

COVID-19: “Hold Harmless” DIRECTIVE

Frequently Asked Questions (FAQ)

Revised May 5, 2020

Purpose:

The purpose and intent of the COVID-19 “Hold Harmless” Directive FAQ is to provide stakeholders, HSD staff, and service providers, guidance and clarity on the impacts this directive has on contract agreements, amendments, new base calculations, and payments.

Question 1: What does “Hold Harmless” mean for Line Item Reimbursement (LIR) contracts?

“Hold Harmless” for LIR contracts means that service providers can shift more than 10% of a line item amount without a contract amendment during this time to minimize delays in payments in response to COVID-19.

Service providers may shift costs between personnel and operating to meet agency/program needs accordingly. Although there may be shifts between line items, there should be minimal changes to the LIR contract invoices.

Question 2: What does “Hold Harmless” mean for Unit Cost Reimbursement (UCR) contracts?

“Hold Harmless” for UCR contracts means minimal/no risks involved in adjusting and/or modifying timelines. As an example, an agency may have a timeline for service deliverables on a monthly or quarterly basis, but because of the COVID-19 response, that timeline may be delayed. There will be no penalty to the service providers for adjusting the timeline to meet their deliverables.

Question 3: What does “Hold Harmless” mean for Outcome Based Reimbursement (OBR) contracts?

OBR contracts reimburse for:

1. contracted monthly/quarterly earned performance outcomes, or
2. a monthly allotted base payment, which is usually 80% of the total contract amount.

In response to COVID-19, “Hold Harmless” means that HSD service providers may invoice for 100% of the allotted amount for each month (i.e. 100% can be billed as “base”) from January - June 2020 rather than the 80/20 split as contractually obligated.

Please also note that:

- Not all contracts are 80%/20%, some have a different % split.
- Base Pay may be monthly or quarterly.
- There is no standard number of performance commitments (PCs); could be 1 or more.
- Not all contracts pay PC equally, one PC could be valued higher than another.

As warranted, service providers who have already billed or have additional questions should contact their assigned PS for clarification.

The following steps are guidelines for the new base computation.

➤ **If no invoices or PCs have been paid:**

Step 1: Calculate the total budget for Jan-Jun:

Total budget for Jan-Jun = (Total contract budget) – (Regular budget for Jul-Dec invoices)

“Regular” means: (normal base budget) + (normal PC budget)

Step 2: Calculate the new monthly base for Jan-Jun invoices:

New monthly base for Jan-Jun invoices = (Total budget for Jan-Jun) / 6

For example, with a total 12- month contract budget of \$120,000, the new monthly base for Jan-Jun invoices is calculated as follows:

Step 1: Calculate the total budget for Jan-Jun:

Regular budget for Jul-Dec invoices = $(\$120,000/12) \times 6 = \$60,000$

Total budget for Jan-Jun = $\$120,000 - \$60,000 = \mathbf{\$60,000}$.

Step 2: Calculate the new monthly base for Jan-Jun invoices:

New monthly base for Jan-Jun invoices = $\$60,000 / 6 = \mathbf{\$10,000}$.

➤ **If invoices or PCs have been paid, for instance, Jan & Feb invoices have been paid:**

Step 1: Calculate the total budget for Mar-Jun:

Total budget for Mar-Jun = (Total contract budget) – (Amount paid for Jan & Feb invoices) – (Regular budget for Jul-Dec invoices)

Step 2: Calculate the new monthly base for Mar-Jun invoices:

New monthly base for Mar-Jun invoices = (Total budget for Mar-Jun) / 4

Here are some examples:

- a. With a total 12- month contract budget of \$120,000, amount paid for Jan & Feb invoices is \$20,000 (base and PCs have been paid), the new monthly base for Mar - Jun invoices are calculated as follows:

Step 1: Calculate the total budget for Mar-Jun:

Regular budget for Jul-Dec invoices = $(\$120,000/12) \times 6 = \$60,000$

Total budget for Mar-Jun = $\$120,000 - \$20,000 - \$60,000 = \mathbf{\$40,000}$

Step 2: Calculate the new monthly base for Mar-Jun invoices:

New monthly base for Mar-Jun invoices = $\$40,000 / 4 = \mathbf{\$10,000}$.

- b. With a total 12- month contract budget of \$120,000, amount paid for Jan & Feb invoices is \$16,000 (no PCs have been paid), the new monthly base for Mar-Jun invoices is calculated as follows:

Step 1: Calculate the total budget for Mar-Jun:

Regular budget for Jul-Dec invoices = $(\$120,000/12) \times 6 = \$60,000$

Total budget for Mar-Jun = $\$120,000 - \$16,000 - \$60,000 = \mathbf{\$44,000}$

Step 2: Calculate the new monthly base for Mar-Jun invoices:

New monthly base for Mar-June invoices = $\$44,000 / 4 = \mathbf{\$11,000}$.

The examples above assume that the “Hold Harmless” will expire June 30th, 2020. Please have the service providers contact their PS if they have any questions or need clarification.

If staff need assistance with the calculations, please contact Jessica Le, jessica.le@seattle.gov.

Question 4: In order to accommodate the changes to the LIR, UCR, or OBR contracts, will we need to amend the contracts?

No contracts will be amended at this time. Any questions regarding contract amendments should be directed to the assigned PS.

Question 5: How does the “Hold Harmless” Directive impact the service providers that may expend less than the total amount they are paid by HSD? Do they have to pay back the excess payment? Do they still have to submit the Mid-Year expenditure report?

“Hold Harmless” means service providers with contracted performance commitments are paid at 100% even if they do not meet all their performance commitments from January 2020 - June 2020. However, documentation is still required to verify invoice reimbursements. Thus, the mid-year expenditure report is still required. If it is discovered that an agency was paid in excess, the agency is required to pay back the excess payment (-\$10,000).

Question 6: What is 100% base payment?

The 100% base payment is applicable to OBR contracts only. Service providers with OBR contracts may invoice HSD for 100% of the allotted amount for each month (i.e. 100% can be billed as “base”) from January through June 2020. Service providers will receive payments allotted for base and performance regardless of their performance status during January – June 2020.

Question 7: How do I calculate what my 100% base payment will be?

Calculations for the 100% base payments for OBR contracts for January through June 2020 invoices will be determined by the PS.

Question 8: Can I adjust payment for January and February to receive the adjusted 100% base payment even if we already submitted and received payment for those months?

No, it is not necessary to adjust these invoices. The funds allotted for additional base payments for these months will be added to the base payments for invoices from March thru June 2020. The calculation will be determined by the PS.

Question 9: For an OBR contract with a total budget of \$120,000, is the new monthly base for January through June \$10,000? (\$120,000 divided by 12 = \$10,000).

Yes, the new base for January through June is \$10,000.

For new base calculations, examples are referenced in question 3 above. If you need additional assistance, please contact Jessica Le, jessica.le@seattle.gov.

Question 10: For OBR contracts and providers who have billed for performance, do we have discretion to use the new 100% base or are we expected to deduct performance from the 100% base to come up with the new base?

Paid performance commitments should be deducted from the 100% base to calculate the new base amount. Otherwise, the total contract budget will be over.

For new base calculations, examples are referenced in question 3 above. If you need additional assistance, please contact Jessica Le, jessica.le@seattle.gov.

Question 11: Invoice recommendation for OBR contracts: PS email providers new invoice forms with the new base amounts. For example, with a \$120,000 contract and the agency has invoiced for Jan and Feb, what would the invoice form include?

- 2 base payments (Jan & Feb) at \$8,000 each
80% of \$120,000 = \$96,000 divided by 12 = \$8,000 monthly base
- 4 base payments (Mar through June) at \$11,000 each
100% base = \$10,000 X 6 months = \$60,000
\$60,000 - \$16,000 billed for Jan & Feb = \$44,000
\$44,000 divided by 4 (Mar through June) = \$11,000 base for Mar - June
- 6 base payments (July – Dec) at \$8,000 each

See example of base portion of invoice form below:

Example of base portion of invoice form for OBR contracts:

Max #	Prior #	This Month	Balance	Description	Unit Cost	Total Cost
2	2	0	0	Monthly Base (1/1/2020 -2/29/2020)	\$8,000.00	
4				Monthly Base (3/1/2020 -6/30/2020)	\$11,000.00	
6				Monthly Base (7/1/2020 – 12/31/2020)	\$8,000.00	

It is correct if the COVID-19 payment directive ends in June. In this example, since PCs were not billed for Jan & Feb invoices, the total PC budget of \$4,000 for January and February is spread evenly for March through June invoices.

If both the base and PCs were paid in January and February invoices, the new monthly base is \$10,000 only for March through June invoices. Please reference the examples given above.

Without having to amend contracts and change invoice form, can we:

Option A:

Have service providers bill for the monthly base as is on their existing invoice and 100% of PCs monthly or quarterly or per their projected schedule of completion?

Option B: If we pay out a revised increased monthly base:

1. Have service providers bill for the existing monthly base amount as is on the invoice form, and bill for the “additional base amounts” related to PCs in the “Adjustments =/–“ row on the invoice form?

2. For some 2019-2020 contracts, since books for 2019 funding amount are closed, am I correct that I'd have to divide the 2020 amount by 6 or 8 months, depending if the contract ends in June or in August?

Option B is recommended. Service providers bill for the existing monthly base amount as is on the invoice form, and bill for the "additional base amounts" related to PCs in the "Adjustments +/-" row on the invoice form.

For some 2019-2020 contracts, since books for 2019 funding amount are closed, you should divide the total 2020 budget amount for 80% base payment and 20% PC to get the new monthly base for Jan-Jun 2020, provided that the split is 80/20 because not all contracts split this way. Please reference the examples given above.

Question 12: Some service providers have OBR contracts (80% base pay; 20% performance commitments). PC pay is on a trimester schedule with service providers able to bill for PCs in April, August and December invoices. Would you prefer:

1. Service providers bill for the first trimester with their March or April invoices;
2. PC pay be lumped into one sum and divided into 10 months of payments that can be accessed starting with their March invoice; OR
3. A different option?

Assuming this is a monthly PC, option 3, a different option, is suggested. The service providers do not bill for PCs in April since they will bill 100% base for January through June invoices. Service providers can start billing for PCs in August for July PCs and August PCs, if the COVID-19 payment directive ends in June 2020.

Question 13: I like the idea of having service providers bill for the regular base and billing for the additional base amount using +/- adjustment section of the invoice form. It could easily be extended if the "Hold Harmless" Directive is extended.

One advantage is that it is easier to track the PC payments that are converted to base payments.

Question 14: Regarding UCR contracts, "providers may adjust what the units are in response to COVID-19 with approval." Are Program Specialists authorized to approve changes (in consultation with their supervisor, when needed)?

Due to COVID-19, HSD needs to assist the service providers promptly. Therefore, the "Hold Harmless" Directive is in effect until June 30, 2020.

Service providers need to contact their assigned PS on any budget changes, contract modification, and justification requests. The PS will work with the service provider on a timeline and/or authorization for any contract amendments in consultation with their supervisor, when needed, and with approval from the Division Management or SLT.

Question 15: What do I do if I want to shift or change my contract budget to meet our needs during this time?

See response to Question 14.

Question 16: Will my contract need an amendment if I wanted to make budget changes?

See response to Question 14.

Question 17: Can I add new budget items to my contract budget? For example, I did not have an amount budgeted for operating expenses, but as a result of staff working remotely, we had to purchase a laptop and other items for my advocate to work and provide services from home.

See response to Question 14.

Question 18: Can I shift money from our operating supplies to client assistance?

See response to Question 14.

Question 19: Due to the “Stay Home, Stay Healthy” order, we may not meet our targeted goal of new clients served for second quarter. Will this affect our contract payment?

See response to Question 14.

Question 20: If we need to decrease our outcomes/performance commitments, do we need to do a contract amendment?

See response to Question 14.

Question 21: Can we shift money from one strategy/service to another strategy/service?

See response to Question 14.

Question 22: Will we be able to decrease our total outcomes, or will we be required to meet the total number by end of contract (make-up for these numbers from June – December)?

See response to Question 14.

Question 23: We want to purchase gift cards in advance to provide them to clients quickly when needed. Is this allowable?

See response to Question 14.

Question 24: Can we receive our invoice payments via direct deposit?

See response to Question 14.

Question 25: How does the directive impact current contracts seeking for FEMA reimbursement? Do we have to amend these contracts?

HSD is not seeking FEMA reimbursement on current contracts. New contracts will be developed for COVID-19 purchases and for FEMA reimbursement requests.

Question 26: Will this directive be extended after June 2020?

As of now, the “Hold Harmless” directive ends on June 30, 2020. Any extension will be communicated to all stakeholders.