

# Chapter 137-70 WAC

## REIMBURSEMENT FOR CRIMINAL JUSTICE COSTS AND CONTINGENCY PLAN EXPENSES

### WAC

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**WAC 137-70-010 Purpose.** Chapter 72.72 RCW creates an institutional impact account, in the general fund, for the purpose of reimbursing political subdivisions for criminal justice costs they incur directly as a result of crimes committed by adult offenders residing in correctional institutions, and for expenses they incur directly as a result of their providing personnel and material pursuant to a contingency plan. The purpose of these rules is to implement that statute and to set forth the procedures under which these funds will be distributed.

[Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-010, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-010, filed 8/16/82.]

**WAC 137-70-020 Definitions.** As used in this chapter, the following words shall have the following meanings:

- (1) "Secretary" shall mean the secretary of the department of corrections or the secretary's designee.
- (2) "Deputy secretary" shall mean the deputy secretary of the department, or the deputy secretary's designee.
- (3) "Contingency plan" shall mean a plan developed under RCW 72.02.150 by the secretary with representatives of political subdivisions for dealing with disturbances at a state penal facility.
- (4) "Department" shall mean the department of corrections.
- (5) "Inmate" shall mean an individual sentenced to the custody of the department under state law and an individual transferred to the custody of the department from another state or the federal government.
- (6) "Institution" and "penal facility" shall mean any facility identified in RCW 72.01.050(2) and any community residential program under the department's jurisdiction operated pursuant to chapter 72.65 RCW.
- (7) "Political subdivision" shall mean any city, town, or county.
- (8) "Administrator" shall mean the administrator of the department's contracts and legal affairs section, or the administrator's designee.
- (9) All references to the singular shall include the plural unless noted otherwise.

[Statutory Authority: RCW 72.01.090. 03-21-088, § 137-70-020, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.72.040. 87-03-(6/5/07)

029 (Order 86-07), § 137-70-020, filed 1/14/87; 84-11-033 (Order 84-06), § 137-70-020, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-020, filed 8/16/82.]

**WAC 137-70-030 Eligibility.** (1) Reimbursement for criminal justice costs shall be available to any political subdivision which incurs an incremental cost, reimbursable under this chapter, which is specifically and exclusively attributable to the criminal behavior of an inmate incarcerated in or who has escaped from an institution. For the purposes of this chapter parolees or probationers are deemed to be inmates only if they are assigned to an institution. Reimbursement shall be made only with respect to new crimes and shall not be made for violations of the conditions of parole or probation and the resulting revocation hearings.

(2) Reimbursement for contingency plan expenses, including costs incurred under chapter 41.26 RCW, if such costs are the direct result of physical injury sustained in the implementation of a contingency plan, shall be available to any political subdivision which incurs such expense in providing personnel and/or material, when requested by the secretary or the secretary's designee, to carry out the provisions of a duly adopted contingency plan. Provided, however, reimbursement for costs incurred under chapter 41.26 RCW will not be made:

(a) Unless the physical injury occurs within the walls or other perimeter of the secured area, if the secretary identifies in the contingency plan the prison walls or other perimeter of the secured area; or

(b) Unless the physical injury results from providing assistance requested by the secretary or the secretary's designee which is beyond the description of the assistance contained in the contingency plan, if the secretary does not identify the prison walls or other perimeter of the secured area; or

(c) If the physical injury results from conduct which either is not requested by the secretary or the secretary's designee, or is in violation of orders by superiors of the local law enforcement agency.

[Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-030, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-030, filed 8/16/82.]

**WAC 137-70-040 Reimbursable impacts/rates—Criminal justice costs.** Reimbursement shall be restricted to fully documented law enforcement, prosecutorial, judicial and jail facility costs, as defined herein, at the actual costs of the submitting jurisdiction, not to exceed the following rates:

(1) Law enforcement costs are costs incurred by any political subdivision in apprehending escapees, in investigating crimes committed by state institutional inmates including pretrial investigations within or outside the institution, or in providing security for inmates outside the jail facility. These

costs are reimbursable at the following rates: \$23.96 per hour.

(2) If an escape or investigation results in the filing of a criminal complaint, the impacted political subdivision shall be entitled to attorney costs associated with the prosecution and/or defense of the filed action. These costs are reimbursable at the following maximum rates: \$57.32 per hour.

(3) Reimbursement for judicial costs incurred as a result of the filing of a criminal complaint shall be limited to judges, court reporters, transcript typing or preparation, witness fees and jury fees. These costs are reimbursable at the following maximum rates:

(a) Judges - \$57.32 per hour. These costs shall include the services of court clerks and bailiffs.

(b) Court reporters - \$24.71 per hour.

(c) Transcript typing services - \$4.79 per page.

(d) Expert witnesses - \$80.43 per hour.

(e) Witness fees/nonexpert - Jury fees - Reimbursable at the rate established by the local governmental legislative authority up to a maximum of \$36.11 per day.

(4) Jail facility costs resulting from the escape or criminal complaint shall be reimbursed at the rates established by OFM.

(5) Coroner - Where an inmate dies as a result of criminal activity of another inmate, coroner costs incurred by a local jurisdiction may be reimbursed up to a maximum amount established by the department as reasonable.

(6) Medical costs - Where an inmate is in the custody of a local jurisdiction as a result of a crime committed while incarcerated in a state institution, extraordinary medical costs, beyond the routine medical services of the jail, may be reimbursed at the discretion of the department. Counties, cities, and towns shall notify the department prior to incurring expenses for extraordinary medical expenses, where practicable, to allow the department an opportunity to provide the necessary medical care directly.

[Statutory Authority: RCW 72.01.090, 72.72.040, 06-02-002, § 137-70-040, filed 12/21/05, effective 1/21/06. Statutory Authority: RCW 34.04.025, 89-12-003 (Order 89-04), § 137-70-040, filed 5/25/89. Statutory Authority: RCW 72.72.040, 87-22-064 (Order 87-04), § 137-70-040, filed 11/3/87; 87-14-044 (Order 87-02), § 137-70-040, filed 6/30/87; 87-03-029 (Order 86-07), § 137-70-040, filed 1/14/87; 86-02-053 (Order 85-13), § 137-70-040, filed 12/31/85. Statutory Authority: Chapter 72.72 RCW, 85-12-020 (Order 85-08), § 137-70-040, filed 5/29/85, effective 7/1/85. Statutory Authority: RCW 72.72.040, 84-11-033 (Order 84-06), § 137-70-040, filed 5/14/84. Statutory Authority: Chapter 34.04 RCW, 83-24-058 (Order 83-13), § 137-70-040, filed 12/6/83. Statutory Authority: Chapter 72.72 RCW, 82-17-044 (Order 82-10), § 137-70-040, filed 8/16/82.]

**WAC 137-70-050 Limitation of funds—Criminal justice costs.** Claims for reimbursement under WAC 137-70-040 shall be paid in the order they are received until the legislative appropriation for the biennium is fully expended. If the impact fund is fully expended before the end of the biennium, political subdivisions should continue to submit claims for the purpose of developing future impact account funding requests.

[Statutory Authority: RCW 72.72.040, 84-11-033 (Order 84-06), § 137-70-050, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW, 82-17-044 (Order 82-10), § 137-70-050, filed 8/16/82.]

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**WAC 137-70-055 Reimbursable impacts—Contingency plan expenses.** Reimbursement shall be restricted to applicants eligible under WAC 137-70-030(2) for fully documented expenses incurred directly as a result of their providing personnel and/or material pursuant to a contingency plan.

[Statutory Authority: RCW 72.72.040, 84-11-033 (Order 84-06), § 137-70-055, filed 5/14/84.]

**WAC 137-70-057 Funds—Contingency plan expenses.** Reimbursement under WAC 137-70-055 shall be made solely from the institutional impact account from funds available in that account. If full reimbursement would exceed available funds, the secretary will request the legislature to appropriate sufficient funds to enable the secretary to make full reimbursement, and if so appropriated, the secretary will make such reimbursement.

[Statutory Authority: RCW 72.72.040, 84-11-033 (Order 84-06), § 137-70-057, filed 5/14/84.]

**WAC 137-70-060 Billing procedure.** (1) All requests for reimbursement under this chapter must be submitted on a standard Washington State Invoice Voucher Form, A-19, in triplicate, showing the total reimbursement requested, accompanied by a completed request for reimbursement form issued by the department. The vouchers and form should be mailed or delivered to the Department of Corrections, Contracts and Legal Affairs, P.O. Box 41114, Olympia, Washington 98504-1114.

(2) The department may require the requesting political subdivision to submit such other documentation and information the department deems necessary to further support or explain the request.

[Statutory Authority: RCW 72.01.090, 07-12-073, § 137-70-060, filed 6/5/07, effective 7/6/07; 03-21-088, § 137-70-060, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.72.040, 85-07-017 (Order 85-04), § 137-70-060, filed 3/11/85; 84-11-033 (Order 84-06), § 137-70-060, filed 5/14/84; 82-17-044 (Order 82-10), § 137-70-060, filed 8/16/82.]

**WAC 137-70-070 Department review.** (1) All requests for reimbursement shall be reviewed by the administrator.

(2) The administrator shall approve or disapprove the requests for payment. If a request is disapproved in total or in part, the administrator shall notify the requesting political subdivision in writing, setting forth the reasons for disapproval.

(3) The administrator's decision shall be final unless appealed to the department's impact appeals panel within twenty days after a political subdivision receives notice of disapproval. The impact appeals panel shall be composed of the deputy secretary, prisons division and the deputy secretary, administrative services division, or his/her designee.

(4) An appeal from the administrator's decision disapproving a political subdivision's request for reimbursement must be in writing and must set forth the reasons why the political subdivision believes its request should be approved. The appeal shall be addressed to the Impact Appeals Panel, Department of Corrections, P.O. Box 41114, Olympia, WA 98504-1114, attention: Contracts and Legal Affairs.

(5) The decision of the impact appeals panel shall be deemed to be the department's final administrative action with respect to the appeal.

(6/5/07)

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-70-070, filed 6/5/07, effective 7/6/07; 03-21-088, § 137-70-070, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.72.040. 87-03-029 (Order 86-07), § 137-70-070, filed 1/14/87; 85-07-017 (Order 85-04), § 137-70-070, filed 3/11/85; 84-11-033 (Order 84-06), § 137-70-070, filed 5/14/84; 82-17-044 (Order 82-10), § 137-70-070, filed 8/16/82.]

**WAC 137-70-080 Implied consent to audit.** By submitting requests for reimbursement, the requesting political subdivision agrees to:

- (1) Maintain records which would support the request made for a period five years after the date of such request; and
- (2) Make such records available for review and/or audit by the department if requested by the secretary or the secretary's designee.

[Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-080, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-080, filed 8/16/82.]