

Administrative Manual WIA Title I Programs

Chapter 13.0: Dislocated Worker Program Section 13.9: Rapid Response

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Required Action: All dislocation events as defined in this policy shall receive analysis at a State level to determine whether formula or discretionary (project) funds are used, and shall follow the procedures outlined in this section. All events determined to require project funds shall follow this policy and make use of the State Rapid Response team. In cases of referral to formula where Rapid Response procedures are necessary, the service provider should generally follow the facilitation and other applicable procedures outlined in this policy.

All partners in the Dislocated Worker system, including the State, Workforce Service Areas, independent grantees, and other certified service providers for the Dislocated Worker program, will abide by this policy. These partners will consider this policy effective at the time of notice for a dislocation event.

Action: Establish procedures for Rapid Response.

Who: WIA Title IB Dislocated Worker Program and Minnesota Dislocated Worker Providers and other appropriate WorkForce Center System Partners.

Background: The State of Minnesota has established this policy to provide additional direction to the Workforce Investment Act, Section 134(a)(2). This State policy is an effort to balance a system built properly on local control, with the necessary State roles of accountability and statewide service consistency.

Policy and Procedures

It is the policy of the State of Minnesota that the primary responsibility for Rapid Response activity lies with the State – specifically, the Commissioner of the Department of Employment and Economic Development. The Workforce Investment Act, Section 134(a)(2); and Minnesota Statutes 116L.17, subd. 10 are both clear in assigning authority to the State in matters of Rapid Response. Both federal and state laws are also clear that the State must work as closely as possible with its local partners in order to accomplish Rapid Response tasks.

The State Rapid Response team is responsible for the overall coordination of the Dislocated Worker program response to a *dislocation event* – that is, a layoff where at

least one worker's job may be permanently lost through no fault of their own, or an announcement of such a layoff, or a private acknowledgment that such a layoff may occur soon. The team maintains contact with all parties involved – business, state government, local partners including local elected officials, unions, and others – and ensures an effective, unified, and efficient response.

The work of the Rapid Response team breaks down into four actions: *communication*, *investigation*, *determination*, and *facilitation*. Parts of these actions may happen earlier in the process than others. (For example, a State Rapid Response team member may facilitate a meeting on layoff aversion strategies, prior to determining the event's status as a project.) Attachment 1, Flow Chart of Rapid Response Process, provides a schedule for a typical process. Not all layoffs can follow a typical process, and the State Rapid Response team has reasonable latitude to diverge from such a model in order to ensure quality customer service in specific cases:

- Where the mechanics of the dislocation event (e.g., multiple locations or layoff dates) is more complicated than the model suggests;
- Where basic information about the dislocation event is difficult to determine (e.g., the business is completely uncooperative and/or absent);
- Where the event is of a special nature, such as in cases where a National Emergency Grant seems possible;
- Where the event is immediately and clearly less than 50 full-time workers, and has no realistic potential to reach 50 full-time workers, thus making it an obvious formula case deserving quick designation; and
- Where other factors not accounted for in this policy are in play.

I. COMMUNICATION

At all times, the State Rapid Response team must remain in productive communication with local Workforce Service Areas and other service providers. Maintaining such contact involves two elements, both of which are central to the policies and procedures in this section. First, it is the responsibility of the State Rapid Response team to notify local Workforce Service Areas affected by a dislocation event. Within 24 hours of learning of a dislocation event, whether actual or potential, the State must notify the Rapid Response liaison designated by each affected Workforce Service Area. In addition, the State Rapid Response team shall follow up any significant findings during the Investigation process (below) with a communication to the local Rapid Response liaison, within a reasonable time.

Second, the State recognizes that local partners often hear about dislocation events before anyone else does. An effective State Rapid Response team must implement the necessary communication procedures with local partners, so that information can flow both ways. Within 24 hours of learning about a dislocation event, whether actual or potential, a local Workforce Service Area must notify the State Rapid Response team.

An exception to the two paragraphs above may occur when the business has made it clear to their first contact (a State Rapid Response team member, or a local equivalent) that they do not want that contact to inform other partners about a

potential layoff. The State respects confidentiality in such matters. However, once a potential layoff becomes an actual dislocation event, all information about the specific event must be shared by all partners so that service delivery can begin as quickly as possible.

Another exception to this policy may occur when the local Rapid Response staff can clearly and immediately determine that a given dislocation event involves less than 50 full-time workers, *and* that there is no realistic potential for the event to grow to more than 50 full-time workers (e.g., the entire company only employs 49 workers). In such cases, local staff have discretion not to inform State Rapid Response, if such action would create an undue administrative burden.

This policy does not demand a specific procedure for sharing information between the State and other service providers. Instead, it encourages appropriate contact and cooperation where one party learns of a dislocation event that may impact the interests of the other. Again, either party should make allowances for confidential contact.

Upon learning of an event, the State Rapid Response team shall initiate contact with the business and attempt to establish on-site contact. On-site meetings may include information regarding available public programs and services, as well as emergency assistance adapted to the particular dislocation event.

II. INVESTIGATION

Once the State Rapid Response team is aware of a dislocation event, they will work to determine multiple factors about the event, including as many of the following as possible:

- Size of layoff(s)
- Scope of layoff(s)
- Location(s) of layoff(s)
- Probability of permanent layoffs
- Timing/schedule of any layoff(s)
- Background on the business, including a point of contact
- Background on the workers, including their contact information
- Background on any other potential partners – unions, associations, private placement firms, etc.

The team may make use of local partners, union contacts, business community contacts, media, affected workers, and other reliable sources to acquire (or conduct the customer outreach necessary to acquire) this information. It may conduct on-site meetings with the business and workers, and/or administer surveys to affected workers, to (1) communicate the goals and procedures of the Dislocated Worker program, and (2) get as detailed information as possible about customer identity, demographics, work background, the likelihood of program participation, and other information relevant to program administration.

The State Rapid Response team should seek to answer the following questions in each case:

- Can a layoff be averted?
- Is the business following all requirements of the federal Worker Adjustment Retraining and Notification Act?
- Might the site qualify for federal Trade Adjustment Assistance Act resources? If so, what actions have been taken toward applying for certification?
- Given size, scope, timing, and other data acquired, is the dislocation event a *referral to formula* or a *project*? (Terms defined under Determination below.)

State Rapid Response staff should make every effort to close investigations as quickly as possible, so that service delivery to customers can be seamless and effective. The State will establish and disseminate performance measures and goals for the average time it takes to close investigations.

III. DETERMINATION

The State Rapid Response team has an obligation to make all decisions noted below as quickly as possible. It is the policy of the State of Minnesota to document the efficiency of the Rapid Response process, to set performance measures and targets for that process, and to monitor performance.

State Rapid Response should determine answers to all bulleted questions under the Investigation section above, and document those answers. Based on the answers, further Facilitation (below) may be required, regardless of the size of the layoff.

Size figures most prominently into further State Rapid Response team involvement. Dislocation events fall into one of two categories – *referral to formula* or *project*.

Referral to formula occurs when the layoff is small (that is, under 50 workers). Some referrals to formula may occur with larger numbers of workers, when the State determines it is unlikely 50 or more workers are likely to participate in Dislocated Worker services. The "formula" name comes from the fact that these workers will be served by that portion of the Dislocated Worker funding stream distributed by formula and intended for smaller layoffs.

A *project* occurs when the layoff involves 50 or more people who are likely to participate in the program from a given dislocation event.

A dislocated worker is *likely to participate* in the program if they have filled out a survey provided by the Rapid Response team and therein indicated interest in government assistance in finding a job; or if they have made proactive contact with staff on a state or local level to demonstrate such interest.

Even with definitions given in federal and state law, it is not uncommon for dislocation events to arise which defy easy definition. Some events involve more than 50 full-time workers but would not make appropriate projects. The most common reason would be the significant percentage of workers who choose not to

use government services, which reduces the number of potential participants and makes a project an inefficient use of government resources; but there are other reasons why a project may not be practical or in the best interests of the customers.

When determining project or formula status in cases that are not immediately clear, the State Rapid Response team will consider these factors:

- *How many dislocated workers are likely to participate in the program?* Naturally, the higher the participation rate, the more likely a project will be necessary and successful.
- *How much advance time is there, between announcement of layoffs and the first actual date of layoffs?* The greater the amount of time, the more likely it is that a project will get off to a good start, with a full Employee-Management Committee process and sufficient opportunity to make customers aware of the project.
- *How much cooperation does the State Rapid Response team have from the business? Would the business be a willing and full partner in a project?* The greater the level of cooperation, the greater the likelihood that a project will receive the support (through establishment of a Employee-Management Committee, dedicated times and locations for group meetings, etc.) that a project requires.
- *If there is more than one date for the layoffs, how far apart are they? And do they involve similar workers, or workers in different occupations (or even locations)?* The weaker the ties are that connect various groups of workers, the less cause there is to treat them as one population under a single project.
- *Are there special circumstances – service provider history, etc. – that make a compelling case for a determination either way?* For example, Workforce Service Areas who are already familiar with a given employer and have served its workers through past layoffs may get some consideration when a borderline case arrives from that employer. Other special circumstances may be applied in borderline cases, to achieve faster and better services to customers, at the discretion of State Rapid Response.

In any case where these factors are considered seriously, the State should consult with the local Workforce Service Area and document that area's preference, as well as the rationale for the final determination. The State Rapid Response team should be prepared to defend its more complicated determination decisions, if challenged by a local Workforce Service Area or other service provider.

IV. FACILITATION

The State Rapid Response team might facilitate up to three separate processes during the course of a dislocation event: *layoff aversion assistance* to the employer, *informational meetings* to the employer and its workers, and the *Employee-Management Committee* process.

Layoff aversion assistance. While layoff aversion may not be a possibility for many dislocation events, the state Rapid Response team should make a brief but genuine effort to determine whether the State can do anything to assist a given business

prior to a layoff decision. The state Rapid Response team should document any steps taken to help the business avert a layoff, including any or all of the following activities:

- let the business know of similar situations where layoffs were averted, and how;
- consult with internal teams and program partners who may have history or ongoing contact with the business;
- refer the business to other services within the agency (e.g., Business Services within Workforce Development, or Business and Community Development) and external to the agency (e.g., Governor's Office) which may provide financial or technical advice on how to avert layoffs; and
- coordinate inter-team or inter-agency meetings with the business to help the customer determine alternate strategies.

It is the responsibility of the state Rapid Response team to make other internal agency teams aware of a situation in which they may be able to provide helpful resources to avert a layoff.

If layoff aversion is not an option, state Rapid Response staff should still briefly document that fact and the reason why.

Informational meetings. If a layoff cannot be averted, state Rapid Response may provide informational meetings to the business at the earliest possible time. State Rapid Response should provide informational meetings to workers as well, as quickly as possible and through one of the following means (in order of preference):

- a cooperative employer gives permission for onsite or other worker-convenient meetings prior to announcing a layoff; OR
- a layoff has been announced and/or has occurred, and onsite or other worker-convenient meetings can be arranged with the help of a cooperative employer; OR
- a layoff has occurred and the employer is not cooperative, so meetings must occur at the best possible location.

When scheduling an informational meeting, state Rapid Response will inform any of the following parties that apply:

- internal partner staff, such as Trade Adjustment Assistance (TAA);
- local partners, including local elected officials; and
- other service providers and program partners, at the discretion of state Rapid Response.

At the discretion of the state Rapid Response team, any or all of these parties may be invited to attend. In making a decision on who is invited to such a meeting, the state Rapid Response team should consider at least three factors: (1) what the job seeking customers immediately need at the meeting; (2) how many parties the business customer wishes to entertain at a worksite meeting (if applicable); and (3) whether a competitive process may result from the size of the dislocation event. No service provider should be present at informational meetings for a dislocation event

where it is likely they would end up competing for a project with other service providers who have not had similar access to the customers. [Policy 13.10 on Projects and Competitive Process](#) contains additional relevant information.

State Rapid Response should hold as many meetings as necessary to disseminate information about the Dislocated Worker program and other resources; and to collect as much information about the dislocation event as possible in order to make a decision on project status. However, as noted elsewhere in this policy, State Rapid Response must always make every effort to achieve quick turnaround on each and every dislocation event.

Employee-Management Committee. If a project is likely or certain, state Rapid Response is responsible for investigating and facilitating the formation of an Employee-Management Committee. This committee is the primary vehicle for selecting a service provider through a competitive process, and may also exist at projects where there is no competitive process. While ideally state Rapid Response should wait to form a committee until after the decision to move forward with a project has been made; the team has discretion to survey workers and hold exploratory meetings prior to making such a decision. [Policy 13.10 on Projects and Competitive Process](#) contains additional relevant information.

Reference Section:

Cites/References:

Minnesota Statutes 116L.17 and 268.976.

Worker Adjustment and Retraining Notification (WARN), 20 CFR Part 639

Workforce Investment Act (WIA) of 1998

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