

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 009 – PUBLIC EMPLOYER**

459-009-0092

Employer Incentive Fund Program

The words and phrases used in this rule have the same meaning given them in OAR 459-009-0086.

(1) When the PERS Board determines that a sufficient amount of money has been allocated to the Employer Incentive Fund, it shall open an application period by declaring:

(a) The date upon which the application period shall open; and

(b) The total amount of funds available for matching employer UAL lump-sum payments during the application period.

(2) The application period shall end at the earlier of:

(a) 12 months after the application period start date; or

(b) Once all funds available for matching employer UAL lump-sum payments declared in subsection (1)(b) of this rule have been paid out.

(3) Unless otherwise specified in this rule, all the requirements and timelines established in OAR 459-009-0084, 459-009-0085, and 459-009-0086 apply to UAL lump-sum payments made in association with the Employer Incentive Fund Program.

(4) During the first 90 days of an application period, applications for the Employer Incentive Fund Program will only be open to employers with an unfunded actuarial liability greater than 200 percent of the employer's PERS payroll. After the first 90 days have expired, applications will be open to all PERS participating employers.

(5) A PERS employer seeking participation in the Employer Incentive Fund Program must submit an application to PERS and provide:

(a) The amount of the UAL lump-sum payment. The amount eligible for matching funds excludes:

(A) Side account deposits of less than \$25,000; and

(B) Any amount that will be applied to any outstanding transition liability;

(b) The date the employer made, or intends to make, the UAL lump-sum payment. Such date must be:

- 1 (A) No earlier than June 2, 2018; and
- 2 (B) No later than 12 months after the date the application period opens;
- 3 (c) A statement that the UAL lump-sum payment is not sourced from any type of borrowed
- 4 funds;
- 5 (d) The information required under OAR 459-009-0084(2)(c), if the employer is making a
- 6 UAL lump-sum payment under OAR 459-009-0084(2); and
- 7 (e) Proof of participation in the Unfunded Actuarial Liability Resolution Program as
- 8 provided under OAR 459-009-0091.
- 9 (6) PERS shall allocate a match amount equal to 25 percent of the eligible employer UAL
- 10 lump-sum payment amount indicated in subsection (5)(a) of this rule upon approval of the
- 11 employer's application; however, such allocated match amount may not exceed the greater
- 12 of:
- 13 (a) Five percent of the unfunded liability attributable to the employer applying to
- 14 participate in the Employer Incentive Fund Program; or
- 15 (b) \$300,000.
- 16 (7) For the purposes of sections (4) and (6) of this rule, the unfunded actuarial liability
- 17 calculated by the PERS consulting actuary for the most recent actuarial report prepared
- 18 under ORS 238.605 as of the application period start date will be used.
- 19 (8) Notwithstanding section (6) of this rule, in the event that moneys in the Employer
- 20 Incentive Fund are not sufficient to match the entire 25% of an employer's UAL lump-sum
- 21 payment commitment: *[only available moneys will be used in the match.]*
- 22 **(a) Only available moneys will be used in the initial match allocation;**
- 23 **(b) The unmatched portion of the employer's UAL lump-sum payment commitment**
- 24 **shall automatically be placed on the waiting list established under section (12) of this**
- 25 **rule in the order in which the employer's application was received;**
- 26 **(c) The employer shall not be required to make the unmatched portion of the UAL**
- 27 **lump-sum payment commitment unless and until PERS notifies the employer that**
- 28 **matching funds have become available for that unmatched portion.**
- 29 (9) PERS shall process the applications and allocate matching funds based upon the order
- 30 in which the applications are received.

(10) Except as otherwise provided in this rule, an employer will fail to qualify to participate in the Employer Incentive Fund Program, thereby forfeiting any allocated matching funds, if PERS does not receive the UAL lump-sum payment the employer has committed under subsection (5)(a) of this rule on the due date specified in the application. An employer may change, subject to PERS' discretion and approval:

(a) The amount of the UAL lump-sum payment indicated in its application.

(A) If the UAL lump-sum payment amount is increased, only the original amount will be eligible for matching funds; and

(B) If the UAL lump-sum payment amount is decreased:

(i) The new amount must be at least \$25,000; and

(ii) Any allocated matching funds will be decreased proportionately.

(b) The date of the UAL lump-sum payment indicated in its application.

(A) The employer must notify PERS at least five business days before the date the employer indicated it would make the payment; and

(B) The new payment date must be within 12 months after the date the application period opened.

(c) The rate offset date or UAL lump-sum payment amount for employers making UAL lump-sum payments under OAR 459-009-0084.

(A) The employer will need to request and pay for a new actuarial calculation; and

(B) The UAL lump-sum payment must be made within 12 months after the date the application period opens to remain eligible to receive matching funds.

(11) An employer must notify PERS and receive approval from PERS if it intends to make the UAL lump-sum payment prior to the payment due date under subsection (5)(b) or (10)(b) of this rule.

(12) Once all the funds identified in subsection (1)(b) of this rule have been allocated, employers *[applying for matching funds]* whose applications have not received any matching allocation and employers whose approved UAL lump-sum payment commitments have only been partially matched under section (8) of this rule, will be placed on a waiting list based upon the order in which the applications were received.

1 (a) If moneys become available again during the same application period, the employers on
2 the waiting list will receive matching allocations based upon the order in which their
3 applications were received.

4 (b) If additional moneys become available on the last day of the application period,
5 employers on the waiting list that are notified they will receive a matching allocation will
6 have an additional five days to submit their UAL lump-sum payment.

7 (c) For employers on the waiting list whose approved UAL lump-sum payment
8 commitments have only been partially matched, PERS shall notify the employer when
9 matching funds become available for all or a portion of the unmatched UAL lump-
10 sum payment commitment and shall establish a new payment due date applicable to
11 that unmatched portion, subject to subsection (12)(b) of this rule.

12 (13) Notwithstanding section (2) of this rule, the Board is extending the EIF employer
13 lump-sum payment deadline from December 1, 2020 to March 31, 2023, only for the
14 waitlisted employers from the application cycle established on September 3, 2019.

15 Notwithstanding paragraph (10)(b)(B) of this rule, waitlisted employers that wish to extend
16 their payment deadline under this section of the rule must notify PERS of the new payment
17 date at least five business days before the date the employer indicated it would make the
18 payment, and the new payment date must be no later than March 31, 2023. An employer
19 must notify PERS and receive approval from PERS if it intends to make the lump-sum
20 payment prior to the new payment date noticed under this section of the rule.

21 (14) OAR 459-009-0084(8), 459-009-0085(4) and (5), and 459-009-0086(7) do not apply
22 to UAL lump-sum payments receiving matching funds under this rule.

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25 Statutory/Other Authority: ORS 238.650 & ORS 238A.450

26 Statutes/Other Implemented: ORS 238.225 - 238.229