evolution of cyber and emerging technologies, and nonproliferation of weapons of mass destruction, through bilateral and multilateral negotiations and advising interagency policymakers on applicable international law.
- **Bureau Objective 2.3:** Advance the understanding of U.S. foreign policy through advising on public diplomacy outreach and people-to-people exchanges.

**Bureau Goal 3:** Provide timely, accurate, and useful legal guidance, representation, and customer service to Department clients and management in support of the efficient functioning of the Department and Department programs.

- **Bureau Objective 3.1:** Advise Department policymakers on statutory, regulatory, and other legal obligations related to the management of the Department, including human resources, budget, buildings, acquisitions, information technology, and legislative oversight functions.
- **Bureau Objective 3.2:** Manage the Department's ethics program, including certification of all financial disclosure forms and providing training to employees on ethics matters.
- **Bureau Objective 3.3:** Advance the Department's foreign policy objectives by providing legal support for the management of Foreign Assistance (FA) programs.
- **Bureau Objective 3.4:** Increase responsiveness to clients by improving the functionality of L's Records and Information Management Program.

**Bureau Cross-cutting Management Goal 4:** Empower the workforce to thrive in a diverse, equitable, inclusive, and flexible environment.

- **Bureau Cross Cutting Management Objective 4.1:** Promote diversity, equity, and inclusion in the workplace.
- **Bureau Cross Cutting Management Objective 4.2:** Foster a resilient workforce by maximizing work flexibilities.
- **Bureau Cross Cutting Management Objective 4.3:** Develop highly skilled and sought-after employees by consistently promoting and approving significant training opportunities.
- **Bureau Cross Cutting Management Objective 4.4:** Maximize career enhancing opportunities for inter-agency assignments.

### 3. Bureau Goals and Objectives

**Bureau Goal 1:** Develop, explain, and defend U.S. legal and legal policy positions regarding domestic and international law.

- **Bureau Goal 1 Description:** The Office of the Legal Adviser provides critical support for U.S. Government foreign policies worldwide – in particular, L plays key roles in advising on issues relating to China, Russia, Iraq, Afghanistan, Syria, North Korea, Iran, the Republic of South Sudan, and Ukraine, and also advises on critical maritime boundary issues, including in the South China Sea. L helps to ameliorate and resolve political and humanitarian crises around the globe and is a key component of efforts to fight international terrorism and other threats to U.S. security. L is instrumental in other important areas of work of the Department, including nonproliferation, human rights, the environment, law enforcement, and advancing the rule of law.



**Bureau Objective 1.1:** Provide timely, expert legal advice on all domestic and international legal issues arising in the course of the Department's work.

- **Bureau Objective 1.1 Justification and Linkages:** L responds to ongoing and emerging issues with timely, persuasive, and comprehensive written and oral legal advice that supports all the goals and priorities of the Department and United States Government. L's written work and oral advice are critical to steering the Department clear of liability risks in connection with various operations, such as personnel policies and decisions regarding buildings and acquisitions. Timely, first-rate legal advice is a fundamental part of insuring that such liabilities are minimized and that all the work of the Department is anchored in the rule of law. The timely legal advice provided to client bureaus across the Department supports priorities including the following Department Joint Strategic Goals (JSP): JSP Goal 1: Renew U.S. leadership and mobilize coalitions to address the global challenges that have the greatest impact on Americans' security and well-being; Goal 2: Promote global prosperity and shape an international environment in which the United States can thrive; Goal 3: Strengthen democratic institutions, uphold universal values, and promote human dignity; Goal 4: Revitalize the diplomatic and development workforce and infrastructure; Goal 5: Serve U.S. Citizens around the world and facilitate international exchange and connectivity.
- **Bureau Objective 1.1 Risk Considerations:** All activities, initiatives, policies, decisions, need to be anchored in the rule of law. The greatest risk for the Department is not having appropriate attorney staffing levels to handle the legal workload. Not having the needed number of attorneys exposes the Department to legal liabilities and missed opportunities.

**Bureau Objective 1.2:** Represent the Department's interests in domestic and international litigation, arbitration, administrative, and Congressional oversight proceedings, and advise the Department of Justice as appropriate on international law and foreign relations equities in such proceedings.

- **Bureau Objective 1.2 Justification and Linkages:** It is imperative that U.S. policy decisions are well rooted in domestic and international law. As experts, and the ultimate U.S. authority on international law, L is uniquely able to represent the Department's interests on international litigation, arbitration, administrative, and Congressional oversight proceedings and to engage with Department of Justice attorneys to ensure that decision-making and policy initiatives are fully in compliance with international law and the rule of law. These legal activities support the Department's JSP Goal 1: Renew U.S. leadership and mobilize coalitions to address the global challenges that have the greatest impact on Americans' security and well-being; Goal 2: Promote global prosperity and shape an international environment in which the United States can thrive; and Goal 3: Strengthen democratic institutions, uphold universal values, and promote human dignity.
- **Bureau Objective 1.2 Risk Considerations:** All activities, initiatives, policies, decisions, need to be anchored in the rule of law. The greatest risk for the Department is not having appropriate attorney staffing levels to handle the legal workload. Not having the appropriate number of attorneys exposes the Department to legal liabilities and fines.

**Bureau Objective 1.3:** Engage in bilateral, multilateral, and public legal diplomacy efforts to explain and defend U.S. legal and legal policy positions regarding international law and encourage the positive development and continuing importance of international law and the rule of law.

- **Bureau Objective 1.3 Justification and Linkages:** L's legal expertise proffered in an array of timely written legal documents and oral advice is critical to the successful engagement and outcomes in bilateral, multilateral, and public legal diplomacy efforts, and ultimately the attainment of Department and United States Government policy goals. Successful negotiations and diplomacy are guided by and are in compliance with international laws and the rule of law. L's participation in bilateral, multilateral, and public legal diplomacy effects support the all the strategic objects in the Department JSP Goal 1: Renew U.S. leadership and mobilize coalitions to address the global challenges that have the greatest impact on Americans' security and well-being.
- **Bureau Objective 1.3 Risk Considerations:** All activities, initiatives, policies, decisions, need to be anchored in the rule of law. The greatest risk to the Department is not having appropriate attorney staffing levels to handle the legal workload. Not having the appropriate number of attorneys exposes the Department to legal liabilities and fines.

**Bureau Objective 1.4:** Engage with interagency lawyers as necessary to confirm U.S. domestic and international legal positions, as well as to ensure that respect for international law and Department legal interests are represented in U.S. government decision-making on significant challenges to U.S. foreign policy and national security.

- **Bureau Objective 1.4 Justification and Linkages:** It is imperative that U.S. policy decisions are well rooted in domestic and international law; Including, but not limited to, trade, economic development, the environment, counterterrorism, law enforcement cooperation, non-proliferation and verification with respect to weapons of mass destruction, human rights protection and promotion, the rapid evolution of cyber and emerging technologies, and the uncertainty of world geo-political events more generally. As experts on the Executive Branch authority in international law, L is uniquely situated to engage with interagency attorneys to ensure that decision-making and policy initiatives are fully informed by international legal requirements. These efforts support JSP Strategic Objective 1.1: strengthen global health security, combat infectious disease threats, and address priority global health challenges through bilateral engagement and within multilateral fora.

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- **Bureau Objective 1.4 Risk Considerations:** All activities, initiatives, policies, decisions, need to be anchored in the rule of law. The greatest risk to the Department is not having appropriate attorney staffing levels to handle the legal workload. Not having the appropriate number of attorneys exposes the Department to legal liabilities and fines.

**Bureau Goal 2:** Support Department efforts to protect American interests abroad.

- **Bureau Goal 2 Description:** L plays a pivotal role in responding to both political watersheds and natural disasters as well as conflict situations. L advises the Department's bureaus from the beginning to the end of an international crisis and as new issues emerge. The turn of world events regularly requires legal counsel on international law obligations, foreign assistance programming, and protecting refugees and U.S. citizens, among other issues. Without L's input on major international events including natural disasters, health emergencies, and conflict situations, the Department risks not fully taking into account its obligations under international law. As a leader on the world stage, our international partners expect that the United States always operates well within the letter of international law and will provide leadership and a firm legal foundation during crisis and conflicts situations. L also provides substantial legal counsel to consular professionals, who adjudicate millions of visa and passport issuances and refusals annually and advises Department principals on politically sensitive international child abduction cases and complicated adoptions of foreign-born children by American citizens, among other high-profile consular and management-related issues. L is an essential partner in supporting the Department's management operations by providing legal advice on a wide range of matters, including the provision of consular services; border security; buildings and acquisitions; U.S. diplomatic and consular operations abroad.

**Bureau Objective 2.1:** Support the Department's efforts to protect American citizens and diplomats abroad through advising on overseas citizen services functions and on diplomatic immunities and by advising the Department on consular affairs, including visa and passport functions.

- **Bureau Objective 2.1 Justification and Linkages:** Protecting American citizens and diplomats abroad is a top priority of the Department. L's advice on overseas citizen services functions and on diplomatic law is key to providing American citizens and diplomats with the protections they are afforded under international law. L's Office of Consular Affairs also provides indispensable legal advice on immigration, citizenship, passport issues, the protection of US citizens abroad, international judicial assistance, laws, regulations, and litigation relating to consular affairs. These legal efforts directly support the Departments JSP Goal 5: Serve U.S. Citizens around the world and facilitate international exchange and connectivity and its Strategic Objectives Strategic 5.1: Support and serve American citizens traveling or residing abroad and Strategic Objective 5.2: Advance U.S. interests by facilitating legitimate travel to and from the United States.
- **Bureau Objective 2.1 Risk Considerations:** All activities, initiatives, policies, decisions, need to be anchored in the rule of law. The greatest risk for the Department is not having appropriate attorney staffing levels to handle the legal workload. Not having the appropriate number of attorneys exposes the Department to legal liabilities and fines.

**Bureau Objective 2.2:** Assist clients in promoting foreign policy interests, including U.S. trade and economic interests abroad, advancement of human rights initiatives, engagement on international environmental, health and science initiatives, international law enforcement, arms control initiatives, and nonproliferation of weapons of mass destruction, through bilateral and multilateral negotiations and advising interagency policymakers on applicable international law.

- **Bureau Objective 2.2 Justification and Linkages:** Client bureaus depend on L's legal expertise to ensure that their foreign policy initiatives, including environmental, trade, economic, and maritime initiatives are rooted in applicable international law. L support of Client Bureaus in attaining their foreign policy initiatives directly supports the Departments JSP Goal 1: Renew U.S. leadership and mobilize coalitions to address the global challenges that have the greatest impact on Americans' security and well-being.
- **Bureau Objective 2.2 Risk Considerations:** All activities, initiatives, policies, decisions, need to be anchored in the rule of law. The greatest risk for the Department is not having appropriate attorney staffing levels to handle the legal workload. Not having the appropriate number of attorneys exposes the Department to legal liabilities and fines.

**Bureau Objective 2.3:** Advance the understanding of U.S. foreign policy through advising on public diplomacy outreach and people-to-people exchanges.

- **Bureau Objective 2.3 Justification and Linkages:** Public Diplomacy, including advising on educational, cultural, and informational exchanges and related activities, including immunity from judicial seizure; cultural property; public/private partnerships; international broadcasting and general efforts to educate and inform foreign audiences about the United States and U.S. foreign policy, is necessary to build strong and lasting bonds with people from other cultures. L's support of Public Diplomacy directly supports the Departments JSP Strategic Objective 1.5: Enhancing the foreign publics' understanding of and support for the values and policies of the United States.
- **Bureau Objective 2.3 Risk Considerations:** All activities, initiatives, policies, decisions, need to be anchored in the rule of law. The greatest risk for the Department is not having appropriate attorney staffing levels to handle the legal workload. Not having the appropriate number of attorneys exposes the Department to legal liabilities and fines.

**Bureau Goal 3:** Provide timely, accurate, and useful legal guidance, representation, and customer service to Department clients and management in support of the efficient functioning of the Department and Department programs.

- **Bureau Goal 3 Description:** L provides critical legal advice on a broad range of management issues, particularly with urgent priorities such political transitions, diplomatic and military operations, diplomatic relations and representation in emerging democracies, wartime contracting, construction and operation of New Embassy Compounds (NECs), and the growing use of technology and social media to reach out beyond diplomatic channels to foreign audiences around the world. L provides legal advice to virtually every bureau and office within the Department. One of the greatest risks for L and the Department is other bureaus and offices not availing themselves of L's services or not implementing L's advice. It is imperative that the Department consult L and follow L's advice in order to limit liability and ensure compliance with applicable law. L is also an essential partner in supporting the Department's management operations of personnel systems for employees, including the Foreign Service, Civil Service, and Locally Engaged Staff; security of personnel and information technology; issues regarding privileges and immunities; public diplomacy programs aimed at countering violent extremism; promulgation and implementation of regulations and directives; all manner of domestic and foreign litigation involving the Department; ethics and financial disclosure matters; and information law. L manages the U.S. Treaty Program and is responsible for defending and representing the United States before international bodies, including, for example, arbitrations under the North American Free Trade Agreement and cases before the International Court of Justice.

**Bureau Objective 3.1:** Advise Department policymakers on statutory, regulatory, and other legal obligations related to the management of the Department, including human resources, budget, buildings, acquisitions, information technology, and legislative oversight functions.

- **Bureau Objective 3.1 Justification and Linkages:** The Department of State's principals, bureaus and offices depend on L to advise on and help implement statutory, regulatory and other legal obligations related to the everyday management of the Department. A strong legal foundation is critical to ensuring that the business of the Department avoids and mitigates potential liabilities. The aforementioned legal services directly support the Department's JSP Goal 4: Revitalize the diplomatic and development workforce and infrastructure.
- **Bureau Objective 3.1 Risk Considerations:** Without the legal advice L provides on a wide range of matters, the Department could incur substantial liabilities, including improper use of operational and foreign assistance funding, as well as an array of employment law vulnerabilities.

**Bureau Objective 3.2:** Manage the Department's ethics program, including certification of all financial disclosure forms and providing training to employees on ethics matters.

- **Bureau Objective 3.2 Justification and Linkages:** L's Office of Ethics and Financial Disclosure is responsible insuring that the Department of State meets its obligations as required by the Ethics in Government Act of 1978, and other applicable laws, Executive Orders and regulations concerning official behavior of government employees. These legal services support Department's JSP Strategic Objective 4.3: Protect our personnel, information, and physical infrastructure from 21st century threats.



- **Bureau Objective 3.2 Risk Considerations:** Without proper staffing in L's Ethics and Financial Disclosure Office the Department runs the risk of employees purposely or inadvertently violating obligations as required by the Ethics in Government Act of 1978.

**Bureau Objective 3.3:** Advance the Department's foreign policy objectives by providing legal support for the management of Foreign Assistance (FA) programs.

- **Bureau Objective 3.3 Justification and Linkages:** L plays an important in reviewing Foreign Assistance programs and funding related issues to ensure they are in compliance with all legal requirements. These legal services support Department's JSP Strategic Objective 3.5: Improve inclusive and equitable health, education, and livelihood services, especially for women, youth, and marginalized groups.
- **Bureau Objective 3.3 Risk Considerations:** Without proper review, the Department risks improper use of Foreign Assistance funding.

**Bureau Objective 3.4:** Increase responsiveness to clients by improving the functionality of L's Records and Information Management Program.

- **Bureau Objective 3.4 Justification and Linkages:** L maintains multiple decades of information, in both paper and electronic format, that is vital to accomplishing the Department's goals and priorities. To enhance the productivity and success of its professional staff and to meet statutory records management requirements, it is essential that L's voluminous information, both past and present, is managed correctly to insure efficient, timely, and accurate desktop access and retrieval. This effort directly supports JSP Strategic Objective 4.2: Modernize IT and leverage data to inform decision-making and support mission delivery.
- **Bureau Objective 3.4 Risk Considerations:** L needs to continue to upgrade and leverage new technology in order to better meet the needs of its legal staff and to respond to litigation in a timely manner and in the new electronic formats required by the Courts. Not leveraging new technology risks delays that could result in fines.

## 4. Bureau Cross-Cutting Management Goal

**Bureau Cross-Cutting Management Goal 4:** Empower the workforce to thrive in a diverse, equitable, inclusive, and flexible environment.

- **Bureau Cross-Cutting Management Goal 4 Description:** L's proven record of providing timely, persuasive, and first-rate legal services was reflected in many areas of The FY 2020 Federal Employee Viewpoint Survey.

A few areas of concern were identified in the FY 2020 Federal Employee Viewpoint Survey as well. Notably, only 54.4% of employees felt that their workload was reasonable and only 22.1% of respondents felt that senior leaders generate high levels of motivation and commitment in the workforce. Management has recognized for some time that the legal workloads in the Office of the Legal Adviser are rigorous and are not compatible with maintaining high morale and motivation year over year. Nominal staffing levels leave little capacity making much needed career training, travel, interagency and overseas assignments difficult to accommodate. For these reasons, L has developed a new management goal to help foster an outstanding work environment to address morale issues.

While survey results were positive, there is always room for improvement. L will continue to actively and creatively manage, and continually realign resources to best support the Department. In FY 2022-2026, L will move forward with implementing strategies to foster an outstanding work environment that will support L's overarching goals including defending U.S. legal and legal policy positions regarding domestic and international law, protecting American interests abroad, and providing timely, accurate, and useful legal guidance, representation, and customer service to Department clients and management.

**Bureau Cross-Cutting Management Objective 4.1:** Promote diversity, equity, inclusion and accessibility in the workplace.

- **Bureau Cross-Cutting Management Objective 4.1 Justification and Linkages:** To fully and successfully represent the United States around the world, the Department needs a workforce as diverse as American society itself. Insisting on diversity, equity, and accessibility and inclusion directly supports the Departments JSP Strategic Objective 4.1: Build and equip a diverse, inclusive, resilient, and dynamic workforce.
- **Bureau Cross-Cutting Management Objective 4.1 Risk Considerations:** Not having a diverse, equitable, and inclusive workforce risks losing important perspectives that will better inform decision making and help L achieve its mission.

**Bureau Cross-Cutting Management Objective 4.2:** Foster a resilient workforce by maximizing work flexibilities.

- **Bureau Cross-Cutting Management Objective 4.2 Justification and Linkages:** It is clear that maximizing work flexibilities creates a more satisfied, happy workforce which improves moral, increases work productivity and reduces turnover. Supports JSP Strategic Objective 4.1: Build and equip a diverse, inclusive, resilient, and dynamic workforce.
- **Bureau Cross-Cutting Management Objective 4.2 Risk Considerations:** Not implementing work flexibilities risks losing highly qualified attorneys to other agencies, organizations, and law firms that provide such accommodations.

**Bureau Cross-Cutting Management Objective 4.3:** Develop highly skilled and respected employees by consistently promoting and approving significant training opportunities.

- **Bureau Cross-Cutting Management Objective 4.3 Justification and Linkages:** On-going legal training is vital to ensure that L attorneys are prepared to meet new challenges and help L in maintain a high level of legal expertise that will allow L to achieve its mission. Supports Strategic Objective 4.1: Build and equip a diverse, inclusive, resilient, and dynamic workforce.
- **Bureau Cross-Cutting Management Objective 4.3 Risk Considerations:** Not keeping current with on-going legal training risks having attorneys that are not prepared to fully meet the legal challenges presented in the daily work environment and risks adverse rulings and legal liabilities.

**Bureau Cross-Cutting Management Objective 4.4:** Maximize career enhancing opportunities for inter-agency assignments.

- **Bureau Cross-Cutting Management Objective 4.4 Justification and Linkages:** Providing opportunities for assignments such as overseas tours, details to the NSC and other agencies and temporary postings at International Organizations helps attorneys gain needed experience in other milieus and provides attorneys with a better understanding of government legal roles in the aggregate. This experience makes for a more valuable employee for L and improves job satisfaction. Supports Strategic Objective 4.1: Build and equip a diverse, inclusive, resilient, and dynamic workforce.
- **Bureau Cross-Cutting Management Objective 4.4 Risk Considerations:** L attorneys are highly sought after for temporary assignment in other areas of the government and play an important role in providing legal expertise and guidance on a range for vital issues for international organizations, Department of Justice (DOJ), Department of Defense (DOD) and the White House. High job vacancy rates hinder L's ability to provide attorneys for outside assignment and create undue burdens on attorneys.