

Analysis

Item 40: Employment Department

Lost Wages Assistance Grant

Analyst: Michelle Deister

Request: Approve, retroactively, the submission of a federal grant application from the Oregon Employment Department to the Federal Emergency Management Agency (FEMA) in the amount of \$356,701,710 for the Lost Wages Assistance grant established via Presidential Memorandum on August 8, 2020.

Analysis: The Oregon Employment Department (OED) provided notification of its intent to apply for the Lost Wages Assistance (LWA) grant on August 20. OED has applied for a total of five weeks -- from August 1- September 4 -- of assistance for temporary partial wage replacement assistance of \$300 per week per eligible claimant; benefits for this period are estimated at \$356 million, and \$0.6 million is estimated for administrative costs. LWA provides a partial offset to the additional \$600 per week benefit that was available through the Coronavirus Aid Relief and Economic Security (CARES) Act for the period of March 29, 2020 through July 25, 2020. Funds will provide some additional temporary economic stability to eligible unemployment insurance (UI) benefit claimants who self-certify that their unemployment or underemployment is due to COVID-19. Eligibility is for those entitled to receive at least \$100 per week from any of the benefits listed below for the week they are seeking benefits, beginning the week ending August 1, 2020:

- Unemployment compensation, including unemployment compensation for federal employees and ex-service members;
- Pandemic Emergency Unemployment Compensation (emergency UI compensation extension of an additional 13 weeks for workers who have exhausted initial benefits but are still unemployed);
- Pandemic Unemployment Assistance (PUA - for self-employed, and workers not otherwise eligible for regular UI).
- Extended benefits;
- Short-time Compensation (Work Share);
- Trade Readjustment Allowance (for workers losing jobs or hours due to increased imports); and
- Payments under the Self-Employment Assistance Program (to start a business).

FEMA's Disaster Relief Fund is the source of LWA grant funding, up to six weeks of funding is available for states until whichever of one of the following conditions is met:

- FEMA expends \$44 billion from the Fund;
- The total unobligated balance of the Fund decreases to \$25 billion;
- Federal legislation is passed to provide some form of supplemental unemployment insurance compensation due to COVID-19; or
- December 27, 2020.

OED indicated that it intends to apply for the maximum available weeks of assistance. Since the agency submitted its request letter, OED has applied for six weeks of benefits and corresponding

administrative funds. The amount applied for to date is now \$421,392,746, \$420.7 million of which is for benefit payments.

The LWA Grant requires state matching funds of 25% (approximately \$105 million), which OED intends to match through regular payments of the Unemployment Insurance Trust Fund, based on Federal guidance received from the U.S. Department of Labor. To the extent that overpayments are made by OED related to LWA benefits, OED will be required to repay those funds, and proposes use of the Employment Department Special Fraud Control Fund to do so; however, legislation would be required to enable this use, and could be pursued in the 2021 regular legislative session.

Administrative costs associated with this grant are anticipated to be reimbursed by FEMA up to 3.75% of total benefits disbursed, which is sufficient to cover administrative costs of the LWA program. OED reports that necessary mainframe programming to deliver benefits is substantially complete, and that they expect to begin processing benefit applications within a couple weeks of approval, absent any additional changes at the state or federal level to benefit programs. The Legislative Fiscal Office notes, however, that Disaster Unemployment Assistance (DUA) to Oregon has been authorized by the U.S. Department of Labor on September 15, because of recent wildfires. DUA is likely to take precedence over any other programming changes not yet completed, (e.g., waiving the waiting week for payment of benefits).

Legislative Fiscal Office Recommendation: The Legislative Fiscal Office recommends that the Emergency Board approve, retroactively, a federal grant application from the Oregon Employment Department to the Federal Emergency Management Agency (FEMA) in the amount of \$421,392,746 for the Lost Wages Assistance grant.

Request: Retroactive authorization to apply for a federal grant in the amount of \$356,701,710 from the Federal Emergency Management Agency (FEMA) for the Lost Wages Assistance grant established by the Presidential Memorandum on August 8, 2020.

Recommendation: Approve the request with the following modification: approve the request to apply for \$420,688,800 for the Lost Wages Assistance grant.

Discussion: The Oregon Employment Department (OED) provided notification of its intent to apply for the Lost Wage Assistance (LWA) grant on August 20, 2020. At the time of submitting the Emergency Board request, OED had approximately \$356 million to provide Lost Wage Assistance for a five-week period beginning August 1 through September 5. Subsequent to the submission of this Emergency Board request, the Department received notification that it received an amount from FEMA to cover an additional week of benefits through September 12. The LWA grant provides \$300 per week for eligible claimants. The total amount approved and set aside by FEMA, for the OED, is now \$420,688,800. The amount to administer the grant is estimated to be approximately \$704,000. According to the Department, a conversation with FEMA made it clear the Lost Wage Assistance program will cover six weeks of benefits for all states in accordance with conditions set up by the Memorandum to end the program. Considering FEMA's allowance of six weeks of benefits, from when the program was put into place, means the program officially ended as of September 12. All benefits would be retroactively paid to eligible applicants. Once OED receives approval for its application, the Department estimates it will take about two to three weeks to begin distributing LWA benefits to claimants, retroactively.

The LWA provides for a \$300 per week payment in addition to a claimant's regularly calculated benefits. The Coronavirus Aid, Relief, and Economic Security Act (CARES), signed into law on March 27, 2020, provided for an additional \$600 per week payment for claimants beginning March 29, 2020 and ending July 25, 2020. The LWA provides for an additional \$300 dollars from August 1 through September 12. The LWA also requires the state to match 25 percent of those funds. The OED will meet the match requirement through regular unemployment insurance payments being made to claimants. These funds are available to eligible unemployment insurance claimants who self-certify their unemployment or underemployment is due to COVID-19. To be eligible, the claimant must have received at least \$100 per week in unemployment insurance benefits through: the regular unemployment insurance program, Pandemic Emergency Unemployment (PUA) program, Extended Benefits program, Work Share program, Trade Readjustment program, or Self-Employment Assistance Program.

While the benefits provide economic relief to Oregonians who are unemployed or underemployed as a result of COVID-19, there are a couple of items to note. First, this is an additional program that will need to be set up by OED through an already overburdened technology tool used to pay claimants. Second, the current wildfires in Oregon are expected to trigger the start of Disaster Unemployment Insurance (DUA), which is another program OED will need to administer. Adding both the LWA program and DUA programs could delay the implementation of other changes OED is already expected to make, including waiving the waiting week for payment of benefits and making the adjustment to the maximum amount a claimant can earn before losing benefits dollar for dollar as required in Senate Bill 1701 (2020).

Finally, the LWA program has different rules than other Unemployment Insurance programs regarding the repayment of any overpayments made by OED. Under LWA, when overpayments are made by OED, the department will be required to repay those funds within three months of the end of the program. FEMA has indicated it may provide an extension of up to six months. Under current programs, it can sometimes take up to a year or longer for OED to collect on overpayments to claimants. The Department's proposal to repay those funds is to use the Employment Department Special Fraud Control Fund; however, this approach may require a statutory change.



Oregon

Kate Brown, Governor

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September 4, 2020

The Honorable Senator Peter Courtney, Co-Chair
The Honorable Representative Tina Kotek, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, Oregon 97301-4048

Dear Co-Chairs:

Nature of the Emergency Request

This letter requests retroactive authorization by the legislative leadership for the Oregon Employment Department's application for the FEMA Lost Wages Assistance (LWA) grant established with the August 8, 2020 Presidential Memorandum. The application deadline was September 10; however, given the urgent need of Oregonians and the limited availability of funding, the Department applied before the deadline. The Department submitted a 10-day notification letter to legislative leadership on August 20, 2020 requesting pre-authorization to apply for the grant, and received such approval on August 27. The grant application for the first three weeks of benefits was then submitted on August 27, followed by an application for a fourth week on August 28 and a fifth week on August 31. FEMA approved the applications and has awarded funding for all weeks requested (\$356,701,710 combined).

The purpose of the unemployment insurance benefit program is to provide temporary partial wage replacement to those unemployed through no fault of their own. This supports local businesses and economies in times of economic hardship throughout Oregon. Oregon's economy has not yet fully reopened, we continue to see huge numbers of people needing assistance, and there remains a need for supplemental benefits to those who are unemployed or underemployed.

The Federal Pandemic Unemployment Compensation (FPUC) program provided an additional \$600 a week benefit as a supplement to claimants who received at least \$1 in weekly benefits. This program was available from March 29, 2020 through July 25, 2020. This provided additional economic stability during the onset of the current economic crisis. Besides helping countless individuals and families, it contributed \$2.4 billion dollars back into Oregon communities.

The LWA program provides a partial offset to the loss of the FPUC payments. The LWA program provides a temporary supplemental benefit of \$300 for claimants who self-certify that their unemployment is due to COVID-19.

The Presidential Memorandum, *Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019*, issued on August 8, 2020 made \$44 billion available for the payment of LWA benefits and associated administrative costs. The Department requested the \$300 option which will provide payments of \$300 per week per eligible claimant. States are required to “match” \$100 of the benefit costs. Oregon will satisfy the \$100 per payment match requirement with state funds paid to eligible claimants from the Unemployment Insurance Trust Fund and distributed by the state as “regular” benefits. Administrative costs will be reimbursed by FEMA up to a maximum reimbursement of 3.75%.

FEMA will distribute funds to pay the LWA benefit from August 1, 2020 until the earlier of when: 1) FEMA expends \$44 billion from the Disaster Relief Fund (DRF); 2) The total unobligated balance of the DRF decreases to \$25 billion; 3) Federal legislation is enacted that provides, due to the COVID-19 pandemic, supplemental federal unemployment compensation or similar compensations for unemployed or underemployed individuals; or 4) December 27, 2020. FEMA is giving states three weeks of benefits when first distributing grant funds, providing benefits for additional weeks one at a time until the program exhausts its funding. Several projections show the funding providing only five weeks of benefits, although this depends on many factors including how many states apply for the grants, economic conditions, and whether other emergencies take place and use the DRF funds.

Agency Action

To date, the Department has applied for and received five weeks of LWA funds. The Department’s application for the five weeks covering August 1 through September 4 amounts to approximately \$357 million, \$356 million paid to claimants and \$0.6 million for administrative costs. We will continue to apply on a weekly basis as long as funds are available. FEMA will provide 75% of the funding and the state will match the remaining 25%. A total of \$119 million of state matching funds are estimated. These matching funds are from benefits paid as regular payments from the state Unemployment Insurance Trust Fund, payments that were already required to be made to Oregonians under existing law.

The Department estimates the nationwide appropriation will fund approximately 5 weeks of \$300 payments to eligible Oregonians. LWA payments will be paid beginning with weeks of unemployment ending on or after August 1, 2020 through weeks of unemployment ending no later than December 27, 2020 or until one of the other conditions to end the program has been met.

The Department continues to seek answers to vital questions, including which state funds may need to be contributed back to FEMA for any erroneous payments made. While FEMA has indicated states are required to repay FEMA for any un-recouped overpayments of LWA benefits, the guidance so far is insufficient to estimate what the potential state obligation may be. More guidance is expected and the Department anticipates seeking legislative action to allow the use of the Employment Department Special Fraud Control Fund established in ORS 657.400 to

Senator Courtney and Representative Kotek
September 3, 2020
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satisfy these requirements. The Department is working to implement the program and payment of benefits to Oregonians as quickly as possible. We will keep the Legislature informed of any potential state funds required for this grant prior to making any obligations or expenditures. Depending on the information received from the federal government, limitation, position authority, and revenue may be requested in the future.

Action Requested

The Department requests retroactive legislative approval for its application for the FEMA Other Needs Assistance grant for LWA payments and administrative costs offered per the Presidential Memorandum. Since the program is temporary, the Department's work will be absorbed with existing resources and no additional position authority is needed.

Sincerely,



David Gerstenfeld, Acting Director
Oregon Employment Department

cc: Ken Rocco, Legislative Fiscal Office
Michelle Deister, Legislative Fiscal Office
George Naughton, DAS Chief Financial Office
Tamara Brickman, DAS Chief Financial Office