

Chapter 200-160 WAC

SELF-INSURANCE REQUIREMENTS AS TO PUBLIC BENEFIT HOSPITAL ENTITIES JOINT SELF-INSURANCE PROGRAMS

WAC

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WAC 200-160-010 Preamble and authority. These rules governing self-insurance transactions are adopted by the state risk manager to implement chapter 48.190 RCW relating to the management and operations of joint public benefit hospital entity property and liability self-insurance programs.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-010, filed 4/17/18, effective 5/18/18.]

(4/17/18)

WAC 200-160-020 Definitions. (1) "Actuary" means any person who is a fellow of the Casualty Actuarial Society and a member of the American Academy of Actuaries.

(2) "Assessment" means the moneys paid by the members to a joint self-insurance program.

(3) "Broker of record" means the licensed insurance producer who, through a contractual agreement with the joint self-insurance program, procures insurance and/or reinsurance on behalf of the joint self-insurance program.

(4) "Case reserves" means the total of all claims and claims adjustment expenses for covered events which have occurred and have been reported to the joint and individual self-insurance programs as of the date of the financial statement. Case reserves include an estimate for each reported claim based on the undiscounted jury verdict value of said claim.

(5) "Claim adjustment expense" means expenses, other than claim payments, incurred in the course of investigating and settling claims.

(6) "Claim" means a demand for payment for damages or policy benefit because of the occurrence of an event that includes, but is not limited to, the destruction or damage of property or reputation, bodily injury or death and alleged civil rights violations.

(7) "Claims auditor" means a person who has the following qualifications:

(a) A minimum of five years in claims management and investigative experience;

(b) A minimum of three years of experience in auditing the same manner of claims filed against the program being audited;

(c) Proof of professional liability insurance; and

(d) Provides a statement that the auditor is independent from the program being audited, its vendors, insurers, brokers, and third-party administrators.

(8) "Competitive process" means a formal sealed, electronic, or web-based bid procedure used for all nonclaims related purchases for goods and services over fifty thousand dollars. For purchases between five thousand dollars and fifty thousand dollars, competitive process means quotations obtained from at least three vendors by telephone or written quotations, or both, and supported by evidence of competition. Purchases up to five thousand dollars are exempt from competitive bids providing procurement is based on obtaining maximum quality at minimum cost.

(9) "Competitive solicitation" means a documented formal process requiring sealed bids, providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience,

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reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(10) "Consultant" means an independent individual or firm contracting with a joint self-insurance program to perform actuarial, claims auditing or third-party administration services, represent the program as broker of record, or render an opinion or recommendation according to the consultant's methods, all without being subject to the control of the program, except as to satisfaction of the contracted deliverables.

(11) "Foundation agreement" means an agreement, contract or interlocal agreement between members of a joint self-insurance program as permitted by law.

(12) "Governing body" means the multimember board making decisions on behalf of the members of a joint self-insurance program.

(13) "Incurred but not reported (IBNR)" means claims and claim adjustment expenses for covered events which have occurred but have not yet been reported to the self-insurance program as of the date of the financial statement. IBNR claims include:

(a) Known loss events that are expected to be presented later as claims;

(b) Unknown loss events that are expected to become claims; and

(c) Future development on claims already reported.

(14) "Interlocal agreement" means an agreement established under the Interlocal Cooperation Act as defined in chapter 39.34 RCW.

(15) "Joint self-insurance program" means any two or more public benefit hospital entities which have entered into a cooperative risk sharing agreement subject to regulation under chapter 48.190 RCW.

(16) "Jury verdict value" means the claim value established on an individual case basis by the entity's analysis of the jury verdict results within a jurisdiction in addition to other factors including, but not limited to, severity of injury or damage, length of recovery, credibility of parties and witnesses, ability of attorney, sympathy factors, degree of negligence of the parties and contribution or recovery from other sources.

(17) "Member" means a public benefit hospital entity as described in chapter 48.190 RCW; and

(a) Is a signatory to the joint self-insurance program's foundation agreement; and

(b) Is a participant in the excess or self-insured retention portion of the pool's insurance program subject to regulation under chapter 48.190 RCW.

(18) "Primary assets" means cash and investments (less any nonclaims liabilities).

(19) "Risk sharing" means a decision by the members of a joint self-insurance program to jointly absorb certain or specified financial exposures to risks of loss through the creation of a formal program of advance funding of actuarially determined anticipated losses; and/or joint purchase of insurance or reinsurance as a member of a joint self-insurance program formed under chapter 48.190 RCW.

(20) "Secondary assets" means insurance receivables, real estate or other assets (less any nonclaims liabilities) the

value of which can be independently verified by the state risk manager.

(21) "Self-insurance program" means any individual or joint self-insurance program required by chapter 48.190 RCW to comply with this chapter.

(22) "Services" means administrative, electronic, management, loss prevention, training or other support services which do not include the participation in or purchase of the pools excess or self-insured insurance programs.

(23) "Stop-loss insurance" means a promise by an insurance company that it will cover losses of the entity it insures over and above an agreed-upon aggregated amount.

(24) "Third-party administrator" means an independent association, agency, entity or enterprise which, through a contractual agreement, provides one or more of the following ongoing services: Pool management or administration services, claims administration services, risk management services, or services for the design, implementation, or termination of an individual or joint self-insurance program.

(25) "Unallocated loss adjustment expense (ULAE)" means costs that cannot be associated with specific claims but are related to the claims adjustment process, such as administrative and internal expenses related to settlement of claims at the termination of the program.

(26) "Unpaid claims" means the obligations for future payment resulting from claims due to past events. This liability includes loss and adjustments expenses, incurred but not reported claims (IBNR), case reserves, and unallocated loss adjustment expenses (ULAE).

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-020, filed 4/17/18, effective 5/18/18.]

WAC 200-160-030 Standards for operation and management—Rules for joint hospital benefit entities self-insurance programs. The following rules apply exclusively to joint self-insurance programs. Individual entity programs shall be exempt from these requirements.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-030, filed 4/17/18, effective 5/18/18.]

WAC 200-160-040 Standards for operation—Membership. Membership in a joint self-insurance program requires the execution of a foundation agreement. Only members may participate in risk sharing. Only members may participate in the self-insured retention layer, and only members may participate in the joint purchase of insurance or reinsurance. Further, each member shall agree to the following:

(1) Each member shall pay assessments when required by the governing body of the program.

(2) Each member shall obtain approval to join the program from the governing body of the respective member. The approval shall be by resolution or ordinance of the governing body as appropriate for the entity type.

(3) Each member shall become a signatory to the foundation agreement and subsequent amendments to the foundation agreement of the joint self-insurance program.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-040, filed 4/17/18, effective 5/18/18.]

WAC 200-160-050 Standards for operation—Providing services to nonmembers. (1) Nonmembers may purchase ongoing services through agreement or contract as permitted by the laws of this state and other states. Nonmembers shall not participate in any coverages of the joint self-insurance program including the self-insured retention layer and the excess insurance or reinsurance layer. This section is not intended to preclude nonmembers purchasing services from becoming members of the joint self-insurance program, provided the nonmember meets the requirements of WAC 200-160-020(17) and is eligible for membership as authorized by chapter 48.190 RCW.

(2) A program intending to provide ongoing services to nonmembers shall submit a written plan to the state risk manager for approval prior to providing services. The plan shall include, at a minimum, the services to be provided, the time frame for providing such services, the expected revenues and expenditures resulting from providing said services, and a written analysis of all potential federal and state tax liabilities created by providing services to nonmembers. The arrangement to provide ongoing services shall be approved in writing by the state risk manager within sixty days of the joint self-insurance program's final plan submission.

(3) Joint self-insurance programs may provide incidental or occasional services to nonmember public benefit hospitals at no charge when there is a monetary or nonmonetary benefit to members and nonmembers in providing the incidental or occasional services.

(4) Every joint self-insurance program providing ongoing services as of the effective date of these regulations must submit a written plan meeting the requirements stated herein.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-050, filed 4/17/18, effective 5/18/18.]

WAC 200-160-060 Standards for operation—Communication with members—Annual membership report. The joint self-insurance program shall make available to each member a copy of the program's annual membership report. The annual membership report shall include, at a minimum, the audited annual financial statements. The reports shall be delivered to each member by electronic or regular mail. Programs may meet the delivery requirement by publishing and maintaining the membership report on the official web site of the program for a minimum of three years from the date of publication.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-060, filed 4/17/18, effective 5/18/18.]

WAC 200-160-070 Standards for operations—Meetings. All joint self-insurance programs are required to comply with all applicable laws and regulations pertaining to public meetings. All joint self-insurance programs are required to comply with all additional requirements for meeting notifications as described in this chapter.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-070, filed 4/17/18, effective 5/18/18.]

WAC 200-160-080 Standards for operation—Notice of regular meetings of the governing body. Every joint self-insurance program shall provide every member with a notice of the time and place of each regular meeting of the

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governing body at least ten days prior to the meeting. The notice shall be provided in electronic or paper form, and the time and location of each meeting shall be included in such notice. The state risk manager shall be provided a copy of all meeting notifications to members in the same form, manner and time as provided to members. In addition to electronic or regular mail, programs shall publish notification of regular meetings on the web site of the program accessible to the public. Notice of regular meetings shall be published at least ten days in advance of regular meetings.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-080, filed 4/17/18, effective 5/18/18.]

WAC 200-160-090 Standards for operation—Special meetings—Notice to members. All joint self-insurance programs shall provide notice by electronic mail to the state risk manager and every member of the joint self-insurance program twenty-four hours in advance of every special meeting.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-090, filed 4/17/18, effective 5/18/18.]

WAC 200-160-100 Standards for operations—Meeting agendas—Meeting minutes. Every joint self-insurance program must provide the state risk manager and every member with a preliminary agenda in advance of each meeting of the governing body. The agenda shall be provided by electronic mail and shall be posted on the web site of the program accessible to the public. Meeting minutes, after approval, shall be posted on the web site of the program accessible to the public.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-100, filed 4/17/18, effective 5/18/18.]

WAC 200-160-110 Standards for operation—Notification of changes to bylaws or foundation agreement. Every joint self-insurance program shall provide notification of the intent to change the bylaws or foundation agreement to each member of the joint self-insurance program and the state risk manager by regular or electronic mail at least thirty days in advance of the meeting during which a vote on the proposed change will occur. Such notification shall include a copy of proposed changes.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-110, filed 4/17/18, effective 5/18/18.]

WAC 200-160-120 Standards for operation—Changes to foundation agreement. (1) Changes to the foundation agreement shall be by amendment and shall be approved by the governing body of each joint self-insurance program during a regular meeting of the governing body.

(2) Amendments to the foundation agreement shall be adopted by ordinance or resolution of the governing board or council of each member and signed by an authorized representative of each member. The signed amendment and copy of the ordinance or resolution, as appropriate, shall be submitted to, and retained by, the joint self-insurance program. Copies of the foundation agreement and subsequent amendments shall be published on the web site of the joint self-insurance program.

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(3) Changes to any terms of the foundation agreement shall require amendment using the approval and adoption process described in subsection (2) of this section.

(4) Each new member joining a joint self-insurance program after the formation of the program shall sign a copy of the most current foundation agreement and copies of all subsequent amendments to that agreement that have been adopted by the governing body of the joint self-insurance program. The joint self-insurance program shall retain the signed foundation agreements and amendments until termination of the program occurs.

(5) When a new foundation agreement is adopted by the governing body of the joint self-insurance program to replace the existing foundation agreement and incorporate amendments, the new foundation agreement shall be adopted by ordinance or resolution by the governing body of each member of the joint self-insurance program. The new foundation agreement shall be signed by an authorized representative of each member. The signed foundation agreement and a copy of the ordinance or resolution adopting the program shall be submitted to, and retained by, the joint self-insurance program until termination of the program occurs.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-120, filed 4/17/18, effective 5/18/18.]

WAC 200-160-130 Standards for operation—Elections of the governing body. The governing body of every joint self-insurance program shall be elected by a majority of the members voting in the election. Elections may be conducted during a regular meeting of the governing body or by mail-in ballot or electronic ballot. If mail-in or electronic ballots are used, the ballots are to be counted and secured until certified by the governing body at the same or the next regular meeting and recorded in the meeting minutes. Vacancies on the governing board shall be filled according to program bylaws. Joint self-insurance programs governed by a governing body which requires the inclusion of a voting representative from each member entity in such governing body are exempt from the requirements of this section.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-130, filed 4/17/18, effective 5/18/18.]

WAC 200-160-140 Standards for solvency—Actuarially determined liabilities, program funding and liquidity requirements. (1) All joint self-insurance programs shall obtain an annual actuarial review as of fiscal year end which provides written estimates of the liability for unpaid claims measured at the expected level and the seventy, eighty, and ninety percent confidence level.

(2) The governing body of the joint self-insurance program shall establish and maintain primary assets, as described in WAC 200-160-020(18), in an amount at least equal to the unpaid claims estimate at the expected level as determined by the program's actuary as of fiscal year end. All joint self-insurance programs meeting this requirement shall be considered in compliance with the primary asset test. All joint self-insurance programs that do not meet the requirements of the primary asset test shall notify the state risk manager in writing of the condition. The state risk manager shall take corrective action, which may include the service of a cease and desist order upon the program, to require that the

program increase primary assets in an amount equal to the unpaid claims estimate at the expected level as determined by the program's actuary as of fiscal year end.

(3) The governing body of every joint self-insurance program operating under this chapter shall establish and maintain total primary and secondary assets in an amount equal to or greater than the unpaid claim estimate at the eighty percent confidence level as determined by the program's actuary as of fiscal year end.

(4) All joint self-insurance programs authorized by chapter 48.190 RCW shall meet the requirements of both the primary asset test and the total asset test. The governing body of all joint self-insurance programs that do not meet requirements of the total asset test shall notify the state risk manager in writing of the condition. The state risk manager shall require that the program submit a written corrective action plan to the state risk manager within sixty days of notification. Such plan shall include a proposal for improving the financial condition of the self-insurance program and a time frame for completion. The state risk manager shall approve or deny the proposed plan in writing within thirty days of receipt of the final plan submission.

Joint self-insurance programs operating under an approved plan and making satisfactory progress according to the terms of the plan shall remain under supervisory watch by the state risk manager until the terms of the approved plan have been met. Programs under supervisory watch but not making satisfactory progress may be subject to the following requirements:

(a) Increase in frequency of examinations, the cost of which shall be the responsibility of the program;

(b) Submission of quarterly reports;

(c) On-site monitoring by the state risk manager; or

(d) Service of a cease and desist order upon the program.

(5) Failure by the joint self-insurance program to respond or submit a plan to improve the financial condition of the program shall cause the state risk manager to take corrective action, which may include written notification to every member of the joint self-insurance program, the service of a cease and desist order upon the program, and other available remedies necessary to ensure the program operates in a financially sound manner.

(6) All joint self-insurance programs that do not maintain total primary and secondary assets in an amount equal to or greater than unpaid claim estimate at the seventy percent confidence level, as determined by the program's actuary as of fiscal year end, shall be issued a cease and desist order by the state risk manager. Such programs will be considered under a supervisory cease and desist order.

(7) The state risk manager shall evaluate the operational safety and soundness of the program by monitoring changes in liquidity, claims reserves and liabilities, member equity, self-insured retention, and other financial trends over time. Programs experiencing adverse trends may cause the state risk manager to increase frequency of on-site program review and monitoring, including increased communication with the governing body and requirements for corrective plans.

(8) When the state risk manager determines it necessary to analyze the program's soundness and financial safety, the state risk manager may obtain an independent actuarial evaluation to determine the accuracy of the estimate for unpaid

claims liabilities, including the estimate of unallocated loss adjustment expenses. Costs of these services shall be the responsibility of the joint self-insurance program.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-140, filed 4/17/18, effective 5/18/18.]

WAC 200-160-150 Standards for management and operations—Individual rate setting—Nondiscrimination in joint program assessments. (1) Joint self-insurance program assessment formulas shall include all costs including rating for insured and self-insured layers of coverage. Assessment formulas shall be consistent and nondiscriminatory among all members.

(2) This provision shall not be construed to prohibit individual choice of coverage by members from several offered by the joint self-insurance program. The assessment formula, including the insured and self-insured components, shall be consistently applied to reflect the selection from among these choices.

(3) The assessment formula shall be available for review by the state risk manager.

(4) Joint self-insurance programs shall not sell equity, security, or shares in the joint self-insurance program.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-150, filed 4/17/18, effective 5/18/18.]

WAC 200-160-160 Standards for operations—Disclosures. (1) All joint self-insurance programs shall furnish to each new member joining a self-insurance program written statements which describe:

(a) Insurance coverages or benefits currently provided by the program, including any applicable restrictions, limitations, and exclusions;

(b) The method by which the member's annual contribution rates is determined;

(c) The procedure for filing a claim against the joint self-insurance program;

(d) The procedure for a member to request an adjudication of disputes or appeals arising from coverage, claim payment or denial, membership, and other issues; and

(e) General characteristics of the insurance coverage portion of the program.

(2) If any changes are made to subsection (1)(a) through (e) of this section, new written documents must be provided to each member which include changes in their own specific member coverage and annual contribution rate.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-160, filed 4/17/18, effective 5/18/18.]

WAC 200-160-170 Standards for operations—Standards for solvency—Termination provisions. (1) Program terminations. All joint self-insurance programs shall maintain a written plan that provides for the partial or complete termination of the program and for liquidation of its assets upon termination of the program. The termination procedure shall include, but not be limited to, a provision for the settling of all its liabilities for unpaid claims and claim adjustment expenses.

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(2) Member terminations. All joint self-insurance programs shall maintain a written plan that provides for the termination of membership of a member.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-170, filed 4/17/18, effective 5/18/18.]

WAC 200-160-180 Standards for management and operations—Financial plans. (1) All joint self-insurance programs shall maintain a written plan for managing the financial resources of the program. The financial plan shall include:

(a) A procedure for accounting for moneys received, payments made and liabilities of the joint program which complies with generally accepted accounting principles;

(b) An investment policy governing the investments of the program which conforms to the legal requirements applicable to local government members; and

(c) The submission of required documents and audited financial statements to the state risk manager within one hundred twenty days of the program's fiscal year end.

(2) No financial plan of a joint self-insurance program shall permit any loans from primary assets held for payment of unpaid claims at the expected level as determined by an actuary as of fiscal year end.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-180, filed 4/17/18, effective 5/18/18.]

WAC 200-160-190 Standards for management—Standards for contracts—Third-party administrator contracts. Before contracting for third-party administrator professional services, all joint self-insurance programs shall establish and maintain written procedures for contracting with third-party administrators. Entering a contract for services shall not relieve the governing body of the joint self-insurance program of its ultimate governing, managerial, and financial responsibilities. The procedures shall, as a minimum:

(1) Provide a method of third-party administrator selection using a formal competitive solicitation process;

(2) Require a complete written description of the services to be provided, remuneration levels, contract period and expiration date providing for a contract term no greater than five years. The contract may include an additional one year extension to be exercised at the discretion of the joint self-insurance program;

(3) Provide for the confidentiality of the program's information, data, and other intellectual property developed or shared during the course of the contract;

(4) Provide for the program's ownership of the information, data, and other intellectual property developed or shared during the course of the contract;

(5) Provide for the expressed authorization of the joint self-insurance program, consultants to the program, the state auditor, the state risk manager, or their designees, to enter the third-party administrator's premises to inspect and audit the records and performance of the third-party administrator which pertains to the program and to obtain such records electronically when audit travel costs can be eliminated or reduced;

(6) Require the compliance with all applicable local, state, and federal laws;

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(7) Establish a monitoring and acceptance procedure to determine compliance with third-party administrator contract requirements; and

(8) Establish indemnification provisions and set forth insurance requirements between the parties.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-190, filed 4/17/18, effective 5/18/18.]

WAC 200-160-200 Standards for claims management—Claims administration. (1) All joint self-insurance programs shall adopt a written or electronic claims administration manual that includes, as a minimum, the following procedures:

- (a) Claims filing procedures and forms;
- (b) Standards requiring case reserves for each claim be established in the amount of the jury verdict value;
- (c) Standards requiring case reserves be reviewed every ninety days or when reasonably practicable and such review is documented in the claims diary;
- (d) Standards requiring appropriate adjuster workloads;
- (e) Standards requiring claims payment procedures include sufficient internal controls to ensure adequate review and approval by claims management staff;
- (f) Standards requiring file documentation be complete and up-to-date;
- (g) Standards requiring timely and appropriate claim resolution practices;
- (h) Standards requiring opportunities for recoveries be reviewed and documented for each claim;
- (i) Standards requiring compliance with Internal Revenue Service (IRS) rules for 1099-MISC regulations; and
- (j) Standards requiring claims files be audited on the following categories: Staffing, caseloads, supervision, diary, coverage, reserves, promptness of contacts, field investigations, file documentation, settlements, litigation management and subrogation.

(2) All joint self-insurance programs may perform claims administration services on their own behalf or may contract for claims administration services with a qualified third-party administrator, provided all of the specific requirements under subsection (1) of this section are included in the contract.

(3) All joint self-insurance programs shall have a written member coverage appeal procedure that contains, as a minimum, procedures for a member filing an appeal with the joint self-insurance program, including the time limit for filing, a time limit for response, and a provision for an additional level of review.

(4) All joint self-insurance programs shall maintain a financial system that identifies claim and claim adjustment expenses.

(5) All joint self-insurance programs shall provide for the purchase of goods and services to replace or repair property in a manner which will, in the judgment of the governing body of the joint self-insurance program, avoid further damage, injury, or loss of use to a member or third-party claimant.

(6) All joint self-insurance programs shall maintain claim expense reports for all claims made against the joint self-insurance program and its members.

(7) All joint self-insurance programs shall obtain an independent audit of claim reserving, adjusting and payment

procedures every three years at a minimum. The audit shall be conducted by an independent qualified claims auditor not affiliated with the program, its insurers, its broker of record, or its third-party administrator. Such review shall be in writing and identify strengths, areas of improvement, findings, conclusions and recommendations. Such review shall be provided to the governing body and retained for a period not less than six years. The scope of the claims audit shall include claims administration procedures listed in subsection (1) of this section.

(8) The state risk manager may require more frequent claims audits for programs that, in the state risk manager's opinion, are not operationally or financially sound. Failure to obtain the requested independent claims audit when required may result in the procurement of such audit by the state risk manager on behalf of the program. Costs of these services shall be the responsibility of the joint self-insurance program.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-200, filed 4/17/18, effective 5/18/18.]

WAC 200-160-210 Standards for management and operations—State risk manager reports. (1) Every joint property and liability self-insurance program authorized to transact business in the state of Washington shall submit the annual report to the state risk manager.

(2) The annual report to the state risk manager shall require the following information to be submitted in electronic form:

- (a) Audited annual financial statements;
- (b) Actuarial reserve review report on which the net claims liabilities at fiscal year ending reported in the audited financial statements are based;
- (c) Copies of all insurance coverage documents;
- (d) List of contracted consultants;
- (e) Details of changes in articles of incorporation, bylaws, or foundation agreement;
- (f) Details of ongoing services provided by contract to nonmembers;
- (g) List of members added or terminated.

Such reports shall be submitted to the state risk manager no later than one hundred twenty days following the completion of the joint program's fiscal year.

(3) All joint self-insurance programs shall submit quarterly financial reports if, in the estimation of the state risk manager, the financial condition of a program warrants additional quarterly reporting requirements.

(4) Failure to provide required financial reports may result in corrective action by the state risk manager. Such actions may include:

- (a) Increase in frequency of examinations, the cost of which shall be the responsibility of the program;
- (b) On-site monitoring by the state risk manager;
- (c) Service of a cease and desist order upon the program.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-210, filed 4/17/18, effective 5/18/18.]

WAC 200-160-220 Standards for operations—Program changes—Notification to the state risk manager. (1) All joint self-insurance programs shall operate in the same form and manner stated in the program's original application approved by the state risk manager in accordance with RCW

48.190.060(5). Programs shall submit a written request and receive approval from the state risk manager prior to implementing the following proposed program changes:

- (a) Elimination or reduction of stop loss insurance;
- (b) Acceptance of any loans or lines of credit;
- (c) Provision of ongoing services to nonmembers;
- (d) Addition of members of other entity types than those included in original application approved by state risk manager.

(2) The following program changes require written notification to the state risk manager prior to implementing the following changes:

- (a) Increases in retention level;
- (b) Decrease or elimination of insurance limits;
- (c) Initial contract with a third-party administrator, or change in third-party administrator;
- (d) Any change to bylaws;
- (e) Any amendments to the foundation agreement.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-220, filed 4/17/18, effective 5/18/18.]

WAC 200-160-230 Standards for management and operations—Conflict of interest. (1) Every joint self-insurance program shall require the claims auditor, a third-party administrator, the actuary, and the broker of record to contract separately with the joint self-insurance program. Each contract shall require that a written statement be included in the signed contract between the parties providing assurance that no conflict of interest exists.

(2) All joint self-insurance programs shall meet the following standards regarding restrictions on the financial interests of the program administrators:

(a) No member of the board of directors; trustee; a third-party administrator; or any other person having responsibility for the management or administration of a joint self-insurance program or the investment or other handling of the program's money shall:

(i) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument arising out of any transaction to which the program is or is expected to be a party except for salary or other similar compensation regularly fixed and allowed for because of services regularly rendered to the program.

(ii) Receive compensation as a consultant to the program while also acting as a member of the board of directors, trustee, third-party administrator, or as an employee.

(iii) Have any direct or indirect pecuniary interest in any loan or investment of the program.

(b) No consultant or legal counsel to the joint self-insurance program shall directly or indirectly receive or be pecuniarily interested in any commission or other compensation arising out of any contract or transaction between the joint self-insurance program and any insurer or consultant.

(c) Brokers of record for the joint self-insurance programs may receive compensation for insurance transactions performed within the scope of their licenses. The terms of compensation shall be provided for by contract between the broker of record and the governing body, and the amount or percentage of the compensation must be disclosed in writing. Contracts between brokers of record and the governing body of the joint self-insurance program shall include a provision

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that contingent commissions or other form of compensation not specified in the contract shall not be paid to the broker of record as a result of any joint self-insurance program insurance transactions.

(d) No third-party administrator shall serve as an officer or on the board of directors of a self-insurance program.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-230, filed 4/17/18, effective 5/18/18.]

WAC 200-160-240 Standards for operations—State risk manager—Expense and operating cost fees. (1) The state risk manager shall fix state risk manager fees to cover expenses and operating costs of the state risk manager's office in administering chapter 48.190 RCW. Such fees shall be levied against each joint property and liability self-insurance program regulated by chapter 48.190 RCW. Services covered by the state risk manager fees will include program reviews, monitoring and continuing oversight.

(2) The state risk manager fees shall be paid by each joint self-insurance program to the state of Washington, department of enterprise services within sixty days of the date of invoice. Any joint self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee is paid.

(3) A joint self-insurance program that has voluntarily or involuntarily terminated shall continue to pay an administrative fee until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative responsibilities of the joint self-insurance program have been satisfied.

(4) The state risk manager shall assess each prospective joint self-insurance program an initial investigation fee at a rate determined annually by the state risk manager.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-240, filed 4/17/18, effective 5/18/18.]

WAC 200-160-250 Standards for operation—Multi-state operations. Public benefit hospital entity joint self-insurance programs operating in this state and other states must obtain any licenses, permits, and permissions to the extent required by a state prior to commencing operations in that state.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-250, filed 4/17/18, effective 5/18/18.]

WAC 200-160-260 Standards for operations—Appeals of fees. (1) A joint self-insurance program that disagrees with a fee for services issued to it by the state risk manager shall notify the state risk manager in writing within thirty days after receipt of the invoice. The writing shall include the self-insurance program's reasons for challenging the fee and any other information the self-insurance program deems pertinent.

(2) The state risk manager shall review any fee appealed by a joint self-insurance program, together with the reasons for the appeal. Within fourteen days of receipt of notification from the self-insurance program, the state risk manager shall respond in writing to the self-insurance program, either reaffirming the fee or modifying it, and stating the reasons for the decision.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-260, filed 4/17/18, effective 5/18/18.]

WAC 200-160-270 Standards for operations—

Appeals of cease and desist orders. Within ten days after a joint self-insurance program covering property or liability risks has been served with a cease and desist order under RCW 48.190.060 the entity may request an administrative hearing. The hearing provided may be held in such a place as is designated by the state risk manager and shall be conducted in accordance with chapters 34.05 RCW and 10-08 WAC.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-270, filed 4/17/18, effective 5/18/18.]

WAC 200-160-280 Standards for contracts—Competitive solicitation standards for consultant contracts.

Every approved joint self-insurance program operating within the requirements of chapter 48.190 RCW shall use a formal competitive solicitation process in the selection of consultants which complies with the laws of this state and the requirements of other states in which it operates. The process shall provide an equal and open opportunity to qualified parties and shall culminate in a selection based on preestablished criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts. Bid responses, solicitation documents, and evidence of publication shall be retained in accordance with laws governing public records and shall be available for review by the state risk manager.

[Statutory Authority: RCW 48.190.040 and 43.19.011. WSR 18-09-086, § 200-160-280, filed 4/17/18, effective 5/18/18.]