



GOVERNMENT OF PUERTO RICO

Department of Economic and Development Commerce

State Workforce Board

REFERENCE: POLICY NO. PRDEDC-WIOA-RR-01-20

SUBJECT: COVID 19 - LAYOFF AVERSION FUND

DATE ISSUED: APRIL 7, 2020

GENERAL INFORMATION

COVID-19 and the Puerto Rico Response

On March 12, 2020, Governor Wanda Vázquez Garced declared a State of Emergency in Puerto Rico as a result of the public health threat associated with the novel coronavirus or COVID-19. Over subsequent days, the Governor proclaimed various Executive Orders encouraging to "social distancing" and protect citizens from further spread of the disease.

COVID-19 Layoff Aversion Fund

The Workforce Innovation and Opportunity Act (WIOA) Rapid Response fund is a flexible activity designed to respond to the needs of businesses and affected workers. It includes the delivery of layoff aversion strategies intended to prevent or minimize the duration of unemployment.

In order to support small businesses facing economic impacts from the novel coronavirus, the Puerto Rico Workforce Development Program (WDP) of the Department of Economic Development and Commerce (DEDC) established the *COVID-19 Layoff Aversion Fund* with an initial amount of **\$8 million** from the WIOA resources.

The *COVID-19 Layoff Aversion Fund* will direct grants to small businesses or other organizations in Puerto Rico, as described below, that are experiencing economic stress in order to mitigate potential employee dismissals or facility closures due to COVID-19. Eligible businesses may apply for funding up to **\$50,000 dollars**. The funds will be subject only to the expenses related to the COVID-19. Employers must provide evidence of the expenses incurred as a result of the COVID-19, and how those expenses may result in employees' layoff in order to continue their operations. The funds will be paid through reimbursements (for more details see the COVID-19 Layoff Aversion Fund Application).

WDP will receive applications for the *COVID-19 Layoff Aversion Fund* starting immediately and ongoing until 60 calendar days following the discontinuation of the State of Emergency declared by the Governor Wanda Vazquez Garced, associated to the novel coronavirus. This period could be extended, as determined by the Governor of Puerto Rico.

ELIGIBILITY

Eligible applicants include Puerto Rico business that:

- Have 500 employees or less, including self-employed individuals;
- Have no debts of any kind with the Government of Puerto Rico; and
- Can demonstrate a need for layoff aversion support due to the impacts of COVID-19.

In addition to small business, other applicants may be the following:

- Non-profit or community-based organizations; and
- Higher education institutes, among others.

USE OF FUNDS

Allowable Activities

Participating organizations are required to make use of funds to mitigate layoffs and adhere to "social distancing" requirements established by state and federal 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 the WDP (more details can be found in the subsequent section).

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

- Purchase of equipment that will allow employees to work from home instead of being laid off (such as computers, printers, telephones, headsets, etc.);
- Purchase of software or applications required for the employees to be able to complete work tasks remotely;
- Purchase of sanitization supplies or services to reduce the exposure through frequent deep cleaning, in order to maintain an on-site workforce operation.
- Payment for the extension of liability insurances for restaurants that convert their operations into a home delivery service, under the State of Emergency, as long they are considered essential, in accordance with the Executive Orders issued by the Governor of Puerto Rico; and
- Other creative approaches and strategies to reduce or eliminate the need of layoffs, subject to the evaluation and approval of the WDP.

Prohibited Use of Funds

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

- Hazard Insurance Payments (with the exception of the above-mentioned clause);
- Purchase of inventory while the business was closed. This prohibition includes the purchase of alcoholic beverages and cigarettes;
- Employee wages and benefits; and
- Support services such as childcare, transportation costs, lodging expenses, or meals.

Funding Cap

The threshold for *COVID-19 Layoff Aversion Fund* grant is \$50,000 per eligible applicant, regardless of the mechanism for doing business, i.e. self-employed, DBA or Corporation. The funds allocated to employers will be determined based on the extraordinary expenses associated with COVID-19 and the impact on their employees.

WDP may consider proposals exceeding the \$50,000 cap if extenuating circumstances justify the approval and assignation of grant. The request for exceeding cap will require to the applicant to provide strong documentation and evidence of potential and substantial layoffs related to COVID-19.

APPLYING TO THE COVID-19 LAYOFF AVERSION FUND

Application Submission

To apply for the *COVID-19 Layoff Aversion Fund*, the business will have to complete the online application on the Puerto Rico Department of Economics Development and Commerce webpage at: <https://www.ddec.pr.gov/>.

Each application must include the following documents:

- Valid ID (i.e. State driver's license, passport or State ID);
- Merchant Registration Certificate (available at: <https://suri.hacienda.pr.gov/>);
- In case of a corporation appearing through an authorized representative, a Corporate Resolution must be provided authorizing the individual designated for representation on behalf of entity;
- Certification of Income Tax filing from the last five (5) years in the Treasury Department;
- Negative of debt certificate from the Treasury Department or current payment plan;
- Negative of debt certificate of the Unemployment Insurance, if apply;
- Commitment to keep the employees included in the application for at least 120 calendar days from the date of the grant award; and

- Receipts or invoices for goods or services that were acquired and are related to the emergency.

Eligible businesses should submit completed applications electronically to: layoffaversion@ddec.pr.gov. Applications will be reviewed and accepted on a rolling, first-come first-served basis until funds are expended. Any incomplete documentation or application will not be considered.

Due to the nature of the emergency and stipulations of the Executive Order 2020-023 of March 15, 2020 and 2020-029 of March 30, 2020, only some businesses and industries can operate. Therefore, this program will be implemented in two phases.

Phase one will be activated during the term of the Closing Order, in accordance with the aforementioned Executive Orders, or any subsequent order extending or varying this period. During the first phase, those businesses or industries authorized to operate pursuant to Sections five (5th) and six (6th) of Executive Order 2020-029, as well as those included in any Memorandum, Circular Letter or Administrative Bulletin issued by any agency pursuant to Section ten (10th) of the same order, may apply for these funds.

The second phase will become effective on April 13, 2020, upon the termination of the Closing Order, or later, if an Executive Order with different stipulations is issued. The second phase will be open to all merchants who have closed operations in accordance with the Closing Order or who have decided to close, despite being authorized businesses or industries to operate.

Application Review

To be considered, the application must be fully completed with the required documentation. Any incomplete application will be rejected. Employers whose applications have been denied may reapply. In this case, they will be granted a new turn, according to the order in which the complete application is received.

Any received application that seeks to subsidize any economic activity considered to be illegal will be rejected without further evaluation or right of appeal and/or reconsideration.

Application Approval/Denied

PDL must inform applicants via email of whether *COVID-19 Layoff Aversion Fund* applications have been approved or denied.

If approved, the PDL will provide the business with a *COVID-19 Layoff Aversion Fund Award Notification*. Once the business is notified, the PDL will refer the documentation to the DEDC Finance Division for disbursement.

If denied, within ten (10) calendar days from the notice of denial, the applicant may appeal the decision. The appeal must be emailed to layoffaversion@ddec.pr.gov and: (1) state the grounds for the appeal; and, (2)

state the reasons why the appellant should be approved. The PDL will consider all appeals and provide written response to the applicant within ten (10) calendar days of appeal receipt.

Disbursement Process

Once the application is approved, the PDL will refer the applicant's file to DDEC's Finance Division. This must include: (1) Approved Application and (2) Merchant Registration (current). Every Monday, the PDL will send to the Finance Division an Excel table containing the following data: Employer's Name, Address, Employer or Individual Social Security Number, Bank Name, Routing Number, Account Number and approved disbursement amount. The Finance Division will make weekly disbursements to the benefited employers. All disbursements will be made through an electronic transfer mechanism. The DEDC will **NOT** issue checks, without exception.

REPORTING, MONITORING, & RECORD RETENTION

Administrative, Fiscal, and Programmatic Reporting

The *COVID-19 Layoff Aversion Fund* was created with Rapid Response/Dislocated Workers Funds from the federal law Workforce Innovation and Opportunity Act (WIOA). As a result, participating businesses and organizations will be required to submit brief reports and expense receipts. WDP will notify successful applicants of these requirements and intends to streamline and simplify this process during Puerto Rico's State of Emergency in order to further support burdened businesses.

Monitoring

As the *COVID-19 Layoff Aversion Fund* is, federally funded, it is subject to interventions, monitoring and audits. These interventions can be carried out by the DEDC, the Office of the Comptroller of Puerto Rico, the Office of the State Inspector General, the Federal Department of Labor, the Office of the Federal Inspector General, among other government compliance and oversight agencies.

Record Retention

In accordance with the Code of Federal Regulations, Puerto Rico requires participating businesses and organizations to retain *COVID-19 Layoff Aversion Fund* records for at least three (3) years following the final expenditure, or until any related litigation is complete.

FAIR PRACTICES AND ACCESSIBILITY

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

REFERENCES

- Executive Order related to COVID-19 (OE-2020-029) of Puerto Rico Governor, Wanda Vázquez Garced, dated March 30, 2020;
- Executive Order related to COVID-19 (OE-2020-023) of Puerto Rico Governor, Wanda Vázquez Garced, dated March 15, 2020; and
- Executive Order related to COVID-19 (OE-2020-020) of Puerto Rico Governor, Wanda Vázquez Garced, dated March 12, 2020.
- 2 CFR 200.332, Subrecipient Monitoring and Management;
- 20 CFR 682.320, What is layoff aversion, and what are appropriate layoff aversion strategies and activities?
- 20 C.F.R. 639, Worker Adjustment and Retraining Notification;
- 29 CFR 95.53, Retention and access requirements for records;
- Training and Employment Guidance Letter (TEGL) 19-16. "Guidance on Services Provided under Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by Title III of WIOA, and for Implementation of the WIOA final rules"