

**Summary of Comments**  
**Draft Directive “Rapid Response and Layoff Aversion Activities”**

There were 24 comments to the draft version of this directive:

Commenter #1 sought clarification on the definition of "job saved" and the need for supporting documentation from the employer.

Resolution: We have amended the definition of jobs saved to include “short term unemployment is defined as not to exceed a one week period.” This definition is consistent with Section 1253 of the California Unemployment Insurance Code and a person’s eligibility for receipt of unemployment benefits. The directive has been changed to include this expanded definition.

Commenter #2 expressed concerns that beginning with Program Year 2015-16 onward, layoff aversion funding will be distributed based on “the proportionate share of the number of jobs saved” indicated on the 122 Report and the willingness of employers to provide documentation of this information.

Resolution: The Rapid Response formula allocations provide funding for the Local Workforce Investment Areas (local areas) to provide the wide range of required and allowable Rapid Response activities. Beginning in Program Year 2015-16, the layoff aversion funding methodology will be activity based, and the measure of activity is the number of jobs saved. It is our recommendation that layoff aversion activities be provided to businesses that are willing to provide documentation of jobs saved. This information should be included in the initial meeting with an employer that will benefit from the expenditure of public funds to assist their business and their employees. In addition, the employees are not registered participants of the Workforce Investment Act (WIA) system and are not registered in CalJOBS<sup>SM</sup>, so there will not be another means to document their employment, absent the employer letter.

Commenter #3 expressed concerns on how the relative share of jobs saved by each local area may fluctuate widely from year to year, making planning difficult for future funding and suggested developing a baseline allocation each year, supplemented by a performance-based allocation.

Resolution: The Rapid Response formula allocation methodology includes a baseline amount and hold harmless calculation for each local area. These funds provide a stable annual baseline allocation. These funds may be used to provide the full range of Rapid Response and layoff aversion activities. However, the funds distributed to local areas that are to be used exclusively for layoff aversion activities will be distributed on a performance based activity methodology. We will be monitoring the reports from the first year of activity, and if necessary, will consider modifying the allocation method at that time.

Commenter #4 questioned that activities reported on the 122 Report may not result in outcomes (jobs saved) until many months later, especially since in the first funding cycle we will presumably have only 7/1–3/31 to report activities.

Resolution: As with WIA performance reporting, outcomes may not be realized in the quarter that services begin. Therefore, results will be reported in the quarter that outcomes are achieved. This funding is meant to provide incentive to Local Workforce Investment Boards (local boards) to begin\continue to transform their Rapid Response service delivery strategies from reactive response to proactive layoff aversion. We recognize that there may be delays in reporting outcomes. Rapid Response Formula funds may be used to conduct layoff aversion activities.

Commenter #5 was concerned that focusing purely on the number of jobs saved may tend to skew assistance to companies with large numbers of employees.

Resolution: We recognize that large metropolitan areas will have large employers, while more rural local areas will be dealing with small businesses that have 10 or fewer employees. Layoff aversion funding may be used to provide services to any sized employer. The intent of layoff aversion is to enable local areas to provide proactive assistance to the full range of employers, small or big. Note: We recognize that recent studies show that small businesses (those having less than 500 employees) in California represent 99.2 percent of all employers and employ 50.4 percent of the private-sector labor force.

Commenter #6 questioned the limiting of reporting on the 122 Report to include only the number of jobs saved when there could be positive outcomes, such as access to capital.

Resolution: We agree. The intent of this is a partnership approach and the leveraging of resources, to include capital, to assist the employer to remain competitive and retain its employees. If access to capital has a positive effect, it is anticipated that this would include jobs saved and can be included in the report as such.

Commenter #7 sought clarification on why the 122 Report Line Item Instructions and 122 Report indicate that activities reported are “those related to business visits by local area staff to conduct business outreach activities and/or layoff aversion activities” when regional partnerships are encouraged.

Resolution: The layoff aversion funding is to provide incentive and resources to support layoff aversion activities carried out by the local area. In some local areas it will be through a wide range of partners, where other local areas may conduct these visits or contacts independently. Whatever forms the delivery of services take, the local area would need to document some involvement in the activities delivered to the company that resulted in “jobs saved.” For example, the Economic Development Corporation (EDC) in your region is very active. The EDC, independent of the local board’s involvement, contacts the employer and leverages resources through their agency or

the Small Business Development Center in the region, which allowed the company to continue to operate and retain some or all of its employees. In this example, the local board has no involvement in this activity and should not report the jobs saved on their 122 Report.

Commenter #8 sought clarification on the definition of a successful outcome. The 122 Report asks whether the activity resulted in a successful outcome. If it is only jobs saved, then filling in the number of jobs saved would cover this.

Resolution: The 122 Report has been amended to delete the question.

Commenter #9 asked whether all Layoff Aversion activities should be tracked on the 122 Report – or only ones that have been completed (i.e. can show results)?

Resolution: The completed 122 Report is to be submitted quarterly and should only include the range of services during the quarter which resulted in jobs saved. It is not to include activities that are ongoing and have not resulted in jobs saved.

Commenter #10 sought clarification on which of the activities included in Attachment 6, *Examples of the Categorization of Rapid Response Activities*, are allowable using layoff aversion funding.

Resolution: On page 9, under Reporting, the directive states that the layoff aversion funds are to be used exclusively for layoff aversion activities. The 122 Report has been modified to allow local areas to select from a range of allowable activities.

Commenter #11 sought additional fields on the 122 Report to allow the listing of multiple services provided in a single contact.

Resolution: Modifications to the 122 Report have been made and additional instructions are included.

Commenter #12 questioned if the 122 Report should include layoff aversion activities provided to companies with fewer than 10 employees.

Resolution: Yes. Company size is not a consideration. The focus of the 122 Report is ultimately for reporting activities resulting in jobs saved.

Commenter #13 sought clarification on the reporting of layoff aversion services to a company that is unable to recover and must layoff or close – should this information be tracked on the 122 Report?

Resolution: Yes. But only if the layoff aversion activities resulted in the placement of the affected employees in other jobs, and within the 1 week time frame. See Comment #1 above for definition of a job saved.

Commenter #14 asked if the Employment Development Department (EDD) considered the use of a statewide database, as opposed to Excel, to collect both the 121 and 122 reports information.

Resolution: Yes. Enhancements to the new CalJOBS<sup>SM</sup> system, including the addition of these forms, are under consideration. There is no timeline for those projects yet, but they will be prioritized and implemented based on their impact on reporting and service delivery to the participants of the local America's Job Centers of California<sup>SM</sup> system.

Commenter #15 asked if the State will be providing training for local area and EDD staff on their role in layoff aversion and coordination as well as collection and dissemination of best practices as well as reporting.

Resolution: Yes. A training session is being planned and will be provided at the regional Rapid Response round tables, it is anticipated that local EDD staff will participate in this training. The schedule has not yet been determined. When it is finalized, it will be communicated to the representatives of the Rapid Response regional roundtables and through EDD Division Chiefs. We are also considering the collection and dissemination of best practices and a "tool kit" as part of the ongoing capacity building efforts for the statewide system.

Commenter #16 sought clarification on the method of documenting a job saved in lieu of an employer letter.

Resolution: The local areas may develop a standard form to document this information. The form must be signed and dated by the employer attesting to the services received and the number of jobs saved. Local areas must retain the employer documentation with the 122 Report.

Commenter #17 noted that one of the differences between a 121 & 122 reports is the ability to use telephonic resources (conference cell, online chat, Skype, etc.) and asked if a sign-in sheet & confirmation notice will still be mandatory for a 122 Report.

Resolution: No. The contact for layoff aversion activities is initiated exclusively with the employer. Therefore, there is no employee contact; no sign-in sheet is needed. The 122 Report is only used for documenting jobs saved and to list the range of services that were provided to accomplish this. Note: If a local board or partner is providing information to employees, this activity should be included on the 121 Report as a Rapid Response activity.

Commenter #18 asked if there will be additional instructions on how to document our activities, in addition to completing the 122 Report.

Resolution: Yes. Please see Comment #14 above. Instructions on how to complete the 122 Report are included in the directive and the attachments. The form includes drop-down menus. The only layoff aversion activities documentation required to be

maintained are the employer letters/locally developed form and the completed copy of the 122 Report.

Commenter #19 asked if the column with the heading of “Are ee’s represented by union? Yes/No.” should be on both 121 and 122 reports, or is it necessary to report this only on the 122 Report?

Resolution: The column has been deleted from the 122 Report.

Commenter #20 suggested the State purchase statewide resources such as Dun & Bradstreet data or provide access to another means of early warning.

Resolution: At this time, it is not anticipated that the State will purchase statewide resources for use by local areas. We expect, through the use of this funding, that local boards will further develop local and regional partnerships with the employer community that are focused on providing appropriate referral and assistance to ensure the continued the well-being of the companies in their local area. It is our hope that this allocation of funds helps develop or refine the existing partnership and deepens the engagement with the employers to minimize the impact of layoffs.

Commenter #21 sought clarification as to why the draft directive does not mention the Worker Adjustment and Retraining Notice (WARN) system and if the 121 Report tracks WARN and Non-WARN events.

Resolution: This directive does not make any revisions to the 121 Report or the policy regarding tracking and reporting of Rapid Response activities. The current form used for Rapid Response activities does contain data elements that the local areas can indicate WARN or Non-WARN events.

Commenter #22 sought clarification on the steps for local approval of resource allocations before moving forward with a layoff aversion candidate.

Resolution: This is a locally determined review and approval process and this directive does not describe what the local approval process must be. However, we strongly encourage local boards to utilize the expertise of partner agencies such as the [Small Business Development of California Network](#) or the National Institute of Standards and Technology’s [Hollings Manufacturing Extension Partnership](#) to identify the type and sequence of activities for any intervention prior to expending funds on providing assistance to the employer.

Commenter #23 asked about the formula used for disbursing funding for Rapid Response activities.

Resolution: This directive does not change the existing Rapid Response formula. Please see Directive [05-18](#).

Commenter #24 sought clarification on how funds will be allocated to local areas and whether it will continue to be based on the workers “offered” services or the number of workers “receiving” Rapid Response services.

Resolution: The correction has been made to the directive and funding continues to be based on the workers “offered” services.