



<p><b>WORKFORCE INNOVATION AND OPPORTUNITY ACT POLICY MANUAL</b></p>	<p><b>CHAPTER 2 - SECTION 900</b></p>
<p><b>SUBJECT: RAPID RESPONSE</b></p>	

**900 RAPID RESPONSE**

Rapid Response is the cooperative effort of staff in Arizona’s employment and training programs and partner programs to offer assistance and services to workers affected by layoffs, plant closures, or natural or other disaster resulting in a mass job dislocation. The intent of Rapid Response activities is to aid workers during a difficult time in their lives and help them transition to new employment as quickly as possible. Rapid response promotes economic development and vitality while delivering critically important solutions to workers and businesses in transition.

References: Workforce Innovation and Opportunity Act (WIOA) of 2014 (P.L. 113-128), 20 CFR 682, Training and Employment Notice (TEN) 03-10, 31-11, 09-12

**.01 State Rapid Response Coordinator**

State-level Rapid Response activities are managed by the State Rapid Response Coordinator, Department of Economic Security (DES), Workforce Administration. The State Rapid Response Coordinator is responsible for the entry of Worker Adjustment and Retraining Notification (WARN) into the Arizona Job Connection (AJC) system, notifying the appropriate Local Workforce Development Area (LWDA) Rapid Response Coordinator, and providing technical assistance to LWDA.

**.02 Local Area Rapid Response Coordinator and Team**

LWDAs must designate a Rapid Response Coordinator (LWDA Rapid Response Coordinator). The LWDA Rapid Response Coordinator designates a Rapid Response Team at the local level, which may be an existing team or new team formed for this purpose, responsible for providing on-site assistance for dislocation events such as permanent closures and layoffs throughout the state. The Rapid Response Teams are led by the LWDA Rapid Response Coordinator, who has overall responsibility for ensuring the Rapid Response team is fulfilling the obligation of effective delivery of Rapid Response assistance to affected workers in a LWDA. The Rapid Response Teams will consist, at a minimum, of a LWDA Rapid Response Coordinator, and staff

representation from Unemployment Insurance (UI), Employment Service (ES), and Trade Adjustment Assistance (TAA), if applicable. Staff representation from relevant partner programs that would benefit the affected workers may be present, as needed.

A. The Rapid Response Teams will:

1. Make appropriate services available to eligible dislocated workers through LWDA Rapid Response Coordinators and in statewide or industry-wide projects;
2. Work with employers and labor organizations in promoting labor management cooperating to achieve stated goals;
3. Operate a monitoring, reporting, and management system to provide adequate information for effective program management, review, and evaluation;
4. Exchange information and coordinate programs with the appropriate economic development agencies, Arizona Department of Education, and training and social service programs;
5. Coordinate the gathering of information from multiple databases, including UI, ES, TAA, and other programs;
6. Fully consult with labor organizations where substantial numbers of their members are to be served; and
7. Distribute information on the availability of services and activities under the Dislocated Worker program, including efforts to ensure major employers, organized labor, and groups of employees not represented by organized labor are aware of the availability of Rapid Response assistance. The Rapid Response Team must make equal effort when responding to dislocation events regardless of whether or not affected workers are represented by a union.

B. The LWDA Rapid Response Coordinator must maintain a comprehensive workforce case management and reporting system (currently AJC) that can be used for effective program management review and evaluation. All plant closures and layoffs must be recorded at the local level regardless of whether or not WARN

compliance is required. Additionally, all Rapid Response presentations, location of presentations, presenters at each site, and other outreach activities offered to affected workers must be documented.

1. The LWDA Rapid Response Coordinator must maintain a report developed by the LWDA regarding Rapid Response events that contains the following information:
  - a. Name of the company;
  - b. Brief description of the company;
  - c. Date of layoff;
  - d. Reason for layoff;
  - e. Number of positions affected by layoff; and
  - f. Services provided by Rapid Response team.
2. The LWDA Coordinator must submit the report regarding Rapid Response events to the State Rapid Response coordinator no later than the 15<sup>th</sup> calendar day on a monthly basis. When a LWDA has no Rapid Response events to report, a report indicating that there was no Rapid Response activity must be submitted.

### **.03 Required Delivery of Rapid Response Services**

- A. Rapid Response services must be delivered when one or more of the following circumstances occur:
  1. Announcement or notification of a permanent closure, regardless of the number of workers affected;
  2. Announcement or notification of a mass layoff that affects 50 or more workers or when a Worker Adjustment and Retraining Notification (WARN) Act notice has been filed, regardless of the number of workers affected by the layoff announcement;
  3. A mass job dislocation resulting from a natural or other disaster; or

4. The filing of a Trade Adjustment Assistance (TAA) petition.
- B. While businesses are under no obligation to allow or help ensure smooth delivery of rapid response services, Rapid Response Teams must make all reasonable efforts to deliver services to affected workers. Reasonable efforts are more than cursory attempts, such as providing services at off-site locations and during convenient hours.

## **901 WORKER ADJUSTMENT AND RETRAINING NOTIFICATION (WARN) ACT**

The WARN Act, effective February 4, 1989, requires certain employers (“covered employers”) to provide 60 days advance notice of certain events such as plant closures or mass layoffs to affected workers, employee representatives, the Rapid Response Team, and appropriate units of local government.

### **.01 WARN Requirement for Employers and Employees**

- A. Employers are covered by WARN if they are:
1. Private, for-profit and non-profit entities; or
  2. Public and quasi-public entities that operate in a commercial context and are separate from the regular government; and
  3. Employ 100 or more employees, not counting employees who:
    - a. Worked less than six months in the previous 12 months;
    - b. Work an average of less than 20 hours per week;
    - c. Retire, resign, or are terminated for cause; or
    - d. Are offered a transfer to another site of employment within a reasonable commuting distance if:
      - i. The closing or layoff is a result of a relocation or consolidation of all or part of the employer’s business;
      - ii. The transfer involves no more than a six-month break in employment; and

- iii. The worker accepts the offer within 30 days of the offer or the closing or layoff, whichever is later.

**Note:** While employees who have worked less than six months in the previous 12 months or work an average of less than 20 hours per week don't count towards the total when determining a covered employer, these workers are still entitled to receive a WARN notice when there is a plant closure or layoff.

B. Employees entitled to WARN notice include:

1. Hourly and salaried workers; and
2. Managerial and supervisory employees.

**Note:** Workers on a labor strike or who have been locked out in a labor dispute, temporary workers who clearly understand the temporary nature of the work for which they were hired, and business partners, consultants, or contracted employees who are paid by another employer or who are self-employed are not protected by WARN notice.

## **.02 WARN Notice**

The employer must provide a written WARN notice to the:

1. State Rapid Response Coordinator;
2. Chief elected official of the LWDA in which the employment site is located;
3. Chief elected official of the representative(s) or bargaining agency(ies) of affected workers, or potentially affected workers; and
4. Individual workers who are not represented by a bargaining agency and may reasonably be expected to experience an employment loss, including workers who may lose their employment due to "bumping" or displacement by other workers.

**Note:** The LWDA Rapid Response Coordinator is responsible for providing the names of chief elected officials of the LWDA and bargaining agencies to the employer when the employer indicates they don't know who to contact.

- A. Covered employers must provide a WARN notice when:
1. There is a plant closure when an employment site (or one or more facilities or operating units within an employment site) will be shut down and result in employment loss of 50 or more employees during any 30-day period not counting employees who have worked less than 6 months in the last 12 months or employees who work an average of less than 20 hours a week.
  2. There is a mass layoff that does not result in a plant closure and will result in employment loss at the employment site during any 30-day period for:
    - a. 500 or more employees not counting employees who have worked less than 6 months in the last 12 months or employees who work an average of less than 20 hours a week; or
    - b. 50-499 employees, if these employees make up at least 33 percent of the employer's active workforce not counting employees who have worked less than 6 months in the last 12 months or employees who work an average of less than 20 hours a week.
  3. A plant closure or mass layoff fails to meet the threshold requirement of a plant closure or mass layoff during a 30-day period as specified in 401 (02) (A) (1) and (2), but the number of employment losses for two or more groups of workers, each of which is less than the minimum number needed to trigger notice, reaches the threshold during any 90-day period of a plant closing or layoff.
- B. Notifications of a plant closure or mass layoff from employers to the State Rapid Response Coordinator must be in writing and must include:

1. The name and address of the employment site where the plant closure or mass layoff will occur;
2. Whether the planned action is a plant closure or a mass layoff;
3. The anticipated schedule for making separations, including the expected date of the first separation;
4. The positions, including job titles, affected and the number of affected workers in each job classification;
5. A statement of any applicable bumping rights or displacement of employees by other workers;
6. The name of each union representing affected workers, including the name and address of the chief elected officer of each union; and
7. The name, address, and telephone number of a company official to contact for additional information.

Any reasonable method of delivery to ensure receipt 60 days before a closing or layoff is acceptable. Notice may be given conditionally upon the occurrence or non-occurrence of an event only when the event is definite and its occurrence or non-occurrence will result in a covered employment action less than 60 days after the event.

### **.03 Non-WARN**

Employers experiencing plant closures or layoffs who do not meet WARN requirements may voluntarily choose to report such plant closures or layoffs through WARN. When an employer who voluntarily chooses to report plant closures or layoffs through WARN, LWDAs must provide all required rapid response activities to the employer.

Individuals impacted by plant closures and layoffs must be recorded at the local level regardless of whether or not WARN compliance is required.

### **.04 Penalties for Noncompliance with WARN**

- A. Neither DES nor LWDAs enforce penalties for noncompliance of WARN. The United States district courts enforce WARN

requirements. Workers, representatives of employees, and units of local government may bring individual or class action suits against an employer that has violated the provisions of WARN. In any suit, the prevailing party may be allowed reasonable attorney's fees as part of the costs, at the court's discretion.

- B. An employer who violates the WARN provisions by ordering a plant closure or mass layoff without providing appropriate notice is liable to each aggrieved employee for an amount including back pay and benefits for the period of violation, up to 60 days. The employer's liability may be reduced by such items as wages paid by the employer to the employee during the period of the violation and voluntary and unconditional payments made by the employer to the employees.
- C. An employer who fails to provide notice as required to a unit of local government is subject to a civil penalty not to exceed \$500 for each day of violation. This penalty may be avoided when the employer satisfies the liability to each aggrieved employee within three weeks after the plant closure or the employer orders the layoff.

## **902 STAGES OF RAPID RESPONSE**

When the State Rapid Response Coordinator receives notification of a layoff or plant closure, the Coordinator will notify the Local Area Rapid Response Coordinator within 24 hours.

### **.01 Initial Notification**

- A. When the LWDA Rapid Response Coordinator is notified of a plant closure or layoff that is in progress or is projected to occur, he or she will notify the Local Workforce Development Board (LWDB) regarding the plant closure or layoff.
- B. The LWDA Rapid Response Coordinator will contact the employer and employee representatives within 48 hours and:
  - 1. Verify the layoff or plant closure;
  - 2. Provide information about Rapid Response services;
  - 3. Invite the employer to meet with the Rapid Response Team to establish a plan to carry out Rapid Response services to the affected workers;

- C. When notice of a layoff or plant closure is provided by an employer and is intended for public release, the State Rapid Response Coordinator will enter the information in AJC within 48 hours to ensure the LWDA Rapid Response Coordinator and appropriate programs are aware of layoff, plant closure, or WARN activities.
- D. The LWDA Rapid Response Coordinator will contact the appropriate labor organization when affected workers are represented by a labor organization.

## **.02 Initial Meeting**

The initial meeting of the Rapid Response Team, employer, and employee representatives may also be attended by the local labor representative and LWDA staff and must take place within five days of initial notification. The initial contact meeting will provide information and discussion of:

- A. Available programs, service providers, and resources in the LWDA to meet the short-term and long-term assistance needs of the affected workers, including:
  - 1. Unemployment Insurance;
  - 2. Reemployment Services;
  - 3. Job Training;
  - 4. Trade Adjustment Assistance (TAA); and
  - 5. Financial counseling.
- B. Rapid Response content, format, and benefits to the employer and affected workers.
- C. An assessment of the employer's layoff plan and schedule.
- D. Identification of the affected workers, their current wage scale, occupations, skill levels, and length of service.
- E. Benefits provided by the employer to the affected workers, i.e. severance pay, job development, job search activities, relocation or reemployment opportunities.
- F. Projected assistance needs of the affected workers.

- G. Reemployment prospects for workers in the local community.
- H. Potential for averting the layoff or closure, which may be discussed in consultation with state or local economic development agencies, including local Chambers of Commerce.

### **.03 Rapid Response Events**

When initial contact with the employer and employee representatives has been established, the Rapid Response Team will:

- A. Determine the Rapid Response Team meeting dates and times, prior to dislocation events when possible, in coordination with the employer and make necessary provisions for interpreters, room accommodations, and specialized equipment;
- B. Determine appropriate workshops and/or demonstrations, i.e. labor market information, internet demonstrations, resume preparation, and interview workshops;
- C. Coordinate provision of information and/or services for employment and training, emergency services , and human service programs in the LWDA provided by program representatives and adapted to a particular layoff or plant closure, including:
  - 1. ARIZONA@WORK Job Center services, including WIOA Title I-B training activities;
  - 2. Employment Service (ES);
  - 3. TAA, if a certification for trade has been submitted or certified;
  - 4. Unemployment Insurance; and
- D. Create and distribute agendas to the employer and participating members.

**Note:** Members of the Rapid Response Team should share all information, including sign-in sheets or attendance sheets, and information, to ensure all partners have equal access to information.

### **.04 National Dislocated Worker Grants**

National Dislocated Worker Grants (DWGs) temporarily expand training and employment services to dislocated workers, including military service members, by providing additional funding when unexpected economic events or a natural disaster cause significant job losses with a purpose to reemploy laid off workers and enhance their employability and earnings.

Disaster DWGs provide funding to create temporary employment opportunities to assist with clean-up and recovery efforts when an area impacted by disaster is declared eligible for public assistance from the Federal Emergency Management Agency (FEMA) or otherwise recognized by a Federal agency with authority or jurisdiction over Federal response to the emergency or disaster. Both states and LWDAAs can apply for DWG grants and can find more information in [TEGL 02-15: Operational Guidance for National Dislocated Worker Grants, pursuant to the Workforce Innovation and Opportunity Act \(WIOA\)](#) and [Training and Employment Notice \(TEN\) 32-10: Revised National Emergency Grant Application Submission and Review Process](#).

LWDAAs may request DWGs to carry out additional Rapid Response activities in an area experiencing unexpected economic events or a natural disaster by completing and submitting a DWG application. Each application must demonstrate that:

- A. Rapid Response activities have been, or are in the process of being, carried out;
- B. State and local funds have been used to initiate appropriate services to eligible workers;
- C. A need for additional funds to effectively respond to the needs of affected workers and—in the case of a declared emergency or natural disaster—the community has been demonstrated; and
- D. The DWG application has been developed by or in conjunction with the LWDA and chief elected official of the LWDA in which the proposed project will take place.

### **903 RAPID RESPONSE ACTIVITIES**

Rapid response activities provide customer-focused services to both dislocated workers and employers. Rapid response activities ensure immediate access to affected workers in order to help them re-enter the workforce more quickly.

A. Required Activities

Required Rapid Response activities, per 20 CFR 682.330 include:

1. Layoff aversion, which may include, per 20 CFR 682.320:
  - a. Early identification of plants or firms at risk of layoffs, assessment of the needs of and options for at-risk firms, and the delivery of services to address these needs, as provided by WIOA Section 134 (d) (1) (A) (ix) (II) (cc);
  - b. Continuing engagement, partnership, and relationship-building activities with businesses in the community;
  - c. Funding feasibility studies to determine if a company's operations may be sustained through a buyout or other means to avoid or minimize layoffs;
  - d. Developing and managing incumbent worker training programs or other approaches to improving worker skills;
  - e. Connecting companies to:
    - i. Short-term compensation or other programs designed to prevent layoffs or to quickly reemploy dislocated workers;
    - ii. Employer loan programs for employee skill upgrading; and
    - iii. Other federal, state, and local resources necessary to address business needs that cannot be funded with Rapid Response funds.
  - f. Establishing linkages with economic development activities at the federal, state, and local levels, including Federal Department of Commerce programs and available state and local business retention and expansion activities;



5. Establishing partnerships with local boards and chief elected officials to ensure coordinated responses to dislocation events and, as needed, obtain assess to state or local economic development assistance;
6. Provision of emergency assistance adapted to a particular layoff, disaster, or other emergency situation, as determined by each LWDA;
7. Developing systems and processes, as appropriate, for identifying and gathering information for early warning of potential layoffs or opportunities for layoff aversion, which may include:
  - a. Analyzing and acting upon data and information on dislocations and other economic activity in the local area and training outcome and perform; and
  - b. Tracking outcome and performance data and information related to the activities of the Rapid Response program;
8. Developing and maintaining partnerships with other federal, state, and local agencies and officials, business associations, technical councils, industry councils, labor organizations, and other public and private organizations to ensure the ability to provide Rapid Response services as early as possible. These partnerships may conduct strategic planning activities, address dislocation events and ensure timely access to a broad range of assistance. They may also develop mechanisms for gathering and exchanging information and data relating to potential dislocations, available resources, and the customization of layoff aversion or Rapid Response activities;
9. Delivery of services to worker groups for which a petition for TAA has been filed;
10. Provision of additional assistance to local areas that experience disasters, layoffs, or other dislocation events that exceed the capacity of the local area to respond with existing resources; and

11. Provision of guidance and financial assistance, as appropriate, when establishing a labor-management committee if voluntarily agreed to by the bargaining representative for the employees and management. The assistance to such a committee may include training and technical assistance to members of the committee and funding the operating costs of a committee to enable it to provide advice and assistance in carrying out Rapid Response activities and in the design and delivery of WIOA-Title I-B authorized services to affected workers.

B. Allowable Activities

WIOA offers significant flexibility with regard to Rapid Response funds, as described in 20 CFR 682.340. In order to conduct layoff aversion activities or to prepare for and respond to dislocation events, Rapid Response Teams may devise additional strategies or conduct activities, identified in each LWDA policy, that are intended to minimize the negative impacts of dislocation on workers, businesses, and communities and to ensure that workers impacted by layoffs are able to be reemployed as quickly as possible.

Rapid Response Teams may provide guidance and/or financial assistance to establish community transition teams to assist the impacted community in organizing support for dislocated workers, and in meeting the basic needs of their families. Such assistance may include, but is not limited to, providing heat, shelter, food, clothing, and other necessities and services that are beyond the resources and ability of the One-Stop Career Centers to provide.

Allowable Rapid Response activities may include, but are not limited to:

1. Connecting employers and workers with short-term, customized, or other training or apprenticeships before or after layoff to ensure appropriate skills for new employment;
2. Facilitation of incumbent worker training for eligible workers based on state or local rules (see Section 500 -Training Services Policy);

3. Identification of heavily concentrated industries and sectors and related training needs in a geographic area;
4. 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;
5. Talent transfer events or reemployment boot camps that will connect businesses in growing industries or sectors with available talent;
6. Effective partnerships with a wide range of organizations to support allowable strategies and activities;
7. Collection of data and intelligence related to economic transition trends within industries, communities, or at specific employers, and planning strategies for intervention; or
8. Development of an early warning network and system using data and intelligence gathered.
9. Provision of additional assistance, per 20 CFR 682.350.

## **904 DATA COLLECTION**

When creating or updating an AJC registration for a participant, it is important that all of the affected worker's information is entered, including demographic information, to ensure an accurate and complete registration that will appropriately capture the required information for the Participant Individual Record Layout (PIRL). The PIRL is a collection of participant records that contains data regarding a participant's characteristics, activities, and program outcomes. These records are collected and maintained by the Department for all individuals who receive services or benefits from WIOA Title I-funded programs, including services financially assisted by National Dislocated Worker Grants.

When demographic information has been completed, a "Rapid Response" or "Rapid Response-Additional Assistance" enrollment must be created and appropriate services added for the participant. The designated Regional Director in each LWDA will review and approve the pending enrollment.

The Rapid Response Team is responsible for registering all affected workers seeking assistance into AJC and ensuring appropriate program enrollments and

services are performed for affected workers within 48 hours of a Rapid Response event. Entry of services ensures accuracy of PIRL reports.

Data specific to Rapid Response that must be reported in PIRL are:

- A. Element 908 – Rapid Response,
- B. Element 909 – Rapid Response – Additional Assistance
- C. Element 934 – Rapid Response Event Number, and
- D. Element 1501 – Most Recent Date Received Rapid Response Service