



October 24, 2023

**Workforce Innovation and Opportunity Act Policy Letter No. 18-01.1**

To: Workforce Innovation and Opportunity Act (WIOA) Local Workforce Development Boards (WDBs), Fiscal Agents, and OhioMeansJobs Center Operators

From: Matt Damschroder, Director

Subject: Funding for Rapid Response Layoff Aversion

**I. Purpose**

The purpose of this policy is to outline the requirements for requesting WIOA rapid response (RR) funding to implement layoff aversion (LA) strategies in accordance with the policy letter on RR program requirements for layoff aversion.

**II. Effective Date**

Immediately

**III. Rescission**

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 18-01, Funding for Rapid Response - Layoff Aversion (April 1, 2019)

**IV. Background**

Per section 133(a)(2) of WIOA, the State may reserve 25 percent of the federal allotment of dislocated worker funds for statewide RR activities including the implementation of LA strategies. To identify, prevent, and defer potential layoff events and to minimize the negative impacts of a layoff on workers, the employer, and the community, a local workforce development area (local area) may apply for LA funds according to the guidelines in this policy.

**V. Definitions**

**Designee:** The fiscal agent representative or other individual who is designated by the local workforce development board (WDB) director 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. The designation may be temporary or permanent.

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

**Fiscal agent:** The entity designated by the chief elected official(s) to perform accounting and funds management on their behalf, including coordination with the WDB regarding funding for the planned

array of WIOA-funded services and ensuring fiscal integrity and accountability for expenditure of the funds.

Incumbent worker: An employed individual who meets the Fair Labor Standards Act requirements for an employer-employee relationship and has an established employment history with the employer for six months or more or is a member of a training cohort in which most of the workers have such an employment history.

Incumbent worker training (IWT): Training designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment. IWT is conducted with the commitment of the employer to retain or avert the layoffs of the incumbent workers trained. IWT may be funded with adult or dislocated worker formula dollars or with statewide RR funds.

Layoff aversion (LA): A strategy that prevents and/or minimizes unemployment for employees of companies that have either announced layoffs or are struggling and at risk of downsizing.

Layoff aversion (LA) project: A single strategy, or mix of strategies, intended to:

- Avert layoffs by an employer or group of employers that are expected to occur within 36 months following the date of the LA funding application and continue for 6 months or longer; or
- Implement sustainable, proactive LA activities meant to predict and prevent job loss that are not necessarily focused on a specific employer or group of employers.

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. Limitations on and Requirements for Local Workforce Development Area's Receipt and Use of LA Funds**

WIOA-funded providers of employer services, in coordination with economic development, education, and other partners that serve businesses, shall identify employers in the local area or region at risk of laying off workers, assess their needs, and identify the LA strategy or mix of strategies likely to avert the layoffs in accordance with the policy letter on RR layoff aversion program requirements.

If the costs of implementing the LA strategies exceed the WIOA formula funds, and employer and partner resources available for LA, the local WDB director or designee may request RR funding to implement one or more LA projects by submitting the Layoff Aversion Service Plan (JFS 01815 form). The completed and signed plan should be emailed to [RAPDRESP@jfs.ohio.gov](mailto:RAPDRESP@jfs.ohio.gov).

To maximize the positive impacts of LA strategies and to distribute limited RR funding across employers and local areas, each LA project shall only be approved for RR funding once. For example, if an LA project were approved to provide IWT to a group of workers, no subsequent LA project will be awarded for the same employer to continue training the same workers, but a project may be approved to provide IWT to a different group of workers. Similarly, if a local area implemented a proactive LA strategy using RR funds, no subsequent request will be approved for the same local area to continue or repeat the same strategy using RR funds.

RR funds awarded for implementation of LA projects are not intended to cover the long-term maintenance of such projects, such as ongoing staff costs or system enhancements. Therefore, each approved LA project may incur RR costs for a maximum of 24 months following the approval date of the initial application. When applying for ongoing LA strategies that will continue beyond the 24-month RR funding period, the local area shall list in the application the funding sources that will be

used to sustain the project.

Applications for and approval of RR funds occur within a federal fiscal year (FFY) which begins October 1 and continues for 12 months to September 30. In the application, the local area must submit a budget for the entire project up to 24 months, and for the current FFY allocation period (i.e., costs to be incurred from October 1 through the subsequent September 30). At the beginning of the second, and possibly third, FFY in the project lifespan, a new application and budget must be submitted to request the portion of funding necessary to continue the LA project in the new FFY.

In the application budget, the local area may include WIOA administrative costs that will be incurred to implement the LA strategies (e.g., negotiating service contracts, reimbursing invoices, entering data, monitoring financial records, etc.) Administrative costs cannot exceed ten percent of the LA project budget. ODJFS expects that, for most LA projects, actual administrative costs will be significantly lower than the maximum ten percent allowance and should vary from project to project based on actual costs. Therefore, ODJFS will decrease or eliminate the administrative cost allowance for local areas that routinely request and expend the full ten percent permitted for administrative costs unless the local area can verify and explain how actual administrative costs consistently equal ten percent.

For additional information on applying for LA funding or to request technical assistance, email [RAPDRESP@jfs.ohio.gov](mailto:RAPDRESP@jfs.ohio.gov).

## **VII. State Protocol for LA Funding**

### **A. RR Funding for LA**

In each FFY, ODJFS shall reserve a portion of its RR allotment for local area projects, of which a percentage may be earmarked for the implementation of LA projects. During the FFY, local area requests for LA funding will be evaluated in the order received and compared to the unobligated balance of reserved RR funding or the earmark for LA activities. If a local area's request to implement an LA project exceeds the reserved or earmarked RR funds available, ODJFS shall:

- Re-evaluate budget priorities to reserve more RR funds for local area projects;
- Increase the percentage of RR funds earmarked for LA projects;
- Identify and make available other available resources; or
- Deny the pending request and invite the local area to apply again when more resources are available, such as in the subsequent FFY.

### **B. Review and Approval of LA Funding**

The ODJFS Office of Workforce Development (OWD) RR Unit will review local area requests for LA funds for compliance, feasibility, and the merits of the planned goals and outcomes. Within three business days of receiving the application, the RR Unit will respond to the local area by email indicating approval, denial, or the need for additional information on the application.

RR funding awarded to a local area is meant to supplement, not replace, dislocated worker formula funds. Therefore, the RR Unit will review the following, in addition to the application, to reach a funding decision:

1. The local area's frequency of transferring dislocated worker and adult formula funds, including how the local area has strategized to respond to unforeseen events when they transferred funds;

2. For LA requests to implement IWT services, the local area's expenditure of the 20 percent of adult and dislocated worker funding that may be used for IWT; or the local area's willingness to co-fund the LA project by committing to spend the local funds available for IWT prior to using RR funding; and
3. The local area's expenditure of adult and dislocated worker formula funds.

ODJFS expects each local area to spend its WIOA formula carry-in funds and to be on track to spend at least 70 percent of first year funds by the end of each fiscal year. To evaluate a local area's financial need for RR funding over the course of the year, a quarterly target spending total shall be computed using the following formulas:

Quarter 1 target spending total for August through October applications using expenditure data as of June 30:

70% Cumulative (Spent 70% of 2<sup>nd</sup> year PY & FY grants)

Quarter 2 target spending total for November through January applications using expenditure data as of September 30:

80% Cumulative (Spent 100% of 2<sup>nd</sup> year PY & FY and 0% of 1<sup>st</sup> year PY; areas have not received new FY funding)

Quarter 3 target spending total for February through April applications using expenditure data as of December 31:

62.5% Cumulative (Spent 100% of 2<sup>nd</sup> year PY & FY, 100% of 1<sup>st</sup> year PY, and 0% of 1<sup>st</sup> year FY)

Quarter 4 target spending total for May through July applications using expenditure data as of March 31:

75% Cumulative (Spent 100% of 2<sup>nd</sup> year PY & FY, 100% of 1<sup>st</sup> year PY, and 35% of 1<sup>st</sup> year FY)

If the cumulative expenditure of local area combined adult and dislocated worker funds are below its target spending total for the quarter in which it requests RR funding, information on the local area's adult and dislocated worker commitments will be reviewed to determine the likelihood of expending at least 70 percent of funds within the first year. The local area's commitments shall be reported in the State's designated financial reporting system using commitment reporting functionality available in the client tracking module.

If the local area does not meet the target spending total, the spending rate of the county requesting RR funding will be evaluated by applying the above target spending formulas to the adult and dislocated worker funds sub-awarded to the county. ODJFS may opt to approve RR funding for a county that has exceeded its spending target even if the local area has not met the requirement.

If the planned LA strategies involve a planning region or multiple local areas, the actual spending relative to the target will be evaluated separately for each local area involved in the LA project.

C. Distribution of RR Funding

Most LA projects will be funded incrementally. Up to four increments per FFY may be issued

depending on when the initial application was submitted. In most cases, the dollar amount of the increments will be equal unless the local area justifies a need for unequal increments, for example, due to the timing of specific high-cost strategies in the LA project plan.

Local areas may request increments by emailing [RAPDRESP@jfs.ohio.gov](mailto:RAPDRESP@jfs.ohio.gov). Requests will be reviewed against the application for services, progress toward completion of the project's goals and outcomes, participant service data into Ohio's designated case management system as defined in Ohio Administrative Code (OAC) 5101:9-30-04 if applicable, and spending and obligation of the prior increment(s) (which must exceed at least 70 percent of the sum of previous increments.)

When a local area request for RR funding or an increment of funding is approved, ODJFS will issue an allocation to the local area fiscal agent by the Friday following the first Wednesday after the approval date.

If the LA plan changes during implementation, including budget line item increases or decreases that exceed ten percent of the planned cost, the local area must submit a modified application to request approval of the changes.

If the local area expends at least 70 percent of the total RR funds approved for an LA project, a new application may be submitted to request additional LA funds to continue implementing the strategies within the same project.

## **VIII. Monitoring**

During the implementation of RR-funded LA projects, the RR Unit will review the services being provided and the expenditure of RR funds allocated to the local area. Periodic discussions will be conducted with local areas in receipt of RR funds to share the outcome of these reviews. The purposes of these reviews are to ensure that funds are being utilized in accordance with the application and to monitor expenditure of the RR allocation. If it becomes apparent that a local area will not spend the allocated funding, the RR Unit reserves the right to rescind a portion of these funds from the local area.

Through the state's monitoring system, program and fiscal monitors will review the area's implementation of RR activities during the annual onsite monitoring review for compliance with local procedures, the funding application, as well as federal laws and regulations. Any findings will be resolved through the state's monitoring resolution process.

For local areas that request RR funding for LA strategies, the local WDB must develop policies that outline the procedures, frequency, and manner in which monitoring of LA project implementation will be accomplished and how any findings of non-compliance will be resolved.

## **IX. References**

Workforce Innovation and Opportunity Act §§ 133 and 134, Pub. L. 113-128

20 C.F.R. §§ 682.300-682.370

O.A.C. §§ 5101:9-30-04

USDOL, Training and Employment Guidance Letter WIOA No. 19-16 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)

JFS 01815 Layoff Aversion Service Plan

30 E. Broad Street  
Columbus, Ohio 43215 U.S.A.

614 | 000 0000  
614 | 000 0000  
[jfs.ohio.gov](http://jfs.ohio.gov)

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