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U.S. OFFICE OF PERSONNEL MANAGEMENT
WORKFORCE RESTRUCTURING OFFICE
RESTRUCTURING INFORMATION HANDBOOK

MODULE 4, TRANSFER OF FUNCTION (September 1998 version)

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MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 2.
TRANSFER OF FUNCTION DEFINITIONS

2. DEFINITION OF FUNCTION (reference 4-A-2-2). The Merit Systems Protection Board in the decision of CERTAIN FORMER COMMUNITY SERVICES ADMINISTRATION EMPLOYEES v. DEPARTMENT OF HEALTH AND HUMAN SERVICES, 21 M.S.P.R. at 383 (1984), stated that:

" (A) function has to be a clearly identifiable activity of an agency's mission which consists of substantial authorities, powers, and duties authorized by law which combine to form a segment of the agency's mission. In addition, there must be either a quantitative or qualitative method of identifying the activity as a function. This is necessary to ensure traceability when the function is transferred from one entity to another."

o For additional information on the definition of "function" going back to 1939 as it is used under the transfer of function regulations, another reference is MCNAMARA v. DICK, 323 F.2d 276 (D.C. Cir., 1963), Cert denied 84 S.Ct. 171.

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 3.
APPLICABILITY OF THE TRANSFER OF FUNCTION REGULATIONS

1. THE TWO SITUATIONS WHEN THE TRANSFER OF FUNCTION REGULATIONS
APPLY (reference 4-A-3-1).

(a) (Reference 4-A-3-1-(a)). The transfer of function regulations are not applicable when the gaining competitive area is carrying out the same class of activity.

o In 1984 the Merit Systems Protection Board found that an employee has no right to transfer with a function when the gaining competitive area is performing the SAME CLASS OF ACTIVITY as the losing competitive area.

o Reference appeals decisions--The Board held in KENTNER v. NATIONAL TRANSPORTATION SAFETY BOARD, 20 M.S.P.R. 595 (1984), and in NEILSON v. FEDERAL HIGHWAY ADMINISTRATION, 21 M.S.P.R. 178 (1984), that when a function is transferred to another competitive area, a transfer of function occurs only when the gaining competitive area undertakes a class of activity it did not have before.

o The term "SAME CLASS OF ACTIVITY" is not defined in OPM's transfer of function regulations, but instead was stated by the Board in the KENTNER and NEILSON decisions referenced above, citing CHILDRESS v. UNITED STATES, 222 Ct.Cl. 557 (1980).

o In BLEVINS v. TENNESSEE VALLEY AUTHORITY, 46 M.S.P.R. 239 (1990), the Board found that no transfer of function took place when, after a merger of function from one competitive area to a different competitive area, the gaining competitive area had a function that did not change, but instead expanded in scope with the class of activity remaining the same.

o For additional references, see WHITEHURST v. TENNESSEE VALLEY AUTHORITY, 43 M.S.P.R. 486 (1990); and MULLEN v. NAVY, 76 M.S.P.R. 590 (1997).

o EXAMPLES OF TRANSFER OF FUNCTION WHEN AN AGENCY MOVES A FUNCTION FROM ONE OR MORE COMPETITIVE AREAS TO ONE OR MORE DIFFERENT COMPETITIVE AREAS:

Example 1: Region A has responsibility for agency evaluations in six New England states while Region B in a different competitive area has responsibility for agency evaluations in five Mid-Atlantic states. After Region A is abolished, Region B has responsibility for agency evaluations in all eleven states. No transfer of function takes place in this situation because Region B was carrying out the same class of activity as Region A (i.e., agency evaluations). The fact that they were servicing different states has no bearing on whether a transfer of function occurred.

Example 2: Agency X has responsibility for investigative functions; Agency Y has no comparable function. An Executive order transfers the investigative functions from Agency X to Agency Y. A transfer of function takes place because a continuing function was moved from one competitive area to another area where no identical function was being performed. The same provisions apply in the transfer of a function from one agency to another as in the transfer of a function from one competitive area to another in the same agency.

EXAMPLE 3: Organizations A, B, and C are defined as separate competitive areas. Each has responsibility for contract administration. As part of a consolidation, Organization A is renamed Organization Z. At the same time, the contract administration responsibilities of Organizations B and C are moved to the renamed Organization Z. No transfer of function takes place because Organizations B and C performed the same class of activity as Organization Z. Organization Z is simply the successor to Organization A.

(b) (Reference 4-A-3-1-(b)). A transfer of function takes place when an agency moves a competitive area, and the entire function (or functions), to a different local commuting area and no other organization change takes place.

o This situation also meets the definition of "CHANGE OF DUTY STATION" found in 4-A-2-6-(a).

o EXAMPLES OF TRANSFER OF FUNCTION WHEN AN AGENCY MOVES A COMPETITIVE AREA FROM ONE LOCAL COMMUTING AREA TO A DIFFERENT LOCAL COMMUTING AREAS AND NO OTHER ORGANIZATIONAL CHANGE TAKES PLACE:

Example 1: A health care installation located in Cleveland, Ohio, is defined as a single competitive area. The entire health care facility ceases its operations in Cleveland and moves to Milwaukee, Wisconsin, where it is again defined as a single competitive area and where the agency has no other facilities in the local commuting area. A transfer of function takes place because the competitive area is moved to a different local commuting area.

Example 2: An agency moves a district office, which is defined as a complete competitive area, from San Antonio, Texas, to Dallas, Texas, where it is merged with an existing competitive area at that location where the same class of activity is performed. No transfer of function takes place even though the entire competitive area moved to a different local commuting area. In the new competitive area, the function was placed in an existing competitive area that performed the same class of activity at the time of transfer.

3. IN A TRANSFER OF FUNCTION A FUNCTION MUST CONTINUE IN AN IDENTIFIABLE FORM.

(Reference 4-A-3-3-(a)) In a transfer of function, the function must cease in the losing competitive area at the time of transfer. (5 CFR 351.301(b))

o For additional information, reference WHITEHURST v. TENNESSEE VALLEY AUTHORITY, 43 M.S.P.R. 486 (1990).

4. THE MOVEMENT OF A FUNCTION WITHIN A COMPETITIVE AREA IS NOT A TRANSFER OF FUNCTION (reference 4-A-3-4). The transfer or movement of a function within a competitive area is a reorganization, not a transfer of function.

o For additional information, reference PRINCE v. TRANSPORTATION, 11 M.S.P.R. 584 (1982); and FIELDS v. TREASURY, 15 M.S.P.R. 403 (1983).

6. A TRANSFER OF FUNCTION MAY BE INTRA- OR INTERAGENCY (reference 4-A-3-6). OPM's transfer of function regulations found in Subpart 5 CFR 351-C are applicable without regard to whether a transfer is intra- or interagency. (5 CFR 351.301(a))

For additional information, reference AINSWORTH v. UNITED STATES, 399 F.2d 176 (1968), 185 Ct. Cl. 110 (1968), covering the applicability of the transfer of function regulations on the same intra- or interagency basis; CERTAIN FORMER COMMUNITY SERVICES ADMINISTRATION EMPLOYEES v. HEALTH AND HUMAN SERVICES, 21 M.S.P.R. 379 (1984), 762 F.2D 978 (Fed. Cir., 1985), covering the interagency applicability of the transfer of function regulations; and BITER v. INTERSTATE COMMERCE COMMISSION, 76 M.S.P.R. 82 (1997), covering the interagency applicability of the transfer of function regulations.

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 4.
DETERMINING WHETHER THE TRANSFER OF FUNCTION REGULATIONS ARE
APPLICABLE.

3. BASIS FOR TRANSFER OF FUNCTION DECISIONS (reference 4-A-4-2).
An agency's organizational manuals and internal delegations of
authority serve as the reference point for the agency's transfer
of function decisions.

o Reference: In CERTAIN FORMER COMMUNITY SERVICES ADMINISTRATION
EMPLOYEES v. HEALTH AND HUMAN SERVICES, 21 M.S.P.R. at 383
(1984), the Merit Systems Protection Board stated:

"Therefore, it is the functional activities that are described in
an agency's enabling legislation, organizational manuals, and
delegations of authority that are clearly of most significance in
determining whether a function has been transferred. Such
documents describe the general activities that form the nucleus
of the agency missions from which all other activities stem."

The Board added:

"Once the functions of any two entities are isolated in this
fashion, the function of the first entity can be traced to
determine whether the function has been transferred or otherwise
disposed of, as envisioned by the transfer of function
regulations."

Finally, the Board noted that:

"While the enabling legislation is of some value, the performance
of a particular activity is of far more relevance."

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 5.
APPLICATION OF THE TRANSFER OF FUNCTION REGULATIONS IN ANY
SITUATION

1. THE SAME TRANSFER OF FUNCTION PROVISIONS COVER ALL MOVEMENT
OF WORK FROM ONE COMPETITIVE AREA TO ANOTHER (reference 4-A-5-1).

The same transfer of function principles covered in Section 4-A-3
apply to the movement of work in any potential transfer of
function situation.

(a)(1) (reference 4-A-5-1-(a)-(1)). SITUATION: THE TRANSFER OF A
FUNCTION THAT SUPPORTS A DIFFERENT TRANSFERRING FUNCTION.

- o A support employee with an official position of record in a
transferring line function is identified with the line function.
- o A support employee with an official position of record in a
separate function that supports the transferring line function is
identified with the support function.
- o Once the losing competitive area determines which function the
support employee's official position of record is identified
with, the usual transfer of function provisions apply in
determining which support positions and employees, if any, have
the right to transfer with the function.

Example 1: Twelve employees hold positions in Agency A ranging
from WG-4 to WS-2. The employees are responsible for the
function of maintaining a building occupied by Agency B. As part
of a reorganization on October 1, 1998, Agency B moves its twelve
employees to another building.

The twelve maintenance employees have no right to move with
Agency B to the new building because their maintenance function
remains in Agency A; a building maintenance function does not
transfer to another competitive area if the functions performed
by the building's tenant move either to another competitive area,
or to a different location.

Example 2: Sixty civilian employees have responsibility for the
base support and service functions at Fort Cole, which houses a
purely military organization. On October 1, 1998, Fort Cole is
closed and the military organization formerly housed there is
moved to Fort Jones.

None of Fort Cole's civilian base support and service employees have the right to transfer to Fort Jones because they are identified with activities at Fort Cole rather than with the relocated military organization.

Example 3: A GS-4 clerk-typist holds a support position in Organization X's civil engineering function. In a transfer of function on October 1, 1998, the civil engineering activity moves from Organization X to Organization Y.

The clerk-typist is identified for transfer as part of the civil engineering function because his or her position is assigned to the transferring function, not to a separate clerical support function which services other activities along with the civil engineering function.

Example 4: A GS-12 personnel management specialist (PMS) works in an operating personnel office that is part of Area Office A. The personnel office also services Area Offices B and C, each of which is defined as a separate competitive area. On October 1, 1998, Area Office C moves to a different local commuting area and is subsequently serviced by another personnel office on a reimbursable arrangement. The operating personnel office where the GS-12 PMS works now only services Area Offices A and B. Because of the decreased responsibilities, the office is reorganized and the PMS is downgraded because of reorganization to a GS-11.

The PMS has no right to transfer to either Area Office C or its servicing personnel office; a position in a support function is not automatically identified for transfer because of a change in duties following the transfer of another function serviced by the support organization.

o For additional information on the application of transfer of function to support positions, reference ENOS v. MACY, 321 F.2d 747 (1963).

(a)(2) (reference 4-A-5-1-(a)-(2)). SITUATION: THE CONSOLIDATION OF A FUNCTION FROM MORE THAN ONE COMPETITIVE AREA INTO A SINGLE COMPETITIVE AREA.

o The gaining competitive area must determine whether it is performing the same class of activity as the transferring function on the effective date of the transfer.

o If a function transfers from one or more competitive areas and merges with an existing competitive area which is performing the same class of activity on the effective date of the transfer, no transfer of function takes place.

o If a function transfers from one or more competitive areas and merges into a new competitive area which is not performing the same class of activity on the effective date of the transfer, a transfer of function takes place.

o If a function transfers from one or more competitive areas and merges into a new competitive area on different dates, a transfer of function takes place if the gaining competitive area is not performing the same class of activity on the effective date of the transfer. If the transfer to the gaining competitive area is phased over time, the same principle applies (see 4-B-5-1-a-3 below for information on phased transfer).

Example 1: Area Offices A, B, and C are defined as separate competitive areas. Each Area Office has responsibility for the same functions, but for a different geographic area. On October 1, 1998, the three Area Offices are abolished and, on that date, their functions are merged into a newly-established Regional Service Center that is also a new competitive area.

A transfer of function takes place because the gaining competitive area is not carrying out the same class of activity for any of the transferring functions.

Example 2: Area Offices A, B, and C are defined as separate competitive areas. Each Area Office has responsibility for the same functions, but for a different geographic area. A Regional Operations Center has oversight responsibility for all of the functions performed by the three Area Offices, and also performs the functions for agencies located in the same local commuting area as the Service Center. On October 1, 1998, the Regional Operations Center is reorganized into a new Regional Service Center. Also on October 1, 1998, Area Offices A, B, and C are abolished and their functions are merged into the new Regional Service Center.

A transfer of function does not take place because the Regional Operations Center was not abolished, but instead the gaining competitive area (e.g., the Regional Service Center) is a successor organization that carries out the same class of activity as Area Offices A, B, and C for each of the transferring functions.

Example 3: Area Offices A, B, and C are defined as separate competitive areas. Each Area Office has responsibility for the same functions, but for a different geographic area. A Regional Operations Center has oversight responsibility for all of the functions performed the three Area Offices, and also performs the functions for agencies located in the same local commuting area as the Service Center. On October 1, 1998, the Regional Operations Center is abolished, and its work is moved to a new Regional Service Center in the agency's headquarters. The new Regional Service Center is part of an existing competitive area in the agency's headquarters. Also on October 1, 1998, Area Offices A, and B are abolished and their functions are merged into the new Regional Service Center in the agency's headquarters.

On October 1, 1998, the gaining competitive area is not carrying out any of the program functions performed by Area Offices A, B, and C; a transfer of function results for these functions because the gaining competitive area is not carrying out the same class of activity. However, on October 1, 1998, the gaining competitive area is carrying out each of the support functions (e.g., personnel, payroll, etc.) performed by Area Offices A, B, and C; no transfer of function results for these support functions because the gaining competitive area performs the same class of activity at the time of transfer.

(a) (3) (reference 4-A-5-1-(a)-(3)). SITUATION: THE FRAGMENTATION OF A FUNCTION FROM ONE COMPETITIVE AREA TO TWO OR MORE OTHER COMPETITIVE AREAS.

- o The losing competitive area must determine whether the work that is moving meets the definition of a function, or whether the work consists of job elements or tasks.

- o The losing competitive area must determine that the function ceases in the losing area at the time of transfer.

- o When a function transfers from one competitive area to another, the gaining competitive area must determine whether it is performing the same class of activity on the effective date of the transfer.

- o If the gaining competitive area is not performing the same class of activity on the effective date of the transfer, a transfer of function takes place.

o The gaining competitive area must determine whether the work that is moving meets the definition of a function, or whether the work simply consists of job elements or tasks that were part of a fragmented former function.

Example 1: The Bureau of Trees is comprised solely of its Headquarters component located in Washington, DC. On October 1, 1998, the Bureau is dispersing its Trees Identification function from the Headquarters to five new Local Control Offices (LCO). Each of the LCO organizations is defined as a separate competitive area. The LCO organizations can accommodate all of the employees presently working on the Trees Identification function at their present grade. However, the Headquarters retained all support functions (e.g., personnel, payroll, legal, automated systems) for the Agency of Maps. Because of the Bureau's changed mission, the Bureau of Trees needs fewer support employees in the Headquarters and is planning for a reduction in force on October 1, 1998.

A transfer of function takes place for employees working on the Trees Identification function because each of the five new gaining competitive areas in the LCO is not performing the same class of activity at the time of transfer. The Bureau retains the right to decide which Trees Identification function employee is transferred to any one of the five LCO competitive areas. Also, no transfer of function takes place for the support functions because the function does not cease in the losing competitive area at the time of transfer.

Example 2: The Bureau of Trees is comprised of its Headquarters component located in Washington, DC, and five Local Control Offices (LCO) that contain the Bureau's Trees Registration function and their own support functions. On October 1, 1998, the Bureau is dispersing its Trees Identification function from the Headquarters to the five Local Control Offices (LCO). Each of the LCO organizations is defined as a separate competitive area. After the Trees Identification function transfers, the five LCO organizations will need fewer employees than the Bureau presently has working on the Trees Registration function and the Trees Identification function. Also, the Headquarters is dispersing all support functions related to the Trees Identification function (e.g., personnel, payroll, legal, automated systems) to the five LCO organizations.

A transfer of function takes place for employees working on the Trees Identification function because each of the five new gaining competitive areas in the LCO is not performing the same class of activity at the time of transfer. The Bureau retains the right to decide which Trees Identification function employee is transferred to any one of the five LCO competitive areas. Employees identified with the Trees Identification function compete for positions under the reduction in force regulations in the five LCO organizations on equal terms with other employees who were working in the LCOs on the date of transfer (i.e., October 1, 1998). Also, no transfer of function takes place for the support functions because the gaining competitive area is performing the same class of activity at the time of transfer.

(a) (4) (reference 4-A-5-1-(a)-(4)). SITUATION: A PHASED TRANSFER OF FUNCTION IN WHICH PORTIONS OF THE FUNCTION TRANSFER TO A DIFFERENT COMPETITIVE AREA OVER A PERIOD OF TIME.

- o The losing competitive area must determine whether the work that is moving meets the definition of a function, or whether the work consists of job elements or tasks.

- o The losing competitive area must determine that the function ceases in the losing area at the time of transfer.

- o When a function transfers from one competitive area to another, the gaining competitive area must determine whether it is performing the same class of activity on the effective date of the transfer.

- o If the gaining competitive area is not performing the same class of activity on the effective date of the transfer, a transfer of function takes place.

Example 1: The Agency of Maps is comprised of its Headquarters component located in Washington, DC, and its National Processing Center (NPC) located in Reno, Nevada, which are defined as separate competitive areas. The NPC was established after the Headquarters. The NPC carries out the same class of activity as the Agency's Headquarters, although not on the same scope. Over a 5-year period beginning on October 1, 1998, the agency plans to transfer all of the Headquarters functions to the NPC, after which the Headquarters competitive area in Washington, DC, will be abolished.

No transfer of function takes place in the NPC because the gaining competitive area carries out the same class of activity for each of the transferring functions. When the NPC assumes the additional workload, the existing functions simply expand in scope.

Example 2: The Agency of Maps is comprised solely of its Headquarters component located in Washington, DC. Beginning October 1, 1998, the Agency established its National Processing Center (NPC) located in Reno, Nevada, which is defined as a separate competitive area from the Agency's Headquarters. The NPC duplicates the same program functions as the Headquarters. However, the Headquarters retained all support functions (e.g., personnel, payroll, legal, automated systems) for the Agency of Maps. Over a 5-year period beginning also beginning on October 1, 1998, the agency plans to transfer all of the Headquarters functions to the NPC, after which the Headquarters competitive area in Washington, DC, will be abolished. During this transition, all of the program functions will be gradually shifted to the NPC, and both the Headquarters and the NPC will share the support functions.

No transfer of function takes place in the NPC for the program functions because the gaining competitive area carries out the same class of activity for each of the transferring program functions. Also, no transfer of function takes place for the support functions because the function does not cease in the losing competitive area at the time of transfer.

Example 3: The Agency of Maps is comprised solely of its Headquarters component located in Washington, DC. Beginning October 1, 1998, the Agency established its National Processing Center (NPC) located in Reno, Nevada, which is defined as a separate competitive area from the Agency's Headquarters. The NPC duplicates the same program functions as the Headquarters. However, the Headquarters retained all support functions (e.g., personnel, payroll, legal, automated systems) for the Agency of Maps.

Over a 5-year period beginning on October 1, 1999, the agency plans to transfer all of the Headquarters functions to the NPC, after which the Headquarters competitive area in Washington, DC, will be abolished. During this transition, all of the program functions will be gradually shifted to the NPC. Concurrently, the Headquarters will retain responsibility for the support functions, but will also establish a duty station at the NPC to gradually begin the performance of the support functions. When the Headquarters competitive area is abolished, the support functions will be transferred to the NPC.

No transfer of function takes place in the NPC for the program functions because the gaining competitive area carries out the same class of activity for each of the transferring program functions. A transfer of function takes place for the support functions because the gaining competitive area is not carrying out the same class of activity at the time of transfer.

(a) (5) (reference 4-A-5-1-(a)-(5)). SITUATION: A PHASED TRANSFER OF FUNCTION IN WHICH EMPLOYEES PERFORMING THE TRANSFERRING FUNCTION MOVE TO A DIFFERENT DUTY SITE OVER A PERIOD OF TIME.

- o The gaining competitive area must determine whether it is performing the same class of activity as the transferring function on the effective date of the transfer.
- o When a function transfers from one competitive area to another, the gaining competitive area must determine whether it is performing the same class of activity on the effective date of the transfer.
- o If the gaining competitive area is not performing the same class of activity on the effective date of the transfer, a transfer of function takes place.
- o If the losing competitive area organizationally transfers the entire function to the gaining competitive area on one date, but the gaining competitive decides to phase the physical relocation of some employees until a later date, the gaining competitive area may establish a duty station at the losing competitive area.

The procedure to later transfer employees from the former losing competitive area is no longer a transfer of function because the employees were previously organizationally transferred with their function.

o If the losing competitive area organizationally transfers part of the function to the gaining competitive area, but both the losing and the gaining competitive areas share responsibility for the function, no transfer of function takes place because the function did not cease in the losing competitive area at the time of transfer.

Example 1: Area Offices A, B, and C are defined as separate competitive areas. Each Area Office has responsibility for the same functions, but for a different geographic area. On October 1, 1998, the three Area Offices are abolished and, on that date, their functions are merged into a newly-established Regional Service Center that is also a new competitive area. The new Regional Service Center will be fully operational on October 1, 1998, but the consolidated operation will require fewer employees than the number of employees who presently work on the functions in the three Area Offices.

A transfer of function takes place because the gaining competitive area is not carrying out the same class of activity for any of the transferring functions. All of the employees in Area Offices A, B, and C who wish to transfer with the function have the right to compete under the reduction in force regulations for positions in the gaining competitive area. The new Regional Service Center plans to conduct the reduction in force on October 1, 1998, the effective date of the transfer of function.

Example 2: Area Offices A, B, and C are defined as separate competitive areas. Each Area Office has responsibility for the same functions, but for a different geographic area. On October 1, 1998, the three Area Offices are abolished and their functions are merged into a newly-established Regional Service Center that is also a new competitive area. The new Regional Service Center will be partially fully operational on October 1, 1998, when it will actually begin performing the functions of Area Office A.

Also on October 1, 1998, the agency plans to transfer the functions of Area Offices B and C to the new Regional Service Center. On October 2, 1998, the agency will establish duty stations at the sites of former Area Offices B and C because at the time of organizational transfer of the functions the consolidated operation will not be able to physically accommodate all of the employees who presently work on the functions in the three Area Offices.

The agency plans to abolish the duty stations of the former Area Offices B and C on October 1, 1999, (i.e., the following year), and at that time to move as many of these employees as are needed to perform the work to the site of the new Regional Service Center.

A transfer of function takes place because the gaining competitive area (e.g, the new Regional Service Center) is not carrying out the same class of activity for any of the transferring functions on October 1, 1998. The agency conducts a transfer of function on paper that transfer the functions for Area Offices A, B, and C to the new Regional Service Center. However, before the initial October 1, 1998, transfer of function, the losing competitive area issues canvass letters only to employees of Area Office A, who are faced with a physical move at the same time that the function transfer to the new Regional Service Center.

The employees of Area Offices B and C transferred on paper with their function to the new Regional Service Center on October 1, 1998. However, before the paper transfer of function, the losing competitive area did not canvass the employees concerning whether or not they wanted to transfer with their function because the employees would not be faced with a physical move until the following year (i.e., October 1, 1999). When the employees of Area Offices B and C are faced with a physical move or other action because of the abolishment of their two duty stations, the transfer of function provisions would not apply because the transfer of function took place on the prior October 1 (i.e., October 1, 1998).

Example 3: Area Offices A, B, and C are defined as separate competitive areas. Each Area Office has responsibility for the same functions, but for a different geographic area. On October 1, 1998, the agency abolishes Area Office A and transfers its functions into a newly-established Regional Service Center that is also a new competitive area. The movement of work from former Area Office A to the new Regional Service Center is a transfer of function because the gaining competitive area is not carrying out the same class of activity at the time of transfer.

The agency plans to abolish Area Offices B and C on October 1 of the following year (i.e., October 1, 1999), and at that time to move as many of these employees as are needed to perform the work to the site of the new Regional Service Center. No transfer of function takes place for Area Offices B and C because the gaining competitive area (e.g, the new Regional Service Center) is carrying out the same class of activity for each of the transferring functions at the time of transfer.

(a) (6) (reference 4-A-5-1-(a)-(6)). SITUATION: THE CLOSURE OF AN ACTIVITY UNDER THE JURISDICTION OF ONE AGENCY (OR SUBAGENCY), WITH A DIFFERENT AGENCY OR SUBAGENCY ASSUMING RESPONSIBILITY FOR A SUCCESSOR ACTIVITY AT THE SAME DUTY SITE.

- o The losing competitive area must determine whether the work that is moving meets the definition of a function, or whether the work consists of job elements or tasks.

- o The losing competitive area must determine that the function ceases in the losing area at the time of transfer.

- o When a function transfers from one competitive area to another, the gaining competitive area must determine whether it is performing the same class of activity on the effective date of the transfer.

- o If the gaining competitive area is not performing the same class of activity on the effective date of the transfer, a transfer of function takes place.

Example 1: The Wilco Air Force Base closes on September 30, 1998, when all Air Force functions at Wilco AFB must cease. Before closure, Air Force is solely responsible for support functions at Wilco such as grounds maintenance and firefighting. At Wilco AFB, the Department of the Navy has a tenant organization from Navy's David Naval Air Station, which is located in the same local commuting area as Wilco AFB and is defined as a separate competitive area from Wilco AFB. On October 1, 1998, the David NAS expands its operations on the site of the former Wilco AFB, and also begins certain support function such as grounds maintenance and firefighting that were formerly performed by the Wilco AFB.

No transfer of function takes place because under the conditions for closure, all Air Force functions ceased at Wilco AFB on September 30, 1998. On October 1, 1998, David NAS expanded its existing competitive area located at Wilco AFB to begin performing functions related to its mission, including grounds maintenance and firefighting.

Example 2: The MacDow Army Depot closes on September 30, 1998, when all Army Depot functions at MacDow must cease. On the same date, certain of MacDow's depot functions transfer to Fort Barrel, another Army activity that is a different competitive area. Because of additional work resulting from the movement of MacDow's functions, Fort Barrel area finds that it must hire additional maintenance employees to deal with its increased workload and the number of employees that require services.

No transfer of function takes place for Fort MacDow's civilian base support and service employees, who are identified with activities at Fort MacDow rather than with the transferred depot functions. In any case, the gaining competitive area (i.e., Fort Barrel) is performing the same class of activity as Fort MacDow with the civilian base support and depot functions.

(a)(7) (reference 4-A-5-1-(a)-(7)). SITUATION: THE TRANSFER OF ONE OF SEVERAL FUNCTIONS PERFORMED BY MANAGER OR SUPERVISOR

- o A manager or supervisor with an official position of record in a single transferring line function is identified with the line function.

- o A manager or supervisor with an official position of record in more than one function is identified in the same manner as covered in 4-B-5-1-(a)-(1) above for a support employee with an official position that covers the performance of more than one transferring function.

- o Once the losing competitive area determines which function the manager or supervisor's official position of record is identified with, the usual transfer of function provisions apply in determining which managerial and supervisory positions and employees, if any, have the right to transfer with the function.

Example 1: The Rail Regulatory Agency (RRA) is consolidating its five regional offices into its Washington, DC, headquarters effective October 1, 1998. The five regional offices perform three line functions which are not performed in headquarters at the time of transfer: the dining car inspection function, the overhead signal safety function, and the track ballast packing function. Only the dining car inspection function will be performed in the headquarters because the agency is contracting out performance of both the overhead signal safety function and the track ballast packing function.

RRA has five GS-15 regional directors who perform supervisory work on all three line functions. After the consolidation from the five regions, RRA plans to supervise the dining car inspection function with a single GS-15 position.

Because the gaining competitive area at headquarters is not performing the dining car inspection function when the function is transferred October 1, 1998, all of the five regional directors could potentially claim a right to transfer with the function. In determining which regional directors would have transfer of function rights, the agency uses the transfer of function identification procedures covered in Sections 4-A-6 through 4-A-8.

(a) (8) (reference 4-A-5-1-(a)-(8)). SITUATION: OTHER SITUATIONS. The movement of work from one or more competitive areas to one or more other competitive areas may involve several of the situations covered in paragraphs 4-B-5-1-(a)-(1) through 4-B-5-1-(a)-(6) above, or even other situations.

- o As noted in paragraphs 4-A-5-1-(a) and 4-B-5-1-(b) above, the same transfer of function principles covered in Section 4-A-3 apply to the movement of work in any potential transfer of function situation.

- o Regardless of the situation, each agency can determine whether the transfer of functions are applicable to a specific situation by:

- referring to the applicable competitive area definitions in the losing and in the gaining competitive areas;

- isolating the function as it appears in the mission statement of the losing competitive area;

-determining whether the function or the same class of activity is present in the gaining competitive area at the time of transfer; and

-determining whether the other conditions for transfer of function are met (e.g., the function must cease in the losing competitive area the time of function, the function is not transferred solely for liquidation, the function will continue to be performed by Federal employees after transfer, etc.).

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 6.
IDENTIFICATION OF EMPLOYEES AND POSITIONS WITH A TRANSFERRING
FUNCTION-GENERAL

5. USING THE POSITION DESCRIPTION TO IDENTIFY EMPLOYEES FOR TRANSFER (reference 4-A-6-5). The losing competitive area identifies each competing employee with a transferring function on the basis of the employee's official position description. (5 CFR 351.303(a))

o For additional information, reference CERTAIN FORMER COMMUNITY SERVICES ADMINISTRATION EMPLOYEES v. HEALTH AND HUMAN SERVICES, 21 M.S.P.R. 379 (1984), 762 F.2d 978 (Fed. Cir., 1985), which provides an overview of tracing the line of authority for identification of positions with a transferring function; HASLER v. AIR FORCE, 48 M.S.P.R. 207 (1991), 975 F. 2d 868 (Fed. Cir. Table, 1991), which covers Identification Method One; JACKSON v. TRANSPORTATION, 18 M.S.P.R. 626 (1984), and BITER v. INTERSTATE COMMERCE COMMISSION, 76 M.S.P.R. 82 (1997), which cover Identification Method Two; and RICH v. AGRICULTURE, 26 M.S.P.R. 228 (1985), which covers the identification of employees with a transferring function based on actual duties performed rather than position descriptions. (The 1985 RICH decision predates paragraph 5 CFR 351.303(a), which was added in 1995 to provide in regulation that agencies identify employees for transfer with a function based on the employees' official position descriptions).

6. SUPPLEMENTING THE POSITION DESCRIPTION TO IDENTIFY EMPLOYEES FOR TRANSFER (reference 4-A-6-6). In identifying employees for transfer on the basis of what percentage of time an employee performs a transferring function, the losing competitive area may supplement the official position description by the use of material such as official work reports, organizational time logs, and similarly appropriate items. (5 CFR 351.303(c)(3))

Example 1: This example expands the case study used in 4-A-5-1-(a)-(7), which explained that managers and supervisors working on multiple functions may have a potential right to transfer with a continuing function.

The Rail Regulatory Agency (RRA) is consolidating its five regional offices into its Washington, DC, headquarters effective October 1, 1998. The five regional offices perform three line functions which are not performed in headquarters at the time of transfer: the dining car inspection function, the overhead signal safety function, and the track ballast packing function. Only the dining car inspection function will be performed in the headquarters because the agency is contracting out performance of both the overhead signal safety function and the track ballast packing function.

The RRA has five GS-15 regional directors who perform supervisory work on all three line functions. The official position descriptions of the five GS-15 regional directors cover supervisory work on all three line functions. After the consolidation from the five regions, RRA plans to supervise the dining car inspection function with a single GS-15 position.

Because the gaining competitive area at headquarters is not performing the dining car inspection function when the function is transferred October 1, 1998, all of the five regional directors could potentially claim a right to transfer with the function. In determining which regional directors would have transfer of function rights, the agency uses the transfer of function identification procedures covered in Sections 4-A-6 through 4-A-8.

The RRA established a 1-year time frame from July 1, 1997, through June 30, 1998, to determine the amount of time the five regional directors spent on the transferring dining car inspection function.

The RRA found that two of the regional directors performed the function during at least half of their work time. Both of these two regional directors have the right to transfer with the function under Identification Method One (see Section 4-A-7 for additional information on Method One), and to compete in a reduction in force in the gaining competitive area before involuntary separation or downgrading from their GS-15 positions.

o For additional information on the use of supplemental information to identify employees with a transferring function, reference *BITER v. INTERSTATE COMMERCE COMMISSION*, 76 M.S.P.R. 82 (1997).

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 7.
IDENTIFICATION OF EMPLOYEES AND POSITIONS WITH A TRANSFERRING
FUNCTION-IDENTIFICATION METHOD ONE

1. IDENTIFICATION METHOD ONE (reference 4-A-7-1). Under Identification Method One, the losing competitive area identifies competing employees with a transferring function if:

(a) The employee performs the function at least 50% of work time; (5 CFR 351.303(c)(1)), or

(b) The function includes the employee's grade-controlling duties. (5 CFR 351.303(c)(1))

o For additional information on the application of Identification Method One, reference HASLER v. AIR FORCE, 48 M.S.P.R. 207 (1991), 975 F.2d 868 (Fed. Cir. Table, 1992).

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 8.
IDENTIFICATION OF EMPLOYEES AND POSITIONS WITH A TRANSFERRING
FUNCTION-IDENTIFICATION METHOD TWO

1. IDENTIFICATION METHOD TWO-GENERAL (reference 4-A-8-1). An agency uses Identification Method Two to identify competing employees with a transferring function when the employees work on the function, but Identification Method One is not applicable. (5 CFR 351.302(d))

o For additional information, reference BITER v. INTERSTATE COMMERCE COMMISSION, 76 M.S.P.R. 82 (1997).

3. IDENTIFICATION METHOD TWO-DEVELOPING RETENTION REGISTERS (reference 4-A-8-3). Under Identification Method Two, the retention registers include the names of only competing employees who perform the function and are not covered by Identification Method One. (5 CFR 351.302(d))

o For additional information, reference JACKSON v. TRANSPORTATION, 18 M.S.P.R. 626 (1984).

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 9.
IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-EMPLOYEES OF
THE LOSING COMPETITIVE AREA.

1. RIGHT OF AN EMPLOYEE TO TRANSFER WITH THE FUNCTION (reference 4-A-9-1). A competing employee who is identified for transfer with a function under Subpart 5 CFR-C has the right to transfer to the gaining competitive area if the alternative is separation or downgrading by reduction in force in the losing competitive area. (5 CFR 351.302(c))

o The losing competitive area has the right to transfer to the gaining competitive area any employee properly identified for transfer with the function; for additional information, reference DEMORET v. CONSUMER PRODUCT SAFETY COMMISSION, 24 M.S.P.R. 466 (1984).

2. SEPARATION OF AN EMPLOYEE WHO REFUSES TO TRANSFER WITH THE FUNCTION (reference 4-A-9-2). The losing competitive area may use adverse action procedures to separate an employee who declines to transfer with the function. (5 CFR 351.302(d))

o For additional information, reference ALVAREZ v. VA, 12 M.S.P.R. 548 (1982); MCLEAN v. ARMY, 55 M.S.P.R. 414 (1992), 988 F.2d 129 (Fed. Cir. Table, 1992); and DI SERA v. ARMY, 71 M.S.P.R. 120 (1996).

(a) In order to avoid or minimize involuntary separations, OPM encourages each agency conducting a transfer of function to undertake a positive outplacement program to assist employees faced with separation because the employee:

(1) Chose not to transfer with the function to a different local commuting area;

(2) Did not receive a reduction in force offer of a position in the gaining competitive area.

(b) These placement efforts may include:

(1) The Career Transition Assistance Plan (CTAP) authorized in Subpart 330-F of OPM's regulations.

(2) Specific placement efforts aimed to place the employee in present or future vacancies in either the losing local commuting area or at other worksites; and

(3) Job fairs to increase the chances of separated employees being hired by other Federal agencies or potential nongovernmental employers in the community.

o Agency outplacement activities are particularly important when a transfer of function will have a significant economic impact on the community.

(c) Agencies' initiatives in this situation have included:

(1) Helping to attract new businesses into the region;

(2) Planning with the community for the use of vacated property; and

(3) Working with other Federal agencies as well as local governmental organizations in dealing with the revised economic structure of the losing local commuting area where the function was formerly located.

3. USE OF REDUCTION IN FORCE PROCEDURES IN THE LOSING COMPETITIVE AREA (reference 4-A-9-3). The losing competitive area may not conduct a reduction in force for the purpose of providing retention benefits to employees who decline to transfer with their function to a different local commuting area. (5 CFR 351.302(e))

o At its option, the losing competitive area may include employees who decline to transfer with their function as part of a concurrent reduction in force conducted for other reasons; for additional information, reference COLBATH v. UNITED STATES, 341 F.2d 626 (1965), 169 CT. CL. 414 (1965); SMITH v. COMMERCE, 19 M.S.P.R. 589 (1984); and KIMSEY v. INTERIOR, 24 M.S.P.R. 528 (1984).

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 10.
IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-EMPLOYEES OF THE
GAINING COMPETITIVE AREA

3. RIGHTS OF TRANSFERRED EMPLOYEES IN THE GAINING COMPETITIVE AREA (reference 4-A-10-3). A competing employee identified by the losing competitive area for transfer with a function under Subpart 5 CFR 351-C has a right to transfer to the gaining competitive area and compete for positions in a reduction in force in lieu of separation or downgrading by reduction in force in the losing competitive area.

o For additional information, reference CERTAIN FORMER COMMUNITY SERVICE ADMINISTRATION EMPLOYEES v. HEALTH AND HUMAN SERVICES, 21 M.S.P.R. 379 (1984), 762 F.2d 978 (Fed. Cir., 1985); DEMORET v. CONSUMER PRODUCT SAFETY COMMISSION, 24 M.S.P.R. 466 (1984); and CROSS v. TRANSPORTATION, 127 F.3d 1493 (1997).

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 11.
IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-TRANSFER OF
POSITIONS FOR LIQUIDATION.

2. THE TRANSFER OF A FUNCTION FOR TERMINATION IS NOT COVERED BY
THE TRANSFER OF FUNCTION REGULATIONS (reference 4-A-11-2). The
transfer of function regulations do not apply to the transfer of a
terminated function to a gaining competitive area for final
termination. (5 CFR 351.302(b))

o For additional information, reference DOWD v. ENERGY, 21
M.S.P.R. 312 (1984).

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 12.
IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-TRANSFER OF
FUNCTION CANVASS LETTERS.

1. PURPOSE OF A TRANSFER OF FUNCTION CANVASS LETTER (reference 4-A-12-1). The losing competitive area, at its option, may use a transfer of function canvass letter to ask each competing employee identified with the transferring function whether the employee will actually transfer with the function to the gaining competitive area at a different local commuting area.

- o For additional information on the purpose and use of a transfer of function canvass letter, reference DI SERA v. ARMY, 71 M.S.P.R. 120 (1996).

- o Example 1 is a sample transfer of function canvass letter involving one different local commuting area.

- o Example 2 is a sample transfer of function canvass letter involving more than one different local commuting area.

(a) Example 1, SAMPLE CANVASS LETTER - ONE DESTINATION
(LETTERHEAD)

MEMORANDUM FOR:

SUBJECT: Notice of Transfer of Function Right

1. The Bureau of Paper Management is consolidating the Forms Management Function in a transfer of existing functions from the present field locations into a new competitive area located in Washington, DC. The establishment of the new consolidated Forms Management Function will be effective on or about October 1, 1998.

2. The Forms Management Function is being transferred to the Consolidated Forms Management Division located in Washington, DC.

You have the right to transfer with your function to Washington, DC. You are encouraged to exercise your transfer of function right as it is the desire of the Bureau of Paper Management to retain the skills of our current employees to the extent possible. Please indicate whether or not you wish to exercise your transfer of function right using the enclosed form.

3. If you accept your transfer right, your Official Personnel Folder and retention information will be forwarded to the personnel office servicing the Consolidated Forms Management Division. Upon receipt of this information from all of our field components for employees with transfer of function rights, the gaining personnel office will consolidate the retention registers of all competing employees.

In some cases, the number of employees who have transfer of function rights to the new location in Washington, DC, may be greater than the number of positions available. In those cases, the Bureau of Paper Management will use reduction in force procedures under authority of 5 CFR Part 351 to determine employees' placement rights. If you accept your transfer right and receive a job offer outside your commuting area, transportation expenses for yourself and your dependents, and costs for moving your household goods will be paid by the Bureau of Paper Management under provisions of the Joint Travel Regulations, Volume II. The servicing personnel office in Washington, DC, will provide you with information regarding the new area to which you will be transferred.

4. You have 10 calendar days from the date of this letter to decide whether you will accompany your function in this transfer.

You should clearly understand that, if you decline to exercise your right to transfer with your function, you may be separated by the Bureau under adverse action procedures. Please indicate your decision on the enclosed form by checking one of the answers and signing your name. Failure to respond to this letter within 10 calendar days constitutes a declination of the offer to transfer with your function.

5. You are faced with an important decision and should consider all aspects of the transfer very carefully. Your supervisor and a personnel office representative will be available to answer any questions you may have concerning this transfer. They will provide advice and information about the transfer; however, the final decision must be yours.

6. Your service at this activity of the Bureau of Paper Management is greatly appreciated, and we encourage you to give careful consideration to pursuing your career by exercising your transfer right. If you decide not to transfer with your function or do not receive a job offer at the gaining installation, you will be counseled concerning your eligibility for placement assistance.

Encl

DIRECTOR OF PERSONNEL

ENCLOSURE

TO BUREAU OF PAPER MANAGEMENT PERSONNEL OFFICE

ATTN: _____

I understand my right to transfer with my function. I have indicated below whether I will or will not transfer with my function to the installation indicated above:

___ I will accept transfer.

___ I will not accept transfer. I understand that I forfeit my right to transfer with the function of (organizational designation), and therefore forfeit any further entitlements to employment consideration or benefits with the Bureau of Paper Management or its parent agency in conjunction with this transfer of function.

SIGNATURE AND DATE

Example 2, SAMPLE TRANSFER OF FUNCTION CANVASS-SPLIT DESTINATION
(LETTERHEAD)

MEMORANDUM FOR:

SUBJECT: Notice of Transfer of Function Right

1. The Bureau of Paper Management is consolidating the Forms Management Function in a transfer of existing functions from the present field locations into a new competitive area located in Washington, DC. The establishment of the new consolidated Forms Management Function will be effective on or about October 1, 1998.

2. The Forms Management Function of the Bureau of Paper Management is being transferred to two locations in the new Consolidated Forms Management Division: Baltimore, Maryland, and Oakland, California. You have the right to transfer with your function. You may choose to exercise your transfer right to either of the identified locations. You are encouraged to exercise your transfer of function right as it is the desire of the Bureau of Paper Management to retain the skills of current employees to the extent possible. Please indicate whether or not you wish to exercise your transfer of function right using the enclosed form. If you wish to exercise your transfer right, you must indicate the location of your choice. Once you have chosen a location, you will not be allowed to change your selection.

3. If you accept your transfer right, your Official Personnel Folder and retention information will be forwarded to the personnel offices servicing the Consolidated Forms Management Division in Baltimore and Oakland. Upon receipt of this information from all of our field components for employees with transfer of function rights, the gaining personnel office will consolidate the retention registers of all competing employees.

In some cases, the number of employees who have transfer of function rights to one or both of the new locations may be greater than the number of positions available. In those cases, the Bureau of Paper Management will use reduction in force procedures under authority of 5 CFR Part 351 to determine employees' placement rights. If you accept your transfer right and receive a job offer outside your commuting area, transportation expenses for yourself and your dependents, and costs for moving your household goods will be paid by the Bureau of Paper Management under provisions of the Joint Travel Regulations, Volume II. The appropriate servicing personnel office in Baltimore or Oakland will provide you with information regarding the new area to which you will be transferred.

4. You have 10 calendar days from the date of this letter to decide whether you will accompany your function in this transfer.

You should clearly understand that, if you decline to exercise your right to transfer with your function, you may be separated by the Bureau under adverse action procedures. Please indicate your decision on the enclosed form by checking one of the answers and signing your name. Failure to respond to this letter within 10 calendar days constitutes a declination of the offer to transfer with your function.

5. You are faced with an important decision and should consider all aspects of the transfer very carefully. Your supervisor and a personnel office representative will be available to answer any questions you may have concerning this transfer. They will provide advice and information about the transfer; however, the final decision must be yours.

6. Your service at this activity of the Bureau of Paper Management is greatly appreciated, and we encourage you to give careful consideration to pursuing your career by exercising your transfer right. If you decide not to transfer with your function or do not receive a job offer at the gaining installation, you will be counseled concerning your eligibility for placement assistance.

Encl

DIRECTOR OF PERSONNEL

ENCLOSURE

TO BUREAU OF PAPER MANAGEMENT PERSONNEL OFFICE

ATT: _____

I understand my right to transfer with my function. I have indicated below whether I will or will not transfer with my function.

___ I will accept transfer to: (CHOOSE ONE LOCATION)

___ Baltimore, Maryland

___ Oakland, California

NOTE: YOU MAY CHOOSE ONLY ONE OF THE ABOVE LOCATIONS.

___ I will not accept transfer. I understand that I forfeit my right to transfer with the Forms Management Function, and therefore forfeit any further entitlements to employment consideration or benefits with the Bureau of Paper Management or its parent agency in conjunction with this transfer of function.

SIGNATURE AND DATE

4. CONTENT OF TRANSFER OF FUNCTION CANVASS LETTERS-GENERAL (reference 4-A-12-4). The losing competitive area should coordinate the transfer with the gaining competitive area and use the canvass letter to provide employees identified for transfer with available information on the position that is located in a different local commuting area.

(a) If possible, the canvass letter should provide identified employees with the function information about:

(1) The new local commuting area where the position will be located;

(2) The timing of the transfer (e.g., when the employee is actually expected to report to the new duty site);

(3) The gaining competitive area's structure and mission;

(4) Whether the position will be changed in the gaining competitive area;

(5) Information on the availability and cost of housing in the gaining competitive area;

(6) Relocation and travel expenses; and

(7) Other pertinent information, such as whether information in the canvass letter is subject to change.

(b) When a function is dispersed to more than one location, the agency may, by using canvass letters, offer identified employees a choice of:

(1) Geographic locations for transfer with the function; or

(2) Reassignment to other geographic areas not affected by the transfer of function.

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 13.
IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-VOLUNTEERS FOR
TRANSFER.

1. USE OF VOLUNTEERS FOR TRANSFER-GENERAL (reference 4-A-13-1).
At its option, the losing competitive area may allow employees
not identified with the function to volunteer for transfer,
provided that no employee who is identified with the function is
subsequently separated or downgraded because of the use of
volunteers.

o The use of volunteers who would prefer transfer and relocation
to a different locating commuting area in lieu of employees
identified with the transferring function, may reduce the number
of involuntary separations by freeing up positions for placement
in the losing competitive area.

o For additional information, reference LOCKARD v. INTERIOR, 74
M.S.P.R. 576 (1997).

MODULE 4 (TRANSFER OF FUNCTION), UNIT B (GUIDANCE), SECTION 14.
EMPLOYEES' RIGHT TO RAISE TRANSFER OF FUNCTION ISSUES IN AN APPEAL
OR GRIEVANCE

1. NO BASIC RIGHT TO APPEAL A TRANSFER OF FUNCTION (reference 4-A-14-1 for additional information). An employee has no right to appeal a transfer of function to the Merit Systems Protection Board except as an issue in a reduction in force, adverse action, or other appeal under the appellate jurisdiction of the Board. (5 CFR 1201.3(a))

o For additional information, reference BROWN v. AIR FORCE, 4 M.S.P.R. 221 (1980), and OWEN v. ARMY, 74 M.S.P.R. 71 (1997).

o An employee may claim in a reduction in force appeal that, in lieu of the present reduction in force action, the individual had a right to transfer with a function that previously moved to a different competitive area; for additional information, reference SEIDEL v. AGRICULTURE, 26 M.S.P.R. 605 (1985), and MCLEAN v. ARMY, 55 M.S.P.R. 414 (1992), 988 F.2d 129 (Fed. Cir, 1992).