

LAYOFF AVERSION AND RAPID RESPONSE TOOL KIT

For Union Leaders and WIB Representatives

Prepared by the California Labor Federation, AFL-CIO
Workforce and Economic Development Program

2008



California LABOR Federation



workforce and economic development

a Program of California Labor Federation AFL-CIO

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FOREWORD

June 2008

The primary goal of our Workforce and Economic Development program (WED) is to promote the creation of good high skill, high wage jobs in California. The current economic downturn has made this task more difficult for us, and for union leaders and economic development professionals throughout our state.

For many Californians the situation is dire -- families are losing their homes to foreclosure, huge government budget deficits are endangering public sector jobs, and rising fuel costs are crippling our economy. And as more businesses fail, closures and mass layoffs will follow. California has the third highest unemployment rate in the nation, and it continues to rise. Communities throughout California must be prepared to deal with these profound disruptions.

WED prepared this Tool Kit specifically to help prevent layoffs and to respond quickly to the needs of workers and their families, when mass layoffs cannot be prevented.

The information contained in this document comes from many public and private sources, but we want especially to acknowledge the AFL-CIO Working for America Institute for their information, Ed Chiera of Edward Chiera Associates who helped author it, and Peter Cooper of our staff for his research and review.

We also thank the California Labor & Workforce Development Agency and the Employment Development Department for continued support of the WED program. Their commitment to the mission and purpose of WED makes this important work possible.

The Tool Kit was shared with participants at three Regional Dislocated Worker Summits we hosted for union representatives and public employees involved in responding to worker layoffs. We thank Martha Bader, Jan Borunda, and Ellen Baughman, our other WED staff, for their help in distributing and promoting this timely document.

The Tool Kit is a work in progress and will be updated periodically. We would appreciate your comments and suggestions and will update it as needed on our WED website.



Art Pulaski
Executive Secretary-Treasurer
California Labor Federation, AFL-CIO



Tim Rainey
WED Executive Director

HOW TO USE THIS TOOL KIT

This document is designed to be an overview of the topics it covers. If you wish to explore each topic in more detail, the *Tool Kit* offers websites of organizations and references that you can link to on your personal computer.

Please note that this *Tool Kit* comes with a CD. The CD contains an exact copy of the printed *Tool Kit* in Microsoft Word (MS Word) format. We suggest that you download it to a computer that is connected to the Internet, preferably through a high-speed or DSL connection.

Once you have downloaded and opened the MS Word version, you will note that throughout the document there are blue underlined website addresses starting with <http://...>. These are “hyperlinks” which, as their name indicates, will instantly link you to a website in cyberspace!

For the website link you want to access, press your control key—Ctrl—and then place your cursor on the link and click your mouse. If your computer is connected to the Internet, the website should come up on your browser. Some websites offer you additional documents you can download to your computer.

Please be aware that website addresses tend to become outdated. If you fail to link onto a particular website because the address has changed, go to google.com and search using the name of the organization for its new website.

There are also “hyperlinks” within the *Tool Kit* itself. Many chapter titles and topic headings in the **Table of Contents** are in blue underlined typeface. These hyperlinks allow you to instantly find and view the chapter or topic you want without paging through the entire document to find it. So, to access a particular chapter or topic in the Table of Contents, place your cursor on the topic or page number of the topic you wish to access, press “Ctrl” and click to get it.

At the bottom of some pages in the text you will find a blue hyperlink saying, “<[Return](#)>.” By clicking on any of these links your cursor will immediately “return” you to the Table of Contents.

If a particular term or acronym used in the Tool Kit is not clearly understood, please refer to the **Glossary of Terms** found as an attachment to this document and on the California Labor Federation WED program website: <http://www.wed-works.org/>

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1 Chapter

INTRODUCTION

Next to divorce or death of an immediate family member, there is nothing more traumatic for a worker than being fired from his or her job without cause and with little or no notice. In America, working families are hurting. They are living from paycheck to paycheck trying to make ends meet to pay for transportation, to keep a roof over their heads, and to protect their income, savings, healthcare and pension benefits. Tie these to loosing a union breadwinner's job and the family is doubly hurting.

What is the purpose of this Tool Kit?

Is there a way for union leaders and public servants to help prevent or at least alleviate the pain of loosing good union jobs? For those of you who care and want to take action, this *Tool Kit* is designed to give you concise information, practical steps and links to expert assistance on how you might avert a layoff of union members, or if unpreventable, how to quickly respond by protecting worker rights and mobilizing services to help them get new jobs.

This *Tool Kit* was written for union officials who want a basic overview of WIA and other programs that are available to workers threatened by or actually being unemployed due to a plant closure or layoff. It is written, to the degree possible, in plain language and thus should not be taken as an exact reading of federal laws and regulations, or state and local

policies. These can be found on government websites. Secondly, we offer this *Tool Kit* to WIB Rapid Response and One Stop Coordinators as a way to orient themselves on matters concerning organized labor. This document is written from a labor perspective and may give you insight on how to better communicate with union leaders about plant closures and union member layoffs. We ask that it be used as a point of reference and discussion with unions whose members have received layoff notices or in making your first contact with unions about WARN, Rapid Response and Layoff Aversion. For further information about labor unions, go to <http://www.calaborfed.org/issues/organizing/union101.pdf>

What is Layoff Aversion and Rapid Response?

In most cases of substantial layoff, federal and California laws require that employers give advance notice to their employees that a major layoff is imminent and that their jobs will be affected. While the required legal timeframes and requirements are inadequate, with enough time and goodwill, it may be possible to mobilize public-private resources for an economically viable alternative to downsizing or closing a facility and dislocating workers en mass.

First, this *Tool Kit* contains a chapter on the fundamentals of these laws and, second, a chapter covering methods and resources union leaders,



company management and public officials might consider to avert a plant closure or massive layoff.

The federal Workforce Investment Act (WIA) provides funding for states to provide “Rapid Response” services to companies and employees affected by substantial layoff. This *Tool Kit* explains what these services are and how they are delivered by California’s 49 local Workforce Investment Boards (WIBs), whose geographic jurisdictions cover the entire state.

Although Rapid Response assistance is available whenever an employer shows signs of losing business, it often starts when the company issues a Worker Adjustment and Retraining Notification (WARN) Act notice at least sixty days prior to a substantial layoff. WIB representatives then make contact to orient company management, union officials and business agents about how their WIB One-Stop Career Centers can provide comprehensive support and reemployment assistance for dislocated workers. Whenever possible WIB Rapid Response coordinators facilitate the initial delivery of services

to the targeted employees prior to their layoff. These WIB representatives can also put company and union leaders in contact with local business retention and economic development officials to explore alternatives to layoffs or “Layoff Aversion.”

Who qualifies for WIB and One-Stop assistance as a Dislocated Worker?

In plain language, any laid off worker who is eligible for unemployment insurance benefits and cannot readily find work in his or her occupation or industry is a **“dislocated worker”** and should be eligible for WIA. A local WIB usually allocates their Dislocated Worker funding to serve unemployed individuals who live or work in their WIA service area. Other persons considered to be “dislocated workers” are displaced homemakers who now must find work to support themselves (divorcées or widows, for example) and self-employed individuals, like farmers, whose businesses may have failed due to an economic downturn or natural disaster.

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Chapter **2**



THE LAW – LAYOFF PROTECTION FOR CALIFORNIA WORKERS

On January 1, 2003, the **California WARN Act** took effect. This law is modeled on the federal **Worker Adjustment and Retraining Notification (WARN) Act**, which requires certain employers provide its employees 60-day notice of a layoff or closing. The California Act improves on WARN in two main ways: it covers smaller employers and allows workers to sue in non-federal courts. Workers can receive back pay under both laws. Any payments recovered under either law would not reduce Unemployment Insurance (UI) payments.

Details on the two laws:

Provision	Federal WARN	California Layoff Protection
Length of notice	60 days	60 days
When does the law apply? When a covered employer has a mass layoff or a plant closing		
Covered employer	100 employees over past 12 months (an employee is a person employed at least 6 of last 12 months and works average of at least 20 hours a week for that employer)	75 employees over past 12 months (an employee is a person employed for at least 6 or last 12 months – including employees working less than 20 hours a week)
Mass layoff	A layoff of 50 or more full-time employees if the layoff affects 33% of the full-time workforce at a single site, or a layoff of 500 or more people at a single site, all during a 30-day period	A layoff of 50 or more employees regardless of size of business, at a single site, during a 30-day period
Plant closing	A plant closing resulting in layoff of 50 or more full-time employees at a single site, during a 30-day period	A termination or substantial termination of activity at a site resulting in layoff of 50 or more people
Exemptions? A company may be all or partially exempt if it can prove the following:		
Unusual circumstances	Unforeseeable business circumstance; natural disaster; company reasonably believed giving notice would affect chances of obtaining capital or business that it was actively seeking	Act of physical calamity or war; company reasonably believed giving notice would affect chances of obtaining capital or business that it was actively seeking
Project-based or seasonal employment	Temporary facility or completion of a particular project if employees hired with that understanding	Completion of project in broadcasting, motion picture, or certain construction, drilling, logging and mining industries, or seasonal employment, if employees were hired with that understanding

Provision	Federal WARN	California Layoff Protection
Notice: Notice to workers must be mailed to current address or inserted in paycheck		
Who gets notice	All employees whose employment may be affected; state dislocated worker unit; union officer; CEO of local government	Same as federal plus local Workforce Investment Board
Content of notice	Company name, address of site, contact person, type of layoff, date of layoffs, job titles affected, number of employees in each category, information about bumping rights and severance, union representation including name of union and rep., brief explanation of reasons for layoff	Same as federal
Enforcement: Workers can seek state government assistance in pressuring employers to comply with the state law or can sue the employer for noncompliance		
Agency action	No provision	If requested, California’s Labor Commissioner must investigate whether there was legitimate reason for not giving notice
Litigation	A person, including local government or employee representative, may sue in any U.S. district court where the employer does business	A person, including local government or employee representative, may sue in “any court of competent jurisdiction”
Penalties: If a company violates the law, all of the following penalties may apply		
Back pay	Back pay for the period of violation, up to 60 days (calculated at employee’s final rate or 3-year average rate of pay, whichever is higher)	Same as federal
Benefits	Value of cost of any benefits which the employee would have received, including cost of medical expenses that would have been covered by a benefit plan	Same as federal
Civil penalty	The company pays a fine to the government of up to \$500/day for each day of violation, unless the company pays employees within three weeks from notice	Same as federal
Attorneys’ fees	The court may award the winning party (plaintiff or defendant) a reasonable attorney’s fee	The court may award reasonable attorneys’ fees to any plaintiff (not defendant) who prevails.



WARN Layoff Notification Requirements and Deadlines

Please note that the information contained in this *Tool Kit* is for general guidance to union leaders and community workers about the requirements of the federal and state WARN statutes referenced above and does not replace the advice of legal counsel. The provisions of federal Worker Adjustment and Retraining Notification (WARN) Act of 1988 do not supersede any laws or collective bargaining agreements that provide for additional notice or additional rights or remedies. Provisions in California law and collective bargaining agreements, therefore, take precedence over the federal WARN act.

The federal WARN law simply states that an employer must give:

“(a) Notice to employees, State dislocated worker units, and local governments

An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State or entity designated by the State to carry out rapid response activities under section 2864 (a)(2)(A) of this title, and the chief elected official of the unit of local government within which such closing or layoff is to occur.

If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.”

WARN Notices to Union Representatives

Union leaders whose members are suddenly affected by a plant closing or mass layoff should take particular note of this language in WARN. If the employees of that facility are represented by a union, the employer may legally comply with WARN by simply giving a single notice to “each [union] representative” that the layoff will occur in 60 days from receipt of notice. This employer notice would be in lieu of informing union-represented employees that they will be laid off. Although never tested in a court case, this provision in WARN might make the local union “representative” liable for failing to notify union-represented “employees” [members] that they are scheduled for layoff.

The employer’s notice to the union representative should at least include:

- A statement on what facility is being affected by closure or layoff, its city location and production,
- A statement as to whether the planned action is expected to be permanent or temporary and, if the entire plant is to be closed, a statement to that effect;
- The expected number of employees who are scheduled for laid off and the job classes or titles that will be affected,
- The expected date of the first separation and the anticipated schedule for making separations by closure or layoff, no less than 60 days from receipt of the notice, and
- Company contact person (address and phone number) who will manage the layoff process.

Even if the scheduled closure or layoff is due to a sale of the plant or facility to a new employer, WARN applies. The new facility owner is responsible for issuing a 60-day WARN notice to employees working there at the date of sale.

The employer’s notice may also mention services management plans to offer employees, such as company-funded “outplacement” by third party consultants or free local resources that dislocated workers might access, such as WIB One Stop Career Centers.

Employers generally give such notice to all affected employees, regardless of their union affiliation. Likewise, most union contracts have provisions for layoff notification and “bumping” rights, but if they do not, union representatives should take note and consult counsel in cases of a plant closing or mass layoff as defined by WARN.

Who else must receive a WARN notice from the employer?

- Affected non-union represented employees
- Chief Elected Official of the local unit of local government to which the employer pays the highest taxes—City Mayor or County Board of Supervisors, usually both.
- California Employment Development Department WARN Coordinator (refer to: <http://www.edd.ca.gov/eddwarn.htm> for more information).

And as added by the California WARN statute,

- Director of the Workforce Investment Board (WIB) in the area where the affected employees work. WIB areas and their director names can be found on <http://www.edd.ca.gov/wiarep/wiacnty.htm>

WARN allows for exclusions and exceptions

Employers cannot ask employees to waive their rights to advance notice under WARN. Employers can, however, exclude certain employees in their count of prospective layoffs for:

- Workers who have been offered a transfer to another site of employment within reasonable commuting distance, if the layoff represents a relocation or consolidation of business and the transfer represents no more than a six-month break in employment, and the worker accepts the offer within 30 days of the offer or the closing or layoff, whichever is later, and
- Workers who retire, resign, or are terminated for cause.

The federal law also excludes part time employees. But under California WARN, which supersedes federal law, employers MUST include part time employees in their count of prospective layoffs. This

is important because these exclusions often lower the prospective layoff count to the degree that an employer is not required to issue a WARN notice.

WARN allows for exceptions to the 60-day notice for the following circumstances:

- Faltering company, one which failed to get expected capital or income in order to retain employees at a particular plant,
- Unforeseen business circumstances, such as a sales contract cancellation or bankruptcy, or a
- Natural Disaster.

What classes of workers are not protected by WARN?

- Strikers, or workers who have been locked out in a labor dispute,
- Workers who work on temporary projects or facilities and who clearly understand the temporary nature of the work when hired,
- Business partners, consultants, or contract employees who assist the business but who have a separate employment relationship with another employer and are paid by that other employer, or who are self-employed, and
- Regular federal, state, and local government employees, including public school employees.

Even though government workers are not covered by a WARN notice, they can access WIA services from local One Stop Career Centers.

Public and quasi-public entities, which operate in a commercial context and are separately organized from the regular government, are covered under WARN. The same is true of private non-for-profit organizations.

While workers who are on strike or who have been locked out are not entitled to a WARN notice, companies where such a strike or lock-out is occurring cannot access federal WIA assistance to recruit replacement workers or obtain Rapid Response services.

For a complete reading of each of these laws, they can be downloaded from the following Internet websites:



- **Federal WARN:**
 - Fact Sheet - <http://www.doleta.gov/programs/factsht/warn.htm>
 - Law - <http://www.dol.gov/compliance/guide/layoffs.htm>
- **California WARN Act:** 2002 Chapter 780 <http://www.dir.ca.gov/DLSE/Regulations-2002.htm> (AB 2957-Koretz)

NOTE ON CURRENT LEGISLATION: Assembly Member Sandré Swanson, D-Oakland, has introduced AB 1989, which proposes changes

in the Labor Code to strengthen the California WARN Act. Check its current status and search by bill number on: <http://www.leginfo.ca.gov/>

- A legal information website giving detailed explanation on California WARN requirements: <http://library.findlaw.com/2002/Dec/1/132555.html>
- An EDD website on WARN, including a side-by-side comparison of provisions in federal and California law: <http://www.edd.ca.gov/eddwarn.htm#WARN%20Overview>

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Chapter **3**



LAYOFF AVERSION

Is it really possible to prevent a plant closure or mass layoff? While many companies have indeed taken the “Low Road” and shipped their manufacturing production to countries that offer the lowest possible wages and worker protections, there are business owners who want to remain good corporate citizens in their local towns and cities, yet are struggling to find ways to thrive economically. They want to retain their good will in the community by staying there and employing its citizens.

Union leaders may be the first people in a community to learn that a local employer is in financial trouble, long before a WARN notice has been issued. Out of public view, management may conduct private discussions with labor asking unions to reopen their contracts and make concessions, including wage reductions and layoffs, in order to

alleviate a company’s financial problems. If and when such meetings take place, union leaders might suggest alternative actions to such drastic measures.

Likewise, smart city and county economic development departments that maintain an active “business retention” strategy may discover hidden signs that a business is in trouble or might close. Public officials with foresight are keenly aware that retaining a business costs much less tax money than losing and replacing a business in their community.

Reading the Signs of a Pending Business Facility Closure or Mass Layoff

Union leaders and business retention specialists might consider these signs that a business needs help or is planning to move elsewhere:

Early Warning Checklist: Causation Factors and Warning Signs

FACILITY

- Obsolete physical plant
- Repairs are not made
- Outmoded operating procedure
- Inefficient production process
- Lack of spare parts
- Equipment not up to quality standards
- Old and outdated machinery
- Environmental problems
- Speed-ups lead to older worker layoffs
- Facility is in a metropolitan or suburban area that is gentrifying

ORGANIZATION

- Inability to pay bills on time
- Hours and overtime eliminated
- Managers, skilled workers or machinery moved to new plant
- Managers replaced frequently
- New plant is opened in low-cost location
- Weak management practices
- Research and development are cut back
- Irregular work or production schedules
- Fewer product lines produced
- Lack of workforce training, upgrading or training cutbacks
- Parent corporation has major problems
- Sales staff/marketing cut
- Corporate merger acquisition creates excess capacity
- Aging owners
- Change in profit, market targets or distribution systems
- Shifts reduced
- Local subsidiary is milked for other investment
- Increase in subcontractors, temporary workers
- Lack of management and engineering talent

MARKET

- Demand or sales declines
- Change in international relations (re: markets or supplier/customers)
- Products, processes or services become obsolete due to technological innovation
- Inventory stagnant
- Increased domestic or foreign competition
- Loss of market share
- Changes in state/national taxation, regulation, monetary policies
- Industry sector declines

COMMUNITY

- Lack of access to raw materials, energy, products and services
- Proximity to market changes transportation costs, etc.
- Lack of skill in local work force
- High insurance rates
- Lack of quality or availability of land or infrastructure
- Poor access to trucking/rail/water/air
- Changes to local/state tax or regulatory policies
- Utility rates high, or lack of energy availability
- Lacking transportation
- Business climate complaints

Source: DOLETA *Rapid Response Layoff Aversion Guide*, 2001 – A Project of the Steel Valley Authority



Union leaders will most likely see the FACILITY and ORGANIZATION warning signs, as categorized in the chart above, long before anyone from government will. Union line workers are keenly aware of changes in management, equipment and production on the shop floor and if asked can supply valuable information about the viability of their work. On the other hand, business retention and economic development specialists might have a good handle on MARKET and COMMUNITY warning signs and offer solutions or resources that might mitigate the impact of these factors. Finally both company and union research analysts could examine global market conditions for the products being manufactured locally.

It is important to assess the DEGREE to which these factors and warning signs might potentially lead to a facility closure or mass layoff. How important are they to for the health of the company and for maintaining jobs there? What steps are local and state governments taking to retain this industry? Is there an imminent danger of business slowdown or closure?

Early Interventions

Union leaders and WIB Rapid Response Coordinators do not have to wait for a company to issue a WARN notice before tapping WIA and other government resources. As a team, they can be proactive in preventing layoffs before they are announced.

First and foremost, WIA Rapid Response funds can be used to access the dangers and warning signs listed above. Collaborative “Layoff Aversion” activities, including using funds for prefeasibility studies for avoiding a plant closure, are allowable under WIA (20 CFR 665.230).

Here are steps that might be taken in conducting a prefeasibility assessment:

- **Form a joint labor-management committee with community input:** To perform an adequate and earnest study or assessment, collaboration should start first between labor and management by forming a joint study committee. It could employ or recruit a neutral convener or chair—a

retired leader from business or labor, a respected educator or public official, for example.

The committee should examine and reach consensus on the objectives, scope of work, and timeframe of the study. Questions such as, “Who will lead and conduct it?,” “Should we use our internal staff or should we hire a research firm?,” and “How will it be paid for?” need to be answered. Committee meetings ought to have an agreed agenda and written minutes of its proceedings. When public funds are involved, these meetings should be preannounced and open to public view.

- **Conduct a layoff aversion study—an internal examination of the business and a review of external resources** that might alleviate the danger of a plant closure or mass layoff. The committee might start by examining information from:
 - Dunn & Bradstreet <http://www.dnb.com/us/>, which will give you information on the company who issued a WARN notice or on companies you recruit to replace them, and
 - COMPANY ANNUAL REPORTS: Publically traded companies publish slick and colorful reports which may or may not give you useful information and which may be found on their websites. However, the most insightful “annual reports” are those that these companies must file with the Securities and Exchange Commission (SEC). Company 10-K filings offer a wealth of information, starting with a detailed description of the company and its business. They will provide information on company risk factors, net income, profit and loss, and other red flags. Company 10-K reports can be downloaded from SEC’s website: <http://www.sec.gov/edgar.shtml>. Quarterly reports and “Proxy Statements,” which include more current financial and corporate data, should also be consulted. Union leaders may wish to contact the AFL-CIO’s Office of Corporate Affairs for additional assistance.

The last chapter of this *Tool Kit* provides a listing of external resources that the committee could contact and which might offer the company

alternatives to a plant closure or mass layoff.

- **Develop a program with a set of actions that can be taken to avert a plant closure or mass layoff:**

Options that might be explored include:

- **Work-Sharing:** California has a program that allows employees both to work on a reduced schedule and to receive unemployment insurance benefits. “This allows a subsidy for workers to work flexible and part-time hours in order to preserve overall firm employment until the downturn passes. Work-sharing is allowable under federal unemployment law, permitting states to set-aside a portion of the unemployment pool for this purpose.”¹
- **Good Management, Labor-Management Cooperation:** “Sometimes, new leadership is needed so that the company can become more productive or entrepreneurial. If there are conflicts on the shop floor, intervention is needed to help labor and management groups to talk and listen to each other and to properly analyze problems or situations or situations that are of current or strategic importance.” This option may be an important pre-requisite for the next step.
- **Operations and Cost Reviews:** To create a better work system that maximizes productivity and minimizes operating costs, management and labor might agree to jointly open and examine company ledgers and work processes. “When firms are in trouble, increasing operations productivity and managing costs can simply involve resolving issues at a single choke point in the production line or may require, in extreme circumstances, re-engineering the entire manufacturing process.”
- **Financial Restructuring:** This option “can involve, but is not limited to, refinancing or

renegotiating existing debt, raising additional debt, renegotiating trade payables and other liabilities, raising additional equity capital and other financial engineering tools.”

- **Modernization and Upgrades:** “If the equipment and machinery in a facility has deteriorated in its condition and effectiveness, or if the production system has not kept up with the industry as a whole, strategic or wholesale modernization of the facility may be in order.”
- **Conversion to New Products:** “If a business is under threat of closing because a main product line has declined in the markets [or is no longer cost competitive], the company might be able to identify new products and markets [that could be made using the skills of the existing workforce].”
- **Incumbent Worker Retraining:** In 1982, California created a special workforce training program specifically designed to assist California manufacturing and other private sector firms to remain competitive. All private firms and certain other organizations contribute financially to California’s “Employment Training Fund,” a state government trust, whose funds are administered through a seven member public-private Employment Training Panel. ETP, as explained further on, is California’s principal source of funding to retrain both unemployed and incumbent workers in industry.
- **Transfer of Ownership:** A company may be ripe for being sold to another entity. “The retirement of a business owner can precipitate a business closing in absence of a succession plan. In lieu of closing the business, one option may be to study and explore the feasibility and viability of:

Employee Buyouts: “When the initiative to purchase the company comes from employees, unions representing employees, or management groups

¹ Citations from a summary of *Rapid Response: Layoff Aversion Guide* funded by the U.S. Department of Labor and produced by the Steel Valley Authority. For more information on layoff aversion strategies, link onto their website: <http://www.steelvalley.org/>



representing the company as a whole, the employee buyout process should be an organized effect, with a well-established buyout committee.”

General Buyouts: Labor and management could generate “the initial due diligence material to determine the feasibility of a general buyout” and then seek out prospective buyers of the local firm.

Once the **Layoff Aversion** program has been successfully completed, it is important not to overlook the importance of being vigilant and proactive in order to avert further plant closures and mass unemployment, which means acting to:

- Mobilize labor, business and government resources that can develop sustainable high-wage, high growth jobs in the community, a step covered in the final chapter of this *Tool Kit*.

Government and Other Resources

Both our federal and state governments offer programs and resources that might be used to help avert a plant closure or mass layoff. Keeping in mind their relevance to each of the options presented above, consider this summary of resources with website links for further information or assistance.

Federal:

- Trade Adjustment Assistance for Firms Program is sponsored by the U.S. Department of Commerce to help American businesses whose products are impacted by foreign competition. The Department of Commerce TAA program is separate and distinct from a Department of Labor-administered program, also called “TAA”, designed to help workers who have been laid off (“dislocated”) because the products their former employer made were adversely affected by foreign competition.

Department of Commerce assistance to California firms is administered through the Western Trade Adjustment Assistance Center

(WTAAC), located at the University of Southern California (USC) in Los Angeles. The coverage is explained in their announcement below.

Trade Adjustment Assistance for Firms Program Grant Funds for Import Impacted Manufacturers and Agricultural Producers

Increasing foreign import competition is forcing U.S. manufacturers and agricultural producers to take a hard look at their operations. Would you welcome the opportunity to improve productivity, gain quality registration, implement Lean or Kaizen, streamline operations, and eliminate waste? Would you like to implement any value added service which would improve your competitiveness by implementing projects that you identify, with the assistance of any consultant that you select, and have **75%** of the cost grant subsidized? The Trade Adjustment Assistance (TAA) Program for Firms can assist you in this effort.

The (TAA) Program is sponsored by the Department of Commerce and is administered by the Western Trade Adjustment Assistance Center (WTAAC) at USC for firms in California, Nevada, Arizona and Hawaii. The program provides **grants to manufacturing/producing companies** which have experienced declines in sales and employment partially due to foreign competition. The idea behind the program is to give the U.S. manufacturer a way to respond to foreign competition. The goal of the program is to allow an import-impacted manufacturer to take the action they feel would most improve their competitive position.

THE BENEFITS: The TAA program can pay up to **75%** of the cost of outside consulting or technical services. These services can relate to any projects that would increase your competitiveness. These can include quality certification, lean manufacturing, market research, export development, new product development, and services related to installing a new computer system or a piece of production equipment. There is a long list, but even that is not all-inclusive. The basic guideline is that if it is a service, performed by a non-employee, has a predetermined scope and duration, and not on ongoing cost of business, the program can probably cover it. Please contact the TAAC office if you have a question on a specific project.

THE PROCESS: The program breaks out into three stages: the application, the plan, and the implementation. In the application stage, TAAC works with a company to help them gather the information necessary for the development of the application and forwards the completed packet to Washington. This is done at no charge to the company. The approval process takes about 60 days.

The second stage is to do an analysis of the company, detailing strengths and weaknesses, threats and opportunities; and a plan for utilizing outside services that would improve the company's competitive position. There is a charge for this stage, but the program pays 75% of the fee, and the company share is \$1250.

The third stage is to implement the projects outlined in the approved plan. Consultants are selected by the firm. The consultants complete the project and send part of the bills to each party accordingly. This way the manufacturer does not have to pay the entire amount and wait to get reimbursed.

QUALIFYING: There are prerequisites and requirements. The firm must be a manufacturer (autonomous legal entity), have U.S. operations, and have been in business for at least two years. Based on two 12-month periods that ended within the last 120 days, a company must show that total net sales and monthly employee headcount have declined.

This is a guideline and firms are cautioned to not disqualify themselves. This link will take you to the WTAAC "litmus test" which will provide the TAAC staff with information to evaluate your qualification for the program. <http://wesrac.usc.edu/wtaac/litmus.html>

For more information about the TAA for Firms Program, visit the website: <http://wesrac.usc.edu> or phone Mary Rhedin at the WTAAC at (213) 743 4443.

- NIST Manufacturing Extension Partnership (MEP) provides consultant assistance to local manufacturing firms on ways to innovate their business. MEP is sponsored by the National Institute of Standards and Technology (NIST). According to their announcement, "MEP is a national network with hundreds of specialists who understand the needs of manufacturers. For the past 17 years, they have worked with thousands of manufacturers delivering \$1.3 billion in cost savings annually and \$6.25 billion in increased or retained sales in one year."
"MEP provides companies with services and access to public and private resources that enhance growth, improve productivity, and expand capacity. We work with companies willing to invest in their future, to make improvements in the short term, and position themselves to be stronger long-term competitors both domestically and internationally." Their

website is <http://www.mep.nist.gov/>

California's MEP is **California Manufacturing Technology Consulting**. "CMTC is a private, not for profit firm engaged in delivering technical and management services primarily to the aerospace and distribution industries, and their supply chains. Improvement services employ a strategy to build on USA's inherent strengths of work force productivity, product innovativeness, supply chain reliability, and proximity to market, to enable customer companies to become globally competitive. We are part of a nationwide network of NIST Centers offering services to industry, in every state." Their website is www.cmtc.com

- Other Federal Resources through the Department of Commerce may be available to assist businesses in financial trouble. Announcements may be found on their website: <http://www.commerce.gov/>. Generally, these are accessed through state and local economic development agencies. Contact your local government agency for assistance in accessing these programs.

State – Business Tax Relief

As a way to avert a business closure or mass layoff, union and employer representatives might consider these possible resources:

- California Tax Law - Net Operating Loss Carryover: California tax law allows businesses that experience a loss for the year to carry this loss forward to the next year in order to offset income in the following years. New businesses can carry over 100 percent of their losses for 10 years if the loss is in their first year of operation, 100 percent over seven years if the loss is in their second year of operation, and 100 percent over six years if the loss is in their third year of operation. Existing California business can carry over 50 percent of their losses for five years. http://www.ftb.ca.gov/forms/05_forms/05_3805qins.pdf

State – Greener Production/ Energy Efficiency Assistance:

- California Environmental Protection Agency (Cal EPA) Recycling Business Assistance Branch. Contact: John D. Smith, Manager, 916-341-6532, jsmith@CIWMB.ca.gov
- Integrated Waste Management Board Grants and Loans. <http://www.ciwmb.ca.gov/Grants/> Contact: Chris Beck (916) 341-6035
- California Pollution Control Financing Authority website: www.treasurer.ca.gov/CPCFA/contacts.asp

Investors and Other Financing Resources

Perhaps an infusion of new capital will help the employer survive through an economic crisis or will help employees to finance a buyout of the company. Aside from assistance from local banks, the layoff aversion committee might look into these possible sources of help:

- AFL-CIO's Office of Investment is a watch dog for union pension funds, but may help you identify capital that is available to local unions or union employers through Taft-Hartley Funds or other resources. There have been some two dozen U.S.-based private capital funds capitalized with over \$3-4 billion in new Taft-Hartley pension investments since 1999. Website: <http://www.afcio.org/corporatewatch/capital/about.cfm>
- ESOP Development: An excellent source of information on how to develop an Employee Stock Option Plan (ESOP) is the National Center for Employee Ownership (NCEO), located in Oakland, California. It “is a private, nonprofit membership and research organization that serves as the leading source of accurate, unbiased information on employee stock ownership plans (ESOPs), equity compensation plans such as stock options, and ownership culture. We are the main publisher and research source in the field, hold dozens of Webinars and live meetings annually, and provide services to our thousands of

members.” Website: <http://www.nceo.org/>

- Trade Associations: Many trade associations and groups track industry changes and may have valuable information. For example, the American Press Institute recently produced a report on the transformation of the newspaper industry.

Incumbent Workforce Development and Assistance

California has four possible sources of funding to help the employees of businesses in trouble: ETP, Unemployment Insurance, and customized incumbent worker training through local community colleges and via state WIA funding.

- The Employment Training Panel (ETP) assists businesses in acquiring and retraining a highly skilled workforce with expertise in very specific fields in order to increase competitiveness and productivity. The ETP will enter into a performance-based customized training contract for new or existing employees. The grant project is managed by either an approved training agency—a joint apprenticeship training program, for example—or the company itself. As the training is completed, the costs for developing, implementing, and completing the training are reimbursed. Averaging about \$1,500 per employee, reimbursements are made to the company for each employee that completes training and remains on the job for 90 days. The program is open to all California companies that face out-of-state competition and meet one or more of the following conditions:
 - A need to retrain current employees to prevent layoffs.
 - A need to upgrade workers in areas where there are skills shortages.
 - A desire to hire and train unemployed workers eligible to receive unemployment insurance.

Information and assistance to access ETP

is available through the California Labor Federation’s Workforce and Economic Development Program (WED). The California Labor Federation is one of two program marketers in California for ETP. WED will provide orientation about the program, guide the applicant through the online application and prepare the proposal for funds. Contact WED through our website <http://www.wed-works.org/>

In addition to ETP, WED staff has access to a wide range of experts in layoff aversion and rapid response. Through a contract with the California Employment Development Department (EDD), WED offers assistance to unions and employers by connecting them with public resources and services that can be used to avert plant closures and mass layoffs.

- California Unemployment Insurance administered by EDD offers employers and employees a program by which employees can volunteer to reduce their work schedules and also receive reduced unemployment insurance payments, as was explained earlier under the “work-sharing” option heading. To learn more about “Work-sharing – A Smart Alternative to Layoffs,” click onto EDD’s website: <http://www.edd.ca.gov/eddws.htm> .
- California Education and Economic Development Resources – Senate Bill 70 funds— are available to local community colleges through an annual grant solicitation process administered by the Chancellor’s Office. These Community Workforce Development and Education Act (CWDEA) funds can be used for training incumbent workers through a partnership between an employer and the community college. The amount of assistance available is very dependent upon an annual budget allotment from California’s general fund. More information about this and other programs can be found at this website: <http://www.ccewd.net/>

- Governor’s Discretionary Grants—WIA 15% funds—have been used for training incumbent workers under past grant solicitations by EDD. Such training resources are dependent upon the state’s priorities for funding. Contact WED or your local WIB for more information about these funds.

In theory, WIA “Rapid Response” funds can also be used for retraining, but in California the practice has been to refer employers to ETP, which is the state’s principle source for incumbent worker retraining funds. While Rapid Response funds cannot be used for training, they can be used for conducting prefeasibility studies to avert a facility closure or mass layoff and to provide assistance to affected workers.

Public Employees – Are There Alternatives to Layoffs in the Public Sector?

AFSCME (American Federation of State, County, and Municipal Employees) has a very good guide for public employees, which can be found at <http://www.afscme.org/publications/9725.cfm>.

But other than union advocacy, there are fewer resources for helping this sector. ETP funds, for example, cannot be used for public employees and have very limited use for service employees, like health care workers. Laid off public employees may be eligible for WIA Dislocated Worker Assistance, but this too is limited by the Act.

Local WIBs may need to ask permission from EDD’s Workforce Services Division to enroll public sector workers in their Dislocated Worker program. Public employees can, however, receive Rapid Response orientations and use the self-help services offered at One Stop Career Centers.

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Chapter **4**

RAPID RESPONSE –

HOW IT WORKS IN CALIFORNIA

If a plant closure or mass layoff cannot be averted, union leaders not only have a responsibility to protect their members against violations to their collective bargaining agreements or unlawful actions by an employer who issues a WARN notice, but also should find ways to help these workers in their time of need.

In this chapter we will explain “Rapid Response,” the assistance that local WIBs offer to employers and employees of firms that have issued a WARN notice and how it works in California. At the end we offer a list of activities union leaders might consider to help union members on layoff notice.

The *Tool Kit’s* final chapter provides information about a wide variety of re-employment and retaining resources available for “dislocated workers,” who, most broadly categorized, are persons who have been laid off and are eligible for unemployment insurance benefits and who now seek new employment.

WIA Rapid Response Funds

California receives from the U.S. Department of Labor an annual allocation of Workforce Investment Act (WIA) funds for serving dislocated workers. The Governor may reserve up to 25% of these funds for state Rapid Response and supplemental worker assistance projects. These funds are administered by EDD.

The balance of the state’s Dislocated Worker funds are allocated by formula to each of the 49 Workforce Investment Boards (WIBs) in California for their own programs to assist locally dislocated workers. Allocations are made for each program year commencing on July 1.

If a particular WIA area is hit by a major plant closure or by many dislocations after that date, a local WIB may request from EDD a special

allocation, should their local Dislocated Worker funds be unable to cover these occurrences. EDD taps state WIA 25% reserve funds to help the local WIB program. If EDD runs out of its reserve funds or if there is a substantial plant closure or mass layoff, the local WIB can assist EDD to apply for a National Emergency Grant (NEG) from the Department of Labor, which has their own national reserve fund.

So, in brief terms, the Governor’s 25% Dislocated Worker reserve funding, funneled through EDD, is used for two distinct programs—Rapid Response and Dislocated Worker Assistance—each of which has specific purposes and restrictions. Leaving our discussion of Dislocated Worker assistance aside for the next section, we offer the following description on how Rapid Response is delivered in California and what it entails.

Rapid Response Delivery

The federal Workforce Investment Act (WIA) places the responsibility for “Rapid Response” within the state, using WIA 25% Dislocated Worker funds allocated for statewide activities. Most states have a state Rapid Response Coordinator who follows up on announced plant closures or mass layoffs. For California this would be an impossible task due to the size of our state.

After gaining federal permission to broadly interpret the Act, California decentralized the delivery of Rapid Response activities by designating every Workforce Investment Board as the entity and point of delivery for these services locally. Every WIB, therefore, receives an allocation of funds from EDD for Rapid Response, and every WIB has a local Rapid Response Coordinator on staff. These Rapid Response funds are separate from the annual formula stream of funding a WIB receives to serve individual Dislocated Workers.



To find out the name and phone number of your local area Rapid Response Coordinator, you may either contact your local WIB or the California Labor Federation's WED program. An updated contact list can be found on WED's website at www.wed-works.org.

Rapid Response Assistance

In the section on Layoff Aversion, we mentioned that Rapid Response funding could be used for developing strategies to prevent a plant closure or major layoff and to conduct prefeasibility studies for that purpose. Likewise, local WIBs could use these funds for developing strategies for linking with economic development and business retention activities.

But what should happen if an announced closure or layoff cannot be averted? What does the WIB Rapid Response Coordinator offer a local employer, union or group of affected workers?

In brief terms, Rapid Response activities are designed to orient the employer and to provide immediate orientation and preparation of groups of employees for re-employment services and opportunities elsewhere.

The answer about the amount and kinds of services the Rapid Response Coordinator can offer depends largely upon the cooperation of management and labor with the local WIB and vice versa, the timing and size of the announced layoff or closure, and the availability of funding.

If workers are laid off with short or no notice, Rapid Response may simply be getting an employee roster from the employer or asking the employer to inform their employees where WIA Dislocated Worker services may be obtained through the WIB One Stop Career Center or Centers.

On the other hand, if an employer has given their workers advanced notice—up to a year, for example—a Rapid Response Coordinator may be able to offer the company and its union representatives a wide variety of

activities, including the development of on-site career planning and preparation services while the workforce is still employed.

Assuming that a 60-day advanced WARN notice is the norm, the following kinds of Rapid Response activities may be offered:

- Gathering information about the business and the occupations of its affected employees.
- Coordinating an employer-paid private “outplacement” service with local One Stop services.
- Offering group employee orientation sessions about the services available through local One Stop Career Centers, including on how to apply for unemployment insurance benefits.
- Organizing on-site job fairs to link job seekers with recruiters from other businesses.
- Partnering with One Stops and community-based organizations that provide:
 - Job Clubs (self-help training and support for job seeking)
 - Stress counseling for individuals, and
 - Financial counseling, or
 - Other services to address employee or family needs.
- Distributing information to employees on job prospects and occupational demand (labor market information) in the local area.

Union Involvement in Rapid Response

When a plant closure or layoff is announced publically or a WARN notice issued that affects union members, union representatives should NOT assume that the WIB Rapid Response Coordinator will automatically contact them. More likely, the Coordinator will contact the employer first, often not knowing that their employees are union or the name of their union representative. Therefore, in this situation, **it is advisable that the union be pro-active** and contact the WIB as soon as the public announcement is made or, better yet, as soon as the union is informed privately about the impending layoff. Ideally, the employer will invite union representatives to be present during the Coordinator's initial meeting with management. Union officials should also contact their local

central labor council and labor representatives who sit on the local WIB to gain their support.

Since this *Tool Kit* is also designed as a guide for WIB and One Stop staff, they should be cautioned about when and how to offer and deliver Rapid Response services to affected employees. Often, at the time of issuing a WARN notice, management and labor are discussing issues relating to their collective bargaining agreement that need to be resolved, such as, inter-company transfers, bumping rights, early retirement and severance packages, etc. These are matters for what is known as “effects bargaining” and about which Rapid Response should not intervene. Obviously, both management and labor must be informed about the kinds of re-employment services that the WIB can offer “free” to affected employees, often in lieu of or in coordination with company-paid outplacement, but WIB and One Stop staff should be cautious about meeting employees or gathering employee information before there is labor-management consensus to do so. Management and labor should keep in mind; however, that the WIB has an obligation to serve their “customers” and will contact affected employees if that consensus is not forthcoming.

Unions are valuable partners in the delivery of WIA Rapid Response activities and can assist with critically-needed activities, such as:

- Formation of a Labor-Management Adjustment Committee: WIA encourages labor-management cooperation and assistance in coordination with the services offered through local WIBs and One Stop Career Centers. As explained under “Layoff Aversion,” this committee can help devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs.
- Appointment of Union Liaisons: These are respected, union-represented employees (not necessarily shop stewards) who are appointed by their union leadership. They perform outreach to affected workers and help WIB and One Stop staff to gain the confidence, trust and

cooperation of union workers to participate fully in the services they offer. Union liaisons also help the professional career counseling and outplacement staff to understand the workforce and the work they have been performing. Lastly, they help provide a communication link between workers and WIB services and help resolve barriers that might impede such communication. While still employed, they might be deployed under mutual agreement with the employer to work in this capacity. Once unemployed, they might be hired under a WIB personal services contract or through a contract negotiated between the union and the WIB. Rapid Response funds may be used for this purpose. The term of their contract could last until months after closure or until they find permanent employment elsewhere, whichever comes first.

(Note: “Union Liaisons” may also become trained as “Peer Counselors” who serve as mental health and social service paraprofessionals. A union-friendly resource for such training is the **Center for Working Life**, whose website is: <http://www.workinglife.net/>. CWL publishes *Starting Over*, an excellent mental health stress handbook for laid off workers and their families. Copies can be purchased and paid for with Rapid Response funds.)

- Establishment of a Union or Company-Based Outplacement Center: With a large plant closure or mass layoff, it may be appropriate to develop a specific center to provide Dislocated Worker services before and after layoff. Important factors to consider in this regard are: Will the company (or union) provide free and adequate office space, telephones, computers and other equipment necessary to house One Stop staff? Will the company provide contracted “outplacement” services? Will company and union provide additional staff support? For how long? Do most of the employees live nearby within comfortable commuting distance? How many employees really will use a company or union-based center or would they prefer to use the One Stop Center nearest to their home once they are unemployed? Again, it is



possible to use Rapid Response funds for this purpose and other WIA funds, should the WIB decide to make this center a “specialized” One Stop for the affected workforce.

- **Application for Additional WIA Grant Funds:** The union could work with WIB and EDD staff to develop and submit a NEG grant to the U.S. Department of Labor, which could bring multi-year assistance for dislocated union members (as well as for unemployed managers and non-union professionals).
- **Preparation of Petitions for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA),** if the dislocation was due to foreign competition. See “Dislocated Worker Assistance” below for details.
- **Mobilization of Community and Business Support,** for dislocated union members’ re-employment and for their families, e.g. community food banks, job fairs, contacting elected government officials, etc.
- **Participation in Program Oversight:** Union officials have an important role to see that their dislocated union members are getting all the

assistance they need from the WIB, One Stops and program providers. Union leaders should press for adequate funding for retraining and for placing their members into good jobs that have career and income potential. If they are not already WIB members, they might seek to be appointed to the WIB, when labor seats are vacant, through their local central labor council.

We offer this final word of caution and recommendation to union leaders whose members have been affected by a plant closure or mass layoff: to the best of your ability, stay in touch with them! It is very easy to drop unemployed members from union rolls when their dues no longer come in, but keep in mind that they will become employed elsewhere. How they feel about your union or about organized labor in general may be reflected on how well they felt served by their union when they were laid off.

How can you stay in touch? Aside from periodic mailings, which can be expensive, think about holding reunion potlucks or having a password-protected “blog” on your website. These are just two of many low-cost ways you might think of to stay in touch with and get feed-back from laid off members, whether or not they are still paying dues.

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Chapter **5**



DISLOCATED WORKER ASSISTANCE

The Rapid Response activities we have just described in the last section are not the same as the individualized services WIA offers to dislocated workers. Access to these services is through One Stop Career Centers in locations spread throughout California and all other states.

One Stops are collaboratively staffed by a whole host of partners, including WIB-contracted coordination and career counseling staff and EDD UI and employment counselors and other staff that may be borrowed from state rehab, county social services or local community colleges. This roster of partners is not all-inclusive and will vary from community to community. Some unions, for example, have placed staff in certain One Stops in California.

Like WIA services offered to other adult individuals, Dislocated Worker Assistance is delivered in three levels or tiers of service: “core”, “intensive” and “training,” including supportive services. The objective in providing these services to an individual is to help him or her obtain work first through a self-help approach under “core” services, and failing that, under a guided program approach with “intensive” and “training” services along with support.

Core Services

WIA provides clients with two types of general job-seeking help or “Core” services: A) the first is universally available to anyone, regardless of employment status, and B) the second is only available to individuals who are eligible (qualify) for WIA-funded adult and dislocated worker services and who have registered to participate in the program.

Core A – Self Help Services

Any individual, regardless of employment status or nationality, may access the “core” services provided by a One Stop Center. These may include using

their reference library and computers for Internet access and joining group orientations and job search events. Generally, the core service “customer” signs in at a registration desk and may be given a pass card, which allows the customer permission to use facilities open to the public at large and to make multiple visits without further sign-ins, should he or she so choose. Aside from brief orientations from One Stop staff, the customer is on his or her own way in finding job help, using the following kinds of informational self-service aides:

- Access to self-assessment tools to gain a general sense of one’s skill levels, aptitudes, abilities and occupational interests, such as found in Richard Bolles’ book, *What Color is Your Parachute?*
- Information about how to develop an employment plan and resume.
- Access to current labor market information
- Access to the resource library and computers
- Access to publicly-posted job announcements and vacancies
- Information on how to apply for unemployment insurance benefits
- Referral to community-based support services
- Referral to partner services, e.g. local community colleges and the vocational courses they offer.
- Participation in publicly-held job clubs and workshops
- Determination to see if the “customer” is eligible to register for WIA-paid and staff assisted services.

These kinds of “core” services are **universally available to all individuals** regardless of their employment status and no one using them is officially registered as a WIA program participant.

Core B – Staff-Assisted Services

Once an individual has been determined eligible for WIA services and registered by One Stop intake staff, then he or she has access to staff-assisted “core” services, which are **available only to registered**

program participants. Core B services include:

- Job search and placement assistance, including career counseling and resume writing
- Job referrals, including testing
- Job development, which means working with employers and job seekers
- Job workshops conducted by career counselors
- Job clubs, which may involve mock interviews and evaluations.

With rare exception, workers who bring a “pink slip” from an employer who had issued a WARN notice will be eligible for Core B services. One Stop staff will easily determine WIA eligibility and register them. One such exception is an undocumented foreign worker.

To find out the locations of One Stop Career Centers in your community, contact your local WIB or log onto: <http://www.edd.ca.gov/ONE-STOP/osfile.pdf> to get a full list of One Stops in California. (Warning: with funding cuts, this list may be out of date.)

Intensive Services

Laid off individuals who have had a long employment history with one employer, such as a dislocated factory worker, may find that they lack experience on how to plan and look for their next job with a new employer. In short, they may need more “intensive services” to land a new job. These may include:

- Taking staff-administered tests and assessments to determine one’s aptitudes, skills and interests
- Being assigned a career counselor, who will help the individual to develop a career plan and guide him or her through the service delivery process (case management) until the client obtains re-employment, including follow-up in his or her new job
- Receiving staff assistance in resume writing
- Receiving staff-assisted job development, search and referrals
- Participating in special career guidance workshops, including mock interviews, test taking skills, introductory computer

skills, and other forms of short-term pre-vocational training, and

- Receiving access to services, like out-of-area job search, relocation assistance and Trade Adjustment Assistance (TAA), if eligible and available.

Training

WIA Dislocated Worker funds can be used to train program participants, assuming they cannot find adequate employment without it. Every WIB and One Stop operator has policies regarding the provision of Dislocated Worker training services, so this *Tool Kit* cannot provide you with all these details.

Generally speaking, however, all WIBs allocate funds for training subsidies that are provided through the issuance of **Individual Training Accounts** (ITAs), which may be used to obtain training services listed on the WIB’s or the state’s Eligible Training Provider List (ETPL). WIA provides a sample of allowable uses for ITAs, including:

- Occupational skills training, including training for nontraditional employment
- On-the-job training
- Programs that combine workplace training with related instruction, which may include cooperative education programs
- Training programs operated by the private sector
- Skill upgrading and retraining
- Entrepreneurial training
- Job readiness training
- Adult education and literacy activities related to occupational skills training
- Customized training, a course of training that is tailored to the needs of a particular employer or group of employers.

In general, ITAs are used for tuition, the price or payment for instruction. However, tuition may include access to non-instructional services as a part of the price of tuition. Tuition may include access to services and facilities such as childcare, restrooms, parking, first aid, etc. For example, community colleges typically provide students many services that are not instructional for the cost



of tuition. Nevertheless, an ITA may not be used to purchase stand-alone supportive services, like childcare or transportation. (WIA participants, however, may be provided “supportive services” as we will describe under next heading.)

Can a Dislocated Worker get retrained before looking for a new Job?

Yes. WIA is sometimes said to be a “work first” program, meaning that the individual worker who receives One Stop “core” staff assistance must first look for a job, and failing to get a job, must seek “intensive service” assistance, and failing that, can then (and only then!) qualify for WIA-assisted retraining. That is NOT the case in California!

While WIA does require sequential service delivery, an individual in California can be enrolled into WIA subsidized training, as long as he or she also receives at least one “core B” and one “intensive” service. All of these services can be provided together without first requiring the WIA participant to look for a job.

A hypothetical case example is this: Mary Smith is laid off from her job as a cutter at Clark Mills, which closed down because the shirts they made were now produced in Viet Nam so cheaply that her employer could not compete. Pink Slip or WARN notice in hand, Mary goes to her local One Stop and is registered for WIA Dislocated Worker Assistance. She next meets with a Career Counselor and develops an “Individual Employment Plan” (Core B/Intensive) to become a Medical Assistant. She enrolls in a private vocational school, an approved WIA provider, which offers her a concentrated array of Medical Assistant courses (Training).

In this hypothetical case, Mary has no opportunity to return to her former occupation. It no longer exists. In order to receive unemployment benefits, however, she will need to be granted a UI waiver, which she should be eligible for as long as she is in WIA approved training.

Supportive Services

Dislocated workers who are participating in a local WIB program may need help in addition to the services they receive from the One Stop or a training provider, in order to stay in the program. WIA will subsidize such “supportive services” as transportation, childcare, dependent care, housing, and other services that are necessary to enable an individual to participate in authorized activities under WIA.

After assessing an individual’s training and employment needs, including supportive service needs, the local One-Stop will decide which services are necessary and reasonable to enable the individual to participate. Each WIB has their own policies and system for providing WIA funding for these services. Participants should be able to get WIA funding for necessary supportive services if they are available through other programs providing these services.

Program participants may also continue to receive supportive services after they obtain re-employment, if the services are necessary to these individuals to retain their new job. Generally “post-placement services” are very limited and linked to a year-long Core follow-up service required by WIA. As long as an individual has not been “exited” (terminated) from the local WIA program, he or she should remain eligible to receive Dislocated Worker Assistance.

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Chapter 6



WORKER TRADE ADJUSTMENT ASSISTANCE AND OTHER FORMS OF HELP

One Stop Career Center operators are required to coordinate their dislocated worker assistance with unemployment insurance and other federal programs that help alleviate the impact of foreign trade or natural disasters and that serve older workers and veterans.

Unemployment Insurance Program

Website to download and print EDD Fact Sheet and other documents about the UI program: <http://www.edd.ca.gov/ui/rep/ui/pub.htm#Fact%20Sheets>

The Unemployment Insurance Program, commonly referred to as UI, provides weekly unemployment insurance payments for workers who lose their job through no fault of their own. Eligibility for benefits requires that the claimant be able to work, be seeking work, and be willing to accept a suitable job.

Unemployment Insurance is a unique federal-state program based on federal law but executed in its relationship to the employer and the unemployed worker through state law and by state employees. It is financed by unemployment program tax contributions from employers.

When it was established more than 65 years ago as a part of the Social Security Act of 1935, UI offered, for the first time, an economic line of defense against the effects of unemployment, assisting not only the individual but also the local community. Through a system of payments made directly to displaced workers, UI ensures that at least some of life's necessities, most notably food, shelter, and clothing, can be met while an active search for new work takes place.

For the most part, UI benefits are spent in the claimant's local community, thereby helping sustain the economic well-being of local businesses.

Weekly benefit amounts range from a minimum of \$40 to a maximum of \$450 depending on the

claimant's quarterly earnings. To qualify for the maximum amount each week (\$450) an individual must earn at least \$11,674.01 in a calendar quarter during the "base period" (an individual's earnings during a specific 12 month period).

A claim is effective for one year. During the year claimants can receive from 12-26 weeks of full benefits. The number of weeks varies, based on total earnings during the "base period." During periods of high unemployment, additional benefits may be granted by Congress, or the State Legislature

Special Note about Assisting Workers Wanting to Make a UI Claim:

Individuals should apply for benefits as soon as they are unemployed or working less than full-time. All claims are effective on the Sunday prior to applying for benefits, and have a one week unpaid waiting period. The waiting period does not begin until the claim is filed.

But this *Tool Kit* will not offer guidance on how to make a claim or about how much or how many weeks of UI an individual worker is entitled to. That can only be determined by EDD.

We do recommend, however, that all dislocated union members tell EDD, when they apply for UI, that they want information about or are interested in applying for California Training Benefits (CTB), a program that allows for workers to have access to extended UI benefits while they are in training programs subsidized by ETP, WIA or TAA. Workers should immediately request CTB even if they think they just want to look for a new job or have not yet qualified for retraining. If they do not apply for CTB right away, weeks may pass by and they might miss the deadline to apply for CTB when they decide they want retraining.

Lastly, make TAA certified workers aware of the application deadlines to become eligible to receive up to 104 weeks of Trade Readjustment Allowances (TRA) while in training. (See the write-up on TAA below.)

The California UI program may involve four programs that union leaders should be aware of:

- Work-Sharing, which we have described in the section about Layoff Aversion.
- Federal-State Extended Benefits Program which becomes effective only when unemployment is very high. This program pays additional benefits to those who qualify and have collected all of the benefits on their regular claims and who are not eligible for any other UI claims. As of this publication, Congress has not yet approved federal extended UI and California offers a supplemental extension when triggered by high unemployment. Again, EDD will inform claimants and the public about this program when it occurs.
- Disaster Unemployment Assistance (DUA), a federal program that provides financial assistance and employment services to jobless workers and the self-employed when they are unemployed as a direct result of a major natural disaster. It is triggered after the president has declared that a major natural disaster has occurred in specific areas of the state. An excellent disaster relief guide from the AFL-CIO can be found at http://www.aflcio.org/aboutus/allies/upload/Action_in_the_Aftermath.pdf
- California Training Benefits (CTB) Program:

Under the CTB program, the traditional role of UI changes from that of temporary financial support while the claimant looks for work, to one of assisting the claimant in training/retraining in a demand occupation to enable a return to full employment.

The program provides additional UI benefits. An extension of CTB training benefits may be available beyond the regular UI claim while an individual is in approved training.

To be eligible for extended training benefits, an individual must ask for information about CTB or apply for CTB training approval

with EDD no later than receiving the 16th week of regular UI benefits. If the UI claim award is 16 weeks or less, the individual must ask for CTB training approval before receiving the last UI benefit check.

The CTB provides additional benefits up to a combined total amount of 52 weeks times the weekly benefit amount of the regular UI claim. The combined total amount includes the benefits received on the regular UI claim plus any benefits received on a federal or state extension, and any received on a new subsequent regular claim. Federal extended benefits, when in effect, replace the training extension benefits for CTB participants.

To receive CTB a training participant must:

- Attend training in an occupation that is in demand in the individual's local labor market or be willing to relocate within California.
- Complete a training course within one year, including scheduled breaks and vacation breaks.
- Attend training full-time as defined by the school and EDD, but not primarily to obtain a degree. EDD considers full-time to be not less than 20 hours per week or 12 units per semester or quarter.
- Must reasonably be expected to complete the training or retraining successfully, and
- Participate in the program only if there have been three years or more since the beginning date of prior CTB participation.

For individuals who are journey level union members, the CTB program requires the training or retraining to be specific job related training. For more information, obtain a CTB Fact Sheet from EDD at <http://www.edd.ca.gov/uirep/de8714u.pdf>

TAA-Trade Adjustment Assistance and Alternative Trade Adjustment Assistance (ATAA)

Services and Benefits for workers dislocated from manufacturing whose products were adversely affected by foreign competition:

Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) help trade-affected workers who have lost their jobs as a result of increased imports or shifts in production out of the United States. Certified individuals may be eligible to receive one or more program benefits and services depending on what is needed to return them to employment.

Accessing TAA and ATAA Services and Benefits

To obtain TAA or ATAA services and benefits, a group of workers must first file a petition with the U.S. Department of Labor's Division of Trade Adjustment Assistance (DTAA) requesting certification as workers adversely affected by foreign trade. If certified, each worker in the group may then apply separately for individual services and benefits through their local One-Stop Career Center. Workers age 50 and older who are certified as eligible to apply for both TAA and ATAA may choose whether to participate in the TAA program or the ATAA program, but may not participate in both.

TAA Program Services and Benefits

TAA program benefits and services are provided to help eligible workers get back to work. Aside from Rapid Response and WIA reemployment services, TAA Certified workers who apply for TAA may be eligible for the following additional services:

- Job Search Allowances that may be payable to cover expenses incurred in seeking employment outside a certified worker's normal commuting area if a suitable job is not available in the area. Job search allowances reimburse 90% of the total costs of allowable travel and subsistence, up to a total of \$1,250.

- Relocation Allowances - may reimburse approved expenses when certified workers must move to a new area of employment outside their normal commuting area. Relocation allowances may include:
 - 90% of the reasonable and necessary expenses of moving workers, their families and their household goods. The amount will be reduced if the worker is entitled to reimbursement from other sources.
 - A lump sum payment equal to three times the worker's average weekly wage (but no more than \$1,250) to help them get settled.
- Training will be made available to certified workers who do not have the skills to secure suitable employment in the existing labor market.

Training is targeted to a specific occupation and provided to help certified workers secure employment at a skill level similar to or higher than their layoff employment, and sustain that employment at the best wage available. Based on the individual's existing skills and labor market conditions, training should allow the individual to return to employment as quickly as possible, with a **maximum duration of 104 weeks**.

Individuals who require **remedial education** in order to complete occupational training may be eligible for **an additional 26 weeks** of training.

Allowable types of training include: 1) classroom training; 2) on-the-job training; 3) customized training designed to meet the needs of a specific employer or group of employers; 4) basic or remedial education, which may include training in literacy or English as a second language.

In order for an individual to receive training, six approval criteria must be met.

1. There is no suitable employment for the worker.
2. The worker would benefit from appropriate training.
3. There is a reasonable expectation of employment following training.

4. Training must be reasonably available to the worker.
 5. The worker is qualified to obtain and complete the training, including having adequate financial resources available to complete the training when income support is exhausted, and
 6. The training is suitable and available at a reasonable cost.
- Income Support - Trade Readjustment Allowances (TRA) - is available to provide income support to individuals while they are participating in full time training. Under certain circumstances TRA is also available to certified workers for whom training is not feasible or appropriate. TRA benefits are defined in two (2) categories: Basic TRA and Additional TRA. Each category has its own set of eligibility requirements.
 - Basic TRA is payable if the worker is enrolled or participating in TAA training, has completed such training, or has obtained a waiver of such training requirement.
 - Additional TRA is payable only if the worker is participating in TAA approved training.
- In general, certified workers may be eligible for 104 weeks of income support, usually broken out as follows:
- Normally 26 weeks of state unemployment insurance (UI) compensation,
 - Followed by 26 weeks of basic TRA, and
 - Up to 52 weeks of additional TRA to assist the worker in completing a TAA training program.

EXCEPTION: Certified workers who must undergo remedial education as a part of his/her training plan may be eligible for up to 26 additional weeks of TRA for any weeks the individual must undergo remedial education. The worker is eligible for one week of these 26 weeks for each week that the worker's participation in remedial education extends their training program.

IMPORTANT DEADLINES:

- Within 8 weeks of certification or 16 weeks of the most recent qualifying separation workers must be enrolled in approved training, **or have a valid waiver**, to receive TRA.
- In order to qualify for additional TRA, an individual must have submitted a bona fide application for training within 210 days of their layoff or of the certification, whichever is later.

Training Waivers Under TAA - Under certain circumstances, eligible workers may be waived from participating in training and still receive Basic TRA. One of the following conditions must exist for training to be determined not feasible or appropriate and thus, waived:

- The worker will be recalled reasonably soon;
 - The worker has marketable skills for suitable employment and a reasonable expectation of employment in the foreseeable future;
 - The worker is within two years of eligibility for a pension or social security;
 - The worker is unable to participate in or complete training due to the health of the worker;
 - Immediate enrollment is not available; or
 - No training program is available.
- Health Coverage Tax Credit (HCTC) - Workers who are eligible to receive income support under the TAA program may be eligible to receive tax credits for 65% of the monthly health insurance premium they pay. Qualifying insurance coverage includes COBRA, state COBRA, continuing individual coverage or other state-qualified plans.

Alternative Trade Adjustment Assistance (ATAA) Program Benefits

Alternative Trade Adjustment Assistance (ATAA) program benefits are provided as an alternative



to the benefits offered under the regular TAA program. Participation in ATAA allows older workers, for whom retraining may not be appropriate, to accept reemployment at a **lower wage** and receive a wage subsidy. Certified workers who apply for ATAA may also be eligible for the Rapid Response Assistance, reemployment assistance, and tax credit for health coverage.

ATAA is essentially a wage subsidy program for older workers. Eligible workers age 50 or older who obtain new, full-time employment at wages of less than \$50,000 within 26 weeks of their separation may receive a wage subsidy of 50% of the difference between the old and new wages, up to \$10,000 paid over a period of up to two years.

Note: A worker receiving a wage subsidy under the ATAA program may not receive benefits under the TAA program.

IMPORTANT DEADLINE: To qualify for ATAA a worker must obtain qualifying reemployment within 26 weeks of layoff. This remains true even if the certification is not issued until after the 26 weeks have passed. This is just one important reason for unions to petition the U.S. Department of Labor (DOL) early for TAA certification.

Who can petition for TAA Certification? How is it done?

In order for a group of workers to become eligible for TAA or ATAA benefits and services, a petition to certify that the layoff was caused by foreign competition must first be submitted to DOL. Without obtaining this certification from DOL, workers cannot access TAA or ATAA through EDD or the local One Stop Career Center.

A petition may be filed by a group of three or more workers, by a company official, by One-Stop operators or EDD, or by a **union** or other duly authorized representative of such workers. The workers on whose behalf a petition is filed must be, or have been, employed at the firm or subdivision of the firm identified in the petition. Subdivisions may also include local suppliers whose business is

entirely dependent upon the firm's operation.

The petition is a fairly simple form to complete and mail to DOL, but it can be very tricky! Unless you can document and define exactly the product or products that were produced by the affected employer, DOL will likely deny the petition. Months of appeals may ensue to correct the petition and to gain certification, if at all. To obtain a petition form and instructions, click onto: <http://www.doleta.gov/tradeact/petitions.cfm>

Decide **who** will submit the petition; gather your documentation to attach to it as a reference, read the instructions, fill it out and **sign it**—perhaps have it reviewed quickly by all parties concerned or by the WIB Rapid Response Coordinator or by WED staff— and then submit it as rapidly as possible. A petition should be submitted as soon as the petitioner can gather written and verifiable documentation—such as the employer's WARN notice and a clear description of affected goods produced at the local plant—that a layoff is impending.

Once completed, **petitions must be signed**. Petitions filed by a group of adversely affected workers must be signed by at least three workers; petitions filed by any other authorized representatives require only one signature. Once signed, petitions must be filed with the DOL **and** either with EDD's TAA Coordinator or with the Rapid Response Coordinator from the WIB area where the affected plant is located. Ask WED staff about whom to contact, if you are not certain.

TAA/ATAA Criteria for Certification

TAA: After receiving a TAA petition, DTAA investigators analyze facts contributing to the workers' layoffs or work reductions in order to determine if the following eligibility requirements are met:

- Workers' company produces a product.
- A required minimum of the workforce has been laid off in the 12 months preceding the date of the petition or is threatened with layoffs, e.g. company has issued a WARN notice.

- Required minimum layoff for a workforce of less than 50: 3 workers.
- Required minimum layoff for a workforce of 50 or more: 5% of workers.
- One of the following:
 - Increased imports contributed importantly to an actual decline in sales or production, and to a layoff or threat of a layoff; or
 - There has been a shift in production to **certain countries** outside the United States; or
 - There has been a shift in production outside the United States and there has been or is likely to be an increase in the import of like or similar articles; or
 - Loss of business as a supplier of component parts, a final assembler, or a finisher for a TAA certified firm contributed importantly to an actual decline in sales or production, and to a layoff or threat of a layoff.

What are the “certain countries” referred to above?

According to DOL: “Workers laid off as a result of a shift in production to a country that is party to a free trade agreement with the United States, [like Canada and Mexico under NAFTA], or a country that is named as a beneficiary under the Andean Trade Preference Act, the African Growth and Opportunity Act or the Caribbean Basin Economic Recovery Act, may satisfy TAA certification criteria.” China is not one of these “certain countries!” For a full listing, go to: http://www.doleta.gov/tradeact/2002act_freetradeagreements.cfm

ATAA: In investigations on behalf of worker groups who meet the above TAA criteria, DOL will also assess whether the following criteria have been met:

- A required minimum of the petitioning workers are age 50 or older (3 workers in groups of fewer than 50, or 5% of the workforce in groups of 50 or more).
- Skills of workers age 50 or older in the workgroup possess skills that

- are not easily transferable.
- Conditions within the industry are adverse.

How long will it take to make decisions on TAA and ATAA Petitions?

The federal government says: “Generally, 40 days after receiving a TAA/ATAA petition, [DOL] will make a final determination on whether or not the eligibility requirements have been met.”

But don’t bet your house on it!

Certified Petitions: If the eligibility requirements have been met, DOL will issue the worker group one of the following decisions:

- Certification Regarding Eligibility for the workers to apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance, or
- Certification to Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility to Apply for Alternative Trade Adjustment Assistance

Note that “Worker Adjustment Assistance” includes individual services and benefits available to eligible workers under the TAA program.

Who is covered by the certification?

Generally, the certification covers all members of the worker group who are laid off during the three-year period beginning one year before the petition was filed and ending two years after the date of the certification. Each certification specifies the beginning and ending dates.

Are TAA and ATAA fully funded to cover all workers certified by these programs?

No, but no worker will be served by these programs until a petition has been filed and the DOL has certified the group of affected workers as TAA/ATAA-eligible. So it costs nothing to file a petition!

As federal funds allocated annually to California through EDD, certified workers will obtain TAA



or ATAA services and benefits through their One Stop Career Center, until the funds run out.

For more information on TAA/ATAA, click on the following DOL website: <http://www.doleta.gov/tradeact/docs/BrochureColor.pdf>.

Or this EDD website: <http://www.edd.ca.gov/uirep/uinafta.htm>

If you want to keep up with TAA legislation, funding and issues affecting labor, the National Employment Law Project is a good source of information: <http://www.nelp.org/>

Older Workers Benefit Protection Act

Unscrupulously, often as a way to avoid WARN and to rid their workforce of employees who

receive higher pay and benefits, some employers have laid off older workers first, whether from the ranks of management or union. Often these layoffs are done in increments below the WARN radar screen. This may be blatantly illegal! Older Workers do have rights that are covered under federal law. See <http://www.eeoc.gov/abouteeoc/35th/thelaw/owbpa.html> for more details.

Veterans' Preference

Veterans who are disabled, who served on active duty in the Armed Forces during certain specified time periods or in military campaigns are entitled to preference over others in hiring for virtually all federal government jobs. For more information see: <http://www.dol.gov/vets/programs/vetspref/main.htm>

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Chapter 7



COMMUNITY RESPONSES –ROLE FOR UNION LEADERSHIP

Maybe learned economists say that we are not in a recession, but don't tell that to California working families. With thousands of families losing their homes to foreclosure, being overwhelmed by credit payments and bills, having to choose whether to buy groceries or gas or needed medicines for their children, and ultimately having been told their jobs will be gone, California dreaming has become California nightmare.

Now is the time for labor and our communities to take action, not only to help those working families in need, but also to advocate for stopping the hemorrhaging of our economy—stopping the greed that has caused so much “downsizing” or “outsourcing” or whatever other euphemism they use for saying, “You're fired!”

What should union leaders do once a layoff notice arrives?

Presented here is a **UNION CHECKLIST** formulated by the AFL-CIO Working for America Institute, an excellent resource for information on how to respond to union member layoffs and also on how to advocate for the creation of good-paying “high road” jobs for those workers.

Union Checklist

“Over the past two decades unions have helped establish many of the very best response systems to closures and layoffs. The following is a basic checklist of questions to guide union leaders once a layoff notice arrives. The checklist offers a list of activities and tools that unions have employed to provide benefits and services to members affected by job loss...

Has management given union members proper notice of lay-offs?

- Review advance notification contractual provisions
- Review federal notification regulations including Worker Adjustment and Retraining Notification Act (WARN) which requires a 60 day notice for mass layoffs of 500 or more workers at a site or at sites of 50-499 employees where 33% or more are affected.
- Review California WARN Act which requires a 60 day notice for mass layoffs of 50 or more employees at a site of 75 or more employees, including part-time employees.
- Review applicability of Trade Adjustment Act in cases of job loss due to increased directly competitive imports or as a result of trade with Mexico or Canada.

Has the union been fully informed and involved?

- Insist that state or local layoff Rapid Response staff work closely with the union leadership to assist the workers and companies facing layoffs.
- Assure that the public Rapid Response effort does not interfere with the requirement that an employer negotiate the effects of a closure with the union.
- Insist that any on-site meeting or contact with workers upon receipt of information about a potential layoff or closure includes union representation.
- Require that layoff aversion strategies such as employee buyout and other opportunities receive full consideration.

- Create workforce adjustment committees with full union participation to develop a comprehensive plan for assisting workers. Union participation should begin with the early presentation of the committee concept.

Has the union taken steps to respond quickly to assist members?

- Implement existing benefit provisions within contract e.g. advance notice, health/COBRA, severance, supplemental unemployment, pension, workers comp, etc.
- Negotiate over additional benefits such as supplemental unemployment, training, and other services that can be integrated with the public resources available.
- Identify workers who are off due to occupational injury or illness and assure they receive proper notification of status, benefits and services.
- Identify outstanding issues surrounding workplace safety and health and obtain individual and plant wide exposure records.
- Seek early intervention services prior to layoff to recruit and enroll workers into benefits and services as soon as possible.
- Seek to create easy access to services, either on-site, near job sites or at union hall, to facilitate intake and enrollment activities.
- Demand union members receive public benefits in a timely manner and be sensitive to the concerns/needs of documented and undocumented immigrant workers
- Demand that all services are accessible to workers with disabilities, other special needs and in languages spoken by the workforce.
- Demand confidentiality of the information workers provide.

How can unions develop systems to promote program delivery?

- Seek to create worker adjustment committee as soon as lay-off notices arrive and begin designing a displaced-worker program.
- Seek to establish a peer advisor program to train union members to work with Rapid Response staff in helping laid-off union members enroll in local programs and services and in holding providers accountable for the provision of timely early intervention services.
- Seek adequate funding (both negotiated and public) to provide a full array of services and benefits.
- Create a plan and procedure to ensure private-public cooperation so that workers have access to all the benefits and services that they are eligible for.

How can local unions connect with labor-friendly advice on developing programs or finding the resources available through private and public systems?"

We would be remiss not to state right away that organized labor has many champions who help working families to gain access to needed services, like the **AFL-CIO Community Services Representatives**, funded through United Way and working for Central Labor Councils in many urban locations in California.

The contact list of AFL-CIO Community Service Representatives can be found on WED's website: www.wed-works.org.

So, here in the *Tool Kit*, we offer you a list of resources that might be tapped to help working families, regardless of their eligibility for Dislocated Worker Assistance.

Community Resources for Working Families

Housing and Mortgages

Having problems paying your mortgage?

- The AFL-CIO's Union Plus Credit Card program has **Union Plus Save-My-Home grant program**. <http://www.unionplus.org>
- Here is a link to "Tips on Avoiding Foreclosure" by the U. S. Housing and Urban Development (HUD): <http://www.hud.gov/foreclosure/index.cfm>
- Also avoiding foreclosure in California <http://www.hud.gov/local/ca/homeownership/foreclosure.cfm>, which provides information on mortgage counseling, legal assistance, federal and California consumer laws, renters –tenant rights, and more.
- Institute for Foreclosure Legal Assistance - <http://www.foreclosurelegalassistance.org/>
- NeighborWorks - <http://www.nw.org/network/home.asp>
- National Community Reinvestment Coalition - <http://www.fairlending.com/>
- Neighborhood Assistance Corporation of America - https://www.naca.com/index_main.jsp
- ACORN – Home Equity Loss Prevention Program - <http://www.acornhousing.org/index.php>
- Veterans Home Loans – Help on Mortgage Payment Problems: <http://www.homeloans.va.gov/paytrbl.htm>
- Homeowner Crisis Resource Center: <http://www.housinghelpnow.org/>
- Tenants' Rights at Foreclosed Property: http://www.larcc.org/pamphlets/housing/is_landlord_foreclosing.PDF (see "Avoiding Foreclosure in California" for links to free legal assistance)

Having problems paying your rent or utility bills?

- California Department of Community Services and Development: <http://www.csd.ca.gov/Programs/Energy%20Service%20Providers.aspx>

- California Public Utilities Commission – Low-Income Programs: <http://www.cpuc.ca.gov/PUC/lowincomeprograms.htm>
- **Union Plus AT&T discount**: <http://www.unionplus.org/att-wireless.cfm>

Credit Cards and Auto Payments

Do you need credit card debt relief?

- The AFL-CIO's Union Plus Credit Card program can offer unique services for union members. <http://www.unionplus.org/credit-counseling.cfm>

"Union Plus is brought to you by Union Privilege, established by the AFL-CIO to provide consumer benefits to members and retirees of participating labor unions."

- Consumer Credit Counseling Services – non-profit organization <http://www.cccsstl.org/debtsolutions/index.asp> is associated with the National Federation for Credit Counseling. <http://www.nfcc.org/>

"The NFCC, founded in 1951, is the nation's largest and longest serving national nonprofit credit counseling organization. The NFCC's mission is to promote the national agenda for financially responsible behavior and build capacity for its members to deliver the highest quality financial education and counseling services. NFCC members annually help more than two million consumers through nearly 1,000 community-based offices nationwide.

"The NFCC represents the largest and most experienced network of more than 1,200 certified housing counselors in the US. Housing counseling services include: foreclosure prevention and loss mitigation counseling; individual pre-purchase housing counseling; homebuyer education programs and seminars; down payment assistance programs; individual post-closing counseling; homeless counseling; post-closing education programs; predatory lending education;

homeownership voucher counseling (Section 8); and reverse mortgage counseling.”

Many local offices in California, including on-line counseling <http://www.debtadvice.org/takethefirststep/locator.cfm>

Having problems making car payments and worried about it being repossessed?

- Car repossession law: <http://www.lemonlawcenter.com/protectyourself.html>
- Need lower car insurance? <http://www.dmv.org/car-insurance.php>

Medical Insurance and Family Health Care

This is a big issue for organized labor, as more and more employers are dropping or reducing employer-financed health care insurance coverage for their employees. There is no question that we need universal health care coverage here in California and nationally. Here are links about worker rights under the Consolidated Omnibus Budget Reconciliation Act (COBRA) and other laws.

- Health plans – Individual & Family: <http://www.healthplanone.com/healthinsurance/california/>
- COBRA & California COBRA information from the California Department of Managed Health Care: http://www.dmhca.gov/dmhca_consumer/hp/hp_cobra.asp
- Frequently Asked Questions – Worker Rights: http://www.disabilitybenefits101.org/ca/programs/your_rights/cobra_obra/cobra/faqs.htm
- HMO Guides from the California Office of the Patient Advocate <http://www.opa.ca.gov/>
- **Union Plus Health Savings:** Includes a free prescription card. This is a tiered program with different levels of discounts. For members without health insurance, the physicians discount is far better than any of the other (some of which are questionable) plans out there, and certainly better than paying full price. These are discounts, not insurance. <http://www.unionplus.org/benefits/health/savings.cfm>

Mental Health

- Handling stress – dislocated worker and family counseling – peer support: Center for Working Life, Inc. <http://www.workinglife.net/> (See “Rapid Response” section about the services they offer.)
- American Self-Help Clearinghouse: <http://www.mentalhelp.net/selfhelp/>
- “Coping with Job Loss” – The Riley Guide website <http://www.rileyguide.com/cope.html>

Food Banks

- California Food Bank Association: <http://www.cafoodbanks.org/>
- Community Food Security – Food sharing and other interesting topics on this subject: <http://www.foodsecurity.org/links.html>

Financial Planning and Pension Rights

Offering unemployed union members financial advice is a tricky issue because there are a lot of financial planners and brokers who are plying their trade to entice unemployed workers to invest their hard-earned retirement funds with them. Many of these workers have 401 (k) accounts and other forms of investments, aside from a union defined pension plan. Union officers may risk liability for offering workers advice on this matter. Likewise for users of this *Tool Kit*.

Nonetheless, when retired and laid off workers need financial advice, they should seek advice from qualified financial planners whose business it is to offer services independent of selling them stocks or other investment vehicles. One referral organization in that regard may be The Financial Planning Association, which publishes a Job Loss Financial Survival Guide, and offers sources for non-sales, pro-bono assistance to non-profit organizations <http://www.fpanet.org/public/tools/jobloss.cfm>, or AARP <http://www.aarp.org/money/careers/jobloss/>.

Often a local bank will provide non-sales, pro-



bono assistance in a plant closure situation and supply experienced bank personnel to advise workers how to roll over their 401(k) accounts into an IRA and advise them on what the income tax ramifications are on taking early withdrawals, what kind of IRA to form, and who are the most reliable firms to handle their money.

It is also important for laid off workers to know their pension rights. Defined pension plans are protected by federal law. The U.S. Department of Labor's Employee Benefits Security Administration (EBSA) has produced a number of booklets that are useful guides for dislocated workers, including "An Employee's Guide to Health Benefits under COBRA," "What You Should Know... About Your Pension Rights," and "Pension and Health Care Coverage...Questions and Answers for Dislocated Workers." These guides can be downloaded from EBSA's website: <http://www.dol.gov/ebsa/publications/main.html>.

Child and Family Care

Labor Project for Working Families <http://www.working-families.org/> offers unions and families valuable information about elder care, childcare, and worker rights regarding family leave.

The California Labor Federation was the co-sponsor of the historic bill that made California the first state to enact a program of paid family leave. Workers can receive up to 6 weeks of paid leave to care for a new child, or seriously ill family member. The law also broadens the state disability insurance program so that California workers can receive partial wage replacement if they must be away from work for a new child or family medical needs. See http://www.calaborfed.org/PDFS/Paid_Sick_Leave/CAsNewPFLGuide.pdf

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Chapter **8**



LEADERSHIP IN ECONOMIC DEVELOPMENT

– CREATING GOOD HIGH-ROAD JOBS

The last action we mentioned for Layoff Aversion is the need for union leaders to mobilize labor, business and government resources that can develop sustainable high-wage, high growth jobs in the community. Both the California Labor Federation’s WED and AFL-CIO Working for America Institute’s websites offer extensive information that defines what we mean by good “high-road” employment and advise on how organized labor can help create these jobs.

A first step for communities who want to avert layoffs is to conduct a Community Audit, a community-led survey of the resources and needs for economic development and growth. “A Guide on Conducting a Community Audit” can be found at:

http://www.doleta.gov/layoff/pdf/conducting_a_community_audit.pdf

This audit can be included as part of a Layoff Aversion strategy and paid for with Rapid Response funds as a “pre-feasibility study.” We encourage labor and the community to assist in conducting the audit, perhaps with professional guidance, rather than having the WIB contract to have the Audit done by the Chamber of Commerce or an outside research firm, who may take the view that any job is a good job!

We also caution about using local economic development agencies who may believe that the only way to attract or retain business is to offer them tax subsidies that reduce needed local revenues, such as those for public education! The organization, Good Jobs First!, can offer you tips on how to hold local governments accountable, when they offer companies tax forfeitures, meaning less money for schools and other public infrastructure and services. Their website is: <http://www.goodjobsfirst.org/>

We strongly advocate for the creation of good jobs

that offer opportunities for workers to apprentice and to help build their communities. The California Building and Construction Council can refer you to programs that provide quality union training and jobs at: <http://www.building3.com/>

Many WIBs have already looked at creating jobs in sectors like construction, health care, hospitality and tourism, and the like. EDD offers each WIB an annual assessment of occupations in high demand in their area. While these studies and reports may give you some insights on economic growth opportunities in your community, we suggest that you also look into other sources of information concerning California’s economy and job prospects, such as:

- Federal Reserve Bank of San Francisco <http://www.frbsf.org/economics/>, which will give you housing and economic forecasts on California and other Western States,
- California Labor Market Information <http://www.labormarket.edd.ca.gov>
- California Job Journal <http://www.jobjournal.com/default.asp>, which is a commercial publication.
- Costar – Information on Commercial Real Estate <http://www.costar.com/>
- Center for Continuing Study of the California Economy (CCSCE): <http://www.ccsce.com/>
- California Business Portal: <http://www.calbusiness.ca.gov/>, and
- California Budget Project: <http://www.cbp.org/>, who offer you information, not just about the California budget crisis, but also about our state’s economy and jobs.

California labor has been involved in many local economic development activities, but two local pioneer initiatives are particularly noteworthy because they involve many community partners

and advocacy organizations. These are:

- East Bay Alliance for a Sustainable Economy: <http://www.workingeastbay.org/>, and
- Los Angeles Alliance for a New Economy (LAANE): <http://www.laane.org/>

They might provide you with good models for your community.

Green Jobs, Greener Pathways

Lastly, the California Labor Federation, AFL-CIO and our Workforce and Economic Development (WED) program are exploring ways to create

good jobs in the emerging green industry. We have linked up with the Apollo Alliance: <http://www.apolloalliance.org/> to work on this project, as well as with COWS – Center on Wisconsin Strategy <http://www.cows.org/>, a labor-friendly think tank which has excellent material on how to create a high-skill, high-road economy. Specific, regional green job employment and skill data can be found through the California Community Colleges Office of Excellence at www.ccewd.net

For additional assistance and information on the topics in this *Tool Kit*, contact the California Labor Federation's WED program at: <http://www.wed-works.org/> or at

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APPENDIX – GLOSSARY OF TERMS

AFL-CIO	<p>The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) is a voluntary federation of 56 national and international labor unions.</p> <p>The AFL-CIO union movement represents 10.5 million members, including 2 million members in Working America, its new community affiliate. We are teachers and taxi drivers, musicians and miners, firefighters and farm workers, bakers and bottlers, engineers and editors, pilots and public employees, doctors and nurses, painters and plumbers—and more. www.aflcio.org</p>
ATAA	<p>Alternative Trade Adjustment Assistance, a program designed to serve older workers who opt to see work in a lower paying job rather than be retrained under TAA. See page 38 for an explanation of benefits.</p>
CBO	<p>Community-Based Organization</p>
CMTC	<p>California Manufacturing Technology Consulting, a MEP service located in Southern California. See page 16.</p>
COBRA	<p>Consolidated Omnibus Budget Reconciliation Act. A federal law that helps people to keep their group health insurance coverage for a certain period of time if they lose their job, quit their job, or reduce their hours at work. It also helps people who are widowed, separated, or divorced. It helps those who get their health insurance through their spouse’s job and lose coverage because their spouse goes on Medicare. COBRA coverage is generally paid by the participant, not the employer, and for a period from 18 to 36 months depending upon their eligibility status.</p>
CLF or “Labor Federation”	<p>The California Labor Federation is made up of more than 1,200 AFL-CIO and Change to Win unions, representing 2.1 million union members in manufacturing, retail, construction, hospitality, public sector, health care, entertainment and other industries.</p>
CTB	<p>California Training Benefits, a program that allows for workers to have access to extended UI benefits while they are in training programs subsidized by ETP, WIA, TAA or other approved resource.</p>



Customized Training	A training program designed to meet the special requirements of an employer who has entered into an agreement with a Local Workforce Investment Area to hire individuals who are trained to the employer's specifications. The training may occur at the employer's site or may be provided by a training vendor able to meet the employer's requirements. Such training usually requires a commitment from the employer to hire a specified number of trainees who satisfactorily complete the training.
CWDEA	Community Workforce Development and Education Act, a California state-funded workforce and economic development program administered by the California Community College Chancellor's Office
CWL	Center for Working Life, a CBO that provides consultation and training of peer counselors working in union-based dislocated worker assistance programs.
DOL	United States Department of Labor
DTAA	U.S. Department of Labor's Division of Trade Adjustment Assistance
EBSA	Employee Benefits Security Administration, an agency of the U. S Department of Labor. The Employee Benefits Security Administration is responsible for administering and enforcing the fiduciary, reporting and disclosure provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA). ERISA covers pension plans and welfare benefit plans (e.g., employment based medical and hospitalization benefits, apprenticeship plans, and other joint labor-management training plans.
EDD	California Employment Development Department
ESOP	Employee Stock Option Plan.
ETA	The Employment and Training Administration, a division of the US Department of Labor (USDOL/ETA)
ETP	California Employment Training Program. The program's policy and administrative board is the California Employment Training Panel. Both are commonly referred to as ETP.
ETPL	Eligible Training Provider List See ITA.

ITA	Individual Training Account. Most WIA participants who are eligible for training services have an ITA to pay for training provided by approved vendors who are on the state's Eligible Training Provider List . The list includes the locally approved schools that may accept students from One-Stop Career Centers.
Local Board	Local Workforce Investment Boards (LWIBs) are the policy and administrative bodies that are responsible for overseeing the operation of local WIA programs in their area. Each LWIB is established under section 117 of the Workforce Investment Act. Appointed by Local Elected Officials, the LWIB must be comprised of a majority of employers, and oversees the implementation of WIA Title I (adult, youth, and dislocated worker), and for coordinating service delivery with other related services. At least 15% of the members on a LWIB must be from organized labor. Labor representatives are nominated by their local Central Labor Council and appointed by Local Elected Officials.
MEP	Manufacturing Extension Partnership, a NIST program. See page 16.
NIST	National Institute of Standards and Technology, an agency within the U.S. Department of Commerce.
O*NET	Occupational Information Network http://online.onetcenter.org/
<u>OATEL</u>	Office of Apprenticeship Training, Employment & Labor Services - US Dept. of Labor, Employment & Training Administration
One Stop	Same as "One Stop Career Center"
One Stop Career Center	Location where WIA services are accessed through center and partner staff, such as EDD. Each Workforce Investment Area must have at least one center. Most areas have more than one and all are open to any job seeker, whether or not they are eligible to participate in a WIA program. See explanation about "Core Services" in Chapter 5: Dislocated Worker Assistance.
Participant	An individual who has been determined to be eligible to participate and is receiving services under a program authorized under the Workforce Investment Act.
TAA	Trade Adjustment Assistance Act. The <i>Tool Kit</i> provides information on the two forms of TAA, one for trade-impacted manufacturing and the other for worker assistance. See WTAAC for information about the business form of TAA and Chapter 6 for worker assistance.

TRA	Trade Readjustment Assistance which extends unemployment benefits for a trade-impacted dislocated worker while he or she is enrolled in an approved retraining program.
Training Services	A special category of services that local Boards are responsible for providing to adults and dislocated workers under WIA. Training services may include occupational skills training, on-the-job training, job-readiness training, adult education and literacy activities, cooperative education programs, training programs operated by the private sector, skill upgrading and retraining, distance learning, entrepreneurial training, and customized training conducted by an employer.
WARN	Federal Workforce Adjustment and Retraining Notification Act. California has enacted a statute under a similar name. See Chapter 2.
WED	Workforce and Economic Development Program of the California Labor Federation, AFL-CIO
WIA	Workforce Investment Act of 1998. It is the federal employment and training program that replaced the Job Training Partnership Act (JTPA). The purpose of WIA is to improve the quality of the workforce by providing workforce investment activities through statewide and local workforce investment systems increasing the employment opportunities, employee retention, and earnings of participants. WIA was enacted “to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.”
WIB – Workforce Investment Board	See Local Board
Workforce Investment Area	Districts within the state through which services outlined by the Workforce Investment Act are delivered. Each area has a local board (LWIB) appointed by local elected officials to provide policy and program guidance under WIA. There are 49 such districts covering the entire state of California.
Workforce Services Division	The unit within EDD that administers WIA funding in California and monitors local WIB programs.
WTAAC	Western Trade Adjustment Assistance Center (WTAAC), located at the University of Southern California (USC) in Los Angeles. Find information on WTAAC on pages 14 and 15

Additional WIA program terms may be found in a Glossary on WED’s website: <http://www.wed-works.org/>

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