



## Ohio Administrative Code

### Rule 5120:1-3-01 Contracting and payment reimbursement for offenders placed in halfway houses.

Effective: April 15, 2019

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#### (A) General policy

The department of rehabilitation and correction ("department"), through the division of parole and community services ("division"), may enter into the contracts for the housing of specific classes of eligible offenders through licensed public and private facilities (hereinafter "licensed facility" or "facilities").

(1) Such licensed facilities shall comply with all relevant standards of the federal, state and local building, fire, health and safety authorities.

(2) Any licensed facility contracting with the division shall be required to maintain accurate financial records in a manner consistent with generally accepted accounting principles and procedures, which shall be available upon reasonable notice for inspection and audit by representatives of the division. Such records shall disclose the amounts of all income received by the licensed facility and the sources thereof, and the amounts and purposes of all expenditures of the licensed facility. Additionally, each licensed facility contracting with the division shall provide the division with copies of a complete annual audit report of its financial activities prepared by a reputable certified public accountant licensed by the state of Ohio and any other financial data as requested by the division. All licensed facilities contracting with the division shall comply with the laws of the state of Ohio, including, without limitation, sections 109.23 to 109.33 of the Revised Code.

#### (B) Purpose and applicability

This rule sets forth standards for determining the allowable costs of licensed facilities contracting with the division of parole and community services. The standards are for the purpose of cost determination and are not intended to identify the circumstances or indicate the extent of state participation in the financing of any one program. No provision for profit or other increment above the cost is intended.



(C) Basic guidelines: To be allowable under an agency program, cost must meet the following general criteria:

- (1) Be necessary and reasonable for proper and efficient administration of the agency program and be allowable thereto under these rules.
- (2) Be authorized or not prohibited under state or local laws or regulations.
- (3) Conform to any limitations or exclusions set forth in these rules, federal or state laws, or other governing limitations as to types or amounts of cost items.
- (4) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

(D) Allowable costs

(1) Accounting. The cost of establishing and maintaining accounting and other information systems required for the management of agency programs is allowable.

(2) Advertising. Advertising media include newspapers, magazines, radio and television programs, direct mail, trade papers and the like. The advertising costs allowable are those which are solely for:

- (a) Recruitment of personnel required for the agency program.
- (b) Solicitation of bids for the procurement of goods and services required.
- (c) Other purposes specifically provided for in the agency contract.
- (d) Cost of solicitation mailing for the purpose of raising funds.

(3) Audit service. The cost of audits necessary for the administration and management of functions related to agency programs is allowable.



(4) Bonding. Costs of premiums on bonds covering employees who handle agency funds are allowable.

(5) Communications. Costs incurred for telephone calls or services, internet services, telegraph and postage are allowable.

(6) Compensation for personal services.

(a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the agency contract.

(b) Payroll and distribution of time. Amounts charged to agency programs for personal services, regardless of whether treated as direct or indirect cost, will be based on payrolls documented and approved in accordance with generally accepted practice of the state or local agency.

(7) Depreciation

(a) Agencies may be compensated for the use of buildings, capital improvements and equipment through depreciations. The computation of depreciation be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. In addition, the computation will also exclude the cost of land. Depreciation on idle facilities is not allowable.

(b) Adequate property records must be maintained and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets.

(c) No depreciation may be allowed on any assets that would be considered as fully depreciated.

(8) Employee fringe benefits. Cost identified under paragraphs (D)(8)(a) and (D)(8)(b) of this rule are allowable to the extent that total compensation for employees is reasonable as stated in paragraph (D)(6) of this rule.



(a) Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave and the like if they are provided pursuant to an approved leave system and the cost thereof is equitably allocated to all related activities.

(b) Employee benefits in the form of employer's contribution of expenses for social security, employee's life and health insurance plans, unemployment insurance coverage, worker's compensation insurance, pension plans, severance pay and the like, provided such benefits are granted under approved plans.

(9) Legal expenses. The cost of legal expenses required in the administration of agency programs is allowable.

(10) Maintenance and repair. Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition are allowable.

(11) Materials and supplies. The cost of materials and supplies necessary to carry out the agency program is allowable.

(12) Organizational memberships, subscriptions and professional activities.

(a) Memberships. The cost of memberships of the licensed facility in civic, business, technical and professional organizations is allowable provided that:

(i) The benefit from the membership is related to the agency program;

(ii) The expenditure is for agency membership;

(iii) The cost of the membership is reasonably related to the value of the services or benefits received; and



(iv) The expenditure is not for membership in an organization, which devotes a substantial part of its activities to influencing legislation.

(b) Reference material. The cost of books, subscriptions to civic, business, professional and technical periodicals is allowable when related to the agency program.

(c) Meetings and conferences. Cost are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the agency program.

(13) Payroll preparation. The cost of preparing payrolls and maintaining necessary related wage records is allowable.

(14) Printing and reproductions. Costs for printing and reproduction services necessary for agency administration, including but not limited to forms, reports, manuals and informational literature are allowable.

(15) Taxes. Taxes which the agency is legally required to pay are allowable.

(16) Training and education. The cost of in-service training customarily provided for employee development which directly or indirectly benefit agency programs and offenders is allowable.

(17) Transportation. Costs incurred for freight, cartage, express, postage and other transportation costs relating either to goods purchased, delivered, or moved from one location to another is allowable.

(18) Travel. Travel costs are allowable for expenses or transportation, lodging, subsistence and related items incurred by employees who are in travel status on official business incident to the agency program.

(19) Accreditation cost. Accreditation cost is allowable in the year and for the amount vouchered. Accreditation costs are only allowable on a three-year basis.

(20) Costs incurred to satisfy minimum standards of the Prison Rape Elimination Act (PREA), 42



United States Code Chapter 147, effective September 4, 2003.

(E) Costs allowable with approval of the Ohio department of rehabilitation and correction. Under this paragraph, "approval" means written approval received from the division of parole and community services prior to incurring any of the following costs:

(1) Building space and related facilities. The cost of space in privately or publicly owned buildings used for the benefit of the agency program is allowable subject to the conditions set forth below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality.

(a) Rental cost. The rental cost of space in a privately owned building is allowable when specifically approved.

(b) Maintenance and operation. The costs of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alteration and the like; are allowable to the extent they are not otherwise included in rental or other charges for space when specifically approved.

(c) Occupancy of space under rental purchase or a lease with option to purchase agreement. The cost of space procured under such arrangement is allowable when specifically approved.

(2) Insurance and indemnification.

(a) Contributions to a reserve for a self-insurance program approved by the department of rehabilitation and correction are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been purchased to cover the risks.

(b) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor by insurance, such as losses not covered spoilage, breakage, and disappearance of small hand tools which occur in the ordinary course of business are allowable.



(3) Professional services. Cost of professional services rendered by individuals or organizations not a part of the licensed facility is allowable provided such costs are reasonable. All such costs are subject to approval by the division of parole and community services.

(4) Interest. Reasonable interest on borrowing, however represented, is allowable when specifically approved.

(F) Unallowable costs.

(1) Bad debts. Any losses arising from uncollectable accounts and other claims and related costs, are unallowable.

(2) Contingencies. Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

(3) Contributions and donations are unallowable.

(4) Entertainment. Costs of amusements, social activities, and incidental costs relating thereto, such as for meals, beverages, lodging, rental transportation, and gratuities, are unallowable when they are directly for the benefit of employees of the agency.

(5) Fines and penalties. Costs resulting from violations of federal, state, or local laws or regulations, are unallowable.

(6) Expansion and development. Reserves for future expansion and development are unallowable.

(7) Rearrangement and alteration. Costs incurred for rearrangement and alteration of facilities that materially increase the value or useful life of the facilities are unallowable.

(8) Acquisition cost of all depreciable assets are unallowable.

(9) Costs for managing federal grants are unallowable.



(10) Mortgage payments which accrue to the principal are unallowable.

(11) All costs related to the administration and provision of services to other than eligible offenders are unallowable.

(12) If a licensed facility receives subsidy funds under section 5149.30 to 5149.37 of the Revised Code, the costs related to those funds are unallowable.

(13) The licensed facility's cost for residential services shall be reduced by the amount of the subsidies received under sections 5149.30 to 5149.37 of the Revised Code if such subsidies are used to offset residential costs.

(14) Individual membership dues are unallowable as provided in section 9.65 of the Revised Code.

(15) Legal expenses arising from the initiation, prosecution or appeal of any civil action filed against the state of Ohio, the department or any of its employees are unallowable.

(16) Compensation paid by the licensed facility to members of its board of directors or other governing body are unallowable.

(G) Computation of per diem rate

(1) In determining the amount of an agency's total adjusted costs, (allowable expenses) paragraphs (D) to (F) of this rule, must be followed. The total adjusted cost (TAC) is the sum of all allowable costs.

(2) When determining an agency's operating surplus, subtract the total revenue received during the past twelve months by the agency from the agency's total cost for the same time period.

(3) To compute one hundred per cent of an agency's average daily per capita cost with its facility at full occupancy, the procedure outlined below should be followed:

(a) Subtract the amount derived in paragraph (G)(2) of this rule (operating surplus) from the total





adjusted cost paragraph (G)(1) of this rule to determine the agency's total includable costs ("TIC").

(b) Compute the contract per diem rate by using this formula:

Total includable costs/Total mandays = Contract per diem rate

(4) The licensed facility's average daily per capita cost at full occupancy shall not exceed the actual cost of the previous twelve months plus any inflation factor that may be deemed necessary by the division.

#### (H) Contracts

(1) The division of parole and community services may enter into written contracts with licensed facilities to provide services to eligible offenders. Such contracts shall provide for the method of payment by the department to the licensed facility.

(2) The execution of a written contract between the division of parole and community services and a licensed facility stating specifically the obligations of each party shall be a condition precedent to any obligation upon the department to make any payment to the licensed facility for any services rendered to an eligible offender by the licensed facility.

(3) As a condition precedent to the execution of any contract pursuant to paragraph (H)(1) of this rule the board of trustees or other governing body of each licensed facility shall submit to the division of parole and community services a document designating the person who is empowered to enter into contracts on behalf of such licensed facility, and by whose signature such board of trustees or other governing body agrees to be bound.

(4) Contract negotiation materials for state financial assistance to establish, maintain, and operate a licensed facility shall be submitted to the division of parole and community services. These materials shall contain proposed budget expenditures for the total cost of operating the licensed facility for one year. Licensed facilities agree to operate the program as outlined in the submitted contract negotiation materials.



(I) Payment procedure

(1) Each licensed facility shall submit to the bureau of community sanctions in the division of parole and community services by the tenth working day of each month a separate report in such form as required by the bureau of community sanctions, for each class of eligible offender specifying for the preceding month the total mandays for each class of eligible offenders.

(2) The department, through the bureau of community sanctions in the division of parole and community services will disburse funds to each licensed facility according to the contract. The division may adjust the contract amount or terminate the contract with licensed facilities that fail to meet the mutually agreed upon terms of the contract, or fail to maintain average bed utilization as determined in the contract.

(3) A licensed facility may hold a bed for an eligible offender who is in jail or a hospital for a period not to exceed five days if the supervising authority notifies the licensed facility that the eligible offender will return to the licensed facility.

(J) General requirements

(1) The licensed facility shall require each offender to execute a document giving the employees of the licensed facility and the adult parole authority permission to dispose of the offender's property in the event of death or arrest or otherwise specifying what the licensed facility or the adult parole authority should do with the property in such event.

(2) The document executed under paragraph (J)(1) of this rule shall authorize the licensed facility and the adult parole authority to dispose of an offender's property in any manner that the facility and authority consider appropriate if the offender absconds supervision for longer than fourteen consecutive calendar days.