

FAQ for Public Defense Providers

Last updated 5/12/2020

Oregon's public defense providers continue to do indispensable work during this public health crisis. Our justice system is now operating under continually changing circumstances and challenges to limit the spread of disease and protect civil rights. Public defense providers' ability to advocate for their clients and achieve just outcomes remain a top priority for OPDS. We will regularly update this FAQ so our providers can focus on clients' needs. Please send any questions not addressed in this FAQ to Kaysea.R.Dahlstrom@opds.state.or.us.

Is OPDS open?

Yes. At the office we are following social distancing guidelines, and most of us are working remotely. We remain unwaveringly committed to our public defense providers and clients. We will continue to monitor the situation and follow the Governor's orders, because the wellbeing of our staff, providers, and clients is of utmost importance to us.

Is OPDS still processing bills and NREs?

Yes. Currently, our Accounts Payable staff are processing payments within about 30 days. These processing dates are updated every couple of days and can be found on our website here: <https://www.oregon.gov/opds/provider/Pages/default.aspx>

We understand that some of you have concerns about NRE processing and payments. We are forming a sub-group of the Public Defense Advisory Committee (PDAG) to discuss possible improvements to the NRE process. If you are interested in joining that group, please reach out to Eric Deitrick at Eric.J.Deitrick@opds.state.or.us.

May I still drop off my invoice at the OPDS Commercial St. SE office?

In the interest of the safety and wellbeing of our providers and staff, we are currently not accepting visitors. Please mail your invoices to:

198 Commercial St. SE, Suite 205
Salem, OR 97301

I have a contract with OPDS. Will I continue to be paid?

Yes. In the current situation, we do not see the need to reduce or cut any contracts.

Will OPDS extend the current six-month contract extension?

In light of uncertainty about our budget for contracting, we were considering a possible extension of the current six-month contract extension. Now that things are clearer, we are unlikely to extend current contracts, but will instead be awarding new contracts based on responses to our RFP. Those contracts will go into effect on July 1, 2020. That said, there may be a few counties where we need to extend current contracts for a short time period to continue negotiations. We only anticipate that happening if there are significant changes to account for in those counties.

What happened with the \$20 million Special Purpose Appropriation (SPA) that the legislature was set to release in the 2020 short session?

Beginning in the 2020 short legislative session, OPDS requested the release of a \$20 million Special Purpose Appropriation that was authorized by HB 5050 in the 2019 legislative session. This funding was intended to address issues in our public defense system identified in a 2019 report from the Sixth Amendment Center (<https://sixthamendment.org/oregon-report/>).

Unfortunately, the funding was not released in the short session, and only a portion of the funding was released by the Emergency Board on April 23, 2020. More detailed information about our advocacy for the funding release and the amounts ultimately released can be found in this letter we sent to providers after the E-Board hearing: <https://www.oregon.gov/opds/provider/Documents/LtrProvidersSPA042320.pdf>

When will the contract process for next cycle be complete?

Our goal is to have contracts awarded in time for a commission meeting in June, so that the new contracts can go into effect on July 1st. The timeline may be different if your county is one with significant changes (new contractors, etc.). You can reach out to your contract analyst to discuss where things are at for your particular county.

Is it anticipated because the SPA did not go all the way through, there will be a dramatic cut to the contracts? Put differently, most of us expected our upcoming 18-month contracts to look a lot like our 6-month contracts. Is that going to be the case or is OPDS preparing to cut our pay rate because of the COVID-19 budget crisis?

We were seeking funding in the SPA to improve contracts, not to maintain them. Although we didn't get the SPA funding, that did not reduce our budget. For that reason, we will have the same budget moving forward with contracts as we had with the extensions, and we do not anticipate cutting any pay rates. Our agency is being asked to sketch out what budget cuts would look like, but we are not being asked to implement any changes at this time.

What exactly is the IT technology that is included in SPA funding released by the E-Board?

Funding was released by the E-Board for contract information technology services from the Oregon Judicial Department (OJD). This funding is crucial to our ability to continue our work on a new case management and data collection system. This item was not included in our request for the SPA. However, LFO has indicated that because this is one-time funding that will help our agency move forward with ongoing system improvements, it is appropriate to include in the SPA funding. It is our understanding that this funding is also meant to replace funding from another \$2 million SPA that was earmarked for this IT project. Because the project is being funded in this SPA, we understand that \$2 million SPA funding will be reabsorbed into the general fund.

Are the proposed hourly increases (e.g., \$110 for major felony qualified attorneys) in the current RFP link going into effect on July 1, or is that now in jeopardy?

Because of the budget crisis, we have made decision about the hourly rate in our RFP. We are going to ask the PDSC to raise it to a \$75 base rate for the hourly attorneys, rather than the higher increase set out in the RFP. Considering the budget, this is all we can afford for now.

The budget allotted for investigator rate increase, is that for only fact investigators or also mitigation investigators?

This is a decision that will need to be made by the PDSC, as it needs to make the final decision about rate increases. We will be discussing this internally and the issue will be addressed at the next commission meeting.

How is the justice system responding to this crisis?

We are working with the Chief Justice, Sheriffs' Association, the Oregon Judicial Department, and other justice system partners to surface challenges and find solutions. We have posted a list of resources and information to our website at: <https://www.oregon.gov/opds/provider/Pages/COVID-19.aspx>

Is there a way I can provide feedback for the Chief Justice orders?

If you have feedback or concerns about Chief Justice Orders or their implementation, please send an email to: cjofeedback@ojd.state.or.us

Who can I contact to report non-compliance with the Chief Justice orders by courts in my local jurisdiction?

Please email your information and concerns to the Oregon Judicial Department at cjofeedback@ojd.state.or.us. This information will be reviewed by OJD and a work group they have convened to look at these issues.

I'm facing challenges in my jurisdiction (e.g., lack of safe and confidential access to incarcerated clients). How can I seek assistance?

Please share your challenges and concerns with Kaysea.R.Dahlstrom@opds.state.or.us. The more we know about what's happening in your jurisdictions, the more we can try to facilitate relief.

What is happening with the ABA timekeeping and caseload study?

We have suspended the timekeeping portion of the ABA study due to the current COVID-19 situation. We recognize that what people would be measuring right now would not be reflective of ordinary times. The ABA's caseload study, however, will keep going, and we will still be able to estimate reasonable caseloads. We thank you for your participation!

Now that the timekeeping portion of the ABA study is done, will the happen to the 2% increase given to providers who track time be impacted? Will OPDS ask for any of this 2% increase back or can we safely distribute it to our attorneys?

Because providers agreed to be willing to engage in timekeeping, OPDS will honor the six-month 2% increase. Note that this increase will not extend into new contracts that begin July 1st, as this was always planned as a 6 month increase only.

When is the next Public Defense Services Commission meeting?

On March 17, 2020, the Governor prohibited gatherings of 25 or more people. We held our last commission meeting virtually on Thursday, April 16, 2020. You can view the agenda and materials for this commission meeting on this webpage: <https://www.oregon.gov/opds/commission/Pages/meetings.aspx>.

Our next commission meeting will be held on May 21st at 10am. It is very likely that this meeting will also be held virtually.

How can I stay informed?

Join us for our weekly teleconference! Every Tuesday at 10:30am PST, we will host a teleconference with providers to announce updates, share information and resources, and answer questions.

Who: All Oregon public defense providers are welcome.

When: Every other Tuesday, starting May 12th, 2020 at 10:30 a.m. PST

Where: Please call our toll-free conference line – [\(866\) 390-1828](tel:8663901828) – and enter the Participant Code – [805008](tel:805008) – when prompted.

How can I be notified of OPDS updates?

To receive communications from OPDS regarding Commission meetings and other OPDS business please use following link:

<http://listsmart.osl.state.or.us/mailman/listinfo/opds-notifications>

To receive communications from OPDS regarding Contractor information please use the following link: <http://listsmart.osl.state.or.us/mailman/listinfo/opds-contracts>

To whom can I send my question/comment/feedback?

Kaysea.R.Dahlstrom@opds.state.or.us