



ADMINISTRATIVE RULES OF MONTANA



17.58.341 REIMBURSABLE COSTS

- (1) Claims by an owner or operator for services provided by a consultant/contractor, or subcontractor, including services of its employees, must be categorized into standard codes according to the list of codes maintained by the board. This requirement does not apply to any service provided by an individual or remediation activity that does not closely approximate one of the standard categories in the board's list of codes.
- (2) A consultant/contractor/subcontractor may file with the board, and amend, not more than once a year (unless further amendment is approved by the board staff), the labor and equipment hourly rates and remediation supply costs it bills clients in Montana for the remediation services reimbursed from the fund. The rate schedules and amendments must be maintained in confidence by and accessible only to the board staff, as the consultant's expectation of privacy is reasonable and outweighs the merits of public disclosure.
- (3) The board staff shall calculate the industry standard once a year after receipt of labor, equipment, and material schedules from companies whose invoices the board frequently reviews and that have been filed in a number sufficient for a meaningful statistical analysis. In calculating the industry standard, the board staff shall compute a range of allowable rates for each code listed in the board's consultant/contractor code list, which will be the mean rate for each code plus the standard deviation, not to exceed 10% of that mean. The board staff shall then notify each filing firm whether its rates exceed the range of allowable rates, and if so, by how much. The amount by which a consultant's rate for a particular code exceeds the range of allowable rates will be presumed unreasonable.
- (4) Board staff may request a detailed explanation of rate structures when a submitted rate appears to vary significantly from those submitted by other consultants/contractors/subcontractors for the same code. Board staff may refuse to use rates that significantly vary from similar rates submitted by others, rates from persons who have not submitted claims for reimbursement, rates from persons who have not submitted proper documentation for claim reimbursement, and other rates not deemed acceptable by the board.
- (5) A consultant/contractor/subcontractor who has not filed its schedule of rates must submit its invoices for services formatted in accordance with (1). Any rates which exceed the range of allowable rates will be presumed unreasonable.
- (6) Any presumption in this rule may be overcome by presenting clear and convincing evidence to the board that the presumption should not apply, in accordance with the procedure set forth in ARM 17.58.336(6).
- (7) Copies of the list, which establishes categories and codes of consultant/contractor/subcontractor services, may be obtained from the board. The list must explain the typical duties to be

performed. The consultant/contractor/ subcontractor must be reimbursed labor costs billed on a time basis, and hourly labor costs for personnel time may not be for more than the minimum appropriate level of skill needed to perform a particular task.

- (8) The board staff shall calculate the reasonable cost for department standard plans and standard reports and board standard remediation tasks once a year from requested costs received from companies in a quantity sufficient for a meaningful statistical analysis. The calculation must use the requested costs from the prior five years. In calculating the reasonable costs, the board staff shall compute a range of allowable costs for each standard document in the department's standard corrective action plans and reports lists and board tasks, which will be the mean rate for each standard plus the standard deviation, not to exceed 10% of that mean. The board staff shall then publish the reasonable cost reimbursement for the standard plans and reports on the board web site. The amount by which a consultant claim for a particular standard document exceeds the range of allowable rates will be presumed unreasonable.

Authorizing statute(s): 75-11-318, MCA

Implementing statute(s): 75-11-318, MCA

History: NEW, 1993 MAR p. 2678, Eff. 11/11/93; TRANS, from DHES, and AMD, 1996 MAR p. 3125, Eff. 12/6/96; AMD, 1999 MAR p. 2279, Eff. 10/8/99; AMD, 2011 MAR p. 377, Eff. 3/25/11.