

Port of Baltimore Worker Retention Program | April 12, 2024

- TO:** Maryland businesses impacted by reduced operations at the Port of Baltimore; Maryland Department of Labor (MD Labor) - Division of Workforce Development and Adult Learning (DWDAL) staff; Local Workforce Development Areas
- FROM:** DWDAL, MD Labor
- SUBJECT:** *Port of Baltimore Worker Retention Program*
- PURPOSE:** To provide policy guidance on the *Port of Baltimore Worker Retention Program*
- ACTION:** Local Workforce Development Area directors, American Job Center labor exchange administrators, central office managers, and Business Services staff will ensure all employees are aware of and receive copies of this policy. DWDAL policies are available [on the Maryland Department of Labor website](#).
- EXPIRATION:** Until canceled, OR when grant funds are fully obligated, whichever comes first.

GENERAL INFORMATION

Francis Scott Key Bridge Collapse and the Maryland Response

On March 26, 2024, the Francis Scott Key (FSK) Bridge, which spans the Patapsco River between Baltimore City and Dundalk in Baltimore County, Maryland, collapsed after being struck by a large container vessel, blocking the shipping channel. Six construction professionals working on the FSK Bridge at the time lost their lives and one was seriously injured.

As a result, operations at the Port of Baltimore (“Port”) were significantly reduced. Governor Wes Moore declared a State of Emergency¹ in response to the incident. Recognizing the potential for significant economic impact for businesses and workers reliant on the FSK Bridge - including employers at the Port of Baltimore, transportation and logistics companies, and entities subject to potential downstream impacts - Maryland acted swiftly to mitigate negative consequences.

In response to the economic impact, the Maryland General Assembly passed SB 1188, the *Maryland Protecting Opportunities and Regional Trade (PORT) Act*. The purpose of the Act is to authorize temporary relief programs at MD Labor and the Maryland Department of Commerce. Specifically, MD Labor must establish a program to retain the Port workforce and keep employees connected to jobs.

On April 5, 2024, Governor Moore issued Executive Order 01.01.2024.11 (“Establishing Temporary Economic and Financial Relief Programs for Workers and Businesses Impacted by the Francis Scott Key Bridge Collapse and Disruptions of Operations at the Port of Baltimore”), establishing the *Port of Baltimore Worker Retention Program* at MD Labor with an initial investment of \$12,500,000.²

Support for this project is provided in part by federal Workforce Innovation and Opportunity Act (WIOA) funds awarded from the U.S. Department of Labor’s Employment and Training Administration. Overall initial grant funds³ total \$12,500,000, of which \$2,500,000 are federal funds and the remaining \$10,000,000 is supported by State funds.

Port of Baltimore Worker Retention Program

The *Port of Baltimore Worker Retention Program* will award grants to eligible organizations directly impacted by the reduced operations at the Port. The purpose of the program is to minimize or eliminate the need for layoffs by enabling businesses to retain their employees until the Port fully reopens. Grants *do not* need to be repaid to the State,⁴ but must adhere to the eligible cost provisions detailed in this policy.

Employers may apply for up to \$200,000 (allowable costs are listed below), with a maximum expenditure of \$7,500 per worker.

¹ Executive Orders related to the bridge collapse can be found here: <https://governor.maryland.gov/news/Pages/executive-orders.aspx>.

² The initial \$12,500,000 investment for the program is a combination of federal Workforce Innovation and Opportunity Act funds and State Rainy Day Fund dollars. Federal funds will only be spent in ways deemed permissible under WIOA and associated Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Federal dollars cannot pay wages, therefore that eligible cost will only be payable while State resources are available.

³ This initial amount represents the funding allocated at the time of policy issuance and does not account for future investments in the program.

⁴ Except as required by the PORT Act as detailed in the Subrogation section of this policy and the grant agreement.

MD Labor will accept applications to the *Port of Baltimore Worker Retention Program* upon issuance of this policy and will continue to accept them until grant funds are exhausted. The Department may release available funding in multiple tranches in order to assess interest and accurately deploy resources during the evolving situation created by the temporary Port disruption.

ELIGIBILITY

Eligible applicants are Maryland-based small businesses, labor unions, trade associations, or companies that contract with or are members of a trade association who rely on access to the private and public marine terminals at the Port, and whose activities are hindered or halted entirely due to reduced Port operations.⁵ All applicants must be committed to resuming operations to the fullest extent practicable once the Port resumes full operation.

For the purpose of this Program, MD Labor defines the following eligibility criteria as:

1. “Maryland-based”: an organization that has its principal business operations located in the State or will use all program funds only for its workforce or operations within the State;
2. “Small business”: an independent organization operating with fewer than 500 full-time or equivalent workers in Maryland; and
3. “Port-impacted”: an organization such as:
 - One located directly on the Port of Baltimore;
 - A rail business;
 - A terminal operator;
 - A liquid storage terminal operation;
 - An auto terminal operator;
 - A labor union;
 - A “roll on roll off” terminal operator;
 - A warehousing and logistics operation;
 - A manufacturer; or
 - Any other type of organization that can reasonably demonstrate negative business impacts due to the temporary Port reductions (MD Labor will consider these applicants on a case-by-case basis).

Organizations that apply for funds must attest to a need for employee retention support due to the impacts of the FSK Bridge collapse and subsequent hindered or halted activities. The Department may request documentation from applicants to confirm these business disruptions.

Additionally, all applicants must be in good standing with the Maryland State Department of Assessments and Taxation and the Comptroller of Maryland.⁶ Organizations that pay Unemployment Insurance (UI) taxes must be up-to-date on payments to MD Labor.

⁵ Maryland Protecting Opportunities and Regional Trade Act 2024 Maryland Laws Ch. 3 (S.B. 1188)
<https://mgaleg.maryland.gov/2024RS/bills/sb/sb1188e.pdf>

⁶ Grant payments to awardees will come from the Office of the Comptroller and may be offset by any monies due to the State.

Businesses who receive funds under the *Port of Baltimore Worker Retention Program* must, to the fullest extent practicable, avoid layoffs and maintain their workforce at the same hours, rates of pay, and benefits that were in effect before the reduced operations of the Port for at least 60 days.

Utilizing the State’s Work Sharing program, as described in the next section, is a reasonable exception for a reduction in worker hours. Grantees who spend their full grant award and still face potential uncertainty **must** explore applying for Work Sharing participation to keep employees attached to work. If layoffs become unavoidable, grantees **must** notify the Department within 30 days of the anticipated dislocation. MD Labor is establishing dedicated resources to support grantees related to Work Sharing and will deploy these tools to further mitigate layoffs. Additional details will be shared with recipients and, as a condition of a grant award, employers will be directed to those resources and expected to utilize them should the need arise.

USE OF FUNDS, SPENDING TIMEFRAMES, RECAPTURE, AND SUBROGATION

Allowable Costs and Ineligible Expenses

Participating organizations must utilize funds in order to mitigate layoffs while the Port of Baltimore remains operating at a reduced capacity. Requests must be reasonable, necessary, and directly related to the purpose of the *Port of Baltimore Worker Retention Program*. All applications will be reviewed by MD Labor (additional details in “Applying to the Port of Baltimore Worker Retention Program” section below).

Examples of permissible activities include, but are not limited to:

1. Payroll costs to include wage subsidies for businesses and their workers who may have experienced revenue loss;
2. Training costs related to:
 - a. Upskilling employees while keeping them on payroll, or
 - b. Any training a company may require as a result of the FSK bridge collapse, such as an updated Occupational Safety and Health Administration (OSHA) course;
3. Supportive services,⁷ as described in more detail below;
4. *Work Sharing Unemployment Insurance Program*, which is a joint effort between the State and businesses to avoid layoffs during which staff work a reduced number of hours and collect a partial Unemployment Insurance benefit, as described in more detail below; and
5. Anything else deemed allowable by request in writing with prior approval from MD Labor.

Applicants may request multiple services from this list, so long as the total value requested does not exceed \$200,000 per organization and \$7,500 per employee. Services outside of this list may be approved at the discretion of MD Labor.

Port of Baltimore Worker Retention Program awards **shall not** be used to repay any other disaster relief assistance, such as loans or grants from the Small Business Administration, Maryland Department of Housing and Community Development, or Maryland Department of Commerce. Additionally, an organization **shall not** use awarded funds from MD Labor to cover identical expenses associated with another State-funded relief initiative.

⁷ Grantees must retain proof that funds were spent on these supportive services.

Supportive Services

MD Labor strongly encourages the use of supportive services to help grantees support their workforce. Supportive services will be approved at the discretion of MD Labor. Examples include, but are not limited to:

1. Transportation allowances;
2. Childcare or Dependent Care costs;
3. Housing costs;
4. Mental health services; and
5. Any other supportive service approved by MD Labor.

Work Sharing

As noted above, Work Sharing is an eligible cost under the *Port of Baltimore Worker Retention Program* and businesses must explore how this resource may support their employees if they need to reduce working hours.

Work Sharing is a voluntary program that provides an alternative to layoffs for employers faced with a temporary, non-cyclical decline in business due to lower economic activity. The program is designed to avoid layoffs by preserving jobs for current employees and to assist businesses that have already undertaken layoffs to reopen and resume operations gradually. Employers who participate in Work Sharing can retain employees by temporarily reducing the hours of work, within a range of 10% to 60%, among employees within the affected unit(s). The employees with reduced work hours receive partial Unemployment Insurance benefits to supplement lost wages.

Work Sharing can mitigate or prevent the adverse effects of an economic downturn by keeping businesses connected to their employees, and ensuring employees continue to receive compensation. Work Sharing can also serve as a means of bringing most or all of a temporarily laid off workforce back to the job, a decline in business or other factors prevent operating at full staffing levels immediately.

More information about the State's Work Sharing program can be found here:

<https://labor.maryland.gov/employment/worksharing/>. The program application is available here:
<https://labor.maryland.gov/forms/uiwsapplication.pdf>.

Funding Cap

The maximum award for *Port of Baltimore Worker Retention Program* grants is \$200,000 per eligible applicant over the lifetime of the project, with a maximum expenditure of \$7,500 per worker.

MD Labor may consider proposals that exceed this cap if extenuating circumstances warrant. Consideration will require strong documentation to be submitted by the applicant, evidencing substantial potential for layoffs related to the FSK Bridge collapse and reduced Port activities.

Spending Advance

MD Labor will provide grant awards in the form of advanced payments to approved applicants for eligible costs. MD Labor will consider expenses dating back to the initiation of the State of Emergency (March 26, 2024). Grantees will be required to submit documentation to MD Labor for all approved purchases, payroll expenses, etc.

during reporting closeout (details below).

Timeframe for Spending and the Recapture of Funds

Grantees must spend all *Port of Baltimore Worker Retention Program* dollars within 60 days of receipt. Within 30 days after exhausting their grant amount, grantees must submit a Closeout Report to MD Labor, as discussed below. MD Labor will provide grantees with a template form to complete.

If a business is unable to fully spend a grant, funds must be promptly returned to MD Labor and written notification must be sent via email to worker.retention@maryland.gov. The Department will work with the grantee to ensure the funds are properly returned.

Additionally, MD Labor may recapture funds from organizations that fail to comply with terms and conditions of their grant agreement. This may include, but is not limited to, retaining their workforce at their standard rate of pay, number of hours, and benefits. A grantee's failure to produce evidence of permissible expenses (i.e., payroll records, receipts, etc.), making purchases outside of the approved grant agreement, or spending grant dollars on prohibited costs may also result in recapture.

Subrogation

Grant recipients are required to promptly file any insurance or other claims related to reduced operations of the Port and notify the Department within 15 business days of filing the claim. The State of Maryland has a lien on the proceeds of any monetary award or insurance claim filed in relation to the reduced operations of the Port from the time the grant recipient receives the grant award. If a claim is paid to a grant recipient for business interruption losses, they must notify the Department of the receipt of any funds as a result of those claims, and reimburse the Department within six months of the receipt of an insurance claim or other funds, as appropriate. Recipients may be required to provide the Department with documentation to enable MD Labor to exercise its right of subrogation. Applicants are strongly encouraged to consult with their legal counsel to ensure compliance with this provision.

APPLYING TO THE *PORT OF BALTIMORE WORKER RETENTION PROGRAM*

Application Submission

To apply to the *Port of Baltimore Worker Retention Program*, eligible applicants must submit an application electronically to worker.retention@maryland.gov. MD Labor will accept and review applications on a rolling, first-come, first-served basis until program funds are exhausted or the program concludes.⁸

Applications contain two components: a budget component and a narrative component. Additionally, applicants must submit a signed copy of their W-9 form. Application templates for the *Port of Baltimore Worker Retention Program* can be found online at <https://labor.maryland.gov/keybridgeresources/portworkerretention.shtml>, or in Appendix A (*Port of Baltimore Worker Retention Program - Narrative Component*) and Appendix B (*Port of Baltimore Worker Retention Program - Budget Component*) of this policy.

⁸ As noted earlier, MD Labor may strategically release funds in tranches to ensure responsiveness to the evolving situation.

Application Review

The MD Labor Review Team must review submitted applications within five business days of receipt.

The Review Team, composed of staff from MD Labor's Division of Workforce Development and Adult Learning (DWDAL), must ensure that approved applications adhere to the purpose of the *Port of Baltimore Worker Retention Program*. At least two unique staff members must review each application and a member of DWDAL's Fiscal Unit must approve each grant prior to funding notification.

MD Labor will consider one application per unique business entity. If an individual applies for multiple grants on behalf of different businesses, applicants must disclose that in the *Port of Baltimore Worker Retention Program* application. Failure to disclose this information shall result in the Department recapturing the awarded funds.

Pursuant to the Maryland Public Ethics Law,⁹ all staff who participate in discretionary grant reviews are required to complete the DWDAL *Reviewer Confidentiality and Conflict of Interest Form*. Should a conflict of interest exist, staff must recuse themselves from application review, and if staff becomes aware that a conflict may exist during the process, that person must immediately notify the Special Grants Administrator.

Application Approval/Denial

MD Labor must inform applicants via email of whether *Port of Baltimore Worker Retention Program* applications have been approved or denied within five business days of application receipt.

If approved, MD Labor will provide the business with a *Port of Baltimore Worker Retention Program* Award Notification to be executed by the business. Approved businesses must submit completed grant agreements to MD Labor for review within five business days of notification per instructions on the award letter.¹⁰ Once signed and returned to MD Labor, the grant award is considered executed. If an applicant requires additional time to return the agreement, a request must be made in writing within the five business day timeline. Grant agreements that are not returned to the Department within five business days will be considered null and void and the applicant will forfeit the grant.

After a grant agreement has been formally executed, MD Labor shall provide the full award to the recipient. In accordance with federal law,¹¹ funds must be kept in a non-interest bearing account.

If the grantee's original application changes due to unforeseen circumstances, a modification request can be submitted within 30 calendar days from receipt/approval of the award. The request must be made before the end of the 30 days and sent to worker.retention@maryland.gov. No modifications to the grant application or agreement are effective until a signed modification agreement is executed by the Department.

If denied, within seven business days from the notice of denial, the applicant may request reconsideration of the decision. The appeal must be emailed to worker.retention@maryland.gov and: (1) state the grounds for the reconsideration; and, (2) state the reasons why the reconsideration should be approved. The DWDAL Assistant Secretary, or designee, will review all reconsideration requests and provide a written response to the applicant within seven calendar days of reconsideration receipt.

⁹ MD Code Ann. Gen'l Provisions, Title 5.

¹⁰ Extensions *may* be permitted under extenuating circumstances.

¹¹ *Port of Baltimore Worker Retention Program* funds may be federally or State sourced. While some recipients may be awarded State dollars, MD Labor requires all grantees to comply with this provision.

REPORTING, RECORD RETENTION, AND MONITORING & COMPLIANCE

Grant Closeout Reporting

Port of Baltimore Worker Retention Program grantees are required to submit a final narrative report and a final expense report within 30 days of exhausting the grant funding (a template will be provided to grantees after award).

Grantees must include the following in this Closeout Report:

- A description of actions taken by the organization and how the funds were used to assist the organization and impacted workers;
- Attestation that the applicable staff were retained at their standard hours, wages, and benefits, along with any supportive documentation; and
- A description of any layoffs that occurred despite receiving grant assistance, if applicable.

Grantees are required to report the resolution of any insurance claims and answer any requests regarding the status of a claim even if it occurs after the grant has been closed out.

Record Retention

Maryland requires grantees to retain grant fiscal records for at least four years after grant closeout. If any litigation, claim, or audit is started before the expiration of the four year period, the records must be retained until three years after all litigation, claims, or audit findings involving the records have been resolved and final action has been taken.

All records, both electronic and physical, must be maintained in accordance with DWDAL's policy concerning privacy and data security.¹² Personal Identifiable Information (PII) is participant-level and employee data that either by itself or combined with other data can link to a specific individual or identity.

When emailing documents containing PII, all grantees and MD Labor staff must use password-protection, encryption-preferred, strong authentication procedures, or other security controls to make the information unusable by unauthorized individuals.¹³ Physical records must be kept in locked offices or file rooms. If the file room is shared with other programs, and/or staff other than staff authorized for this program have access to that room, then the files must be maintained in locked cabinets.

Monitoring and Compliance

MD Labor may conduct fiscal and programmatic monitoring of the project to ensure that grantees are following policies and meeting expectations, including nondiscrimination and equal opportunity provisions. Monitoring may include desk and/or on-site monitoring. Additionally, a review of all submitted reports is used to evaluate the grantee's progress towards meeting their stated goals, objectives, and assigned performance measures, if any. The Department may conduct audit reviews based on the review of submitted reports. Failure of MD Labor to

¹² DWDAL's Policy Issuance on privacy and data security can be found here: <http://www.labor.maryland.gov/employment/mpi/>.

¹³ If an organization is unsure how to do email encryption, they must request technical assistance from MD Labor to ensure secure transfer of PII.

supervise, evaluate, or to provide guidance and direction shall not relieve the grantee of any liability to comply with the terms of the grant agreement.¹⁴

Grantees must:

1. Follow the terms and conditions of the grant agreement and this Policy set forth by MD Labor;
2. Follow all recordkeeping and accounting guidelines and requirements provided by MD Labor.
3. Retain and make available for site visits and audits the records and supporting documentation for all expenses related to the grant-funded project (hard copy or electronic files are acceptable unless otherwise stipulated in grant award); and,
4. Maintain ownership and liability of all goods and/or services purchased with grant funds, unless otherwise stipulated.

FAIR PRACTICES AND ACCESSIBILITY

It is MD Labor’s policy that all persons have equal opportunity and access to services and facilities without regard to race, religion, color, sex (including pregnancy, childbirth and related medical conditions, transgender status, gender identity), marital status, genetic information, age, national origin or ancestry (including Limited English Proficiency), disability, veteran status or political affiliation or belief. Grantees working with participants in need of accommodations are responsible for securing the necessary support. Grantees may refer to MD Labor’s Nondiscrimination Plan¹⁵ and Language Access Plan¹⁶ for more information on accommodations and services.

REFERENCES

Law

- [Executive Order 01.01.2024.09](#), dated March 26, 2024;
- [Executive Order 01.01.2024.11](#), dated April 5, 2024;
- Maryland Code Ann., Labor & Employment Art., Title 8, Subtitle 12 Worksharing;
- Maryland Code Ann., Gen'l Provisions Art., Title 5, Maryland Public Ethics Law;
- [Maryland Protecting Opportunities and Regional Trade Act](#), 2024 Maryland Laws Ch. 3 (S.B. 1188); and
- Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. § 3101 et. seq (2015);

Regulations

- Uniform Administrative Requirements, Cost Principles and Audit Requirements Guidance for Federal Awards. 2 CFR 200 and 2 CFR 2900.
- 20 CFR 680, “Adult and Dislocated Worker Activities Under Title I of the Workforce Innovation and Opportunity Act;” and
- COMAR, 09.32.01.06 “[Claims during Temporary Mass Layoffs](#)”.

¹⁴ DWDAL’s Policy Issuance on monitoring can be found here: <http://www.labor.maryland.gov/employment/mpi/>.

¹⁵ MD Labor’s Nondiscrimination Plan is available at the following link: <http://www.labor.maryland.gov/employment/ndp/>.

¹⁶ The DWDAL and Division of Unemployment Insurance Language Access Plan is available at the following link: <http://www.labor.maryland.gov/employment/wioa-access.pdf>.

APPENDIX

- Appendix A- *Port of Baltimore Worker Retention Program - Narrative Component*
- Appendix B- *Port of Baltimore Worker Retention Program - Budget Component*