



DEPARTMENT OF CORRECTIONS

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Memorandum

To: County Commissions
County Sheriffs

From: Rhonda Schaffer, DOC, Administrative and Financial Services Division
Colonel Mike Tooley, DOJ, Montana Highway Patrol *MTT* *JS*

Date: 10/12/2012

Re: County Jail Contract and Per Diem Rate Calculation Template

Attached you will find a Per Diem Rate Calculation template to be used by all Counties to determine the daily per diem rate to house offenders in their County detention center. This document was approved by the County Jail Working Committee that was made up of representatives from MACO, MSPOA, Cascade and Fergus County Commissions, the Department of Corrections, and the Department of Justice, Montana Highway Patrol.

It was the intent of the Working Committee to develop an acceptable form/format that is easy to complete and provides a reasonable amount of information to substantiate and supplement the budgetary information provided by the County. To that end, this form only requires a few budgetary numbers and a couple minor calculations to arrive at the final rate.

In addition, each budget entry (A, B, C, & D) includes an example of the items that *could* be included in the respective field. However, this is not an "all inclusive" listing. It is merely intended to provide direction for the County. The County can then determine which financial expenses should reasonably be included under each budget entry field.

One of the primary factors behind this form/format is 7-32-2242, MCA. This statute [generally] addresses establishment and agreement of a confinement rate. Specifically, subsection 2 of this statute reads as follows:

(2) If a person is confined in a detention center by an arresting agency not responsible for the operation of the detention center, the costs of holding the person in confinement must be paid by the arresting agency *at a rate that is agreed upon by the arresting agency and the detention center and that covers the reasonable costs of confinement, excluding capital construction costs*, except as provided in [7-32-2245](#) or subsection (2)(b) of this section."

We have italicized and bolded particular wording in this paragraph. This wording has been the root of all per diem rate discussions. What does it mean? This statute does not provide a definition of “reasonable” costs. It is left up to the County and the contracting agency to agree upon, which was obviously problematic.

Therefore, with the attached Per Diem Rate Calculation document, both parties (County/State) now have greater direction with regards to “reasonable costs”, although we all recognize it’s not possible to capture every possible cost in this one document. Instead, the document identifies many common expenditure categories (Attachment 1) that are frequently and consistently used by all Counties in conjunction with the state-wide Budgetary Accounting & Reporting System (BARS) utilized by all Counties. As with the examples cited under each budget entry, this list of operating costs should not be considered “all inclusive.” However, it would be in both parties best interests if this attachment included a *majority* of the most frequently used expenditures and their designated BARS code. So, this document will likely require modification in the near future in order to capture additional and/or more appropriate expenditures/codes for inclusion on this list.

As agreed to by members of the Working Committee, the State and the Counties will work cooperatively with regard to funding of Per Diem rate. Therefore, these contracts and the established per diem rate will be in effect for two years, in conjunction with the legislative biennium. During the Executive Planning Process (EPP), and prior to submission of budget requests, the state will contact each county to obtain an estimated per diem rate for the upcoming biennium. This information will be used to support budget requests for future County Jail Hold agreements. Each County will be required to submit new Per Diem Rate Calculation Worksheets after completion of the Legislative session. Contract amendments will be issued, as necessary, to amend the Per Diem Rates and/or document other contract changes.

In addition, we will be forwarding the standard contract shell. This document is very similar to those used in previous years, although updates have been made that include general grammatical/format changes and changes to the Indemnification and Insurance language as suggested by County Attorney’s and the Montana Municipal Insurance Authority (MMIA). This contract will be routed for signatures from all parties after receipt and acceptance of the Per Diem Rate Calculation Worksheet. Counties that do not operate their own detention facility and contract with another County to hold inmates on their behalf, will be reimbursed for state inmates at the daily per diem rate established by the County operating the detention facility.

The Department will be hosting a meeting on www.gotomeeting.com on October 30 at 1:30pm to demonstrate the Per Diem Calculation worksheet. Please email Carolyn Blasch at cblasch@mt.gov to RSVP a spot for this meeting. If you are not able to attend via www.gotomeeting.com, please email or call 444-6432 and she will email you a copy of the presentation and phone number to call in.

If you should have any questions regarding these documents, please contact April Grady (444-4941 agrady@mt.gov).

Thank you in advance for your cooperation!

Attach: Per Diem Rate Calculation Worksheet