

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION UI
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 22-20

TO: STATE WORKFORCE AGENCIES

FROM: JOHN PALLASCH /s/
Assistant Secretary

SUBJECT: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Grants.

1. **Purpose.** To encourage and assist states in applying for grant funds for STC programs and issue guidance on the process to apply for the grants provided for under Section 2110 of the CARES Act, which supports the Secretary of Labor’s (Secretary’s) commitment to provide resources and assistance during re-opening of businesses and help employers and workers avert layoffs.
2. **Action Requested.** The U.S. Department of Labor’s (Department) Employment and Training Administration (ETA) requests that State Workforce Agency Administrators provide information contained in this Unemployment Insurance Program Letter (UIPL) to appropriate staff.
3. **Summary and Background.**
 - a. Summary – On March 27, 2020, the President signed into law the CARES Act, which was designed to mitigate the economic effects of the COVID-19 pandemic in a variety of ways. The CARES Act includes the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. The UI-related provisions are summarized in UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued on April 2, 2020. The STC-related provisions are summarized in UIPL No. 21-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments*, issued on May 3, 2020.

Section 2110 provides up to \$100 million for grants to states with STC programs in their laws that conform to the requirements of section 3306(v), Federal Unemployment Tax Act (FUTA) (26 U.S.C. § 3306(v)). Grants are available for the implementation or

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improved administration of an STC program, and for the promotion of the program and enrollment of employers in an STC program. The Secretary may use up to \$250,000 of the \$100 million to provide outreach and to share best practices for STC programs. The deadline to apply for these grants is December 31, 2023.

This UIPL provides guidance and instructions regarding the process to apply for these grants and encourages eligible states to submit STC grant applications. Attachment I provides the language in Section 2110, Grants for Short-Time Compensation Programs. Attachment II contains an application checklist states can use while completing the STC grant application(s). Attachment III provides the STC grant Quarterly Progress Report (QPR). Attachment IV lists the Short-Time Compensation (STC) Grant amounts available by state. Finally, Attachment V provides the instructions for Completing the SF-424 (Application for Federal Assistance) and SF-424A (Budget Information for Non-Construction Programs).

- b. Background – The STC program (also known as “worksharing” or “shared work”) is a lay-off aversion program in which an employer, under a state-approved plan, reduces the hours for a group of workers and these workers in turn receive a reduced unemployment benefit payment. In the context of re-opening businesses closed temporarily by a pandemic, STC can also serve as a means of bringing most or all of a temporarily laid-off workforce back to the job, even if social-distancing measures, a decline in business, or other factors prevent operating at full staffing levels full time. Specifically, this benefit may be made available to individuals returning to work with reduced hours who worked for the employer prior to the temporary lay-off due to COVID-19. This program preserves employees’ jobs and employers’ trained workforces during a disruption to firms’ regular business activity by reducing hours of work for an entire group of affected employees, rather than by laying off some employees while others continue to work full time. The STC benefit payment cushions the adverse effect of the reduction in business activity on employees and employers, by maintaining the connection between employees and employers, ensures that these workers will be available to resume prior employment when business demand increases, and allows businesses to gradually ramp up operations and re-open.

Federal requirements concerning the STC program are found in the definition of STC in section 3306(v), FUTA (26 U.S.C. § 3306(v)). Employer participation in an STC program is voluntary. An employer must submit a written plan to the state unemployment compensation (UC) agency, which is subject to the state’s approval. The employer’s plan must specify the percentage reduction in the workweek for affected employees and be consistent with employer obligations under applicable federal and state laws. Employers must maintain (to the same extent as other employees not participating in the STC program) health benefits and retirement benefits under Sections 414(i) and (j) of the Internal Revenue Code (IRC) (26 U.S.C. §§ 414(i) and (j)) for employees in the affected unit, despite the reduced hours. An employee must be available for his or her workweek to meet the “able and available for work” requirements.

4. **Eligibility for Grants.** Section 2110(d) of the CARES Act, requires that STC grant funds be used for two distinct purposes: (1) an eligible state may receive a grant to fund the

implementation or improved administration of an STC program; and/or (2) an eligible state that has submitted a plan for a grant for implementation or improved administration may also receive a grant to promote and enroll employers in its STC program.

To qualify for an STC grant, a state's UC law must be certified under Section 3304, FUTA, (26 U.S.C. § 3304) and under Section 303, Social Security Act (SSA) (42 U.S.C. § 503). In addition, the state must meet the following two criteria: (1) the state has an STC law that conforms to Section 3306(v), FUTA; and (2) the state STC program is not subject to discontinuation. To qualify for an STC grant to promote and enroll employers in its STC program, the state must have submitted a plan for a grant for implementation or improved administration of its STC program.

For a state that has a new STC law there is one additional criterion. The state STC program must be scheduled to take effect within 12 months of the date of the Secretary's certification to the U.S. Department of Treasury (Treasury) to permit a transfer of funds for the STC grant award.

5. **Amount of Grants.** The total amount available in grant funds is \$99,750,000: \$100,000,000 less \$250,000, which the Secretary may use to provide outreach and share best practices for STC programs. Each state's share of the STC grants is calculated as provided under Section 2110(b)(1) of the CARES Act:

[To] be equal to the amount obtained by multiplying \$100,000,000 (less the amount used by the Secretary under subsection (e)) by the same ratio as would apply under subsection (a)(2)(B) of section 903 of the Social Security Act (42 U.S.C. 1103) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1) of such section) that would have been subject to transfer to State accounts, as of October 1, 2019, under the provisions of subsection (a) of such section.

This means each state's share is based on its proportionate share of FUTA taxable wages multiplied by the \$99,750,000. (See Attachment IV). As noted above, states may apply for one or two STC grants. Of the total amount available to each state, the following conditions apply:

- One-third of the total STC grant funds available to the state are for implementation or improved administration of the STC program; and
- Two-thirds of the total STC grant funds available to the state are for promotion of the STC program and enrollment of employers in the program.

Note: If a state applies for both of these grants, the state must track and account for each grant separately as described in Section 7 of this UIPL.

6. **Use of Grant Funds.** Section 2110(d) of the CARES Act requires that STC grant funds be used for the implementation or improved administration of state STC programs, and for

promotion and enrollment efforts associated with such programs. Funds awarded under these grants may be used for activities such as:

- The creation and support of Rapid Response teams to advise employers about alternatives to layoffs, including STC;
- The provision of education or assistance to employers to enable them to assess the feasibility of participating in STC programs; and
- The development or enhancement of systems to automate submission and approval of plans and to automate the filing and approval of new and ongoing STC claims.

In developing an STC grant application, the Department strongly encourages state UI agencies to collaborate with Workforce Innovation Opportunity Act (WIOA) Rapid Response teams because they share states' goal of layoff aversion and there may be an opportunity to leverage resources.

Funds may only be used to support those specific activities that were proposed in the approved STC grant application. If a state wants to expand or modify the approved STC grant activities, the state must submit a request for modification to the ETA National Office, with a copy to the appropriate ETA Regional Office.

7. **Reporting.** Section 303(a)(6) of the SSA requires states, as a condition for receiving administrative grants, to provide reports to the Secretary. In addition, Section 2110(h) of the CARES Act allows the Secretary to establish reporting requirements for states receiving an STC grant in order to provide oversight of grant funds. As a condition of receiving an STC grant, the state must adhere to the reporting requirements as described in this section.

A state that receives STC grant(s) must submit an STC grant Quarterly Progress Report (QPR) (Attachment III) for each grant. The purpose of the STC grant QPR is to track STC grant activities and ensure that the state achieves the goals set forth in the STC grant application. The STC Grant QPR has five sections for the state to document quarterly STC grant activities: (i) implementation and/or improved administration, (ii) promotion and enrollment, (iii) outcomes (*i.e.*, number of averted layoffs, number of reduced hours, UI payments by sector/firm/size, *etc.*), (iv) success stories, and (v) technical assistance needed. ETA will monitor the state's quarterly progress using the STC Grant QPR and will match it against the timeline for achieving goals submitted in the STC grant application.

The report is due 45 days after the end of each quarter (*i.e.*, November 14, February 14, May 15, and August 14). If a state fails to submit the STC Grant QPR and/or is not meeting the timeline for achieving goals established for STC grant implementation as approved in the application, the STC grant may be subject to recoupment as described in Section 9 of this UIPL.

For a state with approved STC grant applications, subaccounts will be established in its Unemployment Trust Fund (UTF) account for each grant type, which must be used only for the purpose(s) outlined in the approved grant application. After the Department provides certification of the approved grant(s) and the amount of the grant(s) to Treasury, then

Treasury will transfer the appropriate amount(s) to the subaccounts. ETA will advise the state of the total STC grant award(s) and the amount(s) awarded along with the purpose of the grant(s) through an award letter.

After the award(s), the following reports will be required for all STC transactions involving the UTF subaccounts:

1. ETA 8403 (Summary of Financial Transaction, Title IX Funds, OMB No. 1205-0154); and
2. ETA 2112 (UI Financial Transaction Summary, OMB No. 1205-0154) on lines 15 (Title IX or Special Legislation) and 44 (Title IX or Special Legislation). The transactions should be identified by amount and program type, as appropriate, in the comments section.

8. **Grant Application.** The STC grant application must be consistent with Section 2110 of the CARES Act and requirements outlined in this guidance.

States must perform STC program duties and functions in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) at 2 C.F.R. Part 200 and 2 C.F.R. 2900 applicable to all grants and cooperative agreements. Additionally, the Department's administrative requirements for grants and cooperative agreements at 29 C.F.R. Parts 31, 32, 38, and 98 apply to grant funds provided for these activities. The FY 2020 grant terms and conditions are available at: https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/2020_Terms_Template.pdf

Section 2110(a)(3)(A) of the CARES Act directs the Secretary to develop eligibility criteria for these grants; this guidance sets forth these criteria. In addition, section 2110(c)(1) of the CARES Act directs the Secretary to develop the manner of the application for these grants and the Department provides an STC application checklist in Attachment II to help states develop their applications and encourages states to use the checklist to ensure their STC grant applications are complete when they submit them to the Department. STC grant applications must be complete and submitted by December 31, 2023.

To be complete, applications must be submitted with a cover letter signed and dated by the state administrator and include the name, telephone number, and e-mail address of the state STC program contact. The following details should be included with the application:

- a. A copy of the state STC law along with an explanation of how the law conforms to Section 3306(v), FUTA;
- b. If the state is applying for a grant to implement or improve administration of the state STC program, the state must submit a narrative description of the funding request and a detailed project plan. This project plan must include a quarterly timeline for all of the implementation/improvement activities for the STC program, including:
 - i. A description of any planned infrastructure implementation or

- improvements (*e.g.*, information technology system(s) or operational upgrades) that the state has identified to automate or improve the submission and approval of STC employer plans and initial and continued STC claims; and
- ii. A description of any plans to hire and train STC staff for STC program implementation.
- c. If the state is applying for a grant to promote the STC program and enroll employers in it, the state must submit a narrative description of the funding request and a detailed project plan. This project plan must include a quarterly timeline for promotion and enrollment activities for the STC program, as well as:
 - i. A description of any plans to create or improve support of Rapid Response teams to advise employers about alternatives to layoffs;
 - ii. A description of education or assistance that will be provided to employers to enable them to participate in the STC program; and
 - iii. A description of STC program outreach tools and efforts to be funded through the grant.
 - d. A description of the state's quarterly and cumulative goals (*i.e.*, interim milestones and timelines for all grant activities) and desired outcomes for the STC program, which may include, but are not limited to:
 1. Outreach efforts and partnerships established to increase employer STC program usage (*e.g.*, Labor Organizations, Rapid Response teams, and workforce system Business Services Representatives);
 2. Number of STC employer plans established; and
 3. Number of anticipated layoffs averted.
 - e. A description (or copy) of the written agreements or Memoranda of Understanding (MOU) between the UI agency and appropriate workforce system partners, such as WIOA Rapid Response, Workforce System Business Service Representatives, and State/Local Workforce Investment Area(s), to develop a coordinated plan to avert layoffs;
 - f. A description of how the state will sustain the activities that were funded by the STC grant(s). This may include leveraging WIOA Rapid Response grant funds to support promotion and enrollment activities or better coordination of WIOA Business Services teams, Rapid Response teams, and other state agencies with business engagement and outreach efforts.
 - g. The following assurances:
 - i. That the state will expend the awarded funds in accordance with the requirements of the STC grant(s);
 - ii. That the state will submit required reports on STC activities;
 - iii. That the state will recover any STC overpayments in accordance with the

- state UC law; and
- iv. That the state will develop processes for auditing and monitoring STC employers' adherence to the state-approved STC employer plan and STC payments.

A STC grant application must address all the requirements outlined above and be submitted on or before December 31, 2023. Attachment II includes an application checklist to help the state with development of its application.

Section 2110(c)(2) of the CARES Act requires the Secretary to notify the state of whether the requirements for a grant have been met within 30 days from the date a complete application is received. The 30-day period begins on the day following actual receipt of a complete application.

States should submit completed grant application(s) by electronic submission to the National Office at STC_Applications@dol.gov, with a copy to the appropriate ETA Regional Office.

9. **Recoupment of STC Grants.** Section 2110(f) of the CARES Act requires the Secretary to establish a process under which the Secretary will recoup the STC grant funds if, during the five-year period beginning on the first date that the grant is awarded, the state either terminates the state's STC program, or fails to meet the requirements of the STC program. The Secretary's determination to recoup a grant will be based on the State's law and its implementation of the law, including reviews of state legislation to ensure the state is maintaining a program meeting the requirements of section 3306(v) of FUTA. The Department will follow Uniform Guidance at 2 CFR Part 200 and 2 CFR 2900 in recouping any grant funds, if necessary.
10. **Technical Assistance.** The Department developed its STC website to provide the states with resources and tools. The STC website is located at <https://stc.workforcegps.org/>. The following is a short list of the material on the website:

- STC Guidance and Model Legislation;
- Resources for Developing a State Program;
- Business Outreach Templates and Materials;
- STC Summit Presentations and information provided at the Summit; and
- Resource library containing sample STC state documents and links to other resources.

Section 2110(e) of the CARES Act authorizes the Secretary "to use 0.25 percent of funds available under subsection (g) to provide for outreach and to share best practices with respect to short-time compensation programs." The Department will develop a webinar to provide states with examples of successful practices involving STC program implementation and outreach tools developed as a result of these STC grants and will post information on the [UI Community of Practice](#) web site. Additional resources and tools will also be added to the STC website, as appropriate.

11. Inquiries. States should direct inquiries to STC_Applications@dol.gov and copy the appropriate ETA Regional Office.

12. References.

- Sections 2108-2111 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. 116-136, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act;
- Sections 3304(a)(5) and 3306(v) of the Federal Unemployment Tax Act (FUTA);
- Section 303(a)(6) of the Social Security Act (SSA);
- 20 CFR Part 665, subpart C, *Rapid Response Activities*;
- 2 CFR Parts 200 and 2900;
- 29 CFR Parts 31, 32, 38, and 98;
- UIPL No. 21-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments*, issued on May 3, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9622.
- UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued on April 2, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390.
- UIPL No. 12-01, Change 1, *Outsourcing of Unemployment Compensation Administrative Functions-Claims Taking*, issued on November 26, 2007, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2558; and
- Training and Employment Guidance Letter (TEGL) No. 12-09, *Joint Guidance for States Seeking to Implement Subsidized Work-Based Training Programs for Unemployed Workers*, issued January 29, 2010, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2712.

13. Attachment(s).

- Attachment I – Section 2110 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act,
- Attachment II - Short-Time Compensation (STC) Application Checklist
- Attachment III - Short-Time Compensation (STC) Grant Quarterly Progress Report (QPR)
- Attachment IV- Short-Time Compensation (STC) Grants – Amounts
- Attachment V- Instructions for Completing the SF-424 and SF-424A