

**COMMONWEALTH OF VIRGINIA
VIRGINIA COMMUNITY COLLEGE SYSTEM**

Workforce Investment Act (WIA) State Dislocated Worker Unit Guidance

Subject: Business Retention/Layoff Aversion Strategy

Date: September 1, 2012

Purpose:

The purpose of this document is to provide local Rapid Response providers, local workforce investment boards and other Virginia Workforce Network partners with information about the importance of, and types of activities that may be conducted as part of a layoff aversion strategy.

While state WIA funds reserved for Rapid Response activities can be used and should play a critical role in layoff aversion, each partner within the state and local workforce investment system should contribute their efforts and resources to leverage funds, maximize efficiency of efforts and establish buy-in at the state and local levels in terms of supporting and promoting community and economic well-being.

Resource:

Layoff Aversion Technical Assistance Guide - <http://vwn.vccs.edu/wp-content/uploads/2012/05/TARG-Layoff-Aversion-Rapid-Response.pdf>

The Layoff Aversion Technical Assistance Guide includes:

- Layoff Aversion Early Warning Indicators
- Job Retention Strategies
- Surveying Existing Businesses
- Early Warning Networks
- Prefeasibility Studies to Explore Alternatives or Buyout Options
- Linkages with Federal, State and Local Development Agencies
- Alternatives to Layoffs
- Layoff Aversion and Retention Models and Case Studies
- Sample Layoff Aversion Tools

Layoff Aversion Definition:

Layoff Aversion is defined in the US Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) 30-09. The entire document can be found here: <http://vwn.vccs.edu/wp-content/uploads/2012/05/TEN03-10-RR-national-initiative.pdf>

The DOL Employment and Training Administration considers a layoff averted when:

1. A worker's job is saved with an existing employer that is at risk of downsizing or closing; or
2. A worker at risk of dislocation transitions to a different job with the same employer or a new job with a different employer and experiences no or minimal spell of unemployment.

Background Discussion:

There are many benefits that accrue to workers, employers, taxpayers, and communities when layoffs are averted.

For workers, the loss of income and benefits associated with unemployment can be financially devastating and risks the well-being of the worker's family. Retaining the same position or transitioning to a different position with retooled skills at a comparable wage maintains financial stability compared to the loss of income sustained when drawing unemployment compensation, which on average is approximately 36 percent of the worker's average weekly wage when employed.

For employers, retaining a known reliable worker can save costs associated with severance; costs associated with having unfilled, vacant job openings; costs associated with recruiting and orienting a new employee with requisite skills to the procedures, culture and systems of the company that the former worker already knew; and intangible costs such as avoiding lower overall company morale for remaining workers when their co-workers are laid off. Additionally, layoffs often lead to increases in that employer's unemployment compensation tax rates.

For taxpayers, averting layoffs saves outlays from unemployment trust funds and other taxpayer-funded services that the unemployed worker may draw. Finally, for communities, averting layoffs is far less disruptive and costly compared to providing emergency food and health services to financially strained families, and the loss of property taxes associated with high home foreclosure rates. It also facilitates the maintenance of overall community economic wellness, which can be threatened when a mass layoff creates tertiary layoffs due to reduced overall consumption in the community.

Early response is critical. An important initial step in Rapid Response is to assess the reason for the plant closing or mass layoff. If there is an indication that the business closing or mass layoff might be averted, Rapid Response can provide technical assistance to interested parties to investigate possible layoff aversion strategies. This can include undertaking a pre-feasibility study for a company or group, including the workers, to purchase the plant or company and continue operations. Layoff aversion initiatives are authorized and may be funded under the Workforce Investment Act.

Adequate Lead Time is Essential

For a layoff aversion effort to succeed; there must be sufficient time to organize an effective response. Generally, six months or more is needed to complete a business turnaround or buyout. Management and employees should be mobilized to pursue the effort. The firm must have a realistic potential to be viable, and key management and hourly personnel must be retained for the business to continue.

I. Examples of Activities that may be Conducted as Part of a Layoff Aversion Strategy

A. Early Warning Systems

One of the first steps in effective layoff aversion strategies is the establishment of early warning systems (Economic Forecasting Groups) to identify and track firms and industrial sectors that may be in trouble, or that might benefit from early economic development assistance. The function of early warning mechanisms is to use labor market data and intelligence to identify firms at risk of leaving or closing prior to actual decisions by companies to shut down or move.

Understanding early warning indicators, whether identified as immediate danger signs or as long-term patterns, can buy a community necessary time to develop alternatives to plant closures and job loss.

Monitoring activities are an essential component of successful job retention strategy. Economic Forecasting Groups can use skill set mapping from industries in decline to growth sectors which will work towards lessening the impact of workforce reductions on the workers and the community. The ultimate goal is to develop an instant labor exchange. The regional networks of early warning intelligence include all stakeholders in the Workforce Services Network along with regional community leaders, industry groups and chambers of commerce. Other entities may be included based on regional needs. Asset mapping activities will ensure all partners with contributory services and funding are included in this process. Economic Forecasting Group members are urged to partner with regional Business Resource Teams and participate in business visitation programs that use surveys to gather information regarding expansion or retention needs. A list of early warning indicators is included in the Layoff Aversion Technical Assistance Guide, which is noted as an attachment.

B. Pre-feasibility Studies

A pre-feasibility study can assess whether it is possible to continue the business operation and under what conditions. It can provide objective evidence that there is no likelihood of the business reopening (or not closing). If the study proves negative, it can help to expedite the commitment of workers to seek new employment.

To be effective, a pre-feasibility study should be performed in a timely manner and completed within 30-45 days. The process should be sensitive to the needs and interests of workers and should involve both labor and management in a union shop.

Basic questions which should be answered in the pre-feasibility study include:

- Will a retraining of the workforce to a new skill set that allows the facility to remain or become more competitive make a difference in closing/layoff? (new product line possibilities, new manufacturing or management processes, etc).
- Are the present owners amenable to a buyout?
- Is the firm organized for a smooth transition?
- Are the products or services in a declining, stable, or growing market?
- Can the facility be an efficient producer in its industry?
- How does the facilities profitability compare to its competition?
- Has the physical plant been maintained in satisfactory condition?
- What is the potential for the plant to exist either as an independent firm or as a subcontractor?

The pre-feasibility study can assess basic elements of the business, including study methodology, organizational analysis, market analysis, operations/manufacturing analysis, financial analysis, legal analysis, and conclusions. It can examine the applicability of employee ownership and whether an Employee Stock Ownership Plan (ESOP) would be appropriate as an equity-sharing and tax-favored financing strategy.

C. Incumbent Worker Training

Virginia has a waiver from the US Department of Labor that allows for up to 20% of state Rapid Response funds to be used for incumbent worker training as part of a layoff aversion strategy. General WIA statewide funds may also be used for incumbent worker training, and local workforce investment boards under waiver authority are also able to use up to 20% of their funds for incumbent worker training as part of a layoff aversion strategy.

In all of these cases, an incumbent worker is an individual who is employed, but does not have to meet the eligibility requirements for intensive and training services for employed adults and dislocated workers.

(For additional details, reference State WIA Policy 02-04, at: http://myfuture.vccs.edu/Portals/0/ContentAreas/Workforce/VWN/Policy02_04_waivermod2_T EGL.pdf _

D. Linkages with Additional Resources

Additional resources are available for technical assistance. The following agencies may be included to assist with the development of layoff aversion strategies.

- Manufacturing Extension Partnership (MEP), providing manufacturing modernization services through centers in all fifty States (Commerce Department: <http://www.nist.gov/mep/>). Benefits of collaboration are provided in the Department of Labor's Training and Employment Notice 38-11: <http://vwn.vccs.edu/wp-content/uploads/2012/05/TEN-38-11.pdf>.
- Small Business Development Centers, providing business planning assistance through academic centers nationwide (SBA) <http://www.sba.gov/content/small-business-development-centers-sbdcs>
- Trade Adjustment Assistance Center (TAAC), Office of Adjustment in the Commerce Department <http://www.taacenters.org/>
- Virginia Employment Commission (VEC) Labor Market Information (LMI) can be requested based on a request for a customized report based on local, regional and state economic factors. Having a crosswalk of skill sets of impacted workers to local and regional economies would be an impetus to preventing or lessening the impact of a workforce reduction in a region or locality. VEC Labor market information and tools are available at: <http://www.vawc.virginia.gov/analyzer/default.asp>
- Business Services Units, a regional network of workforce partners collaborating to maximize resources for businesses, provide infrastructure to coordinate with existing regional Business Services Units. <http://vwn.vccs.edu/wp-content/uploads/2012/04/Business-Services-Contact-List-April-2012.pdf>

II. Prohibited Activities

1. Employment generating activities, economic development activities, investment in revolving loans, capitalization of businesses, and similar activities not directly related to training for eligible individuals. (WIA Sec. 181(e)); 20 CFR 667.264(a)(1)).
2. Foreign travel, regardless of whether it is associated with economic development. (WIA Sec. 181(e)); 20 CFR 667.264(a)(1)).
3. Activities to encourage or induce a business, or part of a business, to relocate from any location in the United States, if the relocation results in any employee losing his or her job at the original location.(WIA Sec. 181(d)(1)).
4. Customized training, skill training, on-the-job training, or company-specific assessments of job applicants or employees *of relocated companies* for 120 days if the relocation resulted in loss of employment for any employee at the original location (WIA Sec. 181(d)(2)). WIA requires local areas to conduct a pre-award review to verify that an establishment which is new or expanding is not, in fact, relocating employment from another area, standardized pre-award review criteria

developed by the State must be completed and documented jointly by the local area with the establishment as a prerequisite to WIA assistance. The review must include names under which the establishment does business, including predecessors and successors in interest; the name, title, and address of the company official certifying the information, and whether WIA assistance is sought in connection with past or impending job losses at other facilities, including a review of whether WARN notices relating to the employer have been filed. The review may include consultations with labor organizations and others in the affected local area(s). (WIA sec. 181(d)); 20 CFR 667.268(b)).

III Next Steps:

See application form to request support for Layoff Aversion projects.