



October 27, 2023

Workforce Innovation and Opportunity Act Policy Letter No. 17-05.1

To: Local Workforce Development Board Directors, Fiscal Agents, and OhioMeansJobs Center Operators
From: Matt Damschroder, Director
Subject: Funding for Rapid Response – Employer Closure, Mass Layoff, Disaster Mass Job Dislocation, and Trade Adjustment Assistance Events

I. Purpose

The purpose of this policy is to outline the requirements for requesting Rapid Response Emergency Assistance Funds (RREAF) to deliver the rapid response (RR) program services during an employer closure, mass layoff, disaster mass job dislocation, and/or filing of a Trade Adjustment Assistance (TAA) petition event.

II. Effective Date

Immediately

III. Rescission

ODJFS, Workforce Innovation and Opportunity Policy Letter No. 17-05, Funding for Rapid Response - Employer Closure, Mass Layoff, Disaster Mass Job Dislocation, and Trade Adjustment Assistance Events (May 28th, 2018)

IV. Background

RR is a State-administered program implemented by the local workforce development area's (local area) RR team. The purpose of the RR program is to assist dislocated workers in obtaining reemployment as soon as possible, 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;
3. A mass job dislocation resulting from a natural or other disaster; or
4. The filing of a TAA petition.

Per section 133(a)(2) of WIOA, the State shall reserve 25 percent of the total State allotment of dislocated worker funds for statewide rapid response activities. These reserved funds are available to local areas to serve potentially affected workers (PAWs) and employers affected by an RR event within the last six months. The State must use these funds within three years of its original allocation.

RR funds, or RREAF, are intended to supplement the local dislocated worker formula-funded program, not to replace these funds. RREAF must not take the place of dislocated worker formula funds when providing RR services. RREAF are available on a limited basis when the current dislocated worker funds are not sufficient to provide the necessary services during an RR event.

RREAF are to be used to ensure the effective delivery of RR services and an efficient transition to any additional services needed for reemployment (e.g., referrals to WIOA Title I formula-funded programs, Wagner-Peyser Employment Services program, vocational rehabilitation, Aspire (formerly ABLE) services, etc.). State and local resources shall be used before outsourcing services that are being paid for through RR funds.

When a layoff event occurs, the area must provide services to the dislocated workers as appropriate even if the layoff does not meet the RR event definition and regardless of whether RR funding is issued to the local area. The local area will fund services for these layoffs through local dislocated worker formula funds. Pursuant to section 134(c)(1) of WIOA, funds allocated to the local area for dislocated workers shall be used to establish a workforce delivery system, to provide career services to dislocated workers, to provide training services to dislocated workers, to establish and develop relationships with large and small employers, and to develop, convene, or implement industry and sector partnerships. The local workforce development boards (WDBs) determine the most appropriate mix of these services, and both career and training services must be available to eligible dislocated workers. It is expected that the local area will provide career and/or training services to dislocated workers whose dislocation does not meet the threshold for RR program services using the local area's dislocated worker program formula funds.

V. **Definitions**

Designee: The fiscal agent or other individual who is designated by the local WDB through local WDB by-laws, local area policies, or procedures to request RR funding on behalf of the local WDB director for any applications or requests. This designation may be temporary or permanent.

Disaster mass job dislocation: Any reduction in force, due to a disaster as defined by state or local emergency management policy, that does not result in a total plant/branch/office closing, but still results in the filing of a Worker Adjustment and Retraining Notification Act notice, regardless of the number of workers affected by the layoff announced; or, if no WARN correspondence is issued, employment loss at a single site of employment for:

1. At least 25 percent of employees; or
2. At least 50 employees.

Employer: An individual, business, company, firm, agency, organization, etc. that employs one or more people.

Employer closure: The permanent shutdown of an Ohio business, facility, or agency.

Event: Any situation in which workers are at risk of layoff from a downsizing or closure of an employer's Ohio business, facility, or agency.

Fiscal agent: The entity designated by the chief elected official(s) to perform accounting and funds management on behalf of the chief elected official(s). The fiscal agent coordinates with the local workforce development board regarding funding for the planned array of dislocated worker and rapid response services and ensures fiscal integrity and accountability for expenditure of these funds.

Layoff: A separation due to the lack of work or other factor(s) not related to the behavior or performance of the employee.

Local plan: A comprehensive four-year plan developed by the local WDB, in partnership with the chief elected official, and submitted to the State which provides descriptions of the strategic planning elements and services provided in the local area.

Mass layoff: Any reduction in force that does not result in a total plant/branch/office closing, but still results in the filing of a Worker Adjustment and Retraining Notification Act notice, regardless of the number of workers affected by the layoff announced; or, if no WARN correspondence is issued, employment loss at a single site of employment for:

1. At least 25 percent of employees; or
2. At least 50 employees.

Notification: The process by which an individual on the RR team is made aware of a possible or actual RR event. A notification can come from a variety of sources, including, but not limited to: a WARN letter, word of mouth, the media, local Chamber of Commerce, ODJFS Trade Unit, American Job Center (which in Ohio is called OhioMeansJobs center), union officials, local government, affected workers, etc.

Ohio Rapid Response Workforce Survey (RRWS): The standardized survey (JFS 08124) and related software used in Ohio to identify demographics of the affected workforce and serve as a preliminary needs assessment.

Ohio's designated case management system: An information tracking system as defined in Ohio Administrative Code (OAC) 5101:9-30-04 which is used by workforce professionals to gather and report program data and employer event information on the delivery of services for the following programs: Rapid Response, WIOA, Wagner-Peyser, Veteran, Apprenticeship, Migrant and Seasonal Farmworker, Foreign Labor Certification, and Trade.

Planning region: Two or more local workforce development areas assigned by the State to align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers.

Potentially affected workers (PAW): Employees at risk of becoming unemployed due to an event.

Rapid response emergency assistance funds (RREAF): State rapid response funding allocated to local areas for the provision of reemployment services outlined in the service plan to workers and employers who have been affected by an RR event.

Rapid response (RR) event: 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;
3. A mass job dislocation resulting from a natural or other disaster; or
4. The filing of a TAA petition.

Rapid response team: Individuals from state and local workforce entities that respond collectively to layoffs and closures that occur within their local area or planning region and assist in providing RR services to employers and affected workers.

Service plan: A plan, entered into Ohio's designated case management system, which details all RR services that will be provided to an affected workforce and a timeline of when services will be delivered.

Trade Adjustment Assistance (TAA): A program which provides assistance, including reemployment and training services, to workers whose jobs have been threatened or lost due to foreign imports, or

shifts in production and/or services to a country outside the United States.

Worker Adjustment and Retraining Notification (WARN) Act: The Act that protects workers, their families, and communities by requiring most employers with 100 or more employees to provide notification 60 calendar days in advance of plant closings and mass layoffs. The general provisions of the WARN Act cover employers with 100 or more employees, not counting those who have worked less than 6 months in the last 12 months and those who work an average of less than 20 hours a week; or at least 50 employees at a single site of employment. Additional materials to assist with compliance can be found at <http://www.doleta.gov/layoff/warn.cfm>.

Workforce development board (WDB) director: The individual hired or designated by the local WDB to assist in completion of duties for the local WDB, including oversight of workforce development employment and training programs and development of the budget for the local area.

VI. Local Workforce Development Area Requirements

The process for requesting RREAF allows for a quicker release of funds. However, the local area should be continuously assessing and creating a strategic plan for the use of dislocated worker formula funds. This is especially important as the request for RREAF may be made on behalf of a county or counties within a local area using the review of not only the local area's expenditures, but also the individual county's expenditures, to assist in the approval process of the RREAF.

When applying for a National Dislocated Worker Grant (NDWG), the state's financial need for additional funds is determined on whether the state spent at least 70 percent of its prior program year dislocated worker and rapid response funding. Therefore, the local area must be aware that there is a potential adverse impact if the local area's expenditure rate is significantly lower than the individual county's expenditure rate and not on track to achieve the 70 percent expenditure level by the end of the program year.

Prior to any request for RREAF, the RR team must have conversations with the affected business and survey employees using the JFS 08124, Ohio Rapid Response Event Data, to determine which services must be provided. When providing RR services, all local area and/or state policies pertaining to the delivery of career services, training services, individual training accounts (ITA), supportive services, and on-the-job trainings (OJT) must be followed. Furthermore, all training provided as an RR service and funded by RREAF should be short-term training not to exceed 12 months, with an emphasis on a six-to-eight-month duration. For training lasting more than 12 months, RR will only fund the initial 12 months; local dislocated worker funds, National Dislocated Worker Grant funds, or other funds for which the participant is eligible must be used for the remaining duration. Maximum financing amounts for ITAs using RR funds must be in compliance with the local area's ITA policy.

If determined necessary, requests for RREAF must come from the local WDB director based on the local RR team's service plan. The local WDB, through WDB by-laws, policies, or procedures, may designate, either permanently or temporarily (e.g., during a temporary absence of the WDB director), a designee to request RR funding and/or sign the RREAF application. If the local WDB director does have a designee, the WDB director must communicate this designation to the ODJFS Office of Workforce Development (OWD), RR Unit at RAPDRESP@jfs.ohio.gov using "RR Funding Designee" in the subject line. The RR Unit will not approve any funding if the request is signed by someone other than the WDB director unless there is notification of a designee.

Application for and approval of funds is for the federal fiscal year (October-September). If the delivery of RR services goes beyond the federal fiscal year, the WDB director must submit a new RREAF application to the OWD RR unit requesting additional funding for the next federal fiscal year (FFY). Moreover, the local area or county must meet the spending criteria for adult and dislocated worker

formula funds.

A. Request for Transition Services Funding

The local area may request no more than \$10,000 to commence transition services. The request for funds must be necessary and reasonable based upon the transition services to be provided. These funds should provide the RR team with emergency resources to immediately respond and begin generalized services and information gathering.

The transition services include only the following:

1. Establishing a transition center;
2. Conducting initial meetings;
3. Holding worker reemployment sessions;
4. Convening labor management committees; and,
5. Surveying PAWs using the JFS 08124.

To request funding for transition services, the WDB director, or designee, on behalf of the local area and/or the county or counties within their local area, will email the following information to RAPDRESP@jfs.ohio.gov:

1. Name of business experiencing the RR event;
2. Verification that the business is closing, experiencing a mass layoff or a disaster mass job dislocation, or filing a TAA petition;
3. Date of anticipated or actual RR event;
4. Estimated number of PAWs;
5. Description of what and how transition services will be provided;
6. Identification of any other local area, planning region, or other state which is impacted by this RR event;
7. Begin date of transition services (begin date cannot be later than six months from the date of submission or more than six months prior to the anticipated or actual RR event); and
8. Amount of funds being requested, including detailed information on how money will be spent on the transition services listed above.

This request should only be completed when there is the intent to submit an RREAF application in the future.

B. Initial Application for RREAF

The results of the RRWS (JFS 08124) must be used to determine appropriate RR services to be provided to PAWs and the employer. The service plan is developed to outline necessary RR services to assist PAWs to become quickly re-employed. The local area must first assess whether the local area has adequate dislocated worker formula funds available to fund RR services. RREAF are based on the need for additional financial resources to serve PAWs and employers during an RR event, when there is a shortage of a local workforce development area's dislocated worker formula funds.

If the local RR team determines that RREAF are needed for an RR event, the local WDBs must apply using the most current JFS 18126, Application for Rapid Response Emergency Assistance Funds that is available on the ODJFS Forms Central webpage.

The application submitted by the local WDB director or designee for RREAF must only be completed once a survey of affected workers using the RRWS is completed, a strategy meeting has been conducted, and a service plan has been developed. The service plan must be discussed with and supported by the employer and labor union (as appropriate) and aligned with the local plan.

1. Funding RR Services

The local WDB director, or designee, on behalf of the local area or counties within an area, may apply for up to \$4,200 per RR participant. The number of RR participants is 75 percent of the total PAWs who completed the RRWS (JFS 08124) and are registered in Ohio's designated case management system, as defined in OAC 5101:9-30-04. RREAF applications shall budget no more than 25 percent of the total requested budget for career services. For example, company ABC issues a WARN impacting 100 PAWs; 40 PAWs complete surveys and are entered into Ohio's designated case management system. The number of RR participants is 30 (75 percent of 40 PAWs). The local area may request a maximum of \$126,000.00 (30 X \$4,200) to implement the plan of services as described in the application, with no more than 25 percent (or \$31,500) budgeted for career services.

In addition to funds for implementing the plan of services to the PAWs, the application may also include the creation and maintenance of a transition center, including hiring temporary WIOA staff for the center or paying additional staff expenses, if established in the initial request for RREAF. If the application includes maintenance of a transition center, the application must include a description of how OhioMeansJobs center partners (e.g., Wagner-Peyser Employment Services program staff) were considered and utilized within the plan for staffing and maintaining the transition center prior to submission of the request for RREAF.

RR funds are for RR services only and do not include administrative costs.

The JFS 18126 must be e-mailed to the OWD RR Unit: RAPDRESP@ifs.ohio.gov.

2. Coordinating Funding for RR Services

If an RR event involves a planning region or multiple local areas, one application for RREAF will be submitted on behalf of the planning region and/or all affected local areas. Funds will be available to all local affected areas to assist in the delivery of RR services. The RREAF application should include all PAWs, a designation of what services will be provided by each local area, and the specific funding that should be associated with each affected local area. The RREAF application will be submitted by the WDB director of the local area in which the employer experiencing the RR event is headquartered. ODJFS will award RR grant funds to each participating local area individually based on planned services and the current expenditure rate of that local area's formula funding.

3. Use of Other Funding Sources

The policy on Training Services for Adults and Dislocated Workers applies to training funded with RREAF dollars, including the requirement to obtain grant assistance from other sources to pay the costs of training before utilizing WIOA funds. If the local area has requested RREAF for training services, including OJTs, and the employer's TAA petition is later approved, the local area must co-enroll and transition all eligible PAWs to the TAA program for continued training services as described in the On-the-Job Training Policy. TAA will become the funding source for training services.

VII. State Requirements

A. Review and Approval for Funding Transition Services

The OWD RR Unit will review and approve funding requests for transition services based upon the

following:

1. Whether the event triggering the funding request is an RR event;
2. Which of the five transition services will be provided;
3. How much funding is being requested; and
4. Whether the request is necessary and reasonable based upon the transition services being provided.

The OWD RR Unit will not approve a request for funding over \$10,000. Also, requests for transition services not listed within this policy, or for services in response to events that are not an employer closure, mass layoff, disaster mass job dislocation, or TAA petition filing will not be approved.

B. Review and Approval of Initial RREAF

Since RREAF is based on need and should not replace dislocated worker formula funds, the OWD RR Unit will review the following, in addition to the RREAF application, to assist in making a funding determination:

1. The local area's frequency of transferring dislocated worker formula and adult formula funds, including how the local area has strategized to respond to unforeseen events when they transferred funds.
2. The local area's demonstrated success through the RREAF application, in achieving a streamlined service delivery model, by reducing duplicative efforts and leveraging available resources, including Wagner-Peyser Employment Services and other workforce development system partner staff.
3. The local area's level of spending of adult and dislocated worker formula funds. Spending rates will be reviewed to determine a financial need for RREAF. ODJFS requires the local area to spend carry-in funds and to be on track to spend at least 70 percent of first year funds by the end of the current fiscal year. The target spending total is based upon the quarter in which the RREAF is requested and is computed using the following formulas:

Quarter 1 Target Spending Total for August – October applications using expenditure data as of June 30:

70% Cumulative (Spent 70% of 2nd year PY/FY)

Quarter 2 Target Spending Total for November – January applications using expenditure data as of September 30:

80% Cumulative (Spent 100% of the 2nd year PY/FY and 0% of 1st year PY, counties have not received new FY funding)

Quarter 3 Target Spending Total for February – April applications using expenditure data as of December 31:

62.5% Cumulative (Spent 100% of the 2nd year PY/FY, 100% of 1st year PY, 0% of 1st year FY)

Quarter 4 Target Spending Total for May – July applications using expenditure data as of March 31:

75% Cumulative (Spent 100% of the 2nd year PY/FY, 100% of 1st year PY, 35% of 1st

year FY)

If the spending thresholds are not met, information on the local area's commitments through the end of the current program year will be reviewed to demonstrate the local area being "on track" to spend at least 70 percent of first year funds and to demonstrate a financial need for RREAF. For direct services to participants, the local area's commitments shall be reported in the County Finance Information System (CFIS) Client Tracking System.

4. If the local area does not meet the spending thresholds outlined in the previous paragraph, the spending levels of adult and dislocated worker formula funds in the county where the RR event occurred will be reviewed. Like the local area, ODJFS requires the county to spend the carry-in funds and to be on track to spend at least 70 percent of first year funds by the end of the current fiscal year using the formulas stated in the previous paragraph. The target spending total is based upon the quarter in which the RREAF application is submitted.

If the spending thresholds are not met, information on the county's commitments through the end of the current fiscal year will be reviewed to demonstrate the county being "on track" to spend at least 70 percent of first year funds and to demonstrate a financial need for RREAF. For direct services to participants, the county's commitments shall be reported by the participant in the CFIS Client Tracking System.

5. If the RR event involves a planning region or multiple local areas, the spending threshold will be evaluated for each local area to determine the need for RREAF.

C. Distribution of RR Funding

The OWD RR Unit will fund RR requests incrementally. Up to four increments per application may be requested depending on when the initial application was submitted. In most cases, the dollar amount of the increments will be equal unless varying increments are justified based upon the services to be provided.

Local areas may request subsequent increments by e-mail to RAPDRESP@jfs.ohio.gov. The requests must include the employer's name and the increment being requested.

Requests will be reviewed against the plan for services and outcomes, participant service data into Ohio's designated case management system, and spending and obligation of the prior increment(s). The outcomes will need to be on track according to the plan for services for incremental approval. To receive another increment, the local area must have spent at least 70 percent of all previous increments.

If the service plan changes while providing rapid response activities, the local area must submit a modification to the "proposed services" portion of the RREAF application.

Also, if the local area expends at least 70 percent of the total requested funds according to the plan of services, the local area may submit a new application for additional funding to serve additional PAWs from the RR event.

If the number of PAWs to be served is significantly reduced after application and allocation of funds, the local area must return unused RREAF to the State. Additionally, all unused RR funds that were allocated to the local area for training services prior to TAA petition approval must be returned to the

State unless the local area modifies the application to include other services or additional PAWs not initially included in the RREAF application.

VIII. Reporting

Ohio's designated case management system as defined in OAC 5101:9-30-04 records all significant information and data from each event beginning with notification and initial contact with the employer, through the transition of PAWs to the OhioMeansJobs centers and the local workforce development system.

Specific RR events to be funded by RREAF must be entered into Ohio's designated case management system with expected layoff dates and the number of PAWs. The service plan, which outlines the details of all RR services, must also be entered into Ohio's designated case management system prior to application for RREAF.

Ohio's designated case management system is the system of record for all RR service delivery to PAWs. Information about all PAWs who attend a reemployment session or other provided RR service must be entered into Ohio's designated case management system within 30 days or prior to RREAF application. This information is used to determine potential RR funding as well as to report participant data and outcomes to the local area.

IX. Monitoring

A. OWD RR Unit

The OWD RR Unit will conduct desk reviews on all RREAF, which includes reviews of the services being provided under RREAF and the expenditure of RR funds allocated to the local area. Periodic discussions will be conducted with local areas in receipt of RREAF to share the outcome of these reviews. The purpose of these reviews is to ensure that funds are being utilized for what they were requested and to monitor how much of the RREAF is being spent. If, during these reviews, it becomes apparent the local area will not spend the allocated RREAF, the OWD RR Unit reserves the right to pull back a portion of these funds from the local area.

B. Local WDB Monitoring

The local WDB's oversight and monitoring must include a review of the effectiveness of the local area's rapid response program. This may include:

1. An assessment of collaboration among RR teams and members;
2. The efficiency of service delivery to employers and PAWs;
3. Timeliness and completeness of data entry into Ohio's designated case management system; and
4. Use of funds in a manner that is consistent with the funding application and federal and state laws and local procedures.

C. State Monitoring

Through the state's monitoring system, program and fiscal monitors will review the following during the annual onsite monitoring review:

1. The local area's implementation of RR activities, including results from local monitoring efforts;
2. The funding application, and
3. Compliance with federal laws and regulations and state and local policies.

Any compliance issues will be handled through the state's findings resolution process.

X. Technical Assistance

The OWD RR Unit will oversee Ohio's RR program to identify notable practices and document RR activity throughout the state. The Unit will also provide oversight of the activities of the local RR teams.

The OWD RR Unit provides the following activities:

1. Technical assistance for the development of an RR team protocol;
2. Ongoing support, guidance, training, and technical assistance to local teams, local WDBs, and OhioMeansJobs centers;
3. Reviewing, managing, and reporting out on data derived from local activity; and
4. Providing financial resources to the local RR teams and stakeholders.

For additional information, questions may be sent to the OWD RR Unit: RAPDRESP@jfs.ohio.gov.

XI. References

Workforce Innovation and Opportunity Act § 134, Pub. L. 113-128.

20 C.F.R. §§ 682.300 - 682.370.

Worker Adjustment and Retraining Notification Act (WARN), Pub. L. 100-379, 29 U.S.C. 2101 et seq., and 20 C.F.R. Part 639.

USDOL, Training and Employment Guidance Letter No. 19-16, Operating Guidance for the Workforce Innovation and Opportunity Act, Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules, (March 1, 2017).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-15.3, Rapid Response Program Requirements – Employer Closure, Mass Layoff, Disaster Mass Job Dislocation, and Trade Adjustment Assistance Events, (October 26, 2023).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-08.1, Career Services for Adults and Dislocated Workers (June 6, 2017).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-09.1, Training Services for Adults and Dislocated Workers (January 8, 2018).

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-11.3, Use of Individual Training Accounts (September 27, 2021)

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-22.1, On-the-Job Training Policy, (January 22, 2018).

O.A.C. §§ 5101:9-30-04

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