

REDUCTION IN FORCE

SECTION 1. DEFINITION: Reduction in Force (RIF) occurs when the Agency releases an employee from his or her competitive level by separation, demotion, and furlough for more than thirty (30) continuous or more than twenty two (22) discontinuous workdays. A RIF also occurs when there is a reassignment requiring displacement because of lack of work or funds, reorganization, change to lower grade based on reclassification of an employee's position, or for other applicable reasons. Such actions shall only take place after:

1. The Agency has formally announced a RIF in the employee's competitive area as defined in Section 3C; and
2. When the RIF will take effect within 180 days; or
3. When the Agency is required to release someone because another employee has exercised return rights.

SECTION 2. LAWS AND REGULATIONS: The Agency will conduct the RIF in accordance with Title 5, Code of Federal Regulations 351 (5 CFR 351). RIF rules as outlined in 5 CFR 351 and the applicable DoD Regulation will be used to conduct the RIF.

SECTION 3. GENERAL PROVISIONS: The Agency and the Union share a mutual interest in assisting employees who are adversely affected by RIF. The parties agree that placement efforts are a priority and are most effective when employees are actively involved in those efforts.

A. Mitigating Adverse Impact: When the Agency becomes aware of the necessity to conduct a RIF, it will attempt to minimize the adverse effect on employees through appropriate means such as reassignment, attrition, use of vacant positions for placement, filling positions at the full performance level, waiver or modification of qualification requirements, and positive placement efforts, to include placement in other federal agencies.

B. VERA/VSIP: The Agency may initiate Voluntary Early Retirement Authority or Voluntary Separation Incentive Payment (VERA/VSIP) to mitigate the effects of a RIF. Employees who are approved and accepted for VERA/VSIP will be removed from retention register.

C. Competitive Areas: The Agency has currently established the Competitive area as all employees within the NCR-MD, including NCR-MD HQ and Joint Pathology Center (JPC), Walter Reed National Military Medical Center (WRNMMC), and Fort Belvoir Community Hospital (FBCH) for Competitive and Exceptive Service federal civilian employees. Term employees will be included in the RIF per OPM regulations. Employees on temporary appointments or reemployed annuitants are excluded from the RIF and may be separated prior to a RIF.

D. Competitive Levels: Competitive levels will be established in accordance with applicable law and regulations.

Agreed: Agency BID Union MTW

Date: 8/20/16

E. RIF Tool: The Agency currently utilizes the Defense Civilian Personnel Data System (DCPDS) RIF Tool. If the Agency proposes or is required to utilize another RIF Tool, the Union will be provided the opportunity to bargain as appropriate.

F. Retraining To the extent practicable, the Agency will provide job education and re-training programs such as resume counseling, lectures, professional conferences and workshops, etc. during duty hours. The Agency will authorize a reasonable amount of duty time for resume preparation, job interviews, etc. for employees who are adversely affected by RIF.

G. Grade and Pay Retention: Grade and pay retention for eligible employees will be that prescribed by applicable law and regulation.

H. Administrative Leave: The Agency may authorize administrative leave for the purpose of seeking other employment

I. Displacement: The Agency will not fill a vacant bargaining unit position within the area in which the RIF is taking place until it has considered all reasonable alternatives to reduce the adverse effects on employees who may be displaced as a result of the RIF.

J. Retirement: Prior to and during the RIF, all retirements will be strictly voluntary. There will be no coercion, direct or indirect, intended to influence the employee's decision. The Agency will freely advise the employee of any prospective retirement rights.

K. Severance Pay: Separated employees will be paid severance pay in accordance with applicable law and regulation.

L. Unemployment Rights: The Agency will provide all RIF-affected employees with information on their unemployment rights.

SECTION 4. UNION NOTIFICATION:

A. Proper Notice: The Agency shall be responsible for properly notifying the Union in conjunction with any of the actions described in this article at the earliest possible date but no later than 90 calendar days prior to the effective date. All such notices will be given prior to any notice to affected unit employees. Verbal notices will be confirmed in writing.

B. Content of Notice: A properly constructed notice to the Union under this section shall consist, at a minimum, of the following information:

1. The reason for the action;
2. The approximate number, types, and geographic location of position affected, and
3. The approximate date of the action.

Agreed: Agency 1315 Union 757W
Date: 26 SEP 14
Page 2 of 7

SECTION 5. FREEZING OF VACANCIES:

A. Exceptions: After consultation with the Union, the Agency shall set a date to freeze personnel actions; that date prior to the effective date of a RIF. The Union will be notified of any exceptions to the freeze. Such exceptions shall only be granted for one of the following reasons:

1. Filling a position based on mission critical/failure on a case-by-case basis;
2. The proposed action, if effected, would have no adverse impact upon the RIF rights of employees assigned to the affected competitive area;
3. Noncompetitive promotions when the trainee previously competed, i.e. Apprentices, Upward Mobility Positions, and Local/DOD interns who have satisfied all requirements for promotion;
4. Actions necessary to settle complaints, grievances, or classification appeals;
5. Actions resulting from application of new classification standards;
6. The filling of VERA/VSIP vacancies;
7. Placement of Physically Disabled employees.

B. Qualification Standards: Office of Personnel Management (OPM) qualification standards will be used to determine qualifications. For bump and retreat rights, the position for which the employee is fully qualified will be identified by competitive level in the RIF Tool or other agreed upon mechanism. Competitive levels for vacancies for which an employee meets qualifications will also be identified in the RIF Tool.

SECTION 6. EMPLOYEE NOTIFICATION:

A. Notice Period: The Agency agrees that affected employees will be notified not less than 60 calendar days prior to the effective date, unless otherwise directed by OPM. To the extent practicable, RIF notices will be delivered in person. The Union will be provided at least two (2) working days advance notification of distribution.

B. Town Halls: The Agency shall utilize Town Halls and other procedures to notify employees of any impending RIF. This information provided shall include the following:

1. Rights to other positions;
2. Bumping;
3. Retreating;

Agreed: Agency [Signature] Union [Signature]
Date: 29 Sep 14
Page 3 of 7

4. Grade intervals;
5. Use of vacant positions;
6. RIF related benefits;
7. Grade retention;
8. Pay retention;
9. Re-promotion priority;
10. Severance pay;
11. Unemployment compensation;
12. Unused leave;
13. Life insurance;
14. Health insurance;
15. Discontinued service retirement;
16. Early retirement;
17. Deferred annuity: and
18. Priority Placement Program

C. Employee Master Records: Civilian Record Briefs will be available in the computerized automated system used by the Agency for employees to review. At least 30 days prior to the issuance of RIF Notices, the Agency will instruct affected employees to review their personnel files and ensure the following information is as up-to-date as possible:

1. Veterans preference;
2. Three most recent performance ratings of record received during the previous four-year period;
3. All periods of federal civilian and military service;
4. Experience gained outside Federal service
5. Completed training (contained in MYBIZ);

Agreed: Agency (SD) Union RPW

Date: 21 Dec 14

6. Current licenses and certifications (contained in MYBIZ);

D. Timelines: The Agency shall set a date for Freezing Official Personnel File (OPF), i.e., adding information (i.e. DD 214, performance appraisals, resumes) Veterans' Preference documentation can be added anytime, however, it is preferred to have received 120 days prior to running the RIF tool in order to correct their official personnel record.

E. Resolution of Deficiencies: The Agency will expeditiously resolve deficiencies brought to their attention by employees.

SECTION 7. RETENTION REGISTER:

A. Credit For Performance: Credit for performance will be established in accordance with 5 CFR Part 351 and any other applicable law and regulations. The Agency will add additional service credit for performance, listing the employee with the earliest service computation date for RIF at the top of the subgroup.

B. Appraisal Cutoff Date: The Agency will establish an Appraisal Cut-off date. Employees will receive extra retention service credit for performance based upon the average of their last three annual performance ratings of record received during the 4-year period prior to issuance of specific RIF notices.

C. Tenure Tie breaks: The RIF Tool will assign a random number to all Employees. Employee retention standing will be determined based on the random number when two or more employees have the same Tenure and Adjusted SCD (service computation date).

D. Waiving of qualifications: Prior to the effective date of the RIF, should there be vacant positions remaining for which no affected employee is qualified, the Agency may recommend the waiving of qualifications. In those cases, the waiver considerations will be fully documented and will be offered in retention order. The Union will be notified of positions for which qualifications are waived.

E. Changes in Register: Changes as a result of attrition, i.e., retirements, removals, and resignations will be inputted into the automated RIF program throughout the duration of the RIF processing to the effective date of the RIF.

SECTION 8. RIF NOTICES:

A. Contents of Notice: RIF Notices will be signed by the Director, NCR-MD, or his or her designee, and shall contain:

1. The action proposed to be taken, the reasons for the action, and its effective date;

Agreed: Agency  Union 
Date: 27 SEP 16
Page 5 of 7

2. The employee's competitive area, competitive level, subgroup, Service Computation Date, and three most recent performance ratings of record received during the previous four years, and the adjustment to the Service Computation Date, based on those performance ratings of record;
3. The place where the employee may review the regulations and records pertaining to this case.
4. If the employee is being given a placement offer:
 - a. The position title, series and grade;
 - b. The geographic and organizational location of the position
 - c. The deadline for responding to the placement offer; and
5. What could happen to the employee if the placement offer is rejected;
6. Information on the employee's eligibility for grade retention, if applicable;
7. Information on the employee's eligibility for pay retention, if applicable;
8. Information on reemployment rights, if applicable;
9. Information on severance pay, if applicable;
10. The reasons for retaining a lower-standing employee in the same competitive level under 5 CFR 351.607 or 351.608;
11. The employee's right to appeal the action to the Merit System Protection Board, or through the grievance-arbitration process, and a copy of the applicable Appeal Instructions.

B. Offer of Position: In accordance with 5 CFR 351, the Agency shall make a best offer of employment to each employee adversely affected by the RIF.

1. The Agency will consider placing employees in existing vacant positions within the competitive area provided the employee is qualified for the position and would otherwise be removed or reduced in grade as a result of the RIF.
2. Employees reassigned or demoted by RIF may, within the specified time period for reply, request in writing assignment to a vacant position at the same or lower grade with any pay retention to which they may be entitled. Any such request shall be answered in writing within 21 calendar days.

Agreed: Agency  Union 
 Date: 25 SEP 14
 Page 6 of 7

3. The Agency agrees to consider actions to further minimize the effects of a RIF to the maximum extent possible including retraining, restricting outside hiring and any other appropriate means to avoid separation/downgrade of employees. Actions the Agency will consider include:
 - a. Adjusting the workforce through reassignment or transfer of unit employees to vacancies for which they are qualified;
 - b. Filling trainee and development positions under recruitment at the target level through RIF regulations;

C. Response to Offer:

1. Employees shall respond in writing to an offer of continued employment in another position in the agency within 10 calendar days after receipt of the offer. Failure to respond within the 10 calendar days shall be considered acceptance of the offer.
2. Employees in receipt of a RIF notice shall have the right to review pertinent retention registers and applicable RIF regulations. In viewing these documents, the employee shall have the right to be accompanied by a Union representative and both persons shall be in a duty status for this purpose.

D. Separations: The Agency will make reasonable effort to find employment in other Federal agencies within the commuting area for those employees separated in a RIF. Employees for whom no positions are found may be counseled by a representative of the Agency on the benefits to which they may be entitled, including information concerning early retirement with discontinued service annuity, where applicable.

E. Reemployment Priority Lists: Reemployment lists as prescribed by OPM shall be established for employees who are reduced in grade or separated.

SECTION 9. GRIEVANCES: As provided in 5 USC § 7121(d), an employee who alleges discrimination under section 5 USC § 2302(b)(1), has the option of either filing a grievance under the negotiated grievance procedures or filing an appeal with the Merit Systems Protection Board (MSPB). An employee may not file a RIF grievance or appeal before the effective date of the RIF action.

A. Negotiated Grievance Procedure: An employee covered by this CBA must use the Negotiated Grievance Procedure if the employee is reduced in grade and believes that the Agency failed to properly apply the RIF regulations.

B. Merit Systems Protection Board: A reduction in grade action is appealable to the MSPB. A reassignment action is not appealable to the MSPB unless an allegation of discrimination is raised under Section 2302(b) (1) of Title 5. Appeals to the MSPB must be submitted within thirty days of the effective date of the action.

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Date: 29 Dec 16