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Amendment to Parameters and Guidelines

Penal Code Section 679.02, Subdivision (a)(12)

Statutes 1995, Chapter 411

Crime Victim's Rights

09-PGA-04 (05-PGA-28, CSM-96-358-01)

The January 29, 2010 amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement

Reimbursement for this program ends on July 27, 2009

I. Summary of the Source of the Mandates

Chapter 411, Statutes of 1995, which added Penal Code section 679.02, subdivision (a)(12).

II. Commission on State Mandates Decision

On February 27, 1997, the Commission determined that the requirements of Penal Code section 679.02, subdivision (a)(12), as added by Chapter 411, Statutes of 1995, required local agencies to implement a new program or higher level of service in an existing program within the meaning of section 6, Article XIII B of the California Constitution and Government Code section 17514, by requiring district attorneys to:

- Notify the victim of a violent felony, as defined in Penal Code section 667.5, or in the event of a homicide, the victim's next of kin, of a pending pretrial disposition before a change of plea is entered before a judge, or if it is not possible to notify before the change of plea is entered before a judge, as soon as possible.
- On request of the victim, to notify the victim of any felony of a pending pretrial disposition, as specified.

III. Eligible Claimants

Any county or city and county.

IV. Period of Reimbursement

Statutes 2009-2010, 4th Extraordinary Session, chapter 12 (Assem. Bill No. 12 (ABX4 12)), effective July 28, 2009, repealed the state-mandated activities that imposed a reimbursable state mandate on county district attorneys. Therefore, reimbursement for this program ends on July 27, 2009.

The January 29, 2010 amendment is effective beginning with claims filed for the July 1, 2005 through June 30, 2006 period of reimbursement.

Actual costs for one year are to be included in each claim. All claims for reimbursement of costs for the period July 1, 2009 through July 27, 2009 shall be submitted within 120 days from the date on which the State Controller issues revised claiming instructions, or by February 15, 2011.

If total costs for a given fiscal year do not exceed \$1000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

V. Reimbursable Costs

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

A. Scope of Mandate

Any county or city and county shall be reimbursed for the costs to notify the victims of specified violent felonies, or in the event of a homicide, the victim's next of kin, of a pending pretrial disposition, or to notify the victim of any felony of a pending pretrial disposition upon request of the victim.

B. Reimbursable Components

For each eligible claimant, all direct and indirect costs of labor, supplies, and services for the following components are reimbursable:

1. One-time Start-up Costs

Costs to develop, or update and adopt, internal policies and procedures to fulfill the requirements of Penal Code section 679.02, subdivision (a)(12), (A), (B), and (C).

2. On-going Costs - Victim Notification

Costs to notify, by any reasonable means available, the victim of a specified violent felony, or in the event of a homicide, the victim's next of kin, of a pending

pretrial disposition, or to notify the victim of any felony of a pending pretrial disposition upon the request of the victim (generally, this requirement can be accomplished with a form letter).

VI. Claim Preparation

Each claim for reimbursement pursuant to this mandate must be timely filed and provide documentation in support of the reimbursement claimed for this mandate.

Claim detail should include the following:

A. Employee Salaries and Benefits

Claimed reimbursement for employee costs should be supported by the employee's name, classification, productive hourly rate, fringe benefit amount, hours worked, and a brief description of the mandated functions performed. In lieu of actual time, the average time devoted to each mandated activity may be claimed if supported by a documented time study.

B. Services and Supplies

List the cost(s)/price(s) for materials, services, and supplies which have been purchased, leased, consumed or expended for the purpose of this mandate. Purchases made shall be claimed at the actual price after deducting for all cash discounts, rebates, and allowances received by the claimant.

C. Travel Expenses

Mileage, per diem, lodging, public carrier charges, and other employee travel costs are reimbursable in accordance with the rules of the local jurisdiction. Provide name(s) of traveler(s), purpose of travel, mode of travel, inclusive travel dates, destination point(s), and costs.

D. Contract Services

Contracted services costs are reimbursable to the extent that the function(s) performed requires special skills, knowledge, or staffing that is not readily available from claimant's staff. Provide the name(s) of contractor(s) who performed the services. Describe the functions performed by each contractor which relate to the mandate. Use of contract services must be justified by the claimant.

E. Fixed Assets

List the cost of fixed assets that have been acquired specifically for the purposes of this mandate. If a fixed asset is utilized in some way not directly related to the mandated program, only the pro-rata portion of the asset which is used for purposes of the mandated program is reimbursable.

F. Allowable Overhead Costs

Local agencies have the option of using 10 percent of direct labor excluding fringe benefits as indirect costs or preparing a departmental Indirect Cost Rate Proposal. If the local agency elects to prepare an Indirect Cost Rate Proposal, the Proposal must be prepared in accordance with the Office of Management and Budget Circular A-87

(OMB A-87) or subsequent update. If more than one department is claiming indirect costs for the mandated program, each department must have its own indirect cost rate proposal.

VII. Record Retention

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section V, must be retained during the period subject to audit. If the Controller has initiated an audit during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VIII. Offsetting Savings And Other Reimbursement

Any offsetting savings the claimant experiences as a direct result of this statute must be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source (e.g., service fees collected, federal funds, other state funds, etc.) shall be identified and deducted from this claim.

IX. Required Certification

An authorized representative of the claimant will be required to provide a certification of the claim, as specified in the State Controller's claiming instructions, for those costs mandated by the State contained therein.

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code