

COVID-19 Layoff Aversion Fund (Continuation) | October 28, 2020

- TO:** Small businesses throughout the State of Maryland;
Maryland Department of Labor (MD Labor) - Division of Workforce
Development and Adult Learning (DWDAL) staff; Local Workforce
Development Areas
- FROM:** DWDAL, MD Labor
- SUBJECT:** *COVID-19 Layoff Aversion Fund (Continued)*
- PURPOSE:** To provide updated policy guidance on the *COVID-19 Layoff Aversion Fund*
- 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:** 30 calendar days following the discontinuation of the State of Emergency in
Maryland related to COVID-19, as ordered by the Governor, OR when grant
funds are fully obligated, whichever comes first.

GENERAL INFORMATION

COVID-19 and the Maryland Response

On March 5, 2020, Governor Larry Hogan declared a State of Emergency in Maryland as a result of the public health threat associated with the novel coronavirus, or COVID-19. Over subsequent days, the Governor proclaimed various Executive Orders¹ in order to encourage “social distancing” and protect citizens from further spread of the disease.

An Executive Order issued March 23, 2020 closed all non-essential businesses in the State, and a “Stay-at-Home” directive followed on March 30, 2020, saving the lives of numerous Marylanders.

In order to safely reopen and regenerate Maryland’s economy following closures, Governor Hogan released the *Maryland Strong: Roadmap to Recovery*² on April 24, 2020. The plan includes a comprehensive three-phase strategy for reopening the State’s economy hinged on improvements in public health metrics, coupled with the ability to establish the following four “building blocks”:

1. Procure sufficient personal protective equipment (PPE) for frontline healthcare workers;
2. Generate hospital surge capacity;
3. Have adequate testing capacity; and
4. Conduct a robust contact tracing program.

While much progress has been made, some Maryland businesses are still struggling to recover from losses associated with COVID-19.

COVID-19 Layoff Aversion Fund

In order to support small businesses facing financial impacts from the novel coronavirus, the Maryland Department of Labor (MD Labor) established the *COVID-19 Layoff Aversion Fund* with over \$10,000,000 of State and federal Rapid Response resources in March 2020.³ The Fund directs grants to small businesses experiencing economic stresses in order to mitigate potential layoffs or facility closures due to COVID-19 and promote “social distancing.” Eligible businesses may apply for funding up to \$50,000.

Recognizing the success of MD Labor’s initial investment, on October 22, 2020, Governor Hogan committed an additional \$20,000,000 in State resources to the Fund.

Beginning Wednesday, October 28, 2020 MD Labor will accept new applications to the *COVID-19 Layoff Aversion Fund* continuing through 30 calendar days following the discontinuation of the State of Emergency related to the novel coronavirus, as issued by Governor Hogan, or until all funds are obligated, whichever occurs first.

¹ Executive Orders related to COVID-19 are available here: <https://governor.maryland.gov/category/executive-orders/>.

² Maryland Strong: Roadmap to Recovery: https://governor.maryland.gov/wp-content/uploads/2020/04/MD_Strong.pdf

³ MD Labor will pursue other funding to support this initiative beyond the Rapid Response resources.

ELIGIBILITY

Eligible applicants include Maryland businesses that:

- Have 500 employees⁴ or fewer based within the State;
- Are up-to-date on Unemployment Insurance taxes and in good standing with the Comptroller of Maryland and MD Labor;⁵
- Have not received a previous award from the *COVID-19 Layoff Aversion Fund*; and
- Can demonstrate a need for layoff aversion support due to the impacts of COVID-19.

USE OF FUNDS, SPENDING TIMEFRAMES, AND RECAPTURE

Allowable Costs

Participating organizations must utilize funds in order to mitigate layoffs and adhere to “social distancing” provisions established by State and local public health entities. Requests must be reasonable, necessary, and directly related to the purpose of the *COVID-19 Layoff Aversion Fund*. All applications will be reviewed by MD Labor (additional details in a subsequent section).

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

- Purchasing remote access equipment to allow employees to work from home versus being laid off (computers, printers, telephones, headsets, etc.);
- Purchasing software programs or applications required for working remotely;
- Purchasing cleaning/sanitization supplies and/or services that will allow a small business to maintain an on-site workforce as a result of exposure reduction through frequent deep cleaning;
- Paying for additional liability insurance for restaurants that convert to delivery under the State of Emergency;
- Supporting businesses that take advantage of the Unemployment Insurance Work Sharing Program (<https://www.dllr.state.md.us/employment/worksharing/>) by supplementing the employee’s income and benefits;⁶ and/or,
- Other creative approaches and strategies to reduce or eliminate the need for layoffs, subject to review and approval by the MD Labor.

Prohibited Use of Funds

Resources from the *COVID-19 Layoff Aversion Fund* may not be used for the following:

- Hazard pay;
- Rent;
- Purchase of vehicles;
- Marketing costs;
- Payment of invoices to vendors or other operational costs;

⁴ Employees cannot be independent contractors.

⁵ If an approved applicant owes taxes to the State of Maryland, payment will first be automatically applied towards that expense by the Comptroller of Maryland.

⁶ If utilizing the Unemployment Insurance Worksharing Program, employers may use the *COVID-19 Layoff Aversion Fund* to supplement Unemployment Insurance payments. In this case, the Fund would cover employee wages up to \$50,000 if the applicant demonstrates that they are participating in the Workshare Program.

- Employee wages/benefits other than those utilizing the Workshare Unemployment Insurance Program; and
- Support services such as childcare, transportation costs, lodging expenses, or meals.

Additionally, multiple State funding sources, including those provided by other agencies, are not intended to cover costs related to the same business expense.

Funding Cap

The maximum award for *COVID-19 Layoff Aversion Fund* grants is \$50,000 per eligible applicant.

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 COVID-19.

Spending Reimbursement

MD Labor will consider reimbursement for permissible activities dating back to the beginning of the State of Emergency (March 5, 2020). For example, an organization may request grant funding for laptop computers purchased in April 2020 that enabled staff to work remotely. If requesting reimbursement, applicants must submit receipts and/or other relevant documentation with their initial application. Failure to do so will result in denial of the application.

Timeframe for Spending and the Recapture of Funds

Grantees must fully spend *COVID-19 Layoff Aversion Fund* dollars and submit all required documentation within 60 calendar days of the award. If a business is unable to fully spend an award, funds must be promptly returned to MD Labor and written notification must be sent via email to LaborCOVID19.layoffaversion2@maryland.gov. The Department will work with the grantee to ensure the award is properly returned.

Additionally, MD Labor may recapture funds from organizations that fail to produce evidence of permissible expenses (receipts, etc.), make purchases that are outside of the approved grant agreement, or those who spend dollars on prohibited costs.

APPLYING TO THE *COVID-19 LAYOFF AVERSION FUND*

Application Submission

To apply to the *COVID-19 Layoff Aversion Fund*, a business must first complete the application provided on this website: <http://www.labor.maryland.gov/employment/covidlafund.shtml>.

At a minimum, a completed application must provide:

- A complete budget including the amount of funds requested and a brief itemized description of all costs;
- A copy of receipts for expenses incurred prior to the application if requested;
- The number of employees affected and a staff roster;
- A brief profile of the business including Employer ID#, address, and contact information;
- A brief narrative describing the layoff aversion plan and need for funds;

- A copy of the organization’s Certification of Good Standing, available here: (<https://egov.maryland.gov/BusinessExpress/EntitySearch>);
- A copy of the organization’s W-9 form; and,
- A commitment to keep employees on staff through 90 calendar days from the date of the grant award.

Eligible businesses should submit completed applications electronically to: LaborCOVID19.layoffaversion2@maryland.gov for consideration by the MD Labor Review Team. Applications will be accepted and reviewed on a rolling, first-come, first-served basis. **Applications MUST remain in Microsoft Excel format. Do not submit the application in PDF format.**

MD Labor will contact organizations that applied and were unfunded during the initial round of grantmaking (between March 25th and March 27th) due to the rapid exhaustion of funds. Those organizations will be permitted to reapply during a priority period.

Application Review

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

The Review Team, comprised of staff from the Labor Division of Workforce Development and Adult Learning (DWDAL), must ensure that approved applications adhere to the purpose of the *COVID-19 Layoff Aversion Fund*. At least two unique staff members must review each application and a member of DWDAL’s Fiscal Unit must approve each award prior to funding notification. Applications that request reimbursement will be conditionally approved by the Review Team, with final approval from the DWDAL Monitoring and Compliance Unit following the review of proof of purchase documentation.

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 “General Information” section of the *COVID-19 Layoff Aversion Fund* application.

Pursuant to the Maryland Public Ethics Law⁷, 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 *COVID-19 Layoff Aversion Fund* applications have been approved or denied within five business days of application receipt.

If approved, the MD Labor Office of Workforce Development will provide the business with a *COVID-19 Layoff Aversion Fund* 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.⁸ Once signed, the grant award is considered executed. 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 award. If an applicant requires additional time to return the agreement, a request must be made in writing within the five business day timeline.

⁷ MD Code Ann. Gen’l Provisions, Title 5.

⁸ Extensions *may* be permitted under extenuating circumstances.

If denied, within seven business days from the notice of denial, the applicant may appeal the decision. The appeal must be emailed to LaborCOVID19.layoffaversion2@maryland.gov and: (1) state the grounds for the appeal; and, (2) state the reasons why the appellant should be approved. The MD Labor DWDAL Assistant Secretary will consider all appeals and provide written response to the applicant within seven calendar days of appeal receipt.

REPORTING, MONITORING, & RECORD RETENTION

Administrative, Fiscal, and Programmatic Reporting

Governor Hogan’s October 22, 2020 commitment of an additional \$20,000,000 to the *COVID-19 Layoff Aversion Fund* is supported by State resources. As a result, participating businesses and organizations will be required to submit brief reports and expense receipts. MD Labor will notify successful applicants of these requirements and will streamline and simplify this process during Maryland’s State of Emergency in order to further support burdened businesses.

Monitoring

Entities receiving an award are subject to monitoring by DWDAL’s Monitoring and Compliance Unit.

Record Retention

MD Labor requires participating businesses and organizations to retain *COVID-19 Layoff Aversion Fund* records for at least three years following the final expenditure, or until any related litigation is complete.

FAIR PRACTICES AND ACCESSIBILITY

It is the policy of MD Labor that all persons have equal opportunity and access to services and facilities without regard to race, religion, color, sex, age, national origin or ancestry, marital status, parental status, sexual orientation, disability or veteran status.

REFERENCES

Law

- [Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19](#), dated March 5, 2020;
- [Executive Orders related to COVID-19](#), Governor Larry Hogan, State of Maryland;
- Maryland Code Ann., Labor and Employment, Title 11, [Maryland Economic Stabilization Act](#); and
- Maryland Code Ann., Gen’l Provisions, Title 5, Maryland Public Ethics Law.

Regulations

- Code of Maryland Regulations (COMAR), Title 9- Department of Labor, Subtitle 33- Job Service, Chapter 2 – [“Economic Stabilization”](#); and
- COMAR, Title 9- Department of Labor, Licensing and Regulation, Subtitle 32- Unemployment Insurance, Chapter 1- Obligations of Employers, Part .06- [“Claims during Temporary Mass Layoffs”](#).