

TRAINING AND EMPLOYMENT NOTICE	NO. 9-12
	DATE August 31, 2012

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE INVESTMENT BOARD
CHAIRS and DIRECTORS
STATE LABOR COMMISSIONERS
STATE RAPID RESPONSE COORDINATORS

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Layoff Aversion in Rapid Response Systems

- 1. Purpose.** To emphasize and support the use of layoff aversion and its critical role in creating and sustaining high-performing Rapid Response systems, and to provide examples of allowable and recommended activities and partnerships key to averting layoffs.

This Training and Employment Notice (TEN) builds on the information presented in Training and Employment Guidance Letter (TEGL) 30-09 and TENs 3-10, 31-11 and 32-11 (see reference below). It describes the philosophical underpinnings of a layoff aversion approach, the benefits of averting layoffs, and a number of potential activities that may help save jobs or minimize the impacts of layoffs and unemployment.

- 2. References.**
 - Workforce Investment Act (WIA) Final Rule, 20 CFR part 665.300-665.320
 - TEGL 30-09, “Layoff Aversion Definition and the Appropriate Use of Workforce Investment Act Funds for Layoff Aversion Using a Waiver”
 - TEN 3-10, “The National Rapid Response Initiative”
 - TEN 31-11, “The Rapid Response Framework”
 - TEN 32-11, “Rapid Response Self-Assessment Tool”
 - Unemployment Insurance Program Letter (UIPL) 22-12, “Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012”

3. **Background—The Vision for Enhanced Rapid Response.** The central purpose of Rapid Response is to help laid off workers transition to new employment. The WIA regulations at Sec. 665.300 establish the goal of Rapid Response: “to...enable dislocated workers to transition to new employment as quickly as possible.” This goes to the heart of Rapid Response. It illustrates a successful outcome and opens the door for flexibility to achieve that goal. It also presents the philosophy of layoff aversion.

Layoff aversion is a critical component of the vision for effective Rapid Response. However, before having a meaningful discussion about layoff aversion itself, it is important to provide context by briefly discussing the broader vision for facilitating high-performing Rapid Response nationwide.

Over the past few years, the Employment and Training Administration (ETA) has engaged in an extensive dialogue with Rapid Response practitioners from across the country with the following goal: to ensure that Rapid Response functions in a manner that is consistent, timely, of high quality, and innovative. The conversations that occurred between and among ETA, state and local Rapid Response practitioners, and numerous partners resulted in a vision for Rapid Response that is comprehensive, solutions-focused, and valuable to the workforce and the economy, in general. This TEN presents another step in the ongoing evolution of Rapid Response from a layoff response model to a comprehensive economic transition model; a model that embraces layoff aversion as one of its central tenets.

Rapid Response is a complex and varied component of the workforce system. Rapid Response practitioners must exhibit an array of competencies that cross many disciplines, and often perform seemingly disparate functions, while creating seamless solutions for all customers. Rapid Response is simultaneously strategic and operational. Successful solutions for all customers must be customized to needs and yet consistent in quality. Rapid Response practitioners seek to prevent layoffs even while actively responding to them. The better Rapid Response practitioners understand and navigate these responsibilities, the more likely it is their solutions will provide positive outcomes for workers, businesses, communities and the economy.

Ensuring an effective Rapid Response system in states or local areas requires a keen awareness of the broad vision for Rapid Response. To achieve this enhanced level of Rapid Response requires the engagement of both leadership and practitioners, as it involves both strategic and operational aspects. Some of the critical attributes of an enhanced Rapid Response system include:

- A systematic orientation towards prevention, strategic planning, and reemployment;
- A genuine appreciation of the value of Rapid Response and ways to express this value;
- Mastery of the rules and regulations (Federal, state, local) to create a foundation for innovation;

- Establishment and maintenance of deep and broad partnerships;
- Procedures and policies that are consistent, clear, and well understood;
- Leadership that creates an environment that encourages innovation, promotes creativity, and favors comprehensive solutions over menu-based services; and,
- Staff who are properly trained with incentives for behaviors that promote these broad goals.

Many services, activities, resources and benefits facilitate the goal of returning affected individuals to work as quickly as possible. In order to be fully prepared to address the needs of any customer, Rapid Response teams must develop and carry out the strategies, policies, processes, and networks that help save jobs and provide workers affected by a layoff with the best chance of returning to work as soon as possible. Companies must be able to access the skilled workers they need to continue to grow and prosper. To most effectively prevent or minimize the impacts of unemployment, Rapid Response teams must ensure a layoff aversion system is in place.

4. **The Role of Layoff Aversion in Rapid Response.** The WIA regulations state that “Rapid Response activities must include immediate and on-site contact with the employer, representatives of the affected workers, and the local community...” This should include **“an assessment of the potential for averting the layoff(s) in consultation with the State or local economic development agencies, including private sector economic development entities”** (20 CFR 665.310(a)(2)).

An effective layoff aversion system allows states and local areas to play an active role in shaping and maintaining a competitive, resilient regional workforce. Including layoff aversion as part of a comprehensive Rapid Response strategy is an investment of measurable value to the business community. The planning and information gathering necessary for effective Rapid Response also establishes an awareness of and familiarity with the talent needs of a region, and allows the workforce community the ability to strategically meet the needs of both hiring employers and dislocated workers.

Layoff aversion is a central component of high-performing Rapid Response, requiring a shared responsibility among numerous partners at the state and local level.

5. **Layoff Aversion as Part of the Rapid Response Vision.** Innovative Rapid Response practitioners understand that layoff aversion is as much a mindset as it is a collection of activities. Incorporating layoff aversion into a Rapid Response structure requires a philosophy that embraces prevention. The benefits derived from preventing layoffs or minimizing the duration of unemployment are undeniable—layoff aversion saves jobs, increases economic productivity, decreases the negative impacts of unemployment, and ensures more resources are available to provide comprehensive services to those individuals with greater needs. Successful implementation of layoff aversion principles within Rapid Response creates positive outcomes for all involved.

Successfully incorporating layoff aversion into a Rapid Response model is challenging. It requires that Rapid Responders embrace a new set of principles by which to operate. Layoff aversion requires an environment that promotes, seeks, and generates opportunities to avert layoffs. It requires wide-ranging partnerships, effective data collection, early warning systems, substantial strategic planning, and well-trained staff knowledgeable of the range of layoff aversion solutions and possibilities.

6. Benefits of Layoff Aversion. The benefits to workers, employers, the workforce system, and communities when layoffs are averted are obvious and measurable. Some of these include:

- For workers - retaining an existing job or quickly transitioning to a new one maintains financial stability and allows workers to continue to build experience with fewer gaps in employment;
- For employers - retaining a known and reliable worker can save costs associated with severance, recruiting, training, and orienting a new employee, prevent increases to their unemployment tax rates, and mitigate intangible costs such as avoiding a plunge in post-layoff morale among remaining workers;
- For states and local workforce areas - averting layoffs demonstrates critical value within a transitioning economy and provides support to economic development; and,
- For communities - averting layoffs is far less disruptive and costly compared to providing food, health care, and other emergency services to financially strained residents, the loss of revenues from lower spending, and even the loss of property taxes associated with high home foreclosure rates that may result from dislocation.

7. Examples of Layoff Aversion Activities and Timeline. Layoff aversion is often situation-dependent, and potential options and successful outcomes depend on a variety of factors. One of the important factors is time—the longer the time until a layoff or potential layoff, the more options are likely to exist for comprehensive layoff aversion opportunities. Because not all possible strategies or activities make sense to consider at all times or in all scenarios, it may be helpful to organize the likely solutions around certain timeframes. The following is a breakdown of a range of possible layoff aversion activities across a general “intervention timeline.” State and local Rapid Response teams are encouraged to think about developing similar ideas based on specific conditions.

Timeframe	Examples of Layoff Aversion Activities
Ongoing strategic or administrative activities (regardless of proximity to layoff or potential layoff)	<ul style="list-style-type: none"> • Developing, implementing, maintaining, and publicizing a state or local layoff aversion policy • Creating and sustaining effective partnerships with a wide range of organizations that contribute to layoff aversion strategies • Gathering data and intelligence related to

	<p>economic transition trends within industries, communities, or at specific employers, and planning strategies for intervention</p> <ul style="list-style-type: none"> • Developing early warning networks and systems utilizing data and intelligence gathered • Identifying heavily concentrated industries and sectors and related training needs in the geographic area • Engaging in proactive measures such as business visitation or layoff forecasting programs to identify indicators of potential economic transition and training needs in growing industry sectors or expanding businesses • Connecting employers and workers with short-term, on-the-job, and customized training and apprenticeships before or after layoff and prior to new employment
<p>More than a year prior to a potential layoff</p>	<ul style="list-style-type: none"> • Working with businesses to conduct comprehensive production cost studies with the goal of continuing cost-effective production within the United States • Helping a company spin off an under-performing business unit to focus on core competencies • Helping companies practice continuous improvement in processes and quality, constantly looking for opportunities for new products, customers, markets, and business models
<p>From approximately six months to one year prior to a layoff or potential layoff</p>	<ul style="list-style-type: none"> • Partnering or contracting with the Manufacturing Extension Partnership (MEP) or other business-focused organizations to assess risks to a company, propose strategies to address those risks, implement services, and measure impacts of services delivered; conducting analyses of suppliers to assess risks and vulnerabilities from potential closings of a manufacturing customer • Conducting prefeasibility or company valuation studies to determine the possibility for employee buyouts or Employee Stock Ownership Plans (ESOPs), or more commonly, the sustainability of the company with new products, retooled production processes, or new customers and markets • Facilitating employer loan programs for employee skill upgrading, when available • Examining alternative business ownership options through economic development partners

	<ul style="list-style-type: none"> • Utilizing Trade Adjustment Assistance (TAA) for Firms to help employers negatively affected by imports remain competitive • Leveraging Short-Time Compensation programs through Rapid Response and/or business engagement strategies
<p>From approximately six months prior to, up through and following a layoff</p>	<ul style="list-style-type: none"> • Partnering with MEP organizations for activities, as mentioned above • Utilizing incumbent worker training for eligible workers based on state or local rules, including TAA • Encouraging use of Short-Time Compensation (shared work) programs in states with such programs incorporated into state Unemployment Insurance law • Ensuring strong connections with reemployment-focused activities within a state or local area • Holding on-site job fairs or targeted hiring events with nearby business in need of workers with similar competencies or skill sets • Conducting talent-transfer events or holding reemployment boot camps • Connecting to labor unions that may be able to assist in accessing skilled workers and assessing their training needs • Linking with state or local economic development organizations to match business growth opportunities with available pools of skilled workers, including those currently dislocated or soon to be laid off

Special Note: We have referenced Short-Time Compensation (STC) in several places above as a valuable layoff aversion tool. The passage of the Middle Class Tax Relief and Job Creation Act of 2012 included new provisions to promote increased state implementation of STC (also known as workshare, or shared work, in many states) programs and expansion of existing programs. This new legislation provides grant funds both to implement STC programs and for outreach to employers. STC is a critical layoff aversion tool, helping companies retain valuable skilled workers through temporary slowdowns. The Middle Class Tax Relief and Job Creation Act of 2012 presents a unique opportunity for the workforce system to collaborate across programs as additional states begin to implement STC programs. UIPL 22-12, released June 18, 2012, provides information on the changes to the STC program as a result of the Middle Class Tax Relief and Job Creation Act of 2012. Additional guidance is forthcoming on the STC program and opportunities afforded through this new legislation.

8. Layoff Aversion Requires Strong Partnerships. Successful layoff aversion strategies and activities require engagement of the full range of programs and resources of the public workforce system and effective partnerships with a wide range of organizations. Rapid Response partnerships established across the economic spectrum can directly provide, or facilitate the provision of, an array of benefits to address the challenges presented by specific circumstances.

Rapid Response partnerships can enhance valuable layoff aversion activities supported by other resources. Examples of some of these critical partnerships, along with the activities in which they engage or resources they provide are highlighted below:

Partner(s)	Activities/Resources Provided
MEP Centers, TAA for Firms, International Trade Administration	<ul style="list-style-type: none"> ○ Prefeasibility studies ○ Lean manufacturing, Six Sigma, and quality improvements ○ Support for new product development, scouting and implementing new technologies, and export assistance
Business Community (including individual employers and aggregators such as industry associations and Chambers of Commerce)	<ul style="list-style-type: none"> ○ Company matching/instant labor exchange ○ Layoff forecasting ○ Early access to potentially struggling businesses ○ Productive referrals
Small Business Development Centers	<ul style="list-style-type: none"> ○ Succession planning ○ Loan programs
Non-Governmental Layoff Aversion-focused Organizations	<ul style="list-style-type: none"> ○ Early layoff warning systems and data ○ Prefeasibility study support ○ Training and technical assistance
Organized Labor	<ul style="list-style-type: none"> ○ Early warning intelligence ○ Training ○ Reemployment ○ Peer counselors
Registered Apprenticeship	<ul style="list-style-type: none"> ○ Customized training ○ On-the-Job Training (OJT)
Educational Institutions	<ul style="list-style-type: none"> ○ Targeted training ○ Incumbent worker training ○ Short-term training ○ Customized training
Local Workforce Boards	<ul style="list-style-type: none"> ○ Incumbent worker training ○ Customized training ○ OJT
Community and Faith-Based Organizations	<ul style="list-style-type: none"> ○ Early layoff warning data ○ Other direct services

Unemployment Insurance	<ul style="list-style-type: none"> ○ Data gathering/early warning systems ○ STC (also known as work sharing)
Banks, Accountants, and Associated Industry Associations	<ul style="list-style-type: none"> ○ Early warning data ○ Connections to businesses ○ Business development ideas and funding, including for entrepreneurs
Private Outplacement/Staffing Firms	<ul style="list-style-type: none"> ○ Early layoff warning systems and data ○ Enhanced services to workers ○ Strong connections to business sector ○ Reemployment opportunities

9. Conclusion. Averting layoffs is, and should be, a function of the public workforce investment system, and Rapid Response is the most logical place to develop and implement layoff aversion strategies. ETA will be providing additional technical assistance and tools, including a comprehensive Layoff Aversion Toolkit that is currently being developed, to state and local workforce professionals in the coming months to reinforce these key ideas.

As indicated in TENs 31-11 and 32-11, effective, proactive Rapid Response relies on an accurate assessment of the state and local Rapid Response system, inclusive of layoff aversion strategies. Using the Rapid Response Self-Assessment Tool released by TEN 32-11 can help identify areas for improvement together with opportunities and challenges across the spectrum of Rapid Response activities, including layoff aversion. It is an important component of an effective, consistent, timely, high-quality and innovative Rapid Response system.

10. Inquiries. Questions regarding this TEN should be directed to the appropriate ETA regional office.