

COPS Hiring Program Modifications for Post-Application Lay-Offs

(Requesting a Change in Hiring Category from New Hire to Rehire)

(Frequently Asked Questions)

This FAQ sheet is for COPS grantees who were awarded COPS hiring grant funds to hire new, additional career sworn officers to increase their force but are now required to lay-off officers or have had to lay-off officers because of cuts in their law enforcement budget due to fiscal distress that occurred after applying for the grant. Rather than using COPS grant funds for new hires, your agency may be able to modify the use of your COPS grant funds to rehire the officer who was laid off or the officer who is now scheduled to be laid off. The COPS Office will approve using grant funds to rehire officers who were laid off or who are now scheduled for lay-off if you can demonstrate that the budget cuts and lay-offs are unrelated to the receipt of COPS funds.

Your agency must receive prior written approval from the COPS Office before your grant funds can be used to rehire officers. If your agency's modification request is not approved, you must either implement the COPS hiring grant as originally awarded for new hires or withdraw from the grant.

What is a modification for post-application lay-offs?

A modification for a post-application lay-off, which is a lay-off that occurs after you submitted your grant application, is a change in hiring category from "new hire" to "rehire" following the award of the grant. If you experienced cuts in your law enforcement budget that resulted in the lay-off or scheduled lay-off of locally-funded officers after you submitted your COPS hiring grant application for new officer positions, you can apply for a modification to use COPS funds under the "rehire" category instead of the "new hire" category. Under the "rehire" category, your agency may hire back an officer who was laid off after you submitted your application or you could maintain an officer with grant funds who is now scheduled for lay-off on a specific date as long as you are able to demonstrate through documentation that the lay-offs are the result of budget cuts and not related to the receipt of the grant. In other words, you would be requesting to save officers from lay-off with COPS funding instead of using the funds to hire new officers.

When can a grantee be considered for a post-application modification from the new hire category to the rehire category?

To be considered for a post-application lay-off modification into the rehire category, you must be seeking to use COPS hiring funds to:

- rehire an officer who was laid off after the grant application was submitted; *or*
- rehire an officer who is now scheduled for lay-off on a specific future date that can be documented.

The COPS Office will only consider a modification request after your agency has made final, approved budget and/or personnel decisions. In addition, all post-application modification requests must comply with the nonsupplanting requirement of the COPS statute.

Modifications and Nonsupplanting

What is the relationship between a post-application lay-off modification request and the nonsupplanting requirement?

Modification requests to change the hiring category from new hire to rehire for an officer laid off or scheduled for lay-off on a specific date post-application must comply with the statutory nonsupplanting requirement of the COPS hiring program. Under the nonsupplanting requirement, you may not use COPS grant funds to pay for the salary and benefits of officer positions that are funded in your local budget.

To comply with the nonsupplanting requirement, the modification request must:

- demonstrate that your agency is not using COPS grant funds to supplant (replace) local funds that otherwise would have been used for sworn officers in the absence of the grant;
- demonstrate that the officer your agency is seeking to rehire with COPS grant funds was laid off, or will be laid off on a specific date, as a result of financial reasons unrelated to the receipt of COPS grant funding;
- demonstrate that budget and personnel decisions were not made based on the receipt of the COPS grant award (*i.e.*, the COPS grant award was not considered in the budget deliberations);
- demonstrate that all personnel and budget decisions related to the lay-off are final and approved by the appropriate governing body before submitting modification request; and
- demonstrate the exact date of lay-off since grant funds can only be used on or after the actual date of lay-off.

Modification Requests

How does a grantee request a post-application lay-off modification?

To request a modification based on a post-application lay-off, you must complete and submit a post-application award modification request form. (A copy of the modification request form may be obtained at www.cops.usdoj.gov/pdf/COPS_Hiring_Modification_Form.pdf.) As explained in the modification request form, your agency must also submit:

- documentation showing the specific date(s) of the lay-off(s);
- documentation identifying the specific officer(s) laid off or scheduled for lay-off(s) that your agency is seeking to rehire; and
- documentation showing the reason(s) for the lay-off(s) or scheduled lay-off(s) (a modification request will only be approved if the lay-offs occurred for reasons unrelated to the receipt of COPS funding).

Examples of supporting documentation that may be included with your modification request include, but are not limited to:

- Council or Departmental Meeting Minutes
- Agency memoranda, notices, orders or other official documents

- Notices provided to the individual officers regarding their lay-offs
- Documents ordering agency lay-offs or related budget cuts
- Budgets showing funding and/or personnel cuts in other departments

You should fax your completed modification request form and supporting documentation to the COPS Office Legal Division at 202.514.3456. If your modification request is approved, COPS hiring grant funds may only be applied to the salaries and approved fringe benefits of officers following the scheduled lay-off date. Grant funding must be limited to paying your agency's entry-level salary and fringe benefits; any costs higher than entry-level must be paid by your agency with local funds.

Modification Approvals

If approved, when can an agency rehire an officer that was laid off or scheduled for lay-off post-application with COPS hiring funding?

If approved, your agency may use COPS grant funds to rehire the officers who were laid off post-application on or after the grant award start date. You may rehire the officers who are scheduled for lay-off on a specific future date on or immediately after the date of the scheduled lay-off.

Unless required by your jurisdiction, your agency is not required to formally complete the administrative steps associated with the lay-off of the individual officers you are seeking to rehire so long as your agency can document that a final, approved budget decision was made to lay off those particular individual officers on the identified lay-off date(s). For example, unless required by your agency, you are not required to formally terminate an officer, discontinue benefits or strip seniority, as long as you are able to demonstrate, through supporting documentation, the official date the lay-off would occur without the grant.

If the request for modification for post-application lay-off(s) is approved, will the grantee receive a Modified Award Document?

Yes. The COPS Office will send a Modified Award Document to the grantee and the grantee must sign and return the Modified Award Document to the COPS Office to confirm the modification, but implementation of the modified award may begin upon notification of approval by the Legal Division.

If you have any questions regarding this process, please call the Legal Division at 202.514.3750.