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Policies and Procedures

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This P&P establishes guidance and information for achieving reduction-in-force (RIF) actions in the Research, Education, and Economics agencies. This P&P applies to all employees except members of the Senior Executive Service.

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1. Introduction

This P&P implements Title 5 of the Code of Federal Regulations (5 CFR 351), sets policy, assigns responsibility, and explains the rules and general procedures regarding Reduction in Force (RIF) in the REE agencies. RIF is an objective system that determines how employees compete to stay in the organization when employment reductions are necessary. The RIF process is focused on the rights of employees to remain in the agency when job cuts are made. RIF is utilized only as a last resort when other voluntary measures have proven inadequate. Voluntary measures that may be used include early retirements, buyouts, and directed reassignments.

Final approval to take RIF actions must be obtained from the USDA Office of Human Resources Management (OHRM), which clears requests with the Office of Management and Budget (OMB). Requests to OHRM must document the reason(s) for the request of RIF or furlough action, steps taken to avoid making the request, civil rights impact, and bargaining unit issues.

2. Principles

In the event of a RIF, REE agencies will observe and comply with the following principles:

- Reduce personnel strength, whenever possible, by advance planning and attrition, making every effort to avoid use of RIF procedures.
- Achieve RIF actions in compliance with Federal laws, rules, and regulations.
- Communicate RIF policies and procedures to employees in order to avoid rumors and resulting adverse affects on morale and productivity.
- Inform employees as soon as possible of the necessity for a RIF and of agency plans for effecting the reduction.
- Protect the rights of each employee.
- Prohibit discrimination because of race, color, sex, age, disability, religion, national origin, marital status, political affiliation, sexual orientation, or any other nonmerit factor.
- Provide career transition assistance to all employees potentially or actually affected by RIF in accordance with Office of Personnel Management (OPM) regulations.
- Allow a reasonable amount of time off, without charge to leave, for employees affected by a RIF to participate in career transition services, resume preparation, job interviews, and/or obtain career counseling in accordance with career transition regulations.

- Assist affected employees by helping them obtain employment through the various priority placement programs.

3. Reduction in Force Actions

RIF actions are the release of employees from their competitive level normally due to lack of work, shortage of funds, transfer of function or reorganization. Personnel actions that result from RIF actions include, but are not limited to, separation, furlough for more than 30 days, demotion, or reassignment requiring displacement of another individual.

4. Competition

Agencies determine the scope of RIF competition by establishing the competitive areas and competitive levels in which employees will compete for retention. The competitive areas for the REE agencies are contained in Exhibit 1. Information on order of release from competitive levels in the competitive service is contained in Exhibit 2. Information on order of release from competitive levels in the excepted service is contained in Exhibit 3. In RIF, certain veterans have a right to special benefits. For RIF, veterans' preference is indicated in tenure subgroups. Employees who do not have entitlement to veterans' preference for RIF purposes are called non-preference eligibles.

Employees will be notified in writing of their opportunity to validate the data being used in a RIF. Employees will also be given the opportunity to update information in their Official Personnel Folder (OPF). Specifically, employees should ensure that all periods of Federal service are documented, their position description is accurate, their OPF contains a current and complete resume or employment application, and a copy of their last DD-214 (discharge paper) if they served in the Armed Forces. Performance ratings are filed in a separate Employee Performance File. If an employee determines that their file does not contain copies of their last three annual performance ratings received during the past four years, they should supply any missing performance ratings.

When it appears that a RIF is necessary, Human Resources Division (HRD) establishes a retention register for each competitive area and competitive level from which employees are expected to be released. The order of retention among competing employees on a retention register is based on:

- tenure group,
- veterans' preference,
- length of service, and
- performance.

If an agency must actually conduct a RIF, employees are released from their competitive levels in inverse order of retention standing. When an employee in tenure group I--(a career employee) or an employee in tenure group II-- (a career conditional employee) who has a current annual performance rating of at least minimally successful is released from their competitive level, the employee must be considered for an assignment offer. The assignment offer is determined through bumping and retreating to another competitive service position for which the employee is qualified, without reduction in pay, or the least reduction, in representative rate, i.e., that action which causes the least adverse effect whether the employee remains in the same pay schedule or is placed in another one. The position to which the employee is RIF'd must be in the same competitive area and last for at least three months. If there is no such position, the only alternative would be to furlough or separate the employee.

5. Credit for Performance

Employees receive extra RIF service credit for performance based upon the average of their last three annual performance ratings of record received during the 4-year period prior to the date the agency issues RIF notices. Performance ratings of record must be officially approved and on record with HRD for at least 30 calendar days prior to issuance of specific RIF notices. This will ensure that proper credit for performance can be determined by HRD in finalizing the retention register. Performance ratings of employees potentially affected by the RIF may not conform to a single rating pattern. For example, some agencies have adopted a “pass/fail” 2-level system and others use a 5-level performance rating pattern (outstanding, superior, fully successful, marginal, and unacceptable). In these cases, the crediting plan contained in OHRM Personnel Bulletin No. 351-1 will be used to determine the number of years to be credited for performance, unless otherwise modified or revoked.

6. Notices

Informational Notice. An agency may issue an early “informational notice” to some or all employees in a competitive area to advise them of the potential need for a RIF. This type of notice is not required.

Certification of Expected Separation. An agency may issue a Certification of Expected Separation (CES) to a competing employee whom the agency believes, with a reasonable degree of certainty, will be separated. The CES may be issued up to six months prior to the effective date of the RIF. Employees who receive a CES are eligible to participate in dislocated worker programs under the Job Training Partnership Act administered by the U.S. Department of Labor. HRD must adhere to restrictions contained in 5 CFR 351.807 to issue these letters.

Specific RIF Notice. Each competing employee to be released from a competitive level is entitled to a specific written notice at least 60 calendar days before the effective date of release. This notice will include information on:

- the reason for the RIF;
- the RIF action being taken and how it affects the employee;
- the effective date of the action;
- the employee's competitive area, competitive level, retention subgroup, service date;
- the three most recent ratings of record received during the last four years;
- the location where the employee may inspect the regulations and the records pertinent to his or her case;
- entitlements, depending on the RIF action to be taken; and
- rights to appeal or grieve the action.

Note: The 60 calendar day time frame is an OPM minimum requirement. If an organizational unit has a negotiated agreement or union contract which specifies a longer time frame, the time frames in that agreement must be followed.

Amendment of Specific RIF Notice. RIF notices may be amended if the agency determines it can make a better offer. For example, an employee may get a separation notice, then later receive a demotion notice after another employee declines a job offer or retires. If the amended notice is offering the same or higher grade job, the employee is not entitled to a new 60 calendar day notice period.

Demotion Offer. RIF notices for demotions are in the form of an offer. An employee can accept or decline the offer. Departmental regulations require that an employee must be allowed a minimum of 3 working days from receipt of the notice to indicate acceptance or declination of an offer. If the employee declines, the employee is separated on the effective date of the RIF.

7. RIF Appeals and Grievances

An employee who is **not covered** by a labor-management agreement and who has been separated, downgraded, or furloughed for more than 30 calendar days by a RIF has the right to appeal to the Merit Systems Protection Board (MSPB) if he or she believes the agency did not properly follow the RIF regulations. The appeal must be filed during the 30-day period beginning the day after the effective date of the RIF action.

An employee who is **covered** by a labor-management agreement that **excludes RIF** and who has been separated, downgraded, or furloughed for more than 30 calendar days by a RIF has the right to appeal to the Merit Systems Protection Board (MSPB) if he or she believes the agency did not properly follow the RIF regulations. The appeal must be filed during the 30-day period beginning the day after the effective date of the RIF action.

An employee who is **covered** by a labor-management agreement that **includes RIF** and who has been separated, downgraded, or furloughed for more than 30 days by a RIF must use the negotiated grievance procedure. The time limits for filing a grievance under a negotiated

grievance procedure are set forth in the collective bargaining agreement. These employees may appeal to MSPB only if he or she alleges the action was based upon discrimination.

8. Summary of Responsibilities

REE Agency Administrators:

- While making every effort to avoid use of RIF procedures, may reduce personnel strength for mission-related reasons through advanced planning and attrition by:
 - identifying positions which are essential to the continuing missions of the agency and must be retained;
 - freezing or minimizing hiring by filling only critical positions for which fully qualified agency employees are not available;
 - filling vacant continuing positions by reassigning qualified employees to organizations not affected by cutbacks;
 - delaying or cutting back on non-salary expenses (e.g., travel, equipment, supplies, training and contracts);
 - considering use of voluntary measures including early retirements, buyouts, and directed reassignments.
- Approve or disapprove a proposed RIF subject to Departmental and OMB clearance.
- Notify Director, HRD to request Departmental and OMB clearance for the RIF and to develop a RIF implementation plan.

Employees:

- Update information in their OPF and provide a current, complete copy of their resume, SF-171 or OF-612.
- Verify that their OPF contains their last DD-214 (discharge paper), if applicable.
- Ensure that all periods of Federal service are documented.
- Verify that their current position description is accurate.

- Ensure that their Employee Performance File contains all ratings of record received over the last four years.

HRD:

- Provide statutory, regulatory, and policy interpretations in RIF.
- Identify competitive levels and prepare retention registers in accordance with OPM requirements and have them available for review by employees impacted by RIF.
- In cooperation with agency managers and supervisors, give written notice to recognized labor organizations, if appropriate, at least three calendar days before issuance of general RIF notices or public announcement of impending RIF actions affecting represented employees, unless a negotiated agreement provides for other procedures or timeframes.
- Issue specific written notices to all employees and their representatives, if applicable, at least 60 calendar days prior to a RIF.
- Provide employees receiving specific RIF separation notices with specific placement information, severance pay estimates, and unemployment insurance information.
- Provide employees with information on rights to appeal or grieve the action.
- Provide career transition services to affected employees.
- Register eligible employees in the USDA reemployment priority program.

9. Glossary

Assignment Right. The right of an employee to be assigned (by bump or retreat) to a position in a different competitive level. The position must be held by another employee with a lower standing on a retention register.

Available Position. A position to which an employee may have assignment rights.

Bump. An employee's RIF assignment right to an available position occupied by another employee in a lower subgroup in another competitive level.

Career Employee. A permanent employee in the competitive service who has completed three years of substantially continuous creditable Federal service.

Career-Conditional Employee. A permanent employee who has not completed three years of substantially continuous creditable Federal service.

Career Transition Services. Transition services include assistance in preparing resumes and other application materials, information on employment opportunities, skills inventory and assessment, training and retraining and counseling through the Employee Assistance Program.

Certification of Expected Separation. A formal letter issued by an agency to a competing employee who the agency believes, with a reasonable degree of certainty, will be separated from Federal employment through RIF. A certification may be issued up to 6 months prior to the effective date of the RIF.

Competitive Area. The geographical and organizational boundaries established for RIF competition. Established competitive areas are shown in Exhibit 1.

Competitive Level. A grouping of positions in the same grade and classification series with essentially the same duties, qualification requirements, pay schedules, and working conditions. The incumbent of one position could successfully perform the critical elements of any other position upon entry, without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee.

Competitive Service. Federal positions normally filled through open competitive examination under civil service rules and regulations.

Credit for Performance. Additional service credit based on the average of the last three annual performance ratings received during the four-year period prior to the date of issuance of the specific notices.

Current Rating of Record. The rating of record for the most recently completed performance appraisal period.

DD-214. Certificate of Release or Discharge from Active Duty.

Directed Reassignment. The reassignment of an employee at his/her same grade level to a vacant position in another commuting area. Note: This type of action is not a RIF action and is encouraged by OPM as a tool to avoid RIF. An individual who declines a directed reassignment is separated under adverse action procedures and is not eligible for placement on the Reemployment Priority List (RPL).

Excepted Service. Federal service positions not subject to appointment requirements of the competitive service, e.g., individuals under student appointments in any of the REE agencies and people in postdoctoral positions in ARS are employed in appointments in the excepted service.

Furlough. Placement of an employee in a temporary nonduty and nonpay status.

Local Commuting Area. A population center within which people can reasonably be expected to live and travel back and forth to work on a daily basis.

Merit Systems Protection Board (MSPB). Established by the Civil Service Reform Act of 1978, MSPB serves as the guardian of the Federal Government's merit-based system of employment, principally by hearing and deciding appeals on removals and other major personnel actions from Federal employees.

Nonpreference Eligible. Employees who are nonveterans for RIF purposes. Nonpreference eligibles are shown in Subgroup B.

OF-612. Optional Application for Federal Employment.

Office of Management and Budget (OMB). OMB assists the President by overseeing the preparation of the Federal budget and supervising the administration of the Executive Branch agencies. In helping to formulate the President's spending plans, OMB evaluates the effectiveness of agency programs, policies, and procedures, assesses competing funding demands among agencies, and sets funding priorities.

Office of Personnel Management (OPM). The Federal agency having responsibility for issuing regulations and supplementing Part 351 of Title 5, Code of Federal Regulations, with instructions in the Workforce Restructuring Handbook.

OHRM. Office of Human Resources Management, USDA.

Preference Eligible. The right of certain veterans to special benefits in RIF. For RIF, veterans' preference is indicated in the tenure subgroups AD and A. Veterans in subgroup AD (for compensable service-connected disability of 30 percent or more) have higher retention standing than veterans in subgroup A and nonveterans in subgroup B. Veterans in subgroup A have higher retention standing than nonveterans in subgroup B.

Rating of Record. The performance rating prepared at the end of an appraisal period which results in assignment of a summary level of performance.

Reduction in Force. The release of a competing employee from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement of another employee. Normally, this release is required because of lack of work, shortage of funds, or reorganization.

Reemployment Priority List (RPL). RPL is a post-RIF program providing separated employees first opportunity for positions within USDA that would otherwise be filled from

outside USDA. Some restrictions apply. A separated career employee is placed on the RPL for 2 years; a separated career conditional employee is placed on the list for 1 year.

Release from Competitive Level. An action which occurs when there are more people than positions in the competitive level; the individual with the lowest retention standing must be declared excess.

Reorganization. The planned elimination, addition, or redistribution of functions or duties in an organization.

Retention Order. The systematic arrangement of employees with those having highest retention standing (most right to be retained) first, and employees having lowest retention standing (least right to be retained), last.

Retention Register. A list of competing employees arranged by tenure group, veterans preference, and service date (adjusted for performance) within a competitive level. There is a separate retention register for each competitive level.

Retention Standing. An employee's relative position on a retention register based on tenure, veterans' preference, and service date (adjusted for performance.)

Retreat. An employee's RIF assignment right to an available position held by an employee in the same subgroup with a later service date. Some conditions apply to retreat rights. These include, but are not limited to, that an employee may retreat if the position is the same grade or no more than three grades or grade intervals below the position from which an employee is being released and is the same position or a position identical to one previously held by the released employee.

Senior Executive Service. A separate personnel system for senior executives that was established as part of the Civil Service Reform Act of 1978.

Service Date. The date used to establish an employee's retention standing. The service date for RIF purposes is adjusted to give credit for performance.

SF-171. Application for Federal Employment.

Subgroup Standing. The employee's relative standing on a retention register based on tenure group and veteran preference subgroup.

Tenure Groups. Categories of employees by status under their current appointments. The three basic tenure groups are designated by Roman numerals, (I, II, and III), with tenure group I having the highest retention standing. The group composition is different for the competitive service and excepted service. (See Exhibits 2 and 3).

Transfer of Function. A transfer of function occurs when a function ceases in one competitive area and moves to one or more other competitive areas which do not perform the function at the time of the transfer. Also included is the movement of an entire work operation to another commuting area.

Undue Disruption. The degree of interruption that would prevent completion of required work within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. A work program would probably be unduly interrupted if an employee needed more than 90 days after the RIF to successfully perform the critical elements of a position.

Veterans' Preference. The right of certain veterans to special benefits in employment and separations. (Not all employees who served in the Armed Forces are entitled to veterans' preference for RIF purposes.)

Veterans' Preference Subgroups. Categories of employees by veteran preference entitlements. There are three veterans' preference subgroups designated by letter (AD, A, and B). Subgroup AD includes veteran's preference eligibles with a compensable service-connected disability of 30 percent or more. Subgroup A includes veterans' preference eligibles (other than those in subgroup AD) with preference for RIF purposes. Subgroup B includes nonveterans (also known as nonpreference eligibles).

-/Sd/-

W.G. HORNER
Deputy Administrator
Administrative and Financial Management

Exhibit 1

Competitive Areas for Reduction in Force

<p>Agricultural Research Service</p> <p>Headquarters</p> <p>Field</p> <p>Outside the Continental United States</p> <p>Foreign Countries</p> <p>United States Territories, Commonwealth and Possessions</p>	<p>Those organizational units with responsibility for the administration of ARS functions in the Washington, DC Metropolitan Area</p> <p>Those organizational units with responsibility for administering a segment of ARS functions. Field positions in the local commuting area.</p> <p>All positions within the country where the reduction occurs.</p> <p>All positions within the territory, commonwealth or possession where the reduction occurs.</p>
<p>Cooperative State Research, Education, and Extension Service</p>	<p>All positions within CSREES.</p>
<p>Economic Research Service</p>	<p>All positions within ERS.</p>
<p>National Agricultural Statistics Service</p> <p>Headquarters</p> <p>Field</p>	<p>Those organizational units with responsibility for administration of NASS functions in the Washington, DC Metropolitan Area.</p> <p>Those organizational units with responsibility for administering a segment of NASS functions. Field positions in the local commuting area.</p>

Order of Release from Competitive Level -- Competitive Service

Tenure Group I

Includes all career employees not serving probation. This does not mean the 1-year probationary period for new supervisors and managers. Employee names are listed in earliest to latest service date in each subgroup.

Subgroup AD: Employees entitled to veteran preference with a compensable service-connected disability of 30 percent or more.

Subgroup A: All other employees entitled to veteran preference.

Subgroup B: Employees not entitled to veteran preference.

Tenure Group II

Includes career-conditional employees. It also includes career employees serving a probationary period because they have received a new appointment from an OPM certificate of eligibles. A career employee who obtains a new appointment from an OPM certificate of eligibles has to serve a probationary period of 1 year. Employee names are listed in earliest to latest service date in each subgroup.

Subgroup AD: Employees entitled to veteran preference with a compensable service-connected disability of 30 percent or more.

Subgroup A: All other employees entitled to veteran preference.

Subgroup B: Employees not entitled to veteran preference.

Tenure Group III

Includes employees serving under term appointments, temporary appointments, status quo appointments, and other nonstatus, nonpermanent appointments. Employee names are listed in earliest to latest service date in each subgroup.

Subgroup AD: Employees entitled to veteran preference with a compensable service-connected disability of 30 percent or more.

Subgroup A: All other employees entitled to veteran preference.

Subgroup B: Employees not entitled to veteran preference.

Exhibit 3

Order of Release from Competitive Level -- Excepted Service

Tenure Group I

Includes each permanent employee whose appointment does not include a restriction or condition, such as a specific time limit, or definite or indefinite. It also includes a permanent employee who is not serving on a trial period. Example: An attorney who has completed a trial period would be in this group. Employee names are listed in earliest to latest service date in each subgroup.

Subgroup AD: Employees entitled to veteran preference with a compensable service-connected disability of 30 percent or more.

Subgroup A: All other employees entitled to veteran preference.

Subgroup B: Employees not entitled to veteran preference.

Tenure Group II

Includes employees serving a trial period and employees whose tenure is equivalent to career-conditional in the competitive service. Example: a student employed under the student career experience program would be in this group. Employee names are listed in earliest to latest service date in each subgroup.

Subgroup AD: Employees entitled to veteran preference with a compensable service-connected disability of 30 percent or more.

Subgroup A: All other employees entitled to veteran preference.

Subgroup B: Employees not entitled to veteran preference.

Tenure Group III

Includes employees whose tenure is indefinite (i.e., without a specific time limit), but not actually or potentially permanent; whose appointments have a time limit of more than 1 year, or who have served in a appointment limited to 1 year or less, but who have been extended so they have actually worked more than 1 year without a break in service. One example of a Group III employee is an ARS Research Associate who has an appointment with a not-to-exceed of 2 years. Another example would be a student in an REE agency who is hired under the student temporary appointment authority and whose appointment has been extended beyond 1 year with no break in service. Employees are listed by subgroup and earliest to latest service date in each subgroup.

Note: A noncompeting employee is one who does not compete for retention in a competitive level. A student under a temporary appointment who has not completed one year of service is in Tenure Group 0, and is considered a non-competing employee in a RIF situation.