

**DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
DEPARTMENTAL PERSONNEL MANUAL LETTER**

DPM Letter No. 351-4

SUBJECT: Reduction In Force

DATE: October 22, 1998

This DPM Letter supplements Title 5, Code of Federal Regulations (CFR), Part 351, on conducting reductions in force (RIF) within the Department of Transportation (DOT). Organizations conducting reductions in force must comply with the provisions of Title 5, CFR Part 351, and this directive.

When organizations find that regardless of the reason it is necessary to conduct a RIF, the planning processes and objectives should try to produce two key outcomes:

- a viable organization; and
- a committed workforce.

A. USE OF REGULATIONS - Sec. 351.201

1. **Reasonable Accommodation.** In a RIF situation, Departmental Offices/Operating Administrations should analyze the anticipated and actual effects on handicapped employees, particularly those with targeted disabilities. Within the limits imposed by law and regulations, every effort should be made to minimize effects on employees whose disabilities make it difficult for them to be reassigned within the Department.
2. **Correction Required by the Office of the Secretary (OST).** In addition to any corrective action ordered by OPM under 5 CFR, 351.205, the Departmental Director Office of Human Resource Management may review the OST or Operating Administrations' preparation for RIF at any stage. In the event that actions are being taken contrary to the express provisions or the applicable regulations or would violate employee rights or equities, the Departmental Director Office of Human Resource Management may order corrective action with respect to those matters.
3. **Contact with the Office of Personnel Management.** All contacts with OPM for the interpretation of regulations or the determination of policy will be made through the Departmental Office of Personnel.
4. **RIF Policy.** Each Operating Administration should have available upon request its policy and procedures for conducting RIF in their organization.

B. RIF PLANNING - Sec. 351.201

1. **Alternative Actions.** Departmental Officers and Heads of Operating Administrations must provide employees in a RIF situation with reasonable time for transition assistance. For requirements, see DPM Letter No. 300-21, DOT Career Transition Program.

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OPI: M-16/Stokes/(202) 366-9443

2. **Work Force Diversity Considerations.** In planning and conducting a RIF, managers should consider and take necessary steps to minimize the effects of a RIF on DOT's goal to have a diverse workforce. Managers are responsible for giving consideration to their diverse workforce as it relates to abolishing positions, filling vacancies, or waiving qualification requirements. Managers are required to comply fully with RIF laws and regulations when such considerations are made.

C. COVERAGE - Sec. 351.202

1. **Employees Excluded.** (1) A member of the Senior Executive Service (see 5 U.S.C. 3595). The Department's RIF regulations for Senior Executive Service members are covered in DPM supplement 920, Senior Executive Service (SES) Reduction in Force (RIF); and (2) reemployed civil service annuitant. A reemployed annuitant must be removed from his/her competitive level by termination of appointment or other appropriate means before any Group I or Group II employee is released from that competitive level under this chapter.
2. **Actions Excluded.** In job erosion cases, a RIF is considered to have been announced when specific RIF notices have been issued to employees in the competitive area.

D. DEFINITIONS - Sec. 351.203

1. **Departmental Offices mean for the purpose of this directive:**

- (1) Secretary and Deputy Secretary;
- (2) Associate Deputy Secretary/Office of Intermodalism;
- (3) Executive Secretariat;
- (4) Board of Contract Appeals;
- (5) Departmental Office of Civil Rights;
- (6) Office of Small and Disadvantaged Business Utilization;
- (7) Office of Intelligence and Security;
- (8) Office of Public Affairs;
- (9) Office of the Chief Information Officer
- (10) Assistant Secretary for Transportation Policy;
- (11) Assistant Secretary for Aviation and International Affairs;
- (12) Office of the General Counsel;
- (13) Office of the Assistant Secretary for Budget and Programs;
- (14) Office of the Assistant Secretary for Governmental Affairs; and
- (15) Office of the Assistant Secretary for Administration.

2. **Operating Administrations mean for the purpose of this directive:**

- (1) Office of the Secretary;
- (2) Transportation Administrative Service Center
- (3) United States Coast Guard;
- (4) Federal Highway Administration;
- (5) Federal Railroad Administration;
- (6) National Highway Traffic Safety Administration;
- (7) Federal Transit Administration;
- (8) Saint Lawrence Seaway Development Corporation;

- (9) Research and Special Programs Administration;
- (10) Maritime Administration;
- (11) Office of Inspector General
- (12) Bureau of Transportation Statistics; and
- (13) Surface Transportation Board

E. COMPETITIVE AREA - Sec. 351.402

1. **OPM Prior Approval.** A request, including supporting documentation, for OPM's approval of a competitive area which has not been in effect at least 90 days prior to a RIF must be sent to the Departmental Director of Human Resource Management for submission to OPM.
2. **Publication.** When establishing or changing competitive areas, the new or revised competitive areas must be described in and distributed through the Operating Administration directive systems or other official media of communication which are accessible to all employees. A competitive area is not officially established or changed until it is issued through the appropriate directive or medium.

F. COMPETITIVE LEVELS - Sec. 351.403

Available for Review. Upon request to their personnel office, employees can review their competitive levels.

G. CREDIT FOR PERFORMANCE - Sec. 351.504

1. **Ratings used for RIF Purposes.** In accordance with 5 CFR 351.504, an employee's entitlement to additional service credit for performance shall be based on the employee's three most recent ratings of record received during the 4-year period prior to date of issuance of a RIF notice. Annual performance appraisal ratings of record used for RIF purposes are described in 5 CFR, Part 430. Ratings of record issued under other systems and which fall into the 4-year period prior to the date of issuance of specific RIF notices are to be used when determined the Operating Administrations to meet the criteria set forth in 5 CFR 430.201(c).
2. **Basis For Credit.** (1) Ratings of record under any system are not to be used for additional service credit if they are issued solely for the purpose of affecting an employee's RIF retention standing. This provision applies to ratings of record issued beyond a reasonable time after the end of the rating period. Operating Administrations must establish, in writing, what a "reasonably acceptable time period" is and must establish criteria which would allow consideration of a late rating of record for additional service credit. The reasons for accepting or rejecting a late rating of record must be maintained as a part of the RIF records. (2) Valid employee copies of ratings of record from their current or previous agency or department are acceptable for use when official records cannot be found. (3) For any one RIF, Operating Administrations must determine the retention service credit that will be applied, including determining modal ratings, and document the basis for crediting performance ratings. Such documentation shall be maintained as part of the RIF records.
3. **Records.** Operating Administrations shall retain an employee's three most recent ratings of record, and the pattern of rating under which they were given, within the latest 4-year period to determine entitlement to additional service credit.

H. **REGULAR ORDER OF RELEASE - Sec. 351.601**

Competing Employees. When employees in the same retention subgroup have identical service dates and are tied for release, the ties may not be broken by any process utilizing random chance or alphabetical order. Job-related or service-related factors should be used as tie breakers. Some examples follow:

1. The tied employee holding the position being abolished will be released.
2. The tied employee with less additional service credit based on performance will be released.
3. The tied employee with the lower performance in the current job will be released.
4. The tied employee with the shortest service within the Department, Operating Administration, division or occupation will be released.

The method used by Operating Administrations to break ties shall be documented and maintained as part of the RIF records.

I. **USE OF FURLOUGH – Sec. 351.604**

No Recall. If an Operating Administration determines that a furloughed employee cannot be recalled within the 1-year period, a new RIF notice of separation must be given to the furloughed employee 120 days prior to the end of the 1-year period as determined by the circumstances necessitating the employees separation. (See paragraph N.1., Length of Notice Period)

J. **ASSIGNMENT INVOLVING DISPLACEMENT - Sec. 351.701**

Determination of Grade Interval Progress in Positions Not Covered by the General Schedule. Any determination by the Operating Administrations must be made in writing prior to the issuance of RIF notices and identify the competitive area(s) for which it applies. To the extent practical, the grade interval progression should reflect actual historical experience for the occupations and competitive area(s) involved. When the competitive area is newly established, or when historical information is not available, the grade interval progression should be determined from an occupationally similar competitive area, or should reflect the most likely line of progression when no similar area is available for comparison. The determinations become a part of the Operating Administrations' record and are to be available for review.

K. **QUALIFICATIONS FOR ASSIGNMENTS - Sec. 351.702**

1. **Qualifications Standard.** Selective placement factors must be established in writing prior to the effective date of a RIF if they are to be used in determining qualifications for assignment. The selective placement factors may be contained in job analysis documentation, merit promotion files, job elements, position descriptions, or other formal documents. The factors must be available for review.
2. **Physical Qualifications Determinations.** An Operating Administration determination that a preference eligible employee with a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of a position must be approved by the Departmental Office of Human Resource Management before any notification is submitted to OPM and the employee.

L. **WAIVER OF QUALIFICATION REQUIREMENTS - Sec. 351.703**

Waiver of Qualifications in Offering RIF Assignment. Qualification requirements may not be waived for any assignment that results in displacement.

M. **ADMINISTRATIVE ASSIGNMENT - Sec. 351.705**

Discretionary Practices. Competing employees in the competitive service in tenure group III are entitled to bump other employees in tenure group III. Competing excepted service employees in tenure groups I and II with appointments under Schedule A or Schedule B are entitled to assignment rights in the second round of competition. Bumping rights are similar to the provisions in 5 CFR, 351.701, for competitive service employees except that an eligible employee is entitled to bump to an occupied position held by an employee appointed under the same authority (e.g., a IA Schedule A attorney may bump a IB Schedule A attorney, but not a IB Schedule A law clerk). Retreat rights are similar to the provisions in 5 CFR, 351.701, for competitive service employees. There are no other assignment rights for excepted service employees.

N. **NOTICE PERIOD - Sec. 351.801**

1. **Length of Notice Period.** Operating Administrations must give each competing employee in a RIF a 120-day advance written notice before taking a RIF action. Operating Administrations may make exceptions to the 120-day advance notification requirement and establish a shorter notice period only as a result of budget, FTE, legislative, or other circumstances outside of management's control. A shorter notice period of no less than 60 days based on the above circumstances may be established without prior approval of the Department. The determination for a shorter notice period becomes part of the Operating Administrations' record and is available for review.
2. **OPM Approval.** Any request to OPM to authorize a notice period of less than 60 days but no less than 30 days, must be submitted to the Departmental Director Office of Human Resource Management for approval prior to submission to OPM.

O. **CONTENT OF NOTICE - Sec. 351.802**

Content. A notice on how eligible employees may convert or continue health benefits enrollments or convert life insurance coverage, and an estimate of severance pay (if eligible) must be provided in or with the specific RIF notice or as a supplemental notice to the employee.

P. **NOTICE OF ELIGIBILITY FOR REEMPLOYMENT AND OTHER PLACEMENT ASSISTANCE - Sec. 351.803**

Programs. Departmental programs, requirements, and policies on placement programs are located in DPM Letter 330. In accordance with 5 CFR Part 351.803, Operating Administrations must give the employee a release to authorize, at his or her option, the release of his or her resume or relevant employment information to state dislocated worker unit(s) and potential public or private employers.

Q. **CERTIFICATION OF EXPECTED SEPARATION - Sec. 351.807**

1. **Job Training Partnership Act.** For the purpose of enabling eligible employees to be considered to participate in dislocated worker programs under the Job Training Partnership Act administered by the U.S. Department of Labor, Operating Administrations are encouraged to issue Certification of

Expected Separation up to 6 months in advance of the separation date to a competing employee. Operating Administrations must be reasonably sure the employee will be in fact separated by a RIF. Such certification must be done in accordance with 5 CFR Part 351, Section 351.807.

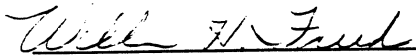
2. **Employees Certified.** Employees issued Certification of Expected Separations qualify to participate in the Department's placement program up to 6 months in advance of a RIF.

R. **APPEALS - Sec. 351.901**

Correction by the Office of the Secretary. The Departmental Director of Human Resource Management may direct, on the basis of an administrative determination, that an unjustified or unwarranted RIF action taken by an Operation Administration be corrected to restore an employee to a former or intermediate grade or rate of pay, including making the employee financially whole to the extent permitted under 5 U.S.C. 5596 and 5 CFR, Part 550, Subpart H.

S. **VOLUNTARY EARLY RETIREMENT**

Submitting Requests to OPM. Official requests for the voluntary early retirement authority must be submitted first to the Departmental Director of Human Resource Management. In addition, Departmental Offices and Operating Administrations considering the possibility of submitting such a request should consult with the Departmental Office of Human Resource Management as early as possible.



Acting Departmental Director Office of Human
Resource Management