



GOVERNMENT OF THE  
DISTRICT OF COLUMBIA

**UNIVERSAL PAID  
FAMILY LEAVE**  
QUARTER 2 REPORT

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## PURPOSE OF THE REPORT

Pursuant to section 104 of the Universal Paid Leave Amendment Act of 2016 (D.C. Law 21-264; D.C. Official Code §32-541.04), the District of Columbia, Department of Employment Services, is submitting the enclosed report on behalf of the Executive.

The purpose of this report is to provide a preliminary update on the work completed to date and currently underway by the Administration to implement the Universal Paid Leave Amendment Act of 2016 (“Paid Leave Act”). This document further serves as the quarterly report required by section 104 of the Paid Leave Act, and will explain in detail the requirements needed in order to develop all software necessary to administer the paid leave system established pursuant to this Act. This quarterly report includes information on program administration, information technology procurement and development, staffing, marketing and outreach, key program deadlines, research findings and key considerations. The findings in this quarterly report are based on the current enacted Council legislation, and it captures all implementation activities from October 1, 2017, through March 31, 2018. If there are any amendments to the current enacted Council legislation, the activities in the next quarterly report may change.

## BACKGROUND

On February 17, 2017, the District enacted the Paid Leave Act. The Paid Leave Act provides the following reasons for Paid Family Leave (PFL) within the District: bonding with a new child, caring for a family member with a serious health condition, and caring for the employee’s own serious health condition. To qualify for PFL benefits, an individual must be a part-time or full-time employee in the District, regardless of residency, and meet all of the requirements, monetary and non-monetary, outlined within the law. District government and federal employees are excluded. The duration of benefits provided by the Paid Leave Act allows for eight (8) weeks of parental leave, six (6) weeks of family leave, and two (2) weeks of medical leave for every 52 weeks worked. The maximum weekly benefit amount is \$1,000 and is currently funded in the District solely by employer contributions. The current rate is 0.62 percent of wages or the annual self-employment income.

To implement the paid leave program for the District, the Department of Employment Services (DOES) has established the Office of Paid Family Leave (OPFL). The OPFL is comprised of the Division of Tax (collection of taxes, premiums, contributions, and fees; and revenue functions); Division of Benefits (claim filing, claim processing, payment of paid leave benefits); Benefit Payment Control (prevention and detection of fraud and overpayments; and recovery of improper payments of benefits); Appeals (fair hearings on protested claims); Medical (physician certifications); Call Center (customer service); and Support (procedures, budget, studies, etc.). Staffing efforts are currently underway to ensure the timely delivery of all key program initiatives.

To appropriately prepare to administer the program, a working group was created prior to the availability of any funding to continually move each component of the District’s implementation plan forward. The internal working group established by the Administration consists of representatives from, but not limited to, the Office of the City Administrator (OCA), Office of the Deputy Mayor for Greater Economic Opportunity (DMGEO), Department of Employment Services (DOES), Office of Human Rights (OHR), Office of the Chief Technology Officer (OCTO), Office of the Chief Financial Officer (OCFO), Department of General Services (DGS), Department of Human Resources (DCHR), and the Office of Contracting and Procurement (OCP). The overarching goal of the working group is to create a detailed road map for implementing the Paid Leave Act, with specific focus on the following areas:

- Administrative implementation of the program, including regulations, tax collection, claims submission, claims review and benefit payment;
- Developing a more detailed budget for implementing the program, including personnel, operational and capital costs;
- Developing a high-level information technology plan for the systems necessary to collect the taxes and for the administration and payment of paid family leave benefits;

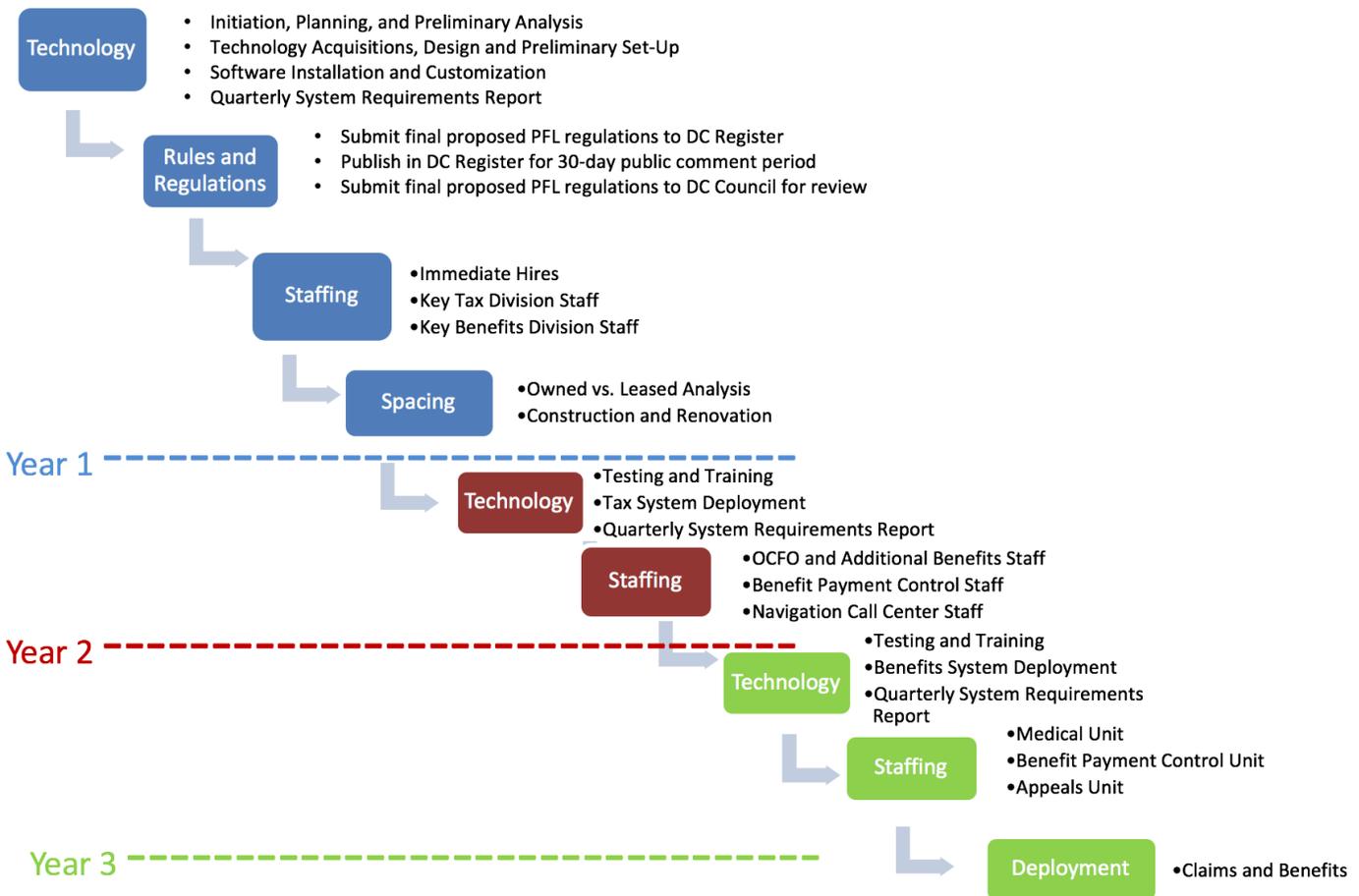
- Developing a plan for program staffing and the timelines associated with each cohort of hires;
- Determining space allocations and assignment in accordance to the needs identified; and,
- Developing a collective marketing and outreach strategy for the paid leave program.

In addition to the Administration’s internal working group, the District also created a sub-group that is exclusive to DOES. Comprised of a small team of subject matter experts in various fields, DOES’ group serves to support the inner workings of the Administration’s vision for the management and proper administration of PFL benefits in accordance with the Paid Leave Act.

## ROAD MAP TO PFL IMPLEMENTATION

The working group has identified three key phases for establishing the PFL program in the District of Columbia. These phases are centered on fiscal years 2018, 2019, and 2020 with each phase covering the primary components of program implementation for a given year. The technology, staffing, and programmatic developments are outlined below. Each of these phases also contains a critical component of marketing and outreach to educate the employer, employee, and medical communities to prevent fraud, maintain compliance, and ensure that all eligible workers in the District are knowledgeable of and may receive paid leave benefits.

### OPFL Road Map



### Summary of Projected Number of Claims

The Paid Leave Act has two overarching requirements: collecting taxes and paying benefits, with the latter being

required approximately twelve months after the former. Each of these two requirements includes building software solutions that speak to each other. DOES anticipates approximately 48,000 PFL claims annually in the District of Columbia, which is a similar claim volume of the state of Rhode Island. This estimate is based on the projected population of claimants to be served as well as a comparison between the Unemployment Insurance (UI) program. It is important to note that, the Rhode Island Temporary Disability Insurance/Temporary Caregiver Insurance (TDI/TCI) program does not have a tax unit, as all of the program's tax information is processed independently through the Rhode Island Department of Labor and Training, Division of Taxation.

### System Requirements

The Paid Leave Act requires a system that seamlessly integrates with current business leave and medical requirements. This includes the Health Insurance Portability and Accountability Act (HIPAA), the Family Medical Leave Act (FMLA), Unemployment Insurance, and the DC Language Access Act - all of which are referenced within the Paid Leave Act. Therefore, the District will need all systems, software, data, information, documents, facilities and resources to initiate, manage and administer the PFL Program. Below is a summarized representation of the detailed system requirements for the acquisition and development of the PFL system:

- The technology required must be able to perform all functionality to pay benefits for eligible employees who can take medical, family, and parental leave in accordance with the Paid Leave Act.
- In order to remove the risk associated with development, a commercial off-the-shelf (COTS) product is sought for all functions necessary to set-up, run, administer and manage an efficient, legally compliant PFL program.
- A fully functional tax system must be available by January 1, 2019 to allow for ample time to train staff and make system modifications to begin the collection of taxes on July 1, 2019.
- A fully functional benefits system must be available by January 1, 2020 to allow for ample time to train staff and make system modifications to begin the payment of benefits on July 1, 2020.
- All technology and functionality necessary to identify, manage and administer eligible employees taking leave for the birth, adoption, foster placement, permanent adoption or placement of a child should be provided.
- All technology and functionality necessary to identify, manage and administer benefits for taking care of critically ill family members and medical leave for employees with serious health conditions should be provided.
- The medical benefits also mean that physicians and physicians' practices must be managed to identify information as originating from actual physicians, and that the information shared is validated by authorized signatories.
- Technology is required to validate eligibility of benefits requests and the denial process. The tool must be able to support all types of family bonding applications allowable, including: care for family members with a serious health condition that requires care, employee recuperation from a determined serious health condition, and circumstances from qualifying military service.
- All functions required for the collection of tax revenue must be part of an integrated solution between tax and benefits. Contribution collection also requires all functions, documents, reports, and tools, including internet and interactive voice response, are implemented to manage and administer

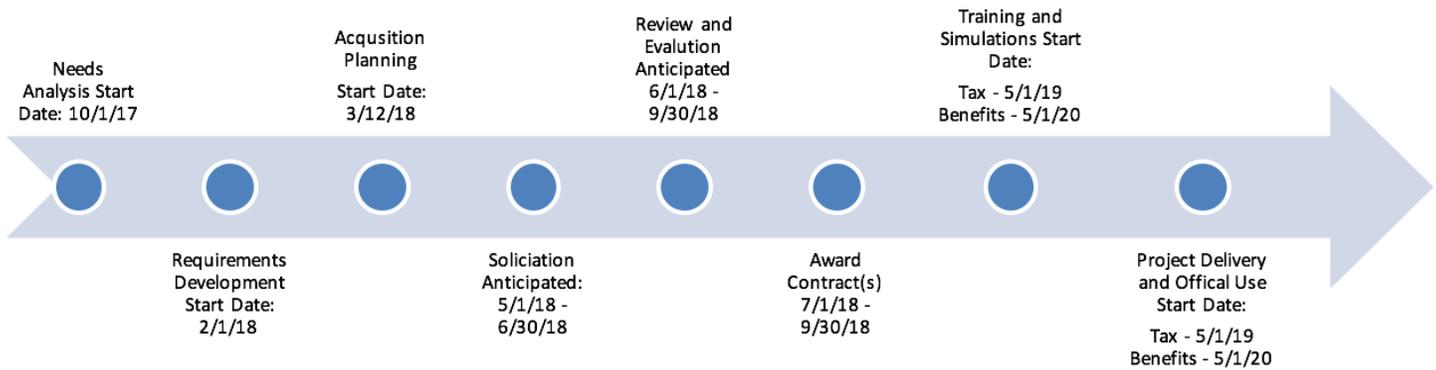
collection, management, issue resolution, and distribution of employer contributions. A file with integration to other District systems will be necessary to identify and monitor cases and updates to tax and employees associated with those employers.

- The amount of PFL contributions paid by employers must be tracked and monitored to be in compliance with the law.
- In addition to all aspects of technology required to complete the system, the benefits and employer functionality must manage the elapsed time against the benefit amount available.

### Projected Procurement Timeline

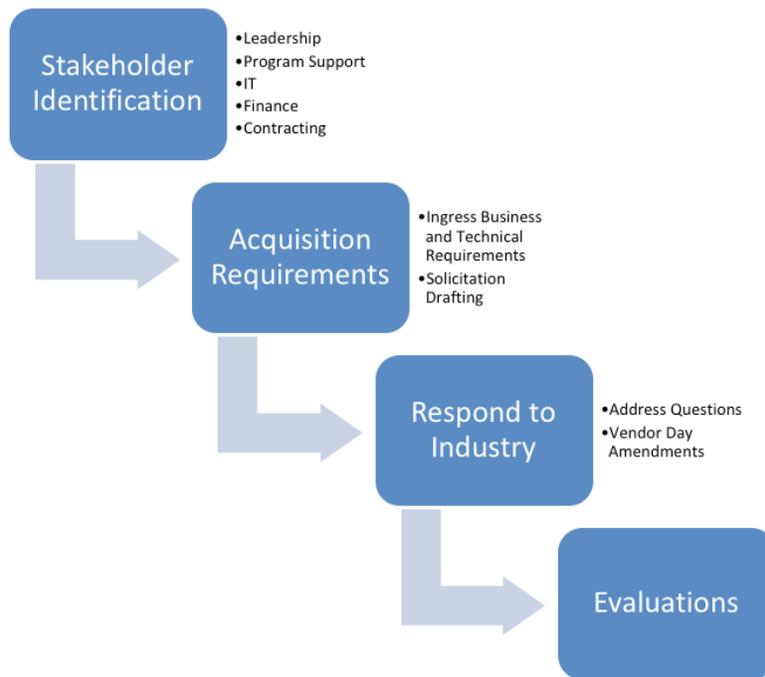
The following procurement timeline will ensure that all system needs are identified for the OPFL tax and benefits systems. The timeline and project start dates are approximate and represent ideal circumstances for successful project completion. The timeline has been updated to reflect the procurement milestones through March 31, 2018 and projected procurement milestones leading up to the implementation of the PFL system for the collection of taxes and administration of benefits.

As a result of the aggressive statutory timelines, serious consideration is being given to separating the PFL system requirements into multiple solicitations rather than a single solicitation.



### Acquisition Phase

Because of the extensive amount of time necessary to complete Information Technology (IT) development, any delays due to a lack of funding, uncertainty regarding the legislative scheme, or other factors could have a negative impact on the timeline for the paid leave program launch.



**Rules and Regulations**

The District has completed the first draft of the proposed rules and regulations, which will provide additional clarity and guidance regarding eligibility, notice requirements, payment of benefits, employer obligations, and other provisions under the Paid Leave Act. DOES posted the proposed rules and regulations on both the PFL webpage on the DOES website on March 31, 2018, to begin the public comment period. Additionally, the D.C. Register published the proposed rules and regulations in Vol. 65 No. 14 NO068274 on April 6, 2018, for a 30 day comment period. At the conclusion of the public comment period on May 7, 2018, the District will review all comments provided for consideration in the next iteration of proposed rules and regulations.

**PHASED STAFFING PLAN**

The fully staffed program for the OPFL consists of 120 FTEs. All essential and immediate hires will onboard during Fiscal Year 2018 (FY18), and will be primarily comprised of business, program and policy analysts, and supervisors for the Division of Tax and Division of Benefits. A total of 23 new hires are expected to onboard during year one of the program. An amendment was made to the last reported count of 22 new hires for FY18 to include an Information Technology Specialist in year one. Additionally, there will be a total of 48 new hires in year two of the program and 49 new hires in year three.

The following timeline summarizes the number of staff and budget estimates for each hiring cohort during years one, two and three. Hiring has begun for all nine of the immediate hires. Additional recruitment activities will continue to occur throughout the remainder of year one.

*\*Note: Once the full office is onboard, recurring staffing costs will total approximately \$8.5M-\$11M annually (FIS estimate: \$11.3M).*

#### ❖ **Fiscal Year 2018**

- Total new hires: 23
- FY18 personnel cost: \$1,644,395.12

#### ❖ **Fiscal Year 2019**

- Total new hires: 48
- Total personnel cost: \$2,333,311.14

#### ❖ **Fiscal Year 2020**

- Total new hires: 49
- Total personnel cost: \$4,394,539.00

\*Total FTE hires for OPFL = 120

## **NATIONAL BEST PRACTICES & TECHNICAL ASSISTANCE**

The District of Columbia has begun outreach with multiple states including California, New Jersey, New York, Rhode Island, and Washington State. California, New Jersey, and Rhode Island all have established paid leave programs. New York's program became effective in January of 2018 and Washington State's program will become effective in January of 2020.

A key takeaway from each of the states that has significantly contributed to our research is the value of ensuring the PFL program is equipped with the appropriate funding and staff resources at the onset of program development, which supports the successful implementation of a world-class PFL program.

Best practices provided by California, New Jersey, and Rhode Island include putting an emphasis on online claim applications, utilizing targeted marketing and outreach plans to ensure employees, employers, and medical providers are fully aware of the program, and leveraging modernized systems and technology to produce efficient workflows and to ensure the successful administration of benefits. The following chart outlines the previous site visits and ongoing outreach efforts:

**California**

Conference Call held:

9/19/2017 at 2:00 - 3:00 PM EST

Site Visit: 11/16/2017 - 11/17/2017

Site Visit Overview: Presentations on California PFL history, tax structure, marketing, program integrity, fraud, information technology infrastructure; roundtable discussions and Q&A sessions.

**Key Takeaways:**

- California conducted increased marketing to minority populations and single fathers across all media platforms and print advertisements in an effort to access the groups that had the lowest access rates to the PFL program.
- California experienced challenges over knowledge transfer that they were able to overcome through increased collaboration efforts within their IT department.
- The District should anticipate a lengthy procurement timeframe as it took California six years, from development through the award, to procure their system.

**Rhode Island**

Conference Call held:

9/15/2017 at 11:00 AM - 12:00 PM EST

Site Visit: 11/29/2017 - 11/30/2017

Site Visit Overview: Presentations on Rhode Island Temporary Disability Insurance/Temporary Caregiver Insurance (TDI/TCI) program, claims filing, processing, and managing, implementation, program integrity, fraud, and tax; roundtable discussions and Q&A sessions.

**Key Takeaways:**

- Rhode Island successfully implemented the TCI program within six months by leveraging their existing TDI system and making the necessary technological modifications to support the added program.
- Rhode Island conducted a self-audit of all TCI claims, which allowed the state to preemptively estimate the number of fraudulent cases and create a plan for remediation in advance.
- Rhode Island employs one part-time physician and three full-time nurses that are critical for understanding medical jargon, determining if the leave allowance matches the care needed, and communicating with medical providers to resolve issues on complex claims.
- Rulemaking is utilized to address any area of legislation that requires further explanation or clarity. Rhode Island included robust definition sections for all areas under the claims process.
- It is important for the Agency to adjust the tax rate based on the solvency of the fund that pays the paid leave benefits.

**New York**  
**2017 Family and Medical Leave Insurance Convening**

Site Visit: 12/6/2017

**Site Visit Overview:** Convening included discussions regarding latest national research on Paid Leave, lessons learned from state implementation, paid leave public policy and decision-making, and advocacy and campaigns.

**Key Takeaways:**

Adequate paid leave programs across the nation must adhere to the following:

- Be a social insurance model
- Be universal
- Promote gender equity
- Ensure job protection
- Cover all families and care needs
- Ensure adequate wage replacement
- Include a sufficient number of weeks
- Should not be administered by a private for-profit
- Include advocacy groups for outreach

**New Jersey**

Conference Call held:

8/31/2017 at 9:45 - 10:45 AM EST

**Site Visit:** To occur in FY18, Quarter 2

Site Visit Overview: Not applicable

**Key Takeaways:**

- New Jersey's Family Leave Insurance (FLI) program is an employee-paid contribution
- New Jersey currently administers the FLI program using a mainframe system, but they are in the process of finding a specific system for TDI and FLI
- More information to be obtained at the future site visit

Washington State	
<p>Conference Call held: 10/24/2017 at 4:00 - 5:00 PM EST</p> <hr/> <p>Site Visit: 3/27/2018 - 3/28/2018</p> <hr/> <p><b>Site Visit Overview: Presentations on Procurement, Paid Family Leave Structure System and Structure, Tax Structure, Insurance Contributions and Fund, Fraud Deterrence and Program Integrity, Marketing and Outreach, and Work Methodology.</b></p>	<p><b>Key Takeaways:</b></p> <ul style="list-style-type: none"> <li>• Washington State’s PFL program is a shared employee-employer contribution program; premium collection from employers will begin 1/1/2019, and administration of benefits will begin 1/1/2020</li> <li>• Regarding system development, Washington State anticipates utilizing a continuous integration model</li> <li>• System implementation follows the Agile development methodology and functions like a technology start-up: initial project team which transitions to a program team</li> <li>• Emphasis on branding and taking ownership of the program’s public facing identity</li> <li>• Usability and accessibility testing with focus groups</li> <li>• Emphasis on the customer experience</li> </ul>

**MARKETING & OUTREACH**

The District is trailblazing a path forward for the implementation of the PFL program and has developed a robust plan for marketing and education intended to reach the medical, human resources, employee and employer communities. The Paid Leave Act requires public education and awareness campaigns—and the District believes it is very important to have comprehensive and timely campaigns in both areas. The timeline and scope for the education and awareness efforts are based in part on discussions the working group has had with other paid leave jurisdictions.

In fiscal year 2018 - Quarter 2, the District created a webpage and a Weekly Benefits Calculator that allows District workers to enter their average weekly wage and receive an estimate of what their potential Weekly Benefit Amount (WBA) will be once the program is fully implemented on July 1, 2020. In addition to the PFL webpage and benefits calculator, the District created an OPFL email account that will be used as an avenue for communication between the program and the District’s employer, employee, and medical communities. For the remainder of this quarter, the District will begin developing materials to generate awareness for the PFL program that will be made available on the PFL webpage and the DOES social media accounts. These documents will include one-pagers for the public and FAQs for employers.

During the later months of fiscal year 2018, the District will initiate its pre-implementation outreach and awareness campaign. Marketing and outreach during this phase will ensure that employers are fully aware of the requirements outlined in the Paid Leave Act, and will provide employers with the necessary resources to update their internal policies and procedures to begin contributing to the Universal Paid Leave Implementation Fund.

Additionally, the District will conduct a multi-year public education and outreach campaign that will include advertising (i.e. online, mobile, outdoor billboard, newspaper, radio, television, metro ads), informational and educational materials (i.e. brochures, posters, flyers, etc.), social media efforts, town hall meetings with stakeholders, and other direct outreach initiatives. As the program and marketing campaign progresses, a website or microsite

will be developed to host paid leave information for the District's targeted groups, including fact sheets, FAQs, press releases, contact information, etc.

As part of an effort to establish a partnership with key stakeholders and advocacy groups, the District met with Jews United for Justice PFL Campaign Manager Joanna Blotner to discuss the District's implementation of the paid leave program. Additionally, the District will meet with the Capitol Hill Association of Merchants and Professionals (CHAMPS) to discuss implementation activities. These insights, along with feedback from other key community stakeholders will help to ensure the District moves forward with full transparency, public accountability, and community outreach. Within fiscal year 2018 - Quarter 3, the District will follow-up with additional stakeholders to gather input and insights from groups with a interest in the PFL program.

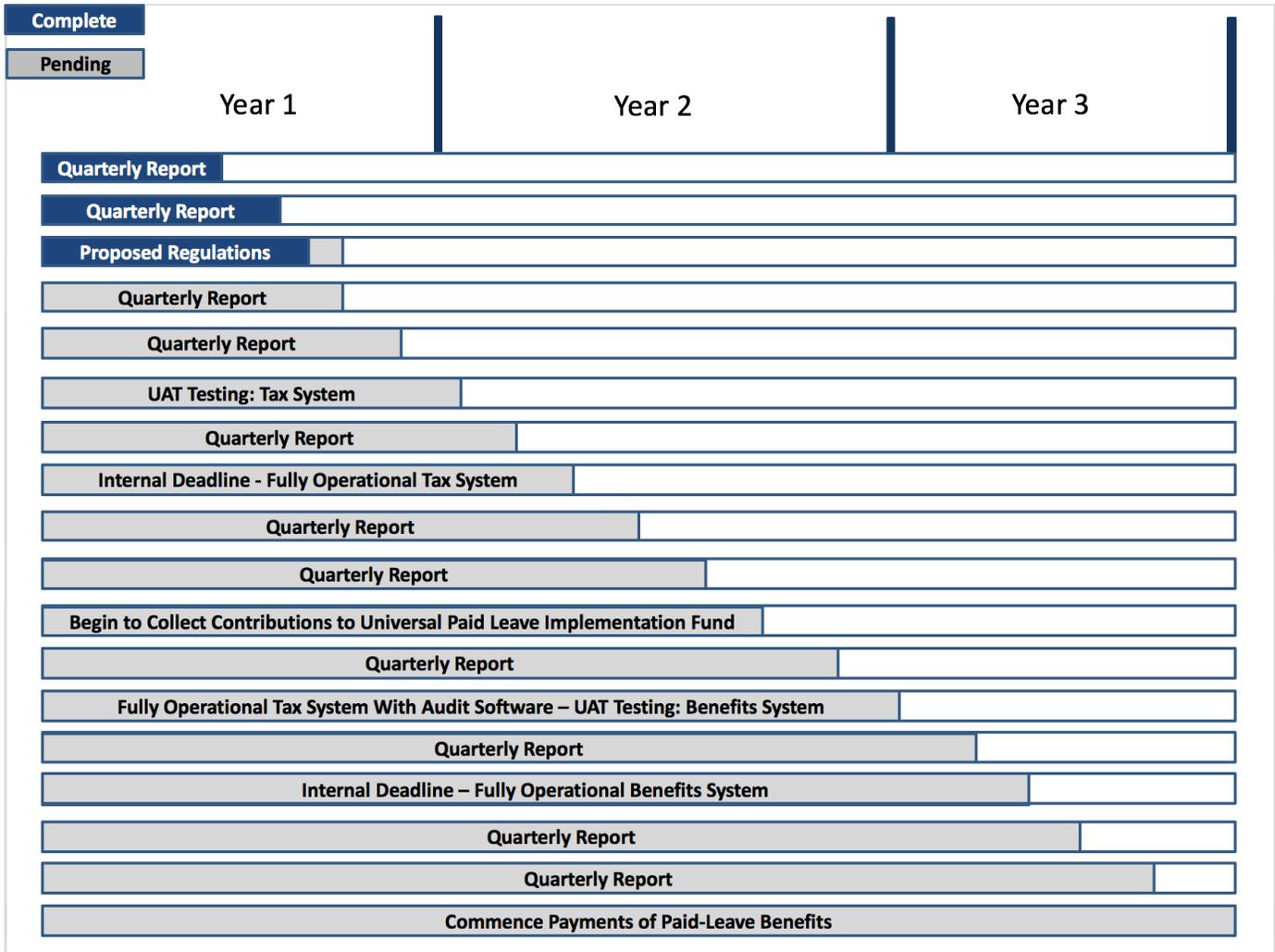
### **18F Briefings to the Executive Team**

On December 6, 2017, 18F held a presentation for the District's Executive Team, which included (not limited to) City Administrator Rashad Young, Deputy Mayor for Greater Economic Development Courtney Snowden, Director of Performance and Budget Management Jenny Reed, and DOES Director Odie Donald, to discuss agile procurement and development in relation to the technology necessary to implement the paid leave program. 18F is a cost recoverable organization within the General Services Administration (GSA) that partners with states and localities to assist with innovative procurement strategies, including scope and request for proposal (RFP) drafting; bid evaluation and post procurement support. 18F has briefed the District multiple times on the potential partnership, which is intended to better serve the District's population through digital services and high- technology products.

On January 24, 2018, 18F hosted a demo and presentation for DOES leadership regarding the PFL prototype website they developed. This demo provided DOES leadership with important information on how the prototype can be customized to the District's needs in order to assist in the procurement PFL system. Specifically, the prototype can be designed to ensure it is user-friendly and accessible for applicants, employers, medical providers, and DOES staff, capture important individual data during the application process, and more. It serves as an additional resource that provides potential vendors with the state's vision for a system that meets their requirements.

## PROGRAMMATIC MILESTONES

The following chart highlights the District’s progress to meet the key deliverables and program requirements outlined within the Paid Leave Act:



## RESEARCH & KEY CONSIDERATIONS

As the District initiates the implementation of the OPFL, it is critical that the key lessons and considerations across paid leave programs are examined and addressed in the District’s rule-making and implementation process. These considerations will not only warrant the review of existing legislation, but also guarantee that the PFL program is administered properly and efficiently in the District.

While the current legislation for paid leave in the District establishes the collection of employer contributions to the Universal Paid Leave Implementation Fund, the law does not address the taxable status of paid leave benefits. As these benefits are solely funded by employer contributions, such as with unemployment compensation, consideration must be given to their tax status. D.C. Official Code §51-118(d)(1)(A) establishes that unemployment compensation is subject to federal, state, and local income taxes.

Since the legislation does not address the taxable status of paid leave benefits, the District will address this in the rule-making process for the PFL program.



Below is a snapshot of out-of-state residents employed in the District and the sector of work for out-of-state residents working in the District based on an inflow/outflow report from the 2015 census data:

Sector of Work for Out of State Residents	
Private	343,510
State/Federal	133,555
<b>Total</b>	<b>477,065</b>

Out of State Residents Employed in the District			
Maryland	275,401	Maine	112
Virginia	181,490	Oregon	98
Pennsylvania	3,889	Minnesota	85
New Jersey	2,360	Rhode Island	84
New York	2,061	Vermont	82
North Carolina	1,438	Missouri	81
West Virginia	1,335	Arizona	68
Massachusetts	1,070	Mississippi	49
California	901	Louisiana	46
Ohio	875	Nevada	43

Delaware	823	Iowa	42
Florida	763	Montana	35
Connecticut	476	Utah	35
South Carolina	460	Arkansas	32
Georgia	451	Idaho	29
Texas	446	Alabama	22
Michigan	376	New Mexico	19
Illinois	276	South Dakota	15
Indiana	194	Wyoming	15
Tennessee	187	Kansas	14
Colorado	179	Nebraska	14
Washington	160	Oklahoma	14
New Hampshire	150	Hawaii	11
Kentucky	131	North Dakota	9
Wisconsin	115	Alaska	4
<b>Total Out of State Residents: 477,065</b>			

While the current legislation for paid leave in the District establishes a recommendation for protecting fund solvency, the law does not grant DOES, the agency overseeing the District’s PFL program, the authority to address any potential shortfalls. In states with similar paid leave programs, such as Rhode Island and Washington State, the agency director has the authority to make recommendations for changing the contribution and/or benefit rate in order to protect the solvency of the fund. In the District, this authority is granted to the Chief Financial Officer. The District believes it is potentially beneficial to consider the reassignment of authority to the agency director to recommend legislative changes and/or present a plan to protect the solvency of the Universal Paid Leave Implementation Fund.

In an effort to protect the PFL program from fraud and abuse, the Paid Leave Act §107(e) and §107(f) establishes that employees receiving long-term disability or unemployment compensation are not eligible for paid leave benefits. As such, the PFL system will have an interface to determine if an employee is receiving either of these public benefits to ensure paid leave benefits are not improperly paid. Additionally, it is a national best practice to have a Benefit Payment Control Unit that addresses potentially fraudulent issues for both unemployment compensation and paid leave. The District has included a Benefit Payment Control Unit within its proposed organizational structure to ensure there is a unit dedicated to the prevention, detection, and recovery of overpayments of paid leave benefits.

Currently, the Paid Leave Act provides a reporting requirement solely for a qualifying parental leave event. In Rhode Island, an individual must apply for paid leave (TCI) benefits during the first thirty (30) days after the first day of leave is taken for reasons of Bonding or Caregiver. The Paid Leave Act §101(16) defines qualifying parental leave as paid leave for up to a maximum of 8 workweeks within a 52-workweek period that an eligible individual may take within one year of the occurrence. As written, there is no established timeline for a qualifying family or medical leave event in the District. As such, the District will ensure to establish the reporting timeline for qualifying family and medical leave events in the rules.

## CONCLUSION

The Administration has worked aggressively to begin the process of implementing a paid leave program for the District, and we have made significant progress in the areas of program administration, information technology, staffing, and outreach. The Administration will continue to work aggressively on the many steps required for a successful paid family leave implementation.



