

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF EMPLOYMENT SERVICES

GUIDE FOR EMPLOYERS

SHARED WORK: An Alternative To Layoffs



DISTRICT OF COLUMBIA
DEPARTMENT OF
EMPLOYMENT SERVICES



GOVERNMENT OF THE
DISTRICT OF COLUMBIA
MURIEL BOWSER, MAYOR

Dear District of Columbia Employer,

In 2010, the District of Columbia enacted the Keep D.C. Working Act of 2010, which established the Shared Work Unemployment Insurance Program (Shared Work). Shared Work is a voluntary program that provides an alternative to layoffs for employers confronted with a decline in business. The principle behind Shared Work is simple: instead of laying off a percentage of their workforce to cut costs, an employer could reduce employees' hours by the same percentage and keep the entire workforce on the job.

Shared Work offers many benefits to employers. Through this program, an employer maintains high productivity and quality because the existing trained workforce remains in place. This means that employers can avoid the time and expense of hiring and training new employees. Shared Work allows employers to maintain high employee morale because employees can avoid the insecurity and uncertainty that an impending layoff could bring.

Participation in Shared Work would allow employers to continue to provide health and retirement benefits for their employees. Instead of facing the emotional and financial hardships of unemployment, employees would be able to keep their jobs.

Overall, Shared Work proves to be beneficial for employers and employees as an alternative to layoffs. Sincerely,

Department of Employment Services

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SHARED WORK PROCESSES AND GUIDELINES

DEFINITIONS

1. **Shared Work Plan** – a written plan approved by the Director, under which the employer requests the payment of shared work benefits to workers in an affected unit of the employer to avert temporary and/or permanent layoffs.
2. **Master File** – an Excel, csv., or flat file document sent to DOES that has both employer and employee information.
3. **Affected Unit** – an employer or its specified department, shift, or other unit of two (2) or more employees designated by the employer to participate in a Shared Work plan.
4. **Usual weekly hours of work** – the usual hours of work for full-time or part-time employees in the affected unit when that unit is operating on its regular basis, not to exceed forty hours and not including hours of overtime work.
5. **Shared Work Benefits** – the unemployment benefits payable to employees in an affected unit under an approved shared work plan, as distinguished from the unemployment benefits otherwise payable under the Act.

IMPORTANT GUIDELINES TO CONSIDER BEFORE SUBMITTING A SHARED WORK APPLICATION

Before submitting an application for Shared Work, you should ensure that your application follows the program guidelines for approval.

Your application should certify that:

- The Shared Work plan identifies the affected unit by providing a master file to DOES with the required information for each employee.
- All employees in the affected unit are full-time regular part-time employees.
- Your plan for Shared Work participation applies to a minimum of ten percent (10%) of the employees and no less than two (2) employees of an affected department, shift, or unit.
- The reduced hours for an affected unit are at least ten percent (10%) and no more than 60 percent (60%) of an employee's Usual weekly hours of work.
 - This percentage reduction will apply *for the entire length* of the Shared Work plan.
- There will be equal treatment of an affected unit. This means that for each affected unit, each employee must have the same percentage of reduced hours *each week* throughout the entire Shared Work plan.¹
- The Shared Work plan will not be used to reduce the health and retirement benefits offered to employees.
- The plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced together with an estimate of the number of layoffs that would have occurred absent the ability to participate in a Shared Work plan.

¹ However, employees' hours of different affected departments or units may be reduced at a different percentage. This difference must be specified and addressed separately in the Shared Work plan.

- The Shared Work plan will be used in lieu of layoffs.
- The Shared Work plan will not be used to subsidize seasonal or temporary employees during the off-season.
- The Shared Work plan is approved in writing by the Union for all employees covered under a collective bargaining agreement (CBA).
- The plan will specify how an affected unit not covered by a CBA would be notified of the Shared Work plan and it did not require a good faith estimate of the number of layoffs averted as part of plan approval.

PROCESS FOR ESTABLISHING A SHARED WORK PLAN BETWEEN DEPARTMENT OF EMPLOYMENT SERVICES (DOES) AND AN EMPLOYER

SHARED WORK PLAN APPLICATION

1. An employer who wants to participate in Shared Work shall **complete and submit the Shared Work Plan Application** at www.does.dc.gov.
2. DOES reviews the application for compliance with the requirements of the Shared Work Program. DOES will approve or deny the Shared Work plan no later than fifteen (15) calendar days after it is received by DOES. Review of the Shared Work plan may take longer than fifteen calendar days if the submitted Shared Work plan is incomplete, inconsistent, or complicated and DOES is required to contact employer for additional clarifying information. DOES will provide written notification of the approval or denial of the Shared Work plan.
3. If the Shared Work plan is approved, DOES will email the employer an approval letter and a Memorandum of Agreement (MOA) for participation in the Shared Work Program. The Shared Work plan is effective as of the date noted in the approval letter.
4. If a Shared Work plan is denied, DOES will email a letter to the employer with an explanation of why the Shared Work plan was denied. The employer will be given a chance to reapply by submitting a revised Shared Work plan. An employer may reapply for the Shared Work program not earlier than 30 calendar days from the date of the disapproval of the Shared Work plan.
5. Once a Shared Work plan is approved, the employer should take the following actions:
 - a. Sign and return your MOA to DOES within seven (7) business days of receiving your approval letter. The MOA should be emailed to DOES at shared.work@dc.gov.
 - b. Inform your employees that your Shared Work plan has been approved and provide them with the guidelines, websites, and resources for the plan.
 - c. Inform your employees of the need to file an online application for Shared Work benefits.
 - d. Submit to DOES your master file that includes information for all employees within an affected unit.
 - e. Continue to certify weekly hours worked for each employee in an affected unit by emailing a master file and weekly certification to DOES at shared.work@dc.gov.

SHARED WORK PLAN IMPLEMENTATION

1. The employer verifies the reduced hours that employees have worked by emailing a master file and weekly certification to DOES at shared.work@dc.gov.
2. Employees in the affected unit shall file an online application for Shared Work benefits and certify weekly to report any additional income from an employer other than their Shared Work employer using the DOES Online Employee Certification system.
3. DOES cross-checks each employee's benefit application with the master file sent by their employer to ensure that the employee is covered under the Shared Work plan.
4. If the employee is eligible to participate in the Shared Work plan, then DOES will process the application for Shared Work benefits and notify the employee whether sufficient wages exist to establish a claim for Shared Work benefits.
5. If the employee is not eligible for benefits because the employer does not have an approved Shared Work plan with DOES or the employee is not listed on the master file submitted by their employer, DOES will send an email to the employee advising of the reason for their ineligibility to receive benefits.
6. DOES reviews information from both the employer and employees to determine whether employees are eligible for Shared Work benefits for all hours worked, reported, and certified weekly.
7. For every certification week that an employee is eligible to receive Shared Work benefits through their employer's approved Shared Work plan, DOES pays the employee through a debit card that will be provided by DOES through the United States Postal Service to the employee's address of record.
8. DOES processes the employees' Shared Work certifications at the end of the employer's standard payroll period. This may be weekly, biweekly, bimonthly, or monthly.

SHARED WORK BENEFITS

1. Unless otherwise noted, Shared Work benefits paid to employees, like regular UI benefits, are 100 percent employer covered, unless otherwise noted. Shared Work benefits paid to employees of an affected unit may be covered by the federal government during the COVID-19 pandemic. DOES will provide an update to this page shortly.
2. Employees will receive Shared Work benefits equal to the employee's regular weekly benefit amount for a period of total unemployment multiplied by the nearest full percentage of the reduction of the employees' hours.
3. If employees receive earnings from or perform work for an employer, other than the Shared Work employer, employees are required to certify those earnings and work hours to DOES at the time of certification for the affected week. Any additional earnings or work may impact employees' eligibility for Shared Work benefits for the applicable week.

MODIFICATION OF A SHARED WORK PLAN

1. An employer may make modifications to a Shared Work plan, if the modification does not substantially change the basic provisions thereto.
2. All requests for modification must be made in writing to shared.work@dc.gov. Any modification must be approved in writing by the Union, if the affected employees are covered by a CBA. Any approved modifications will not change the original expiration of the Shared Work plan.
3. All modifications of a Shared Work plan must be approved in writing by DOES, prior to the implementation of the modification.

TERMINATION OF A SHARED WORK PLAN

DOES may terminate a Shared Work plan for good cause. If a Shared Work plan is terminated, DOES will provide written notification to the employer detailing the reason for the termination.

FREQUENTLY ASKED QUESTIONS (FAQS)

Q My business is located in Maryland. Can I qualify?

A No. Shared Work is for District of Columbia employers.

Q When can I participate in Shared Work?

A An employer who experiences a sharp reduction in activity due to economic conditions may consider using Shared Work as an alternative to layoffs.

Q Can Shared Work be used for reasons other than lowered activity due to economic conditions?

A No. Shared Work is intended to be an alternative to layoffs for employers confronted with a decline in business unrelated to seasonal or cyclical shutdowns, inventory control, model changeovers, or equipment maintenance, etc.

Q If I choose Shared Work, must I use it for my entire business or company?

A No. Shared Work can be used in one or more departments, shifts, or units. You have the flexibility to choose the area involved, but a minimum of ten percent (10%) of the employees in the selected area must be affected.

Q How many employees are required for a Shared Work Plan?

A A minimum of ten percent (10%) of the employees, in an affected department, shift, or unit, must be subject to layoff, in order to apply for a Shared Work plan.

Q Are there any limitations on which employees may be included?

A Yes. The affected employees cannot be part-time or seasonal, must be monetarily eligible, and not otherwise disqualified for a regular unemployment insurance claim.

Q If I have union employees, must the union approve a Shared Work plan?

A Yes. If your employees are covered by a collective bargaining agreement (CBA), the written concurrence of the union's bargaining agent must accompany the application.

Q What percentage of reduction in hours is required to participate in Shared Work?

A You must reduce hours by at least ten percent (10%) and by no more than 60 percent (60%).

Q Can there be different percentages of reduced hours for different employees in the same affected area?

A No. All employees in an affected unit, shift, or department must have the same reduction percentage. Different affected units, shifts, or departments may be reduced at different percentages. Each affected unit, shift, or department must be specified and addressed separately in the Shared Work plan.

Q How long can my employees receive Shared Work benefits?

A Employees may receive Shared Work benefits for up to 52 weeks in a benefit year or an amount not more than the equivalent of the maximum of 26 weeks of regular unemployment compensation.. An approved shared work plan will expire 365 days from date of approval by the DOES Director. Employers who wish to extend their Shared Work plan may file a new application with DOES not earlier than 30 calendar days from the date of the disapproval.

Q Can I use Shared Work as a transition to a permanent layoff?

A No. The intent of the Shared Work Program is to keep employees employed.

Q Can I interrupt Shared Work to put all of my employees back to full-time hours and then return to Shared Work?

A Yes. The Shared Work plan may be modified. Employers must seek written prior approval of the modification from the DOES Director.

Q Can I interrupt Shared Work to put a participating affected unit, section, or department back to full-time hours for a limited number of weeks and then return to Shared Work?

A Yes. The Shared Work plan may be modified. Employers must seek written prior approval of the modification from the DOES Director.

Q Can I lay off some of the employees designated in a Shared Work plan and continue to participate in the program with the remaining employees?

A Yes. The Shared Work plan may be modified. Employers must seek written prior approval of the modification from the DOES Director.

Q Can an employee work for another employer during the Shared Work plan period?

A Yes. However, this could affect the employee's eligibility for Shared Work benefits.

Q Does an employee have to actively seek work or accept offers of work while participating in Shared Work?

A No. However, all participating employees must be available to work for their Shared Work employer when additional hours are available.

Q What happens if an employee receives holiday or vacation pay?

A Holiday hours are considered hours worked and may reduce or eliminate Shared Work benefits for the calendar week incurred. Generally, a holiday cannot be a reduced hour day, unless the employee in the same position performed compensated services as part of the employee's usual weekly hours of work on that holiday, during the twelve-month period prior to the employer's participation in Shared Work. During a calendar week, a holiday cannot be the only day certified as a reduced hour day.

Vacation hours are considered hours worked and may reduce or eliminate Shared Work benefits for the calendar week, as well.

Q What happens if an employee receives sick pay?

A Sick leave hours for which the employee receives compensation are considered hours worked and may reduce or eliminate Shared Work benefits for the week.

Q What are the costs of Shared Work?

A Generally, the cost of Shared Work is determined by an experience rate the same way as regular unemployment insurance. All Shared Work benefits paid are charged to the Shared Work employer unless waived by federal or local law.

Q Q How do I begin Shared Work?

A The first step is to complete an application for Shared Work. Applications are available online at www.does.dc.gov. You can reach the Office of Unemployment Compensation (OUC) by contacting shared.work@dc.gov, if you have questions.

Q How much lead-time is necessary to initiate a Shared Work plan?

A Allow as much time as possible by beginning the application as soon as you know a reduction in workforce is imminent. However, the earliest a Shared Work plan may be effective is the Sunday prior to the week the Shared Work plan is approved.

Q Do I need to specify which employees will be participating in the Shared Work plan?

A Yes. The Shared Work plan must include, for each participating employee: name; Social Security number; date of birth; address; other contact information; furlough days or hours; duty station; date of hire; return to work date, if applicable; any change in status; whether this is the employee's first participating payroll cycle; hours worked for the payroll cycle; any other wages received for the payroll cycle; and basic wage information.

Q How will I know if my Shared Work plan is approved?

A You will be notified in writing by the Shared Work coordinator, once a decision is made on the Shared Work plan.

Q Is there a period of time that must lapse between two (2) Shared Work plans?

A Yes. An employer may submit another shared work plan application for approval, but not earlier than 10 calendar days from the date of the disapproval.

Q Is there a reporting requirement while the Shared Work plan is in effect?

A Yes. Employers are required to submit a weekly list of participating employees, including name; Social Security number; date of birth; address; other contact information; furlough days or hours; duty station; date of hire; return to work date, if applicable; any change in status; whether this is the employee's first participating payroll cycle; hours worked for the payroll cycle; any other wages received for the payroll cycle; and basic wage information.

Q What happens if the employer reports incorrect employee information to DOES that results in an overpayment?

A If an employer reports incorrect information that results in an overpayment to an employee, the employee will be required to repay DOES for the overage. Further, the employer may not be relieved of the benefit charges assigned to their account for the erroneous payments. It is imperative for the employer to carefully review the information submitted to DOES which certifies that the Shared Work Program is being properly administered and the reduced hours have been properly reported to DOES.

Shared Work benefits will not be released to an employee until the employer certifies the reduced hours with DOES. DOES requires the employer to submit the certifying information weekly. An employer must attest that the terms of the employer's written plan and implementation shall be consistent with employer obligations under applicable Federal and District laws.

Q What happens if the employee reports incorrect information or fails to report information to DOES that results in an overpayment?

A If the employee reports incorrect information that results in an overpayment to an employee, the employee will be required to repay DOES for the overage.

Q What is the process of receiving Shared Work benefits after the Shared Work plan is approved?

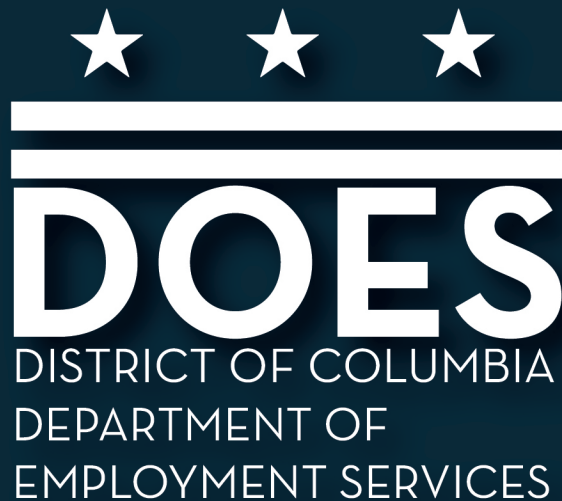
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1. Employers must submit a master file to DOES that identifies the employees of all the affected work units who are covered under the Shared Work plan.
 2. Employees that are covered under the approved Shared Work plan and who experience reduced hours are required to certify the reduction each week and report any hours and wages earned from other employment.
 3. The Shared Work employer will certify the reduced hours for the affected employees weekly, with DOES.
 4. DOES will process the Shared Work payment file upon receipt from the employer. (Also see "Shared Work Unemployment Process" chart)

Q Do I have appeal rights as a Shared Work participant?

A Yes. All unemployment insurance benefit determinations have appeal rights. Appeals must be filed with the Office of Administrative Hearings. However, it is imperative for employers to closely manage their Shared Work plan to ensure their employees in the affected work units covered by the Shared Work plan experience the same number of reduced hours each week. If an employee who is covered by a Shared Work plan files an appeal on a benefit determination, you will be required to attend the appeal hearing as the Defendant in the appeal and offer evidence to support the manner in which the Shared Work plan was administered. If DOES discovers a disparity in approved and rejected claims by members in the same work unit, the Shared Work plan may be terminated.

Q Who is responsible for monitoring employee participation and ensuring the Shared Work plan is being administered properly?

A The employer is responsible for ensuring that employees in the same affected unit, department or shift experience the same number of reduced work hours while the Shared Work plan is in effect. If DOES discovers a disparity in approved and rejected claims by members in the same work unit, the Shared Work plan may be terminated.



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