

CORONAVIRUS RESOURCES

A contractor's guide to harm statements



As projects continue to move forward during COVID-19, there will undoubtedly be unbudgeted expenditures for extras incurred on projects and within your home office. A harm statement is an inventory of unbudgeted costs resulting from the pandemic. These costs may be direct, indirect or consequential impacts to your business.

Examples of COVID-19-related costs:

Direct costs

- Non-contact thermometers
- Hand sanitizer
- Personnel retention bonuses

Indirect costs

- Increased insurance costs
- Collection costs
- Financing costs

Consequential costs

- Project backlog erosion
- Downward fee pressure on new projects
- Longer lease-up times

Evaluate COVID-19 consequences:

Projects

- Project cancellations
- Backlog erosion
- Fewer projects to bid on
- Higher building vacancy rates
- Restricted access to capital
- Contractor default

Field operations

- Longer construction schedules lead to reduced capacity
- Increased construction cost per square foot
- Increased regulatory compliance


Back office

- Work from home management
- Personnel turnover
- Outsourcing versus insourcing
- Bonding constraints due to extended schedules

Recommended practices to document harm:

1. Issue a general "Notice to Owner" to protect your right for compensation associated with all added and/or unexpected costs associated with COVID-19. See notice below as an example:

"Subcontractor does not waive its rights to make claims for additional costs and/or time extensions associated with delay, loss of productivity and other impacts associated with the numerous project



issues encountered on the project resulting from the lack of timely completion of precedent work upon which Subcontractor's ability to complete its works is based; directed change orders and additional work beyond the scope of work contemplated under Subcontractor's subcontract, the compressed and accelerated conditions under which Subcontractor is now being forced to complete its work and the cumulative impact of these project conditions – all of which have been previously communicated to Contractor in numerous communications."

2. Open a separate cost code to track the actual cost of all COVID-19 activities that were not planned at the time the subcontract was executed. For any cost that needs to be transferred to these cost codes, prepare a narrative description of the activities to substantiate the cost transfer.
3. Document progress of the actual work in place as of the date of the event (COVID-19), and compare that progress against the published construction schedule. Document any schedule gains or delays to the progress, along with reasons for said delays.
4. Document any material shortages or delivery delays to the project. Ensure that any product substitutions made due to these shortages or delays are properly documented with the reason for the substitution.
5. Add a section to your daily report for COVID-19 impacts and daily activities to document all COVID-19 work. Daily reports are a chronological history of the daily activities on a project and should have these type of COVID-19 unplanned activities recorded daily.
6. Document in a separate cost code all "hazard pay," bonuses, any shift differential costs or unanticipated costs incurred as a result of post-COVID-19 or social distancing requirements.
7. Document project cancellations, postponements or profit erosion as a result of COVID-19 as they incur. Documenting these events will allow you the ability to tell your story to third parties, such as banks or bonding company representatives.
8. Owners might experience events such as, higher building vacancy rates, longer lease payment periods, larger accounts receivable balances and longer construction schedules that will require documentation. These events must be isolated and documented to show how the event impacted your financial statements.
9. Submit your actual COVID-19 costs to the owner on a bi-weekly or monthly basis so they are not surprised by the magnitude of the cost incurred. Negative surprises are not recommended.

This is only a guideline to follow, and there is no guarantee of the outcome. Understand the uncertainty of recovery. Baker Tilly advocates that preparation and advance planning and documentation is the best method to recover COVID-19 expenditures.

For more construction coronavirus resources, visit: bakertilly.com/specialties/construction-coronavirus-resources

To learn how Baker Tilly specialists can help, contact: Laura Cataldo at laura.cataldo@bakertilly.com, Courtney Davison at courtney.davison@bakertilly.com, Tony Ollmann at tony.ollmann@bakertilly.com, or Jim Miller at jim.miller@bakertilly.com.