

SECTION 211 REDUCTION-IN-FORCE PROCEDURES FOR CIVILIAN
PROCEDURES

Ref: (a) SECNAVINST 12351.5
(b) 5 CFR Part 351
(c) DOD Priority Placement Program (PPP) Operating Manual

1. Purpose. To establish policies and procedures in the event of reduction-in-force (RIF) per references (a) through (c).

2. Background

a. RIF may be required because of lack of work, shortage of funds, position changes resulting from reorganization, insufficient ceiling or the need to make room for an employee with reemployment or restoration rights or similar causes. RIF procedures must also be followed for furloughs of more than 30 days.

b. RIF will be effected only if require reduction cannot be accomplished by considering the losses from normal turnover, restricting new appointments, or reassigning surplus personnel. If a RIF is required, a moratorium may be declared on personnel actions.

c. RIF procedures do not apply to termination of temporary or term promotions; changes to lower grade based on the reclassification of an employee's position due to erosion of duties (unless a RIF as been formally announced and will be effective within 180 days), the application of new classification standards or correction of a classification error.

d. Reference (b) does not apply to an employee assigned to a position in the Senior Executive Service (SES).

3. Policy

a. Management will advise employees and the appropriate labor unions at the earliest possible date of any plans and reasons for RIF action.

b. RIF will be avoided during the Christmas holiday season, if possible. RIF notices will not be issued nor will employees be separated during the period 15 December through 3 January per reference (c).

c. An activity is not required to offer vacancies during a RIF. However, RIF procedures must be followed when an activity, at its discretion, chooses to fill a vacancy with an employee who has been affected by RIF action.

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d. Maximum job placement assistance will be given to employees separated by RIF in obtaining other employment, both within and outside the activity.

e. RIF employees selected for vacant position outside of the activity will be released no later than two weeks from notification to the releasing activity.

4. Definitions - RIF Terms

a. RIF. The release of an employee by management from a competitive level due to lack of work, shortage of funds, insufficient ceiling, position changes resulting in reorganization or return of an employee with restoration or reemployment rights. Release is by separation, furlough for more than 30 days, reassignment involving displacement, or change to lower grade.

b. Days. Calendar days.

c. Competing Employee. An employee in tenure group I, II, or III.

d. Commuting Area. The geographic area, in which people live and can reasonably be expected to travel daily to their place of employment. The island of Oahu is one commuting area for RIF purposes.

e. Competitive Area

(1) Each activity serviced is a separate competitive area, unless the activity establishes and documents the establishment of a different competitive area.

(2) Unless otherwise specified by activity instructions, subunits of an activity not located in the same commuting area are in separate competitive areas.

f. Competitive Level. Positions in a competitive area which are in the same grade and classification series and which are similar enough in duties, qualification requirements, pay schedules and working conditions so that the incumbent of one position could successfully perform the critical elements of any other position in the competitive level upon entry into it without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee.

g. Retention Register. A record of all competing employees, ranked in groups and subgroups according to tenure of employment, veteran preference and length of service augmented by performance

credit. The descending order of retention standing by groups and subgroups is:

(1) Group I. Include career appointees (not serving a probationary period).

(a) Subgroup AD. Veteran preference eligibles with compensable service-connected disability of 30% or more.

(b) Subgroup A. All other veteran preference eligibles.

(c) Subgroup B. Non-veteran preference eligibles.

(2) Group II. Include career-conditional appointees and career appointees serving a probationary period.

(a) Subgroup AD. Veteran preference eligibles with compensable service-connected disability of 30% or more.

(b) Subgroup A. All other veteran preference eligibles.

(c) Subgroup B. Non-veteran preference eligibles.

(3) Group III. Include employees serving under indefinite appointments, temporary appointments pending establishment of registers, term appointments, "status quo" and other non-status, non-temporary appointments.

(a) Subgroup AD. Veteran preference eligibles with compensable service-connected disability of 30% or more.

(b) Subgroup A. All other veteran preference eligibles.

(c) Subgroup B. Non-veteran preference eligibles.

h. Retention Standing. The ranking of competitive employees in a competitive level as of the effective date of the RIF by tenure group, subgroup and length-of-service augmented by credit for performance. Competing employees are released from the competitive level in the inverse order of retention standing.

i. Service Computation Date (reflective of length of creditable service). The date that an employee with no previous creditable service enters on duty, or the date obtained by subtracting the employee's total creditable prior military and/or civilian service from the date of his/her last date of entrance on duty, plus credit for performance covered in paragraph 4j below.

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j. Credit for Performance

(1) 5 CFR, Part 351 entitles employees to receive additional retention service credit when their performance meets certain criteria. Credit is given by adjusting an employee's service computation date for RIF. Part 351 also provides for standardizing retention service credit for performance ratings issued under multiple rating patterns. Retention service credit is based on ratings of record received under a performance appraisal system covered by 5 CFR, Part 430, or an equivalent system. Retention service credit for performance will be applied in a standard and consistent manner within the competitive level (the organizational and geographic boundaries in which employees compete for retention under RIF procedures).

(2) An employee's entitlement to retention service credit for performance shall be based on the employee's most recent ratings of record received during the four-year period prior to the date of issuance of the RIF notices.

(3) Current Department of Navy guidelines will be applied when awarding retention service credit.

k. Performance Rating of Record. The performance rating at the end of an appraisal period for performance of agency-assigned duties over the entire period and the assignment of a summary level within a pattern (as specified in 5 CFR 430.208(d)/DON CHR Manual 351), or the out-of-cycle rating of record required to support a within-grade increase determination.

l. Representative Rate. The fourth step rate of a General Schedule Classification Act position (including COLA) and the second step rate of a Federal Wage System position.

m. Statutory Retention Rights. The rights of an employee restored under 5 CFR Part 353, based on uniformed service, to receive additional retention protection in RIF. The period of statutory retention is one year for an employee restored after uniformed service of more than 180 days and six months for uniformed service of more than 30 days, but less than 181 days.

5. Responsibilities

a. Activity

(1) Obtain, as required, higher level headquarter's approval for RIF. Approve all requests for RIF action including specific positions identified for abolishment.

(2) Submit Requests for Personnel Action (RPA) for each position to be abolished by title, grade, position description number and organization segment and forward to HRO CNR.

(3) Sign and issue RIF notices.

(4) Provide descriptions of competitive levels in cases where coverage is not already apparent from the allocation of the position, i.e., service, pay plan, series, grade and title of position.

b. HRO/HRSC

(1) Maintain retention registers.

(2) Maintain competitive level descriptions.

(3) Review RPAs to determine if RIF procedures are applicable.

(4) Determine placement rights of affected employees and prepare RIF notices.

(5) Counsel employees affected by RIF.

(6) Maximize job placement assistance for employees affected by RIF. Register displaced employees in the DOD Priority Placement Program (PPP) and Reemployment Priority List; and counsel displaced employees that OPM's Interagency Career Transition Assistance Plan (ICTAP) provides priority consideration for vacant positions in other Federal agencies and that consideration under this plan requires employees to submit his/her application in accordance with job announcement instructions.

6. RIF Procedures

a. Assignment Rights

(1) A determination of whether grades between different pay systems are equivalent for placement purposes shall be based on a comparison of representative rates.

(2) Each employee's assignment rights shall normally be determined on the basis of the pay rates in effect on the date specific RIF notices are issued. However, when it is officially known on the issue date that new pay rates have been approved and will become effective by the effective date of the RIF, assignment rights shall be determined on the basis of the new pay rates.

(3) A group I or II employee reached for release from a competitive level shall be offered assignment to another

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position, if entitled, under bumping or retreat procedures or, if available, to an equivalent vacant position. The offered position must be one that is expected to continue for at least 90 calendar days, have the same work schedule as the position from which released, and be the best possible offer within the competitive area. If the employee accepts, the employee shall be assigned to the position offered. If the employee has no assignment right or does not accept an offer, he/she shall be furloughed or separated.

(4) A full-time employee may not displace an other-than-full-time employee or vice versa to satisfy RIF assignment rights. However, an activity may, at its discretion, offer a vacant other-than-full-time position to a full-time employee or offer a vacant full-time position to an other-than-full-time employee in lieu of separation by RIF.

b. Limits on Right of Assignment

(1) An employee has no right to choose his/her assignment when there are two or more positions with the same representative rate or to be assigned to a position with a higher representative rate.

(2) An employee who has received a written decision to demote him/her because of unacceptable performance competes for retention from the position to which he/she will or has been demoted.

(3) An employee with a current annual performance rating of unacceptable has no assignment rights.

c. Bumping (displacing an employee in a lower subgroup). A tenure group I or II employee is entitled to bump into a position that:

(1) Is held by another employee in a lower tenure group or in a lower subgroup within the same tenure group in another competitive level.

(2) Is the same grade or no more than three grades (or three grade intervals or equivalent) below the position from which employee is released.

(3) Is in the same competitive area.

d. Retreating (displacing an employee within the same subgroup). Normally a tenure group I or II employee is entitled to retreat to a position that:

(1) Is held by another employee in another competitive level with a lower retention standing in the same tenure group and subgroup.

(2) Is at the same grade or no more than three grades (or three grade intervals or equivalent) below the position from which the employee is released, except for a preference eligible employee with a compensable service-connected disability of 30% or more, that limit is five grades or grade intervals.

(3) Is the same, or essentially identical, to a position previously held by the employee in any Federal agency.

However, an employee with a current annual performance rating of minimally successful or equivalent may only retreat to a position held by another employee with a current annual performance rating no higher than minimally successful or equivalent.

e. Qualifications for Assignment

(1) An employee is qualified for assignment, if the employee:

(a) Meets the OPM qualification standards and requirements for the position, including any minimum educational requirement and any selective placement factors established.

(b) Is physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position.

(c) Meets any special qualifying condition that OPM has approved for the position.

(d) Clearly demonstrates on the basis of overall background, including recency of experience, a positive ability to successfully perform the duties of the specific position upon entry into it, without undue interruption to that activity and without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee.

(2) The sex of an employee may not be considered in determining whether an employee is qualified for a position, except positions for which OPM determined certification of eligibles by sex is justified.

(3) An employee who is released from a competitive level during a leave of absence because of a compensable injury may not be denied an assignment right solely because the employee is not physically qualified for the duties of the position if the physical disqualification resulted from the compensable injury. Such an employee must be afforded appropriate assignment rights

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subject to recovery as provided by applicable law and regulations.

(4) An employee may be assigned to a vacant position by waiving the qualifications requirements, except for the minimum education requirement prescribed by the OPM. A determination must be made that the employee has the capacity, adaptability, and the special skills required to satisfactorily perform the duties and responsibilities of the position. Qualification requirement may be waived only for positions with the same or lower representative rate than that held by the employee.

f. Physical Qualification Determination

(1) An employee will be required to take a physical examination for assignment to another position when:

(a) The position has more arduous duties than the position previously held.

(b) The duties of the position are such that a physical deficiency might endanger human life or result in serious property damage.

(2) The determination of physical ability will be decided on an individual basis, regardless of sex or physical handicap, if the employee is otherwise entitled to the job offer.

(3) An employee who has a compensable service-connected disability of 30% or more has the right to respond to an initial determination that the employee is not able to fulfill the physical requirements of a position to which the employee would otherwise have been assigned under the RIF regulations.

(a) Initial determination of this type must be submitted to OPM for final determination.

(b) Simultaneously, the employee must be given a written notice of the reasons for this determination and be advised of the right to respond to OPM within 15 days from the date of the notice.

(c) OPM will review the material submitted and will make a final determination concerning the employee's physical ability to perform the duties of the position.

g. Retention Rights of Retired Military Employees

(1) A retired member of uniformed service below the rank of Major (or equivalent) is considered a preference eligible for

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RIF only if he/she meets at least one of the conditions covered in paragraph (a), (b) or (c) below:

(a) The employee's military retirement is based on disability that either:

1. Resulted from injury or disease received in the line of duty as a direct result of armed conflict.

2. Was caused by an instrumentality of war incurred in the line of duty during a period of war as defined by Sections 101 and 301 of Title 38, United States Code.

(b) The employee's retired pay from military service is not based upon 20 or more years of full-time active service, regardless of when performed. (However, this total does not include periods of active duty for training.)

(c) The employee has been employed continuously since 30 November 1964, in a position covered by this chapter without a break in service of more than 30 days.

(2) A retired member of uniformed service at or above the rank of Major (or equivalent) is considered a preference eligible if he/she meets the definition of disabled veteran in Section 2108(2) of Title 5, United States Code and meets one of the conditions in paragraph g(1)(a), (b) or (c) above.

7. Notice to Employees

a. Each employee selected for release from a competitive level under RIF procedures is entitled to a written notice of at least 60 full days before the effective date of release.

b. Neither the date the employee receives the notice, nor the effective date of the RIF action, may be counted in computing the notice period.

8. Appeals/Grievances

a. An employee who has been furloughed for more than 30 days, separated or demoted by a RIF action and is not otherwise covered by a negotiated grievance procedure, may appeal to the Merit Systems Protection Board (MSPB) anytime after the effective date of the action but no later than 30 calendar days after the effective date of action. An employee has the right to examine the RIF regulations and inspect the retention registers and other records which may have bearing on his/her particular case.

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Information concerning these regulations, retention registers, and other records are available at HRO CNR.

b. Employee appealing to MSPB should complete the Appeal Form (OF 283) and forward to:

Chief Appeals Officer
Merit Systems Protection Board
Seattle Regional Office
Federal Building, Room 1840
915 Second Avenue
Seattle, WA 98174-1056

c. An employee in a bargaining unit covered by a negotiated grievance procedure that includes RIF must use the negotiated grievance procedure and may not appeal RIF actions to the MSPB.