

CAHS

DLA REGULATION
NO. 1410.1

7 Jul 93

REDUCTION IN FORCE, FURLOUGH, AND TRANSFER OF FUNCTION
(Supplementation is permitted by primary level field activities (PLFAs).)

I. PURPOSE AND SCOPE. To establish the policy and procedures governing reductions in force (RIF), furloughs, and transfers of function. It implements Part 351, Title 5, Code of Federal Regulations (CFR), Federal Personnel Manual (FPM) Supplement 351-1, and, in part, DoD Directive 1400.20, DoD Program for Stability of Civilian Employment. It is applicable to HQ DLA, all DLA field activities, and Federal activities serviced by a DLA Office of Civilian Personnel (OCP) according to the terms of the applicable servicing agreement. It does not apply to non-U.S. citizen employees overseas, reemployed annuitants, nonappropriated fund employees, or employees in the Senior Executive Service.

II. POLICY

- A. Avoid the need for RIF or furlough through the prudent management of available resources.
- B. Mitigate the effect of any necessary RIF or furlough by such means as careful advance planning, use of selective hiring freezes, and reassignment of surplus employees to available vacancies.
- C. Keep employees fully informed of any potential RIF, furlough, or transfer of function that may affect them.
- D. Comply with advance notification and bargaining provisions of applicable labor agreements.
- E. Provide outplacement assistance to employees scheduled for separation, and advise and assist employees accepting functional transfer involving geographic relocation.
- F. Grant assignment rights for attorneys in the excepted service to attorney positions in the excepted service which are vacant or are occupied by attorney employees in lower tenure subgroups.
- G. Use temporary positions lasting 90 days or more to satisfy employee assignment rights. Note, however, that such assignments of permanent employees do not change their permanent appointment status.
- H. Separate temporary employees in positions which are the same as competitive levels to be affected by a RIF before any career or career-conditional employees are released from, or exercise RIF assignment rights to (occupied positions in), those competitive levels.

III. DEFINITIONS. (See enclosure 1.)

IV. SIGNIFICANT CHANGES. Provides retention credit based in part on the average of the three most recent annual performance ratings of record received during the 4-year period prior to the RIF. Allows use of a cut-off date on crediting performance ratings 30 days ahead of issuance of RIF notices. Requires prior approval by FO of each RIF that will result in the separation of any nontemporary employees. Adds coverage of qualification waivers and modifications to avoid use of RIF. Provides for an extended notice period and certain notice requirements to state and local officials when there will be 50 or more separations within a competitive

area or within a local Government jurisdiction, and adds certain new requirements for RIF separation notices. It also adds a provision to extend the notice period by annual leave to achieve eligibility either for retirement or continuation of health benefits into retirement.

V. RESPONSIBILITIES

A. HQ DLA

1. The Executive Director (Human Resources), DLA (CAH), will provide program policy guidance, and periodically evaluate program compliance and effectiveness.

2. The Chief, Staffing, Labor, and Employee Relations Policy Group, Executive Directorate (Human Resources) (CAHS), will provide technical advice and assistance in planning and carrying out RIFs, furloughs, and transfers of function.

3. The Comptroller, DLA (FO), will provide policy guidance and direction on workforce requirements, resources, and workload, and approve requests for authority to conduct RIFs and furloughs.

4. The Staff Director (Congressional Affairs) (CAAG), will prepare and coordinate notifications to Congress of workforce adjustments involving employee furloughs or the RIF separation of any nontemporary employees.

B. DLA Field Activities

1. Heads of DLA PLFAs will assure that any necessary RIF, furloughs, or transfers of function are planned, approved, and conducted according to this DLAR and FPM Supplement 351-1.

2. The Commander, DLA Administrative Support Center (DASC), will implement this DLAR for HQ DLA.

VI. PROCEDURES

A. Advance Planning

1. Accomplishment of workforce and mission adjustments in an orderly and timely manner requires careful advance planning. Plans should seek to achieve the minimum disruption and dislocation of employees while maintaining organizational efficiency and productivity.

2. Consideration should be given to establishing a planning team composed of senior managers when facing the necessity to reduce the workforce or conduct a transfer of function. The servicing OCP should have a member on such a team.

3. A comprehensive time-phased plan is essential to achieve orderly organizational changes and personnel actions of most any magnitude. A sample transfer of function action plan, which may be adjusted to fit individual situations, is provided in enclosure 2.

4. Every reasonable effort should be made to avoid or mitigate a RIF or furlough. In this regard, management must use vacant continuing positions to place surplus employees. This includes use of management directed reassignments. However, management should not use wholesale management directed reassignments out of the commuting area in lieu of a general RIF. The need for a RIF or furlough does not suspend management's authority to remove, demote, reassign, or relocate any employee. Any of these actions may be taken before, during, or after a RIF or furlough.

B. Authority

1. Approval of FO must be obtained prior to announcing or conducting a RIF that will involve the separation of any nontemporary employees. The request for approval for such a RIF will be submitted to FO at least 30 days prior to the planned date of issuing specific RIF notices to affected employees. The request will contain the information outlined in enclosure 3, and include the reasons for the RIF, the estimated effect on the local

economy, and anticipated Congressional interest including the names of members who will be notified. It should include a draft of a Congressional notification letter, and may include a draft press announcement if one is to be made or a statement that no local press announcement is contemplated.

2. Heads of PLFAs are authorized to conduct RIFs when no nontemporary employees will be separated. Notification of FO must be provided at least 15 calendar days prior to any local announcement of a RIF or issuance of specific notices to affected employees. Information on the necessity for the RIF and the number of reassignments and demotions should be included.

3. Heads of PLFAs are not authorized to conduct a furlough of any length for any employees based on lack of work or lack of funds without the prior approval of FO. Requests to conduct furloughs will be submitted to FO at least 30 days prior to the planned date of the furlough. The request will contain the information outlined in enclosure 4.

C. Reduction in Force

1. Application

a. The procedures in this DLAR must be uniformly and consistently applied in any one RIF. RIF procedures will be used whenever an employee is to be released from his/her competitive level by separation, furlough for more than 30 days, demotion, or reassignment requiring displacement when these actions are due to lack of work, shortage of funds, reorganization, exercise of restoration or reemployment rights, or reclassification of a position due to erosion of duties when that reclassification action will take place within 180 days of a previously announced RIF. Release from a competitive level includes a furlough of more than 30 days (or more than 22 workdays), separation, demotion, or reassignment requiring displacement.

b. Vacant continuing positions, i.e., those expected to last more than 90 days, will be used to make assignments of surplus employees. Vacancies temporarily reduced to the entry level in order to hire a trainee will be filled by surplus employees only at the full performance level. The grade level limits which apply to RIF assignment rights do not apply when offering vacancies to surplus employees before a RIF is begun. However, any changes to lower grade must be voluntary. Qualifications for placement are outlined in subparagraph C9 below.

c. RIF procedures do not apply to the termination of a temporary or term promotion and the resultant personnel action, or to a change to lower grade based on reclassification of an employee's position due to the application of new classification standards or the correction of a classification error.

d. Temporary employees are not "competing employees" in RIF. However, while all of them need not be terminated automatically when a RIF occurs, it is the policy of DLA not to retain temporary employees while adversely affecting competing employees in a RIF. Therefore, all temporary employees in positions equivalent to those competitive levels from which any career or career-conditional employee is released by RIF must be separated before this release occurs. Also, temporary employees in positions equivalent to competitive levels into which any employee has a RIF assignment right (bump or retreat) will similarly be separated first. The numbers of these temporary employees separated need only be that necessary to avoid RIF in those competitive levels (see FPM Supplement 351-1, S5-11). Temporary employees in positions equivalent to competitive levels that are unaffected by RIF may be retained.

2. Competitive Areas. Competitive areas outline the boundaries of RIF competition. They must be described either geographically or organizationally, or both. They may not be established on the basis of grade levels or occupational series definitions. The minimum competitive area is an activ-

ity under separate administrative control within a local commuting area. When changes to existing competitive areas are made, or new areas are established, within 90 days of the effective date of a RIF, prior approval of OPM is required. Descriptions of established areas must be a part of each PLFA's supplementation of this DLAR.

3. Competitive Levels. Competitive levels will be established on the basis of grouping jobs that are in the same grade and classification series and are similar enough in duties, qualification requirements, pay schedules, and working conditions so that incumbents of one kind of position could successfully perform the critical elements of any other position upon entry into it without any loss of productivity beyond that normally expected in the orientation period for a new, qualified employee. Separate competitive levels will be established for positions in the competitive service and excepted service, for positions filled under different pay schedules, for those with different work schedules (full-time versus parttime), for supervisor and non supervisor positions, and for positions in formally designated trainee or developmental programs. Serving a supervisory or managerial probationary period is not a basis for placement into a separate competitive level. *See enclosure 5.*

4. Retention Registers

a. A separate retention register must be established for each competitive level in which an occupied position will be declared surplus and for each other competitive level in which an occupied position will be affected by either bumping or retreating.

b. Employees will be listed on retention registers in descending order on the basis of tenure, veterans preference, and length of creditable service augmented by credit for performance ratings. Retention credit for performance ratings will be as described in subparagraph C5 below. The name of each employee in receipt of a written decision to remove due to unacceptable performance will be listed at the bottom of the respective retention register. A competing employee with a current annual performance rating of Unacceptable who has not received a written decision of demotion or removal due to unacceptable performance is listed on the retention register, not apart from it. An employee in receipt of a written decision to demote due to unacceptable performance will compete in RIF from the position to which he/she will be demoted.

c. Employees have the right to inspect retention registers and other related records that have a bearing on a specific RIF action taken, or to be taken, affecting them.

d. The effective date of retention standing is as of the date the employees are released from the competitive levels.

5. Effect of Performance Ratings.

a. An employee's entitlement to additional service credit for performance is based on the last three annual performance ratings of record received and put on record by the OCP prior to issuance of the specific notice of RIF. The last three annual ratings of record during the last 4-year period prior to the RIF will be the ones used to determine retention standing. An employee's last annual rating of record may be an improved one received as a result of an opportunity to demonstrate acceptable performance.

b. PLFAs may establish a cut-off date not more than 30 days ahead of the issuance of specific notices of RIF during which no new performance ratings will be put on record and used to determine retention standing. Performance ratings that were due before the cut-off date (if locally used) or the date a specific RIF notice is issued, but were not officially reviewed and approved by management and put on record by the OCP, will not

be used in determining retention standing.

c. Credit is expressed in additional years of service and is based on the summary adjective rating. It consists of the average (rounded in the case of a fraction to the next higher whole number) of the last three annual performance ratings of record as follows:

- (1) Twenty years additional credit for each rating of Exceptional.
- (2) Sixteen years additional credit for each rating of Highly Successful.
- (3) Twelve years additional credit for each rating of Fully Acceptable.
- (4) No additional credit is given for each rating of Minimally Acceptable or Unacceptable.

d. A current rating of Fully Successful will be presumed when an employee has been demoted for unacceptable performance and, as of the date a RIF notice is issued (or cut-off date occurs, if one is locally used), has not received a performance-based rating in the position to which demoted.

e. An employee who has not received three annual performance ratings of record shall receive additional service credit on the basis of those ratings received and/or assumed ratings of Fully Successful sufficient to credit the employee with the three required performance ratings.

6. First Round of Competition

a. When an employee's position is abolished and that position is in a competitive level with one or more vacancies, that employee will ordinarily be reassigned to one of those vacancies. Otherwise, the employee may be reassigned to a vacancy in another competitive level so long as that reassignment is without loss of grade or pay. Employees do not have a choice as to which position they will be reassigned regardless of whether or not the reassignment is to a vacancy.

b. If no vacancy is available to place a surplus employee, the higher standing surplus employee will ordinarily be reassigned to the position of the lowest standing employee in the same competitive level thereby "displacing" him/her. (Note that an exception to this displacement may occur when management elects to reassign a surplus employee to a vacancy in another competitive level without loss of grade or pay.) The displaced employee is said to have been reached for RIF and is entitled to exercise RIF assignment rights that will result in the best offer of position; one that results in the least possible loss of grade or pay. An exception to the above requirements pertains to employees in receipt of a written decision to remove due to unacceptable performance; they do not compete in RIF.

c. Supervisors may object to the placement of an employee only on the grounds of undue interruption (see subparagraph C9 below).

7. Second Round of Competition

a. Employees will be released from their competitive level in the inverse order of retention; employees with the lowest retention standing will be released first. Out-of-order retention is permissible only as provided in FPM Supplement 351-1, S4-4. When two or more employees are tied in total retention standing, the tie will be broken on the basis of the average credit for performance ratings. The employee with the lowest performance rating credit will be released first. If a tie still exists, it will be broken by the longest service with DLA.

b. An employee with a current annual performance rating of Unacceptable has no assignment right. Otherwise, an employee released from his/her competitive level will be assigned as follows in the manner that will result in the least possible loss of grade or pay:

- (1) The employee will be reassigned to a vacancy if one exists within the 3-grade level limits of RIF assignments rights. If no vacancy

exists, the employee's assignment rights (bump or retreat rights) will be exercised to an occupied position. When a vacancy is offered in lieu of assignment rights, it must constitute a "best offer." Note that a vacancy may be offered to an employee in lieu of RIF separation even though it is below the three-grade level limit on assignment rights so long as the offer does not conflict with the rights of any other competing employee. Note also that the grade level limits on RIF assignment rights do not apply when a vacancy is filled by an employee listed on the Reemployment Priority List (see subparagraph F3 below).

(2) The employee will bump into a position held by another employee in a lower tenure group, or in a lower subgroup within the same tenure group, that is not more than three grades (or grade intervals) below the position from which the employee was released.

(3) The employee will retreat into a position held by another employee with lower retention standing in the same tenure subgroup that is not more than three grades (or grade intervals) below the position from which the employee was released. In order to retreat, the position must be the same as, or essentially identical to, a position previously held by the released employee in the Federal service. Preference eligible employees with a 30 percent compensable service connected disability may retreat no more than five grades or grade intervals.

c. An employee with a current performance rating of record of Minimally Acceptable may only retreat to a position occupied by another employee with a current performance rating of record of Minimally Acceptable or lower.

d. An employee with a current performance rating of Unacceptable has no assignment rights in RIF.

e. For positions not covered by the General Schedule, PLFAs are delegated the authority to establish the normal line of progression for each occupational series and grade level, and to apply bump and retreat rights based on these local determinations (see FPM Supplement 351-1, S5).

8. Administrative Assignment. The administrative assignment provisions of FPM Supplement 351-1, S5-10a(1) and (2), and S5-10b, do not apply in DLA. Attorney positions in the Excepted service are granted RIF assignment rights consistent with FPM Supplement 351-1, S5-10a(3). At local option, RIF assignment rights may similarly be given to other Excepted service positions.

9. Qualifications for Position Change

a. An employee released from his/her competitive level is entitled to placement in a position in another competitive level consistent with RIF assignment rights. This ordinarily requires meeting all regular qualification requirements for the position including any minimum education prescribed, and any selective placement factors established. The employee must possess, based on background and recency of experience, a positive ability to successfully perform all critical elements of the position upon entry without undue interruption to the organization or lessening of productivity beyond that normally expected of a new employee. Employees must also be physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position. However, an employee on leave of absence due to a compensable injury may not be denied assignment solely due to not being physically qualified if the disqualification results from the compensable injury. Such an employee must be afforded assignment rights subject to recovery. A decision on physical qualifications is made at the time the employee returns to duty.

b. Except as prescribed by OPM, the sex of an employee may not be considered in determining whether or not an employee is qualified for a

position.

c. To be qualified to bump or retreat into a formal trainee position, an employee must meet all of the conditions required for selection and entry into the formal intern development program. Any employee who has completed a course of training or development in a specific occupation, or who is otherwise fully trained and qualified, cannot bump or retreat into a position in a formal intern or development program. Vacancies that are not a part of a formal intern or development program that are temporarily reduced to the entry level in order to hire a trainee will be filled by RIF assignment rights only at the full performance level.

d. When an employee gains new qualifications during a RIF notice period that would entitle him/her to a better offer, that better offer must be made and the original offer of position or notice of separation must be amended.

e. Except for positive education requirements, qualification requirements may be waived whenever an employee GS/GM-13 or below (and wage grade equivalent) is reached for release from his/her competitive level by RIF. All qualification waivers for positions GS/GM-14 and 15 require prior HQ DLA (ATTN: **CAHS**) approval. Regardless of grade level, whenever a waiver is granted, it must be determined that the employee can effectively perform the duties and responsibilities of the position within a reasonable period of time, and a written Individual Development Plan dealing with qualifications deficiencies must be prepared and followed. In addition to the above requirements, qualifications may be waived to avoid resort to RIF, but only where the following are met:

(1) The employee's position is formally declared surplus by Standard Form 52 and will be permanently disestablished, or the employee will be affected by the bump or retreat of another employee.

(2) Placement is to a vacant position.

f. When two or more employees are eligible for placement into a single vacancy by a waiver of qualifications, the employee with the highest RIF retention standing will receive the placement offer.

g. A right of assignment to a sensitive position may not be delayed or denied because the employee does not have the appropriate security clearance or an authority refuses to give it. Similarly, a right of assignment to a drug testing designated position (TDP) may not be delayed or denied because a required drug test has not been completed. Any employee whose assignment right (best offer) can only be satisfied by such an assignment must be placed in the sensitive or TDP position on the effective date of the RIF action unless a case for undue interruption can be fully supported. During the pendency of the clearance or testing process, the sensitive duties may be withheld, the employee detailed to other duties, or other appropriate arrangements made (see FPM Supplement 351-1, S5-8f).

10. Offer of Position

a. An employee released from his/her competitive level is entitled to be placed in a position that results in the least possible reduction in grade or pay. This is what is meant by "best offer." However, placement is dependent on many variables including the employee's qualifications, availability of positions, and of course, retention standing versus that of other competing employees.

b. Assignments across pay plans, e.g., wage grade to general schedule, will be determined in part by representative rates. Employees may not be assigned in RIF to a position with a higher representative rate.

c. All available vacancies will be used to place surplus employees before and during a RIF. Employees have no right of choice in determining any placement offer. In lieu of separation by RIF, vacant part-time

positions may be offered to full-time employees, and vacant full-time positions may be offered to part-time employees.

11. Notice to Employees

a. Except as provided in subparagraph c below, employees serving under appointments without time limitations who are reached for release from their competitive level must receive a 60-day specific notice of RIF. A Saturday, Sunday, legal holiday, or other non-workday will not be counted as the last day of the notice period. When the last day of a 60-day notice would fall on such a day, the RIF action will be made effective the next regular workday of the employee concerned. A similar policy will be used in setting reply periods. The notice period begins on the day after the day the employee receives the specific notice.

b. During the 60-day specific notice period, the notice may be amended without extending the notice period if the amendment results in a more favorable action than the one originally proposed. However, if the amendment results in a more severe action, a new 60-day specific notice period must be given.

c. Employees in a competitive area where 50 or more employees are scheduled to be separated by RIF are entitled to a 120 day advance notice of RIF. In those instances when a new notice of RIF is required (e.g., a more severe action), that new notice must also be 120 days.

d. The effective date of a RIF separation may be extended by accumulated annual leave sufficient for an employee to attain first eligibility for immediate retirement or eligibility for Federal Employees Health Benefits program coverage. RIF separation notices must contain information on this subject.

e. Career and career-conditional employees who receive a notice of separation because no placement offer can be made will, upon their request, be granted leave without pay or annual leave for such additional time as is necessary to provide a total of 90 calendar days of notice prior to separation.

f. During the Christmas holiday season (15 December through 3 January), notices of RIF will not be issued nor will any RIF actions be affected.

g. RIF notices will contain the information required in 5 CFR 351, Subpart H. RIF notices of demotion and separation will also contain general information about the DoD Priority Placement Program (see paragraph F4 below).

h. Employees ordinarily continue to occupy their original positions and remain in a duty and pay status during the entire notice period unless the employee resigns, or requests and is granted annual, sick, or leave without pay. However, in an emergency when there is a lack of work or funds for all or a part of the notice period, an employee may be placed on annual leave, with or without his/her consent, leave without pay with his/her consent, or in a nonpay status without his/her consent. Note, that when an agency lacks work or funds, an employee may be placed in a leave without pay status or in a nonpay status with or without consent during all or a part of the notice period through the use of furlough procedures. Depending on the length of the furlough, such an action may have to be taken under both the authority of Part 351 and Part 752 and would require that employees receive appeal rights under both Parts of Title 5, CFR.

12. Replies to Job Offers

a. Notices of RIF will provide employees with a reasonable amount of time to accept or decline an offer of continuing employment. Extensions of the reply period should be permitted when time is available, or when it can be shown that employees were prevented by circumstances beyond their control

from replying within the prescribed time. Employees should be informed that declining a position offer will probably result in separation.

b. When an employee accepts an offer of position within the commuting area, it is recommended that a courtesy interview be set up with the gaining supervisor. RIF placements are mandatory as far as the gaining supervisor is concerned and may only be objected to on the grounds of undue interruption (see paragraph C9 above).

13. Notice to OPM, State, and Local Officials

a. When 50 or more employees are to be separated by RIF within any State, the State dislocated worker unit is to be notified of the numbers, locations, and separation dates. This notice is to be given not later than the time the RIF separation notices are issued.

b. When 50 or more employees are to be separated by RIF in a commuting area, the chief elected official(s) of the local Government entities within the commuting area will be notified of the numbers of separations and the date they will take place. This notice must be given not later than the time RIF separation notices are issued.

c. When 50 or more employees are to be separated by RIF within a competitive area, the cognizant OPM Regional Office is to be notified. This notice should be given to OPM as soon as the separations are known and not later than the time RIF separation notices are issued.

D. Furlough

1. Employees may be placed on furlough (a temporary status without duties and pay) because of lack of work or funds, or other nondisciplinary reasons such as acts of God, sudden equipment breakdown, or emergency requiring immediate curtailment of work.

2. Furlough may only be used when it is intended to recall the employees to duty in the same positions from which furloughed within 1 year. Once employees are placed on furlough, they must not be allowed to voluntarily carry out any work functions; they must remain away from the worksite.

3. A furlough may be in consecutive or nonconsecutive days, and may be stated in either workdays or calendar days. Furlough procedures used and the rights of employees depend on the length of the furlough.

4. A furlough for 30 calendar days or less, or 22 workdays or less, is taken under the authority of 5 CFR 752, and employees are entitled to the procedural protections of that regulation. Employees may be selected for such a "short" furlough as the needs of management require without regard to competitive retention standing for RIF. Employees are entitled to a minimum 30-day advance written notice except in cases of unforeseen circumstances that would require an immediate curtailment of work. Employees have the right to appeal a short furlough to the Merit Systems Protection Board (MSPB) and to be informed of the reason for the furlough in the advance written notice.

5. A furlough for more than 30 calendar days, or more than 22 workdays, is taken under the authority of 5 CFR 351. Employees must be placed on furlough by release from their competitive level in inverse order of retention beginning with the lowest standing employee. This, and the exercise of bump and retreat rights, applies unless every employee in the competitive area is furloughed. When every employee in the competitive area is furloughed, there is no need to follow RIF assignment right rules.

6. Exceptions to the usual order of release under RIF rules may be made when necessary to retain an employee whose duties cannot be taken over by someone else without undue interruption. A minimum 30-day written notice is required that contains the same types of information as is necessary for RIF. Employees have the right to appeal to the MSPB. When employees in the

same competitive level are recalled to duty, the recall must be in the order of retention beginning with the highest standing furloughed employee.

7. An employee who does not return to duty from a short furlough after notification is absent without leave (unless leave is approved), and he/she can be separated under the procedures of 5 CFR 752 (see DLAR 1406.1, Employee Discipline).

E. Transfer of Function

1. A transfer of function is the movement of a continuing work function from one competitive area and its addition to one or more other competitive areas, or the movement of the competitive area in which the function is performed to another commuting area, except where the function(s) involved is virtually identical to the function(s) already performed in the gaining competitive area. A transfer of function also occurs when a new competitive area is established in a location and one or more functions are assigned there. A transfer can occur whether or not it is authorized by statute, executive order, reorganization plan, or similar authority.

2. Applicability. A transfer of function is not applicable when:

a. A function is eliminated and no corresponding function is assumed by another competitive area.

b. A function is transferred purely for liquidation and is not expected to continue in operation more than 60 days.

c. A function is moved entirely within a competitive area.

d. Work is reduced in base support functions as a result of a transfer or elimination of a function, a purely military function is transferred, or a tenant organization is relocated.

e. The function involved is virtually identical to a function already performed in the gaining competitive area.

3. Identification of Employees

a. When it is determined that a transfer of function will occur, all employees identified with the function are entitled to transfer with it except those:

(1) Serving under a temporary limited appointment.

(2) Serving under an overseas limited appointment when the transfer is to a competitive area within the 50 states.

(3) In receipt of a written decision of separation for unacceptable performance under authority of 5 CFR 432 or misconduct under authority of 5 CFR 752.

(4) Reassigned without loss of grade or pay to a continuing position.

b. There are two methods to identify employees with a function.

Method I identifies employees with a function on the basis of spending all or a major part of work time on that function except that, regardless of the amount of time spent, employees are identified with the function on which grade-controlling duties are spent. Although Method I must be used when practical, there are some situations where neither a preponderance of time nor grade-controlling duties will identify employees. In these situations, Method II must be used. Method II identifies employees with a function simply in inverse order of retention standing; that is, in the same order in which they are released from their competitive level in RIF. Note that an employee has no right to transfer with his/her function unless the alternative is demotion or separation.

c. If for any retention register the use of Method II would, in the losing competitive area, result in the separation or demotion by RIF of any employees with higher retention standing, the losing competitive area must identify competing employees on that register for transfer in the regular order of retention standing. In this context, RIF should be an immediate

consequence of the transfer of function in the losing competitive area.

4. Notice to Employees

a. The OCP servicing the gaining competitive area arranges for offers of transfer of function. The OCP servicing the losing competitive area notifies all employees identified for transfer of function and tenders specific offers of transfer. Requirements for transfer of function notices are the same as in subparagraph C11 above.

b. Employees scheduled for transfer beyond their commuting area are entitled to a 60-day specific notice. Transfers of function within a commuting area entitle employees to only a 30-day specific notice. However, when the transfer does not involve a geographic relocation of the duty station, there is no requirement for a formal advance written notice of the type normally required for a transfer of function.

c. When some, but not all, functions at a PLFA will be transferred, employees not identified for transfer may volunteer for transfer in place of those who have been identified. Management may make selections from among volunteers to replace employees who do not want to transfer with their function. In making selections, priority consideration will be given to employees with the highest retention standing for RIF, and any special qualifications that may be required for assignment to the work being transferred.

d. Employees are entitled to only one opportunity to accept or decline to transfer with their function. Acceptance or declination must be stated in writing (usually within 30 calendar days) after receipt of a specific notice of transfer of function.

e. Employees who accept transfer of function are moved at Government expense if the transfer involves a change in duty station of at least 10 miles distant from the old permanent duty station (or residence, whichever is nearer to the new duty station), and otherwise meets the requirements of the Joint Travel Regulations.

f. Notices of transfer of function will not be issued during the Christmas holiday season (15 December through 3 January), nor will transfers be made effective during this period.

5. Actions Upon Declining to Transfer

a. Employees who decline to transfer with their function should be given the placement consideration outlined in this subparagraph before separation is proposed. Those who cannot be placed must be separated for failure to accept transfer of function. The separation action is taken by the losing PLFA.

b. Employees who decline to transfer with their function may be offered assignment to vacant continuing positions for which they qualify and are willing to accept. However, their entitlement is only to transfer with their function; they have no entitlement to placement in a vacancy remaining at the PLFA, and have no RIF placement rights.

c. Competing employees who decline transfer of function are to be offered continuing positions occupied by temporary employees in the same commuting area before they are separated for declining the transfer. In carrying out this provision, career employees must receive preference over career-conditional employees, and veterans over nonveterans. Declining employees who cannot be placed may apply to OPM for the Displaced Employee Program (DEP), but are not entitled to entry on the losing PLFA's Reemployment Priority List (RPL).

d. When an employee declines to accompany his/her function after having previously agreed to accept a transfer, the employee should be accorded the same placement consideration as if the declination had originally occurred before a separation is proposed. If a declination occurs

during the last 30 days of the notice period, the employee is entitled only to a 30-day advance notice of separation.

6. Reduction in Force in a Transfer of Function

a. When a transfer of function results in fewer new positions being established at the gaining PLFA than there are employees accepting transfer at the losing PLFA, it becomes necessary to use RIF procedures to determine the priority of placement rights. Competing employees from the losing PLFA are merged on the appropriate retention registers at the gaining PLFA and all affected employees of both PLFAs compete for retention. Within DoD, this competition takes place before employees are actually transferred to the gaining PLFA. The gaining PLFA exercises the displacement, reassignment, bump, and retreat rights of competing employees from the losing PLFA as though they were already employed at the gaining PLFA. However, if the transfer of function is to a non-DoD agency, the transfer takes place without regard to any subsequent RIF that may occur at the gaining agency.

b. In transfers of function within DoD, employees of the losing PLFA who are separated by RIF are placed on the RPL of the gaining PLFA as though they had actually been separated in that geographic location. Their RIF appeal rights are also with the MSPB region having jurisdiction over the gaining PLFA. However, DEP benefits are applied in the commuting area from which the transfer of function originated, or in certain other areas upon request if placement cannot be made in the original OPM region.

c. If a RIF is necessary at the losing PLFA because of organizational changes brought about by the loss of a function, the affected employees ordinarily compete only with other employees in the competitive area of the losing PLFA and not with employees whose positions are identified for transfer of function (also see subparagraph E3c above). Positions scheduled to be moved in a transfer of function within 90 days may be placed in a separate competitive area so as to avoid involving the incumbents in the RIF. (If a losing PLFA would elect to do so, it may include employees who decline to transfer with their function as a part of a concurrent RIF. RIF may not be initiated solely to place employees declining transfer of function.)

7. General Management Authority

a. Under the provisions of 5 CFR 335, management has the authority to reassign employees including the right to make reassignments that entail a geographic relocation. This authority should be exercised judiciously and only to meet bona fide management requirements.

b. Where there is to be a transfer of work or mission wholly within DLA that does not meet the definition of a transfer of function, management may offer employees performing that work the opportunity to accompany it to the new permanent duty station within this general authority. In the context of a workload move that does not meet the definition of transfer of function, offers of reassignment to the new location may only be made to vacant continuing positions.

c. A placement at the gaining PLFA may not be offered if it would cause an employee to be surplus and result in RIF. Employees who decline an offer of reassignment to the gaining PLFA would be entitled to compete in RIF at the losing PLFA when the workload move would not be a transfer of function.

8. Assistance to Transferring Employees. The gaining and losing OCPs should closely collaborate to minimize mission disruption and loss of productivity associated with a transfer of function. Every reasonable assistance should be given to employees accepting transfer. A package of material about the gaining area should be prepared and given to transferring employees. This should contain such things as a local map, and information on real estate, schools, recreation facilities and areas, etc. Where the

number of transferring employees warrants it, representatives from the gaining PLFA should meet with the employees in one or more groups to discuss any questions they may have.

F. Outplacement Assistance

1. PLFA Operations. A plan of operation should be developed and carried out where there is to be a substantial number of employees separated in a RIF or due to declination of a transfer of function. Efforts should be organized as soon as it is foreseen that there will be a substantial number of employees separated. A PLFA representative should be designated to organize and operate outplacement efforts. Outplacement assistance should include the following:

- a. Assistance to employees to locate employment elsewhere, both in the Federal Government and in private industry.
- b. Develop a list of employees scheduled for separation that contains a brief summary of their experience and skills.
- c. Establish liaison with other DoD and Federal activities in the commuting area to arrange for placement assistance. Keep these activities apprised of the skills and availability date of employees.
- d. Counsel employees on how to effectively market their skills, and advise them on preparing employment applications and presenting themselves at job interviews.
- e. Counsel employees eligible for and interested in retirement.
- f. Contact prospective private employers about employees scheduled for separation and set up interviews where possible.
- g. Cooperate with state and local employment offices.
- h. Use available publicity media to gain community awareness and support for placing employees scheduled for separation.

2. Displaced Employee Program (DEP). Career and career-conditional employees with a current performance rating above Unacceptable who have received a notice of RIF separation, or who have been separated from the Federal service through no fault of their own, may apply to OPM for its DEP if they wish to be considered for positions in other Federal agencies. In this program, OPM refers the names of qualified displaced employees to Federal agencies for consideration for jobs in locations where the employees are willing to accept reemployment.

3. Reemployment Priority List (RPL)

a. Following issuance of a notice of RIF separation, and not later than the actual date of separation, career and careerconditional employees with a current performance rating above Unacceptable will be entered on the PLFA's RPL. Employees who accept a transfer of function, but are separated in a RIF at the gaining PLFA caused by that transfer, are entered on the RPL of the gaining PLFA, not that of the losing PLFA. Employees who are separated for declining a transfer of function are not entitled to entry on the RPL inasmuch as their separation is not a RIF separation.

b. Separated career employees remain on the RPL for a maximum of 2 years, and separated career-conditional employees remain there for a maximum of 1 year.

c. PLFAs that have separated employees by RIF within the last 2 years must maintain an RPL and use it as a source of candidates to fill vacancies. Where there is an individual on the RPL who is qualified for a particular vacancy that is to be filled, that vacancy may not be filled from "outside" such as by the transfer of an employee from another Federal agency or the competitive appointment of any person except a qualified 10-point disabled veteran.

d. When an individual on the RPL either accepts or declines an offer of nontemporary employment in a competitive service position of a nature

commensurate with the employment from which the employee was separated, his/her name will be removed from the RPL. Declining a position outside the commuting area has no effect on retention on the RPL. The order in which employees are listed on the RPL and offered reemployment from it, as well as other requirements and provisions of the RPL, is described in 5 CFR 330 and FPM chapter 330, S1. Also, see DoD 1400.20-1-M, DoD Program for Stability of Civilian Employment (Priority Placement Program (PPP)), chapter 5, for information on the relationship of making employment offers between RPL and PPP.

4. DoD Priority Placement Program

a. Career and career-conditional employees scheduled for involuntary separation or demotion, other than for personal cause, by RIF, or who are scheduled for separation for declining a transfer or function outside the commuting area, will be registered in the PPP. Registration will be for geographic locations or specific DoD activities at which the employee will accept continued employment, and for minimum acceptable grade levels for each registered skill. See DoD 1400.20-1-M for registration and referral procedures.

b. Employees must accept or decline an offer of employment within a reasonable time after receipt. Failure to accept or decline within this time will be considered a declination. Declining an offer of employment at a location and grade level previously indicated as acceptable will result in the employee being dropped from the PPP.

5. Payment of Travel Costs. Travel and transportation costs incurred by employees accepting transfer because of base closure, transfer of function, or RIF will be paid by the losing PLFA in accordance with the Joint Travel Regulations.

G. Retirement

1. Voluntary Early Retirement.

a. Voluntary early retirement (early-out) is not available as a convenient means for reducing staff or achieving budgetary savings. It is available only with the prior approval of OPM when an organization faces an imminent RIF that will result in the separation of 5 percent or more of employees (after taking into account anticipated attrition), or the downgrading of 20 percent or more of employees, or a combination of these two effects. These effects need only be present in the organization(s) for which a PLFA requests approval of an early-out. OPM will consider authorizing early-out retirement when certain other conditions are met. See FPM Supplement 351-1, Appendix B, for details including employee eligibility.

b. PLFAs which believe they meet the OPM early-out approval criteria may submit a request for approval to HQ DLA (ATTN: **CAHS**). The request must contain all information required in FPM Supplement 351-1, Appendix B, paragraph B-4. Requests meeting OPM criteria will be forwarded by HQ DLA through DoD to OPM for consideration.

2. Discontinued Service Retirement

a. Employees involuntarily separated or facing separation for no fault of their own (not on charges of misconduct or delinquency) may be eligible for discontinued service retirement. "Involuntary separation" includes employees whose jobs have been abolished and have not received or declined a reasonable offer of another position (a position not lower than 2 grades or pay levels below his/her current position in the employee's same commuting area).

b. For further information on discontinued service retirement, see FPM Supplement 831-1, Retirement, S11.

H. Appeals

1. Employees not subject to a negotiated grievance procedure have a

right to appeal to the Merit Systems Protection Board (MSPB) when they have been:

- a. Separated or demoted in RIF.
- b. Furloughed for more than 30 days (or more than 22 workdays (Employees furloughed for 30 days or less (or 22 workdays or less) may also appeal to the MSPB, though under authority of 5 CFR 752.)
- c. Separated for declining to accept a transfer of function.
- d. Released from their competitive level ahead of a lower standing employee (an out-of-order retention). This appeal pertains particularly to a review of the reasons management has for the exception to the normal order of release.

2. Employees in a bargaining unit covered by a negotiated grievance procedure that does not exclude RIF and furlough of more than 30 days (or more than 22 workdays), must use the negotiated procedure.

3. A RIF or appealable furlough may be appealed to the MSPB anytime during the period that begins with the day after the effective date of the action and ends not later than 20 days after the effective date. When a decision notice is issued to an employee concerning an appealable matter, the notice must:

- a. Explain the time limits within which an appeal may be made and provide the address of the appropriate MSPB office for filing an appeal.
- b. Provide a copy of the MSPB's regulations as found in 5 CFR 1201, and a copy of the MSPB appeal form.
- c. Notify bargaining unit employees of their appropriate grievance rights.

I. Keeping Employees Informed

1. The provisions of negotiated labor agreements concerning advance notification of an impending RIF, furlough, or transfer of function must be adhered to once a management decision has been made (and approved by HQ DLA where necessary) to take such an action. Unions must also be given the opportunity to bargain as is appropriate on the impact and implementation of the action.

2. Once a decision has been made to conduct a RIF, furlough, or transfer of function, the employees likely to be affected should be fully informed. This should be done as early as is practical. The information should include an explanation of why the action is necessary and general information on how the action will be carried out.

J. Disclosure of Retention Records. Retention registers and records must be shown to employees who have received a RIF or notice of furlough for more than 30 days (or more than 22 workdays). Disclosure of records will be upon request and includes employees' designated representatives. Before exhibiting such records, OCP must remove from view the personal information about other employees such as date of birth and social security number. Employees are also entitled to see descriptions of competitive areas and levels, and the dates these were established or changed.

K. Records

1. Retention registers for each competitive level are produced from the civilian personnel data bank. They contain the minimum information necessary to establish standing for each employee such as name, position title, series, grade, organization, tenure group and subgroup, service computation date, and additional service credit for each of the last three annual performance ratings of record. Other useful information such as expiration date of mandatory retention after return from military duty, date of expected conversion to career, etc., can be added. Personal data should not be made a part of retention registers except as necessary to clearly identify employees.

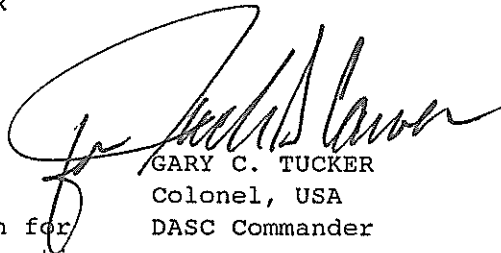
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2. All records, registers, and worksheets sufficient to depict the conduct of a RIF or furlough of more than 30 days (or more than 22 workdays) will be maintained by a PLFA in accordance with DLAM 5015.1, Files Maintenance and Disposition.

BY ORDER OF THE DIRECTOR



GARY C. TUCKER
Colonel, USA
DASC Commander

5 Encl

1. Definitions
2. Sample Action Plan for a Transfer of Function
3. Reduction-in-Force Authority Request/ Notification Data Elements
4. Furlough Authority Request - Data Elements
5. ***Guidelines for the Establishment of Competitive Levels***

COORDINATION: CAHC, FO, CAAG, CAIL

This DLAR supersedes DLAR 1410.1, 9 Mar 93.

DEFINITIONS

I. Base Support Functions. Functions that are not integral parts of the primary mission carried on at a PLFA, but contribute to its support. Usually, these involve maintenance of buildings and grounds (custodial and protective work) and administrative support office functions (such as comptroller, organizational planning, or personnel).

II. Best Offer. An offer of a continuing position with either no reduction in grade or pay, or with the least possible reduction in consideration of positions available, or the qualifications and retention standing of other competing employees.

III. Bumping Right. The right of an employee who is reached for release from his/her competitive level to be assigned to a position occupied by another employee in a lower group or subgroup.

IV. Competing Employee. An employee in tenure group I, II, or III who is involved in a RIF. This definition does not include temporary employees, employees within 1-year after restoration to duty following military service, or employees in receipt of a written decision of separation based on Unacceptable performance.

V. Competitive Area. The boundaries of competition defined either organizationally or geographically, or both, within which employees compete for retention during RIF.

VI. Competitive Level. All positions within a competitive area which are in the same grade and classification series and which are similar enough in

duties, qualifications, pay schedules, and working conditions so that the occupant of one position could successfully perform the critical elements of any other position upon entering it without a loss of productivity beyond that normally expected in the orientation of any new, fully qualified employee.

VII. Continuing Position. Any position that will last at least 3 months after an employee enters it.



VIII. Days. Calendar days.

IX. Displacement. This occurs in one's own competitive level when a higher standing employee whose job has been abolished is assigned to the position of a lower standing employee. That lower standing employee is "displaced"; reached for release from his/her competitive level.

X. Fully Qualified. Meeting all OPM qualification requirements for a position, including any minimum education requirement, physical requirement (with reasonable accommodation), and being able to perform the duties and requirements of the position without undue interruption.

XI. Function. All, or a clearly identifiable segment, of an activity's mission (including all the integral parts of that mission), regardless of the manner in which it is performed.

XII. Furlough. A temporary status not to exceed 1 year without duties or pay because of lack of work or funds, or other nondisciplinary reasons such as sudden emergencies requiring the immediate curtailment of work.

XIII. Commuting Area. The geographic area that usually constitutes one area for employment purposes. It is a population center (or two or more neighboring ones) and the surrounding localities in which people can reasonably be expected to travel back and forth from home to work each day.

XIV. Preference Eligible. A person who was separated with an honorable discharge, or under honorable conditions, from active duty in the U.S. Armed Forces which was performed in a war, served in a campaign or expedition for which a campaign badge had been authorized, or served between 28 April 1952 and 1 July 1955, or more than 180 consecutive days, other than for training, between 1 February 1955 and 14 October 1976. Under certain conditions, the spouse and/or mother of a qualified veteran may be a preference eligible. A retired member of a uniformed Service is considered a preference eligible only if he/she meets the conditions of 5 CFR 351.501(d). See FPM chapter 211, Veterans' Preference.

XV. Primary Level Field Activity (PLFA). A separate organization operating as a complete and independent unit under the administration of an official assigned as Commander (or Head) who is accountable directly to the Director, DLA. For purposes of this DLAR, it includes Defense Contract Management Districts.

XVI. Representative Rates. The fourth step of the grade for a position in the General Schedule, the prevailing rate for a position under the wage grade or similar schedule, and for other positions it is the rate designated by DLA as representative of the position.

XVII. Retention Register. A list of employees in retention standing order by tenure group and subgroup in each competitive level.

XVIII. Retention Standing. The relative position each competing employee has with regard to each other competing employee in terms of tenure, veterans preference, and years of creditable Federal service augmented by credit for the last three performance ratings of record.

XIX. Retreat Rights. The right of an employee to be assigned to a position held by another employee with less creditable service in the same tenure subgroup when that position is the same as, or essentially identical to, one previously held by the retreating employee.

XX. Transfer of Function. The transfer of a continuing function from one competitive area and its addition to one or more other competitive areas, or the movement of the competitive area in which the function is performed to another commuting area. A transfer of function occurs when a wholly new competitive area is established and one or more functions are placed there. However, a transfer of function does not apply when the function to be transferred is virtually identical to a function already being performed in the gaining competitive area(s).

XXI. Service Computation Date. The constructed date that reflects an employee's total creditable Federal service. For RIF purposes, this is augmented by additional service credit for the last three performance ratings of record. The length of active military service is creditable only when the employee meets the requirements for being a "preference eligible" for RIF purposes.

XXII. Undue Interruption. This occurs to an organization or job when a potential incumbent does not possess the special skills, or work process or procedures knowledge necessary to completely perform the duties and responsibilities of the job without delaying or impeding efficient and effective work accomplishment. A lack of skills or abilities that can be quickly acquired after entry into the job does not constitute undue interruption.

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SAMPLE ACTION PLAN FOR A TRANSFER OF FUNCTION

<u>ACTION</u>	<u>OPI*</u>	<u>START DATE**</u>	<u>COMPLETE</u>
Establish Personnel Task Group	1&2	M-140	M-135
Establish Methods for Details	2	M-135	M-130
Develop Employee General Announcement	1&2	M-135	M-130
Develop Employee Questionnaire	1&2	M-135	M-130
Develop Orientation Material	1&2	M-135	M-130
Arrange for ID Cards and Parking	2	M-130	M-125

Schedule Use of Restaurant Facility	2	M-130	M-125
Develop Car Pool & Public Transportation Plans	2	M-130	M-125
Establish Orientation Schedule	1&2	M-130	M-125
Develop Housing Assistance Plan	2	M-130	M-125
Establish Sponsor Plan	2	M-130	M-125
Review Career Management Programs	2	M-130	M-125
Establish On-The-Job Formal Training Program	2	M-130	M-125
Execute Plan for Liaison with OPM	2	M-130	M-125
Establish Task Group to Assist Employees in Preparing Standard Form 171	1	M-130	M-110
Arrange for Other Federal Activities to Interview Employees, Coordinate Placement Requirement with State and Other Employment Agencies and Otherwise Aid Employees in Being Placed	1	M-130	M
Obtain Organization/Functional Structure; Manning Authority; and Civilian/Military Staffing	2	M-120	M-115
Develop Position Descriptions; Obtain GS-14/15 Approval; and Finalize all Classification Actions	2	M-115	M-95
Identify Personnel with Functions; Integrate Retention Registers, Determine Employee Transfer Rights, and Develop Transfer of Function/Geographic Relocation Information	1&2	M-95	M-90
Determine Organization, Civilian Personnel Administration and Support Requirements, Develop Prototype Transfer of Function Letter, and plan Recruitment of Vacant Positions	2	M-95	M-90
Issue Job Offers	2	M-90	M-75
Initiate Proposal to Separate Letters and Evaluate Replies	2	M-75	M-70
Issue Separation Decision Letters	2	M-70	M-65
Commence Recruitment for Vacant Positions	2	M-60	M
Issue Travel Orders	2	M-65	M-60
Personnel Enter on Duty	2	M-15	M

Transfer Personnel Records	2	M-15	M+5
Complete Personnel Journals	1&2	M	M+15

**M-Transfer Date
 *1-Losing Activity
 *2-Gaining Activity

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REQUEST FOR AUTHORITY TO CONDUCT REDUCTION IN FORCE

	Organization & Geographic Location(s)	Workload considerations requiring RIF	Skills Balancing	Total
No. of notices [1] to be issued:				
No. of voluntary separations expected:				
No. of involuntary separations expected:				
PCS Costs (\$000):				
Severance pay by fiscal period (\$000):				
Overtime & adminis- trative costs for RIF (\$000):				
Estimated cost of unemployment compen- sation:				

Additional requirements:

- (1) Reasons for the RIF.
- (2) Estimated effect on local economy.
- (3) Outline any special Congressional interest anticipated.
- (4) Congressional members to be notified.
- (5) ***Draft Congressional notification letter.***
- (6) Any draft press announcement.

NOTE: A completed copy of this form must accompany each advance request for authority to conduct, or notification of, a RIF.
A close approximation of numbers and costs is acceptable.
A courtesy copy of this request shall be provided to **CAHS**.

[1] Estimate the total number of persons to be affected both in "round 1"

and competitive level code are identical for the two employees, the structure of the retention register report makes it clear that the employees are in fact assigned to different competitive levels.

III. A consideration in placing positions in the same competitive level concerns whether the agency may readily assign an employee in one position to any of the other positions in the competitive level without unduly interrupting the agency's work program. In some circumstances, the position sensitivity designation of a position may require that it be placed in a separate competitive level from other similar positions, based on the undue interruption that would result from placing an employee lacking the necessary personnel security investigation into the position.

A. FPM Supplement 351-1, S2-1v, indicates that "A work program probably would be unduly interrupted if an employee needed more than 90 days after the RIF to successfully perform the critical elements of a position. Assignments to lower priority programs or vacant positions might tolerate a longer interruption." In some situations, the time required for completion of a personnel security investigation may constitute an undue interruption.

B. Differing position sensitivity designations should not be taken as an automatic basis for separate competitive levels. Instead, each case must be individually assessed, including consideration of: (1) the significance of the duty requiring the higher sensitivity level (i.e., the percentage of time it requires, whether it is a critical element or function of the position); and (2) the feasibility of assigning the work requiring a higher sensitivity level to other positions.

IV. Previous DLA guidance in Supplemental Classification Guideline 114-89 indicated that positions in various series could be combined in a single competitive level. However, 5 CFR 351.403 and FPM Supplement 351-1 now require that positions in different series be placed in separate competitive levels.

V. Servicing OCPs will maintain a competitive level file that, as a minimum, reflects the PD numbers that have been assigned to each competitive level code; the means for maintaining this documentation is at the discretion of the OCP. In cases involving a borderline determination on the inclusion or exclusion of a particular position description, the OCP may elect to incorporate the decision rationale into the competitive level file. While a written rationale is not required, the OCP must ensure that the rationale will be readily available to respond to questions that may arise during a RIF.