



**U. S. DEPARTMENT OF COMMERCE
REDUCTION IN FORCE (RIF), TRANSFER OF
FUNCTION, AND FURLOUGH POLICY
HANDBOOK**

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I. PURPOSE

This Handbook establishes the Department of Commerce's (Department) policy and procedures concerning reduction in force (RIF) subject to Title 5, Code of Federal Regulations (CFR), Parts 302, 330, 351, 353, 536, and 550 (Subpart G).

II. POLICY

Except for those employees excluded under III.B., this policy applies to all RIFs, transfers of function (TOFs), or furloughs of more than 30 consecutive days or for more than 22 discontinuous workdays conducted by any component of the Department. These actions will be conducted in strict adherence to the regulatory and procedural requirements of Title 5, CFR, Parts 302, 351, 330, 353, 536, and 550 (Subpart G), this Handbook, and applicable collective bargaining agreement provisions. It is the Department's policy to apply the provisions in 5 CFR, Part 351 in a uniform and consistent manner in any one RIF (5 CFR 351.201(c)).

Prior approval from the Director for Human Resources Management (Director/HRM) is required for all actions covered by this Handbook. Operating units, as defined in Section 3.c. of Department Organization Order (DOO) 1-1 "Mission and Organization of the Department of Commerce," must obtain this approval in accordance with the procedures outlined in Appendix A of this Handbook, "Procedures for Requesting Prior Approval," and prior to the issuance of any RIF notices to employees or any labor organization. Requests to conduct a RIF due to budget reprogramming must meet the requirements of DAO 203-13, "Reprogramming of Budgetary and Personnel Resources," prior to submission of the request for approval of the Director/HRM. The operating unit must obtain concurrence from the Office of Budget whenever the reason for the RIF is due to the need to reprogram budgetary or personnel resources.

Prohibited Notice Period – RIF notices shall not be issued or made effective on or between December 15 and January 3, without prior approval from the Director/HRM. Exceptions shall be limited and approved only when the adverse impact on employees is significantly increased if an exception is not granted.

In some situations, a RIF, furlough, or Transfer of Function (TOF) may be unavoidable. Accordingly, prior to implementing a RIF, management is required to:

- A. Consider options to mitigate the effect of a RIF by such means as careful advance planning, use of hiring freezes, and a pre-RIF placement program to assign employees to available and funded vacancies for which they qualify;
- B. Comply with provisions of applicable collective bargaining agreements;
- C. Accomplish any necessary reductions in a manner to ensure fairness, uniformity, and consistency;

Keep employees fully informed of any potential RIF that may affect them; and provide outplacement assistance to employees such as those described in the Department's CTAP/ICTAP plan, scheduled for separation.

The Department will treat all of its covered employees in a uniform manner in the interest of equity.

III. SCOPE

A. COVERED. This Handbook applies to:

1. General Schedule (GS) and Federal Wage System (FWS) employees on career, career-conditional, and term appointments in the competitive service, as well as employees in the excepted service (see exception below in III.B.5);
2. Employees covered under the Commerce Alternative Personnel System (CAPS) and the National Institute of Standards and Technology's (NIST) Alternative Personnel Management System (APMS); and
3. Employees in Senior Scientific and Professional (ST) positions and employees in Senior Level (SL) positions.

B. EXCLUDED

1. Members of the Foreign Commercial Service

The provisions of this Handbook and Title 5, CFR, Part 351 do not apply to employees authorized by the Foreign Service Act of 1980, as amended. (Operating units may establish special plans for employees in foreign national employee programs.) Locally employed staff is subject to the post's RIF plan.

2. Senior Executive Service (SES)

This Handbook and 5 CFR Part 351 do not apply to employees in the SES or to employees whose appointments are required by Congress to be confirmed by, or made with, the advice and consent of the U.S. Senate (5 CFR 351.202(b)).

3. Members of the NOAA Commissioned Officer Corps

This Handbook and 5 CFR Part 351 apply only to civilian employees (5 CFR 351.202(a))

4. Unacceptable Performers

Employees in receipt of written decisions to remove or demote them due to unacceptable performance are not competing employees in a RIF (5 CFR 351.602(c)).

5. Employees of the U.S. Patent and Trademark Office (USPTO)

6. Employees in excepted service positions are **only** excluded from coverage under Section IX.E.5 (Assignment) of this Handbook.
7. Others

Employees who are serving on military duty and have restoration rights are not listed on retention registers since they are not subject to the RIF (5 CFR 351.404(a)).

Employees serving under a temporary appointment as they serve at the will of the agency and can be terminated without regard to RIF regulations.

Employees in Tenure Group III do not receive bump or retreat rights.

If an annuitant is not separated prior to a RIF, he/she competes in the RIF and his/her retention standing is determined in the same manner as it is for other employees (i.e., as if he/she were not a reemployed annuitant).

IV. AUTHORITY

- A. TITLE 5, UNITED STATES CODE (U.S.C.) § 3502
- B. TITLE 5, CFR, PARTS 302, 330, 351, 353, 536, AND 550 (SUBPART G)

V. QUESTIONS

If you have questions regarding the Department RIF policy, contact the appropriate Servicing Human Resources Office (SHRO).

VI. EFFECT ON OTHER ORDERS

This Handbook supersedes Department Administrative Order (DAO) 202-351, "Reduction in Force," November 30, 1989, and the Handbook, "Reduction in Force (RIF), Transfer of Function, and Furlough Policy," December 27, 2012.

VII. INTRODUCTION

A RIF involves a systematic process that implements management's workforce restructuring plan that identifies the numbers and types of positions impacted by the restructuring. RIF is the process that subsequently identifies the employees who will be affected by the elimination of those positions. These determinations are made by applying the provisions of 5 CFR Part 351, this Handbook, and the provisions of an applicable collective bargaining agreement. RIF procedures must be used when an employee covered by these regulations is subject to furlough for more than 30 consecutive days, or for more than 22 discontinuous workdays; separation; demotion; or reassignment requiring displacement; due to lack of work, shortage of funds, insufficient personnel ceiling, reorganization, an individual's exercise of reemployment or

restoration rights, or reclassification due to erosion of duties when it occurs within 180 days of a formally announced RIF in the competitive area.

A. DEFINITIONS

1. **Assignment Right.** The regulatory right of an eligible competitive service Tenure Group I or II employee to be assigned (through bumping or retreating) in the second round of competition to a position in a different competitive level, within the same competitive area, or held by another employee with lower standing on a retention register.
2. **Best Offer.** A bona fide offer of a position with no reduction in grade or pay, or with the least reduction possible in consideration of positions available, employee qualifications, and the retention standing of other competing employees.
3. **Bump Rights.** The right of a competitive service Tenure Group I or II employee reached for release from his/her competitive level, to displace another employee in a different competitive level in a lower group or tenure subgroup in the same competitive area. Is limited to three grades or grade intervals (in two-grade-interval jobs, bumping could be as much as six actual grades). For employees in CAPS and APMS, bumping is limited to a position in the same career path at the same pay band or one pay band lower that is currently held by another employee in a lower retention subgroup. Example: See link below to CAPS:

http://hr.commerce.gov/s/groups/public/@doc/@cfoasa/@ohrm/documents/content/prod01_009393.pdf

4. **Competing Employee.** An employee in Tenure Group I, II, or III whose position is involved in a RIF.
5. **Competitive Area.** The geographical and organizational limits of RIF competition. It is defined solely in terms of organizational unit(s) and geographic location(s). The competitive area may not be established based on grade levels or occupational series definitions. The minimum competitive area is an organization that is separate from other organizations in a local commuting area by virtue of differences in operation, work function, staff, and personnel management authority.

For employees covered by CAPS, each of the four career paths in each project-operating unit is a separate competitive area within a geographic area. For employees covered by APMS, each of the four career paths is a separate competitive area within a geographic location and commuting area. The Department requires separate competitive area(s) for positions covered by career paths from those not covered by career paths.

Competitive areas for the Department are contained in Appendix B of this Handbook, "Competitive Areas."

6. **Competitive Level.** Interchangeable positions within the same service (competitive or excepted) in a competitive area, in the same grade/pay band and series having similar duties and qualifications, and the same work schedule (full-time, part-time, seasonal, or intermittent). Competitive levels are based on the employees' official position description, even for employees covered by CAPS and APMS, not on employees' personal qualifications. Employees are placed in the same competitive level when their official position descriptions indicate the incumbent of one position can successfully perform the key duties of another position within 90 days without loss of productivity or undue interruption beyond that which is normally expected in the orientation of any new, fully qualified employee.
7. **Competitive Service.** All civilian positions in the Federal Government that are not specifically excepted from the competitive service by or pursuant to statute or by the Office of Personnel Management (OPM) under Rule VI, and that are not in the Senior Executive Service.
8. **Day.** Calendar day, unless otherwise indicated.
9. **Excepted Service.** All civilian positions in the Federal Government that are specifically excepted from the competitive service by or pursuant to statute, or by OPM under Rule VI, and that are not in the Senior Executive Service.
10. **Local Commuting Area.** The geographic area that usually constitutes one area for employment purposes. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment (5 CFR 351.203).
11. **Look Back Period.** The 4-year period prior to the date of issuance of RIF notices or from an identified cutoff date after which no new ratings of record will be used for performance credit.
12. **Modal Rating.** The summary rating level assigned most frequently among the actual ratings of record that are: (1) assigned under the summary level pattern that applies to the employee's position of record on the date of the RIF; (2) given within the same competitive area; and (3) on record for the most recently completed appraisal period prior to the date of issuance of RIF notices or the designated cutoff date specified prior to the issuance of RIF notices after which no new ratings will be put on record (5 CFR 351.203).
13. **Preference Eligible.** Veterans, spouses, widows, or mothers who meet the definition of "preference eligible" in 5 U.S.C. § 2108. Preference eligibles are accorded a higher retention standing in the event of a RIF (see 5 U.S.C. § 3502).

Note: Except for an employee who is a retired member of the Armed Forces, an employee who is eligible for veterans' preference for purposes of initial appointment to Federal service is also eligible for veterans' preference under RIF regulations.

14. **Qualified.** Meets OPM's qualification standards for a position, including any minimum education requirement, physical requirement (including providing reasonable accommodation to persons with disabilities who demonstrate that they can perform the work of the position to be filled), and is able to perform the duties and requirements of a position within 90 days without undue interruption.
15. **Rating of Record.** The performance rating prepared at the end of an appraisal period for performance of agency-assigned duties over the entire period and the assignment of a summary level within a pattern as specified in 5 CFR 430.208(d).
16. **Reemployment Priority List (RPL).** A list, maintained by the Department by commuting area, which provides placement priority to current and former competitive service employees who will be or were separated by RIF or have recovered from a compensable work-related injury after more than 1 year. Employees who register with the RPL will be given priority placement for most competitive service vacancies before hiring someone from outside of the Department's permanent competitive service workforce.
17. **Reorganization.** The planned elimination, addition, or redistribution of functions or duties in an organization.
18. **Representative Rates.** The hourly rates used to compare pay in different pay schedules to ascertain best offers. The fourth step of the grade for GS positions, the second step for wage grade positions, and agency-designated rates for other positions.
19. **Retention Register.** A list of employees classified in descending order within a competitive level after the four retention factors (tenure, veterans' preference, length of service, and performance) are applied.
20. **Retention Standing.** An employee's relative standing on a retention register based on tenure, veterans' preference, and length of service augmented by performance credit.
21. **Retreat Rights.** The right of a competitive service Tenure Group I or II employee, reached for release from his/her competitive level, to displace another employee in a different competitive level with lower retention standing in the same tenure group and subgroup when the position is one that the released employee once held (does not have to be held within the same agency), or one determined to be essentially identical. Retreating is limited to three grades or grade intervals (in two-grade-interval jobs, retreating could be as much as six actual grades). For an individual covered under CAPS or APMS, the released employee may retreat into positions in the same career path at the same pay band or one pay band below that is currently held by another employee in their same subgroup who has a lower RIF service computation date.

Exception: For preference eligible employees with a compensable service-connected disability of 30 percent or more, the limit is five grades or grade intervals, or two pay bands for CAPS and APMS.

22. Rounds of Competition. The different stages of competing for retention in a RIF. In the first round of competition, employees compete to stay in their competitive level. In the second round of competition, employees with assignment rights (bump and retreat) compete for assignment to positions in different competitive levels.
23. RIF Service Computation Date (SCD). The constructed date that reflects an employee's total creditable Federal service. The length of active military service is creditable only if the employee meets the requirements of a "preference eligible" for RIF purposes.
24. Specific Notice. A written notice that must be provided to an employee identified for release from a competitive level at least 60 **full** days before the effective date of release.
25. Competitive Service Tenure Groups:
 - a. Group I – Career employees who are not serving a probationary period for appointment to a competitive position. A supervisory or managerial employee serving a probationary period required under an initial appointment to a supervisory or managerial position is in Group I if the employee is otherwise eligible to be included in this group.
 - b. Group II – Career-conditional employees and career employees serving a new 1-year probationary period for appointment from an OPM or Delegated Examining Unit (DEU) certificate of eligibles. A supervisory or managerial employee serving a probationary period required under an initial appointment to a supervisory or managerial position is in Group II if the employee **has not completed** a probationary period under initial appointment to a competitive position.
 - c. Group III – Employees serving under indefinite appointment; temporary appointment pending establishment of a register (TAPER); term appointment; status quo appointment; and any other nonstatus, nontemporary appointment that meets the definition of provisional appointments. An employee serving under a temporary-limited appointment is not in Tenure Group III and is not a competing employee.
26. Undue Interruption. A degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position under this part. The 90-day standard should be considered within the allowable limits of time and quality, taking into account the pressures of priorities, deadlines, and other demands. However, a work program would generally not be unduly interrupted even if an employee needed more than 90 days after the RIF to perform the optimum quality or quantity of work. The 90-day standard may be extended if placement is made to a low priority program or to a vacant position.

27. Tenure Subgroups. Within each of the three tenure groups on a retention register, employees are listed by veterans' preference tenure subgroups. The subgroups are as follows:
- a. Subgroup AD – Preference eligible employees who have a compensable service-connected disability of 30 percent or more (CPS).
 - b. Subgroup A – Preference eligible employees who are not in subgroup AD (CP, XP, TP), including all employees eligible for “derivative preference” under section 2108(3)(D)-(G) of Title 5, U.S.C.
 - c. Subgroup B – Employees who are not entitled to veterans' preference (NV), under RIF regulations.

B. WHEN TO USE RIF PROCEDURES

These procedures must be used when one or more employees will be separated or downgraded due to reorganization, lack of work, shortage of funds, insufficient personnel ceiling, or the exercise of certain reemployment or restoration rights. In addition, RIF procedures must be used for a furlough of more than 30 consecutive days, or of more than 22 discontinuous workdays. (A furlough of less than 30 consecutive calendar days, or no more than 22 discontinuous workdays is an adverse action and is discussed in DAO 202-751, “Discipline.”) These procedures may not be used to take performance-based or conduct-based adverse actions.

C. RIF ALTERNATIVES

The Department's policy is to avoid or mitigate, when possible, the impact of a RIF. When anticipating a RIF, management should consider various alternatives to lessen the likelihood of a RIF and if this is not possible, prepare employees for the RIF. Alternatives may include the bureau/operating unit requesting Voluntary Early Retirement Authority (VERA) and/or Voluntary Separation Incentive Payments (VSIP) authority from OPM by forwarding a request through the appropriate SHRO to the Director/HRM for review and approval; implementing a hiring freeze; not filling positions that are vacated; and reducing discretionary spending. In some cases, implementing some or all of these alternatives to RIF may accomplish substantial savings and avoid the necessity for a RIF or reduce the number of employees affected.

VIII. RESPONSIBILITIES

A. MANAGERS

1. Ensure the maintenance of performance ratings in accordance with applicable Department policy and regulations regarding retention of records, as well as ensure ratings are accurate, current, and timely submitted.
2. Ensure that all position descriptions are complete and accurate.

3. Identify positions in their organization that will become surplus due to program cuts, lack of funds, reorganization, reduction in personnel allocation, or any other causes that will result in a reduction in the size of their workforce.
4. Strategically decide which positions to abolish that will enable and/or enhance the organization's ability to accomplish their mission.
5. Reassign as appropriate, qualified employees from surplus positions to vacant existing positions within its organization.
6. Submit requests for personnel actions to appropriate approving officials. The submission must contain all necessary documentation to support RIF actions affecting employees.

Management retains the discretion to fill *all*, some, or no vacant positions within a competitive area, as well as whether or not to offer any vacant position(s) in the RIF. Management is committed to ensuring that permanent employees who are impacted by a RIF action receive every reasonable opportunity to be placed in suitable permanent vacant positions within their competitive area. To the extent possible, vacant continuing positions will be used to lessen the impact of RIF. If an operating unit determines to fill a vacancy by an employee who has been reached for release from a competitive level, it will be filled with a qualified employee in accordance with retention standing (5 CFR 351.201(b)). In offering vacant positions in lieu of RIF separation, or downgrade, the operating unit will include both full-time and part-time positions for which an employee (either full-time or part-time) qualifies.

B. PRINCIPAL HUMAN RESOURCES MANAGER (PHRM)

The PHRMs are to be consulted when management is considering an organizational change. This consultation is especially important in cases where the abolishment of encumbered positions is proposed or where bargaining unit employees will be affected. Operating units facing office closings and staff reductions are responsible for keeping their PHRM, Chief Financial Officer, and the Director/HRM informed of future workload, staffing plans, and other material planning decisions. Specific information is to be provided on numbers, grade/band levels, occupational categories, geographic locations, and dates the positions are expected to be surplus.

Establish a RIF team. The PHRM, upon learning that a reorganization or other staff changes requiring the implementation of RIF regulations may occur, will establish a RIF team. The team shall consist of Human Resources (HR) Specialists from the SHRO who have been formally trained in the implementation of the RIF regulations, HR Specialists from the SHRO specializing in Employee and Labor Relations, and other HR representatives from the SHRO that are appointed by the PHRM. The PHRM **must** request support from the Office of General Counsel (OGC) and/or Office of Civil Rights (OCR) as needed. The purpose of the RIF team is to collaborate in the planning and implementation of a RIF action; implement the RIF; advise managers; and assist affected employees with placement assistance. The Office of Human Resources Management

(OHRM) is available to provide additional guidance to the HR RIF planning staff as needed.

PHRMs and the RIF team are responsible for:

1. Advising managers on alternatives to RIF
2. Advising managers on the required RIF procedures
3. Providing RIF policy guidance
4. Accomplishing workforce mission adjustments in an orderly and timely manner through careful and advance planning. Plans should seek to achieve the minimum disruption and dislocation of employees while maintaining organizational efficiency and productivity. Every reasonable effort should be made to avoid a RIF.
5. Advising on and implementing as appropriate, pre-RIF placements of impacted employees in positions for which they qualify in their local commuting area for those organizations conducting regular recruitment.
6. Ensuring, along with managers and supervisors, that position descriptions of all positions involved in the RIF are accurate and properly classified, as these form the basis for establishing competitive levels and determining qualifications for positions.
7. Ensuring that ratings are issued in accordance with established schedules and submitted to the SHRO 30 days prior to the issuance of specific notes. For more information, see Section IX.E.4 of this Handbook.
8. Informing employees of their responsibility to submit updated resumes to their SHROs no later than 45 days prior to the issuance date of the specific notice.
9. Issuing the required specific RIF notice to employees and exclusive representative(s) of impacted bargaining unit employees at least 60 days prior to the effective date of the RIF/
10. Advising on whether positions and grade levels can be supported as workload and responsibilities diminish.
11. Assisting managers with coordinating and communicating downsizing efforts among the operating units.
12. Ensuring the RIF is carried out in accordance with 5 CFR Part 351, the provisions of this Handbook, provisions of applicable collective bargaining agreements, and the operating procedures for CAPS and APMS.

13. Completing all labor relations obligations required by 5 U.S.C., Chapter 71 and any applicable collective bargaining agreement(s) with the exclusive representative(s) of the bargaining unit employees.
14. Establishing and maintaining complete retention registers with each employee's name and tenure group/subgroup in the event an employee who has received a specific RIF notice or the employee's representative wishes to inspect the retention records.
15. Identifying employee(s) affected by RIF and determining rights to other positions. Notifying the Director/HRM at least 30 calendar days prior to the issuance of a RIF notice when 50 or more employees in a competitive area are to receive RIF separation notices. The notice must include the number of employees to be separated by RIF (broken down by geographic area or other basis specified by OPM) and the effective date of the separations.
16. Counseling employees who are eligible for discontinued service retirement and advising employees of their appeal or grievance rights, as applicable.
17. Advising affected employees about available outplacement programs and assisting with requests for participation in these programs.
18. Processing personnel, position, and pay actions resulting from the reorganization.
19. Preserving all registers and records relating to a RIF for 2 years after the last issuance of a specific RIF notice (Reference – General Records Schedule 1, Transmittal No. 12, July 2004).

C. OFFICE OF HUMAN RESOURCES MANAGEMENT (OHRM)

OHRM will provide written notification of the RIF action to the State or the entity designated by the State to carry out rapid response activities under Title I of the Workforce Investment Act of 1998; the chief elected official of local government(s) within which these separations will occur; and OPM when 50 or more employees in a competitive area receive separation notices. The notification will include the number of employees to be separated from the Department by RIF (broken down by geographic area or other bases specified by OPM), the effective date of the separations, and any other information specified by OPM.

D. AFFECTED EMPLOYEES

Employees are responsible for submitting resumes to their respective SHROs no later than 45 days prior to the issuance date of the specific notices in order to assist in qualification determinations for assignment to other positions; providing up-to-date information and supporting documentation as appropriate, on veterans' preference, education, and experience; verifying information to be used by the SHRO in establishing retention registers; and notifying the SHRO of errors or omissions.

IX. RIF PROCEDURES

A. USE OF RIF PROCEDURES

The provisions of 5 CFR Part 351 and this Handbook **do not apply** to:

1. The termination of a temporary or term promotion or the return of an employee to the position held before the temporary or term promotion or to one of equivalent grade and pay;
2. A change to lower grade based on the reclassification of an employee's position due to the application of new classification standards or the correction of a classification error;
3. A change to lower grade based on reclassification of an employee's position due to erosion of duties. An exception is a reclassification action that will take effect after an operating unit has formally announced a RIF in the employee's competitive area and the reduction will take effect within 180 days (5 CFR 351.201(a)(1)). This exception ends at the completion of the RIF;
4. Placement of an employee serving on an intermittent, part-time, or seasonal basis in a nonpay and nonduty status in accordance with conditions established at the time of appointment; or
5. A change in an employee's work schedule from other-than-full-time to full-time.

Management may reassign an employee without regard to RIF procedures, if they have not been reached for release, to a vacant position at the same grade or rate of pay regardless of whether the position is in the same or a different competitive level, competitive area, or local commuting area. No employee may be reassigned to a position within the Office of the Inspector General without authorization by the Inspector General. Additionally, the need to apply RIF procedures does not suspend the Department's authority and responsibility to take other legitimate personnel actions, such as reassignments and changes to lower grade for unacceptable performance, before, after, or during a RIF.

B. APPLICABILITY

Competitive service employees designated in Tenure Group I, II, and III as defined on page 7.

Employees on temporary-limited appointments in the competitive service should be removed before any employee covered by 5 CFR 351.202 is reached for a RIF action in a competitive level.

C. COMPETITIVE LEVELS

No RIF action may be taken until every position in the affected competitive area is assigned to a competitive level. A retention register must be prepared for each affected competitive level in a competitive area.

The SHRO will establish competitive levels by grouping positions within a competitive area in the same grade/pay band and occupational series, having similar duties and qualifications, and the same work schedule (full-time, part-time, seasonal, intermittent). Competitive levels are based on employees' official position descriptions for all positions including those covered under CAPS and APMS, not on employees' personal qualifications.

Employees are placed in the same competitive level when their official position description indicates that the incumbent of one position can successfully perform the significant key duties of another position within 90 days from placement without any loss of productivity or undue interruption beyond that which is normally expected in the orientation of any new, fully qualified employee.

Supervisory and managerial positions will usually be placed in separate competitive levels from other positions, as it is unlikely that the duties of supervisory and non-supervisory positions would be similar enough to be placed in the same competitive levels. Serving a supervisory or managerial probationary period is not a basis for establishing a separate competitive level.

D. RETENTION REGISTERS

A retention register listing each employee affected in a distinct competitive level will be developed by applying the following four factors: tenure group, veterans' preference, length of service, and performance. The list will be in descending order within the following groups: Group I, Group II, Group III. Once established, this list aids the HR Specialist in determining the proper order for releasing employees from their competitive level and for applying assignment rights.

Employees are released in inverse order of their retention standing, from the lowest to the highest-standing employee.

The name of each employee in receipt of a **written decision of removal** due to unacceptable performance will be listed at the bottom of the respective retention register. These employees do not compete in RIF. An employee in receipt of a **written decision to demote** due to unacceptable performance will compete in RIF from the position to which he/she will be demoted.

A competing employee who has not received a written decision of removal or demotion due to unacceptable performance is listed on the retention register, not apart from it.

E. PERFORMANCE FACTORS

Additional service credit for performance is assigned in accordance with 5 CFR 351.504; the “Department of Commerce Alternative Personnel System (CAPS) Operating Procedures Manual”; or the “NIST Alternative Personnel Management System (APMS) Project Operating Procedures,” as applicable. Regardless of whether an employee’s service occurred in the Department or a former agency, the employee’s actual ratings of record are used to the extent they are available.

1. Official Rating of Record

The official rating of record is the performance rating prepared at the end of a performance appraisal period. The rating is established by combining the individual ratings on each element to arrive at an overall evaluation of an employee’s performance for the appraisal period.

For employees of the Department not subject to 5 U.S.C., Chapter 43 or 5 CFR Part 430, it means the officially designated performance rating, as provided for in the Department’s appraisal system, is considered an equivalent rating of record. To be considered an equivalent rating of record, the appraisal must have been issued as an officially designated performance evaluation under the Department’s performance evaluation system, have been derived from the appraisal of performance against expectations that are established and communicated in advance and be work-related, and have identified whether the employee performed acceptably.

2. Department of Commerce Appraisals

Performance evaluations issued under the current five-level summary rating pattern (Level 5, Level 4, Level 3, Level 2, and Level 1) of the Department performance appraisal system are ratings of record for RIF purposes. These ratings will be used to calculate additional service credit. Employees under CAPS are appraised in accordance with the “Department of Commerce Alternative Personnel System Operating Procedures Manual,” Section II.C.1. (See Appendix C, H.2 of this Handbook, below.) Employees covered by the APMS are appraised in accordance with the “NIST Alternative Personnel Management System (APMS) Project Operating Procedures,” Section II.F. (See Appendix C, H.3 of this Handbook, below.)

3. Appraisals from Other Federal Departments

Ratings of record received within the last 4 years from Federal departments/agencies covered by 5 CFR Part 430 and those from departments, agencies, or organizations not subject to these regulations, which are determined by the Department to be equivalent ratings of record, shall be used to grant additional service credit.

4. Ratings of Record

Annual ratings of record may not be prepared retroactively to cover periods for which no rating is available. A supervisor may not prepare a rating for a prior appraisal period at the time a subsequent rating is due. An employee may not be assigned to a new rating of record for the sole purpose of affecting his or her retention standing.

To be creditable for RIF purposes, approved ratings must have been issued to the employee, be on record, and available to the SHRO in order to prepare retention registers. For official ratings of record issued by operating units of the Department, the ratings must be final and have been entered into the National Finance Center system. For ratings from prior agencies, the ratings must be available in the employee's personnel records. If not available, the SHRO will give the employee a reasonable opportunity to provide any missing ratings. The actual rating or a duplicate must be provided. Certified statements will not be accepted. If missing ratings are not provided, performance credit will be determined as outlined under Section F, Crediting Performance, below.

Only scheduled annual ratings of record may be used. An employee's last annual rating of record may be an improved rating received, resulting from an opportunity to demonstrate acceptable performance. A cutoff date 30 days prior to the issuance of specific RIF notices will be used to allow time to establish retention registers. No new annual ratings will be recorded or used for RIF purposes after that date.

5. Assignment Rights

Employees in excepted service positions are excluded from coverage under this provision of the Handbook (IX.E.5) and from 5 CFR 351.701 (Assignment involving displacement).

Employees who currently have Level 1 ratings forfeit their right of assignment under RIF. Those rated Level 2 can only retreat to positions held by employees with the same or lower ratings. Under CAPS, employees with a current rating of record of "Eligible" may bump into positions in the same career path at their same pay band or one pay band below that which is currently held by another employee in a lower retention subgroup. In addition, these employees may retreat into positions in the same career path at the same pay band or one pay band below that which is currently held by another in the same subgroup with a lower RIF service computation date.

Employees under CAPS may only bump and retreat within their respective competitive area and competitive level and only to positions for which employees are qualified in their same or next lower pay band. See "Department of Commerce Alternative Personnel System Operating Procedures Manual," Section II.C.1.b(2).

Employees under the APMS may bump into a position held by another employee in a lower retention subgroup, provided the position is in the same career path and pay band or one pay band lower. An employee may retreat into a position held by an

employee with a lower RIF service computation date in the same subgroup, provided the position is in the same career path and pay band or one pay band lower. A preference eligible employee with a 30 percent or more service connected compensable disability may retreat to a position held by a lower standing employee in the same subgroup, provided the position is in the same career path and pay band or two pay bands lower. See “NIST Alternative Personnel Management System (APMS) Project Operating Procedures,” Section II.D.1.a(2)

F. CREDITING PERFORMANCE

1. Employees under a Five-Level System

- a. Official ratings of record will be used to calculate additional service credit for RIF retention, in accordance with 5 CFR 351.504. The current Department performance appraisal system provides for five summary rating levels. They are Level 5, Level 4, Level 3, Level 2, and Level 1.
- b. The value assigned to each annual rating is 20 years for Level 5, 16 years for Level 4, and 12 years for Level 3. No additional credit is given for Level 2 or Level 1 ratings. A current rating of Level 3 will be presumed when an employee has been demoted for unacceptable performance and, as of the date a specific RIF notice is issued, has not received a performance-based rating in the position to which demoted.
- c. An employee’s entitlement to additional service credit for performance is based on the average of the employee’s last three annual ratings of record, received during the 4-year “look-back” period prior to either the date the organization issues the specific RIF notices or the identified cutoff date, after which no new ratings of record will be used for performance credit.
- d. An employee who has received at least one but fewer than three previous ratings of record during the prior 4-year “look-back” period for crediting performance shall receive credit based on the value of the ratings of record divided by the number of ratings received (i.e., average). If an employee has received only two ratings of record during the period, the value of the ratings is added together and divided by two. If an employee has received only one rating of record during the period, its value is the amount of additional retention service credit provided in the applicable performance plan. If an employee has more than three annual ratings of record during the 4-year period, the three most recent ratings of record will be averaged.

Note: Mathematical averaging of the ratings is rounded up to the next higher whole number.

- e. An employee who has received no ratings of record during the 4-year “look back” period will receive credit for performance based on the modal rating for the

summary level pattern that applies to the employee's official position of record at the time of the RIF.

2. Employees Covered by CAPS

- a. Employees rated Eligible with an overall performance score in the top 30 percent of scores within the same pay pool will receive 10 additional years of service for retention purposes.
- b. Employees rated Eligible with an overall performance score that does not fall within the top 30 percent of scores within the same pay pool will receive 5 years of additional service for retention purposes.
- c. Employees who convert to CAPS from any other performance management system in the Federal Government will receive 5 additional years of service for retention credit for each rating of record equivalent to an eligible rating in CAPS.
- d. The total credit will be based on the employee's three most recent annual performance scores received during the 4-year "look-back" period prior to either the date the organization issues the specific RIF notices or the identified cutoff date, after which no new ratings of record will be used for performance credit.
- e. For appraisal periods during which the employee was absent for the entire rating, the rating will be based on either the employee's last rating of record or the modal rating received by all other employees in the same pay pool for the most recently completed appraisal period, whichever is the most advantageous to the employee. A modal rating is the most frequently assigned rating in the pay pool. If there is more than one modal rating, the highest one will be used.

3. Employees Covered by the APMS

- a. The system consists of seven performance-rating levels. Those levels and the amount of service credit are Exceptional (10 years); Superior (8 years); Meritorious (4 years); Significant (3 years); Contributor (1 year); Marginal (0 years); and Unsatisfactory (0 years).
- b. The total credit is based on the employee's three most recent annual performance ratings of record received during the 4-year "look-back" period prior to either the date the organization issues the specific RIF notices or the identified cutoff date, after which no new ratings of record will be used for performance credit, for a potential total credit of 30 years.
- c. No RIF credit converts to this system from any other performance appraisal system.
- d. Modal ratings are not used within APMS.

4. Employees Covered by Pass-Fail

- a. Employees receiving a Pass receive 12 additional years of service.
- b. An employee's entitlement to additional service credit for performance is based on the average of the employee's last three annual ratings of record received during the 4-year "look-back" period prior to either the date the organization issues the specific RIF notices or the identified cutoff date, after which no new ratings of record will be used for performance credit.
- c. An employee who has received at least one but fewer than three previous ratings of record during the prior 4-year "look-back" period for crediting performance shall receive credit based on the value of the ratings of record divided by the number of ratings received (i.e. average). If an employee has received only two ratings of record during the period, the value of the ratings is added together and divided by two. If an employee has received only one rating of record during the period, its value is the amount of additional retention service credit provided. If an employee has more than three annual ratings of record during the 4-year period, the three most recent ratings of record will be averaged.

Note: Mathematical averaging of the ratings is rounded up to the next higher whole number.

- d. An employee who has received no ratings of record during the 4-year "look back" period will receive credit for performance based on the modal rating for the summary level pattern that applies to the employee's official position of record at the time of the RIF.

G. COMPETITION (NON-CAPS AND NON-APMS EMPLOYEES)

1. Prior to Competition

Non-competing employees are released before any competing employee in a competitive level.

2. First Round of Competition

Once it is determined by management how many employees are needed at each competitive level, the first round of competition is conducted. During the first round of competition, competing employees whose retention standing was previously determined by applying the four factors (as described on page 12) are released from their competitive level in the inverse order of their retention standing.

3. Second Round of Competition

A competing employee released from his/her competitive level during the first round of competition may be assigned to another competitive level within the same

competitive area according to bump or retreat rights as applicable, in the manner that will result in the least possible loss of grade or pay.

An employee is entitled to only one offer of assignment. An employee with a current annual performance rating of Unacceptable has no assignment right.

When bump or retreat is used, the promotion potential of the offered position is not a consideration.

Bump: A Tenure Group I or II employee is placed into a position held by another employee in a lower tenure group, or in a lower subgroup within the same tenure group, that is not more than three grades or grade intervals (in two-grade-interval jobs, bumping could be as much as six actual grades) or one pay band (CAPS and APMS) below the position from which the employee is released. Bumping must be to a position in the same competitive area but different competitive level. An employee may bump someone in a lower subgroup but may not bump an individual in the same subgroup. Tenure Group III employees do not have bump rights as they cannot displace other employees.

Retreat: A Tenure Group I or II employee is placed into a position held by another employee with a lower retention standing in the same tenure group and subgroup that is no more than three grades or grade intervals (in two-grade-interval jobs, retreating could be as much as six actual grades) or one pay band (CAPS and APMS) below the position from which the employee is released. In order to retreat, the position must be the same as, or essentially identical to, a position previously held by the released employee in the Federal service on a permanent basis. Tenure Group III employees do not have retreat rights.

Subgroup AD Employees – Preference eligible employees with a 30 percent or more compensable service-connected disability may retreat up to five grades or grade intervals.

Note: Employees with a minimally successful performance rating may only retreat to a position held by another minimally successful or lower employee.

4. Mandatory Exceptions to the Regular Order of Release

Following restoration after military service, an employee is given retention priority over other employees in the same subgroup to employees in Groups I or II for 6 months (if the period of uniformed service was for more than 30 days but less than 180 days) or 1 year (if the period of uniformed service was more than 180 days) after restoration.

Operating units shall make a temporary exception to retain an employee who is being involuntarily separated under RIF procedures and who elects to use **annual** leave to remain on the rolls after the date the employee would have been separated, in order to establish eligibility for retirement and/or to establish initial eligibility to continue

health benefits' coverage into retirement. An employee cannot be retained past the date he/she first becomes eligible for retirement or continuation of health benefits, and may not exceed 90 days. The exception may not exceed the date the employee first becomes eligible for immediate retirement and/or for continuation of health benefits into retirement and may exceed 90 days. Other types of paid leave such as sick leave, compensatory leave, credit leave, etc. cannot be used to remain on the rolls.

5. Permissive Exceptions to the Regular Order of Release

Exceptions to the regular order of release will be made in a fair and objective manner. Employees must be informed in writing if they are affected by an exception to the regular order of release.

Continuing exception – Is permitted when necessary to retain an employee in a position that no higher-standing employee can take over within 90 days without undue interruption to the agency.

Temporary exceptions – Can be made in order to retain an employee after the effective date of the RIF:

- To be granted for a maximum of 90 days if necessary to continue an activity without undue interruption.
- To retain a lower standing employee on sick leave who was on approved sick leave on the effective date of the RIF until the employee's sick leave is exhausted, even if this exceeds 90 days.
- To satisfy a Government obligation.
- To benefit the employee when the temporary retention of a lower-standing employee does not adversely affect the right of any higher-standing employee who is released ahead of the lower-standing employee.

6. Qualification Requirement for Position Change

A competing employee released from his/her competitive level is entitled to placement in a position for which they are qualified in another competitive level, consistent with RIF competition and assignment provisions (bump and retreat). An employee must meet the OPM qualification standard, including minimum education requirements, and any selective placement factors established; be physically qualified with or without a reasonable accommodation, where appropriate, to perform the duties of the position; and possess the skills needed to satisfactorily perform the essential duties of the position upon entry without undue interruption to the organization.

An employee on a leave of absence due to a compensable injury cannot be denied assignment solely due to not being physically qualified if the disqualification resulted from the compensable injury. Such an employee must be afforded assignment rights, subject to recovery.

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

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

A right of assignment to a sensitive position may not be delayed or denied because the employee does not have the appropriate security clearance or an authority refuses to give it. An employee whose assignment rights can only be satisfied by such an assignment must be placed in the sensitive position on the date of the RIF. While the clearance process is pending, the sensitive duties may be temporarily given to another qualified employee, or other appropriate arrangements made.

To be qualified to bump or retreat into a trainee position, an employee must meet all of the conditions required for selection and entry into the formal intern development program. An employee who has completed a course of training or development in a specific occupation, or who is otherwise fully trained and qualified, may not bump or retreat into a formal Department intern or development program in that occupation.

7. Offer of Position

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

Assignments across pay plans, for example, Federal Wage Schedule (FWS) or General Schedule (GS), will be determined by representative rates. Employees may not be assigned in RIF to a position with a higher representative rate. When an informational RIF notice is issued to employees, operating units will solicit competing employees' general preferences in terms of occupations and/or locations to which they may be assigned because of RIF.

When assignment rights can be satisfied by more than one position with the same representative rate, the operating unit will make its assignment determination based on the needs of the organization, after reasonable consideration of the employee's expressed preferences. An employee may be offered assignment to a position with greater promotion potential.

An employee is entitled to only one proper offer and is entitled to no further offer when he/she accepts an offer, rejects an offer, or fails to reply within a reasonable time. However, even though an employee is entitled to only one offer of assignment, the operating unit must make a better offer of assignment (i.e., to a position with a higher representative rate) to a released employee if a position becomes available before, or on, the effective date of the RIF. The released employee is entitled to any better offers of assignment regardless of whether the employee previously accepted or declined an offer of assignment. After determining an employee's assignment right, an alternative offer of a vacant position with the same or lower representative rate than that of the position to which the employee was entitled, may be provided in order to permit the employee to remain in the commuting area or in the same line of work.

A vacant part-time position may be offered to a full-time employee, and a vacant full-time position may be offered to a part-time employee in lieu of separation or demotion by a RIF.

H. COMPETITION – CAPS EMPLOYEES

Employees in CAPS are covered by Section II.C.3, RIF Assignment Panel and Subpanels – Procedures, of the “Department of Commerce Alternative Personnel System Operating Procedures Manual,” May 23, 2007.

I. COMPETITION – APMS EMPLOYEES

Employees in the APMS are covered by Section II.D.1.(a), Reduction in Force – Career Paths and Pay Bands, of the “NIST Alternative Personnel Management System (APMS) Project Operating Procedures.”

J. SPECIFIC RIF NOTICE

Management must provide each competing employee selected for release from a competitive level a specific written notice at least 60 full days before the effective date of release (5 CFR 351.801(a)(1)). Management must give a written notice to the exclusive representative(s) of each affected employee at the time it issues the specific notice to the employee (5 CFR 351.801 (a)(2)).

A Saturday, Sunday, legal holiday, or other non-workday will not be counted as the last day of the notice period. In such a case, the action will be made effective on the next regular workday of the employee. A similar policy will be used in reply periods. The notice period begins on the day after the date the employee receives the written notice.

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

Specific RIF notices must contain the information required by 5 CFR 351.802(a). This includes:

1. The action taken, the reasons for the action, and its effective date;
2. The employee's competitive area; competitive level; subgroup; service computation date; and annual performance ratings of record received during the last 4 years;
3. The location where the employee may inspect the regulations and records pertinent to his/her case;
4. The reasons for retaining a lower-standing employee in the same competitive level;
5. Information on selection priority (Career Transition Assistance Plan and the Interagency Career Transition Assistance Plan) and the Department's Reemployment Priority List; and
6. The employee's right to appeal/grieve and applicable time limits governing that right.

If requested, employees will be provided access to 5 CFR Part 351. Employees being separated will be provided information on the Career Transition Assistance Plan (CTAP), the Interagency Career Transition Assistance Plan (ICTAP), and the Reemployment Priority List, as well as information on applying for unemployment insurance (5 CFR 351.803(a)).

Employees ordinarily continue to occupy their original positions and remain in a pay and duty status during the entire notice period unless the employee resigns, or requests and is granted annual leave, sick leave, or leave without pay. However, in an emergency, when there is a lack of work or funds for all or part of the notice period, the employee may be placed on annual leave with or without his/her consent, leave without pay with his/her consent, or in a non-pay status without his/her consent.

K. REPLIES TO JOB OFFERS

Specific RIF notices will provide employees with 10 workdays within which to accept or decline an offer of continuing employment. Extension of the reply period should be permitted when time is available, or when it can be shown that employees were prevented by circumstances beyond their control from replying within the prescribed time. Employees should be informed that declining a position offer will probably result in separation.

When an employee accepts an offer of a position within the commuting area, it is recommended that a courtesy meeting be set up with the gaining supervisor. RIF placements, however, are mandatory and may only be objected to on the grounds of undue interruption. Undue interruption (5 CFR 351.203) means a degree of interruption that would prevent the completion of required work by the employee 90 days after the employee has been placed in a different position in accordance with this policy.

X. ASSISTANCE AND BENEFITS

A. GRADE AND PAY RETENTION

Grade Retention – Under 5 CFR Part 536, an employee who is downgraded due to a RIF is entitled to retain the same grade for 2 years if the employee held the position under permanent appointment, held the position for at least 1 year, and the employee did not decline an offer of an equivalent position. The employee's retained grade is considered for all purposes including pay and pay administration, premium pay, retirement, life insurance, and eligibility for training, promotions, and within-grade increases. However, the retained grade may **NOT** be used in any future RIF competition.

An employee receiving grade retention is eligible for within-grade increases (if the criteria have been met) and 100 percent of any general pay adjustments, such as nationwide and locality pay adjustments and special salary rate supplements, for the retained grade during the 2-year grade retention period. An employee covered under CAPS or APMS is eligible for performance increases, unless their pay is already at the maximum of the pay band, and 100 percent of any general pay adjustments, such as nationwide and locality pay adjustments and special salary rate supplements, for the retained grade during the 2-year grade retention period. Upon expiration of the 2-year retained grade period, the employee is eligible for pay retention, if applicable.

Pay Retention – Under 5 CFR Part 536, an employee who is downgraded due to RIF is entitled to pay retention upon expiration of the 2-year grade retention entitlement, if applicable.

In addition, an employee who is not eligible for grade retention (having served less than 52 weeks at the higher grade) is eligible for pay retention.

Pay retention applies when the basic rate of pay the employee held prior to the RIF exceeds the basic rate of pay for the highest step or band limit of the lower-graded position held by the employee after the employee is placed in the lower graded position when grade retention expires.

An employee who is placed in the lower-graded position, but retains his or her former basic rate of pay up to a maximum of 150 percent of the maximum payable rate of the basic pay of the lower-graded position (5 CFR 536.304(b)). The employee's pay is converted to a retained rate that includes locality pay.

An employee receiving pay retention receives 50 percent of any change in the maximum rate of the highest applicable rate range for the employee's position of record; however, at no time may a retained rate exceed the rate payable for level IV of the Executive Schedule (5 CFR 536.306). An employee continues to receive 50 percent of any change in the applicable maximum rate until such time as the employee's retained rate becomes equal to or lower than the maximum rate of the highest applicable rate range for the employee's position.

B. EMPLOYMENT ASSISTANCE

Management will assist employees in locating employment elsewhere, both in the Federal Government and the private sector. Through the Career Transition Assistance Program (CTAP), eligible employees can receive counseling on how to effectively market their skills, prepare employment applications, and undertake a job search. The Department will afford eligible employees special selection priority for vacancies to be filled prior to RIF separation in accordance with the Department CTAP.

Under the Interagency Career Transition Assistance Program (ICTAP), eligible displaced employees receive selection priority prior to RIF separation and up to 1 year after RIF separation for vacancies in other Federal agencies, for which they apply and are found well-qualified.

Employees that are eligible and interested in retirement will be provided appropriate counseling.

C. REEMPLOYMENT PRIORITY LIST (RPL)

The Department, in conjunction with SHROs, will establish and maintain RPLs for each commuting area in which it separates competitive Group I or II employees by RIF. The RPL affords registered eligible employees placement priority for vacancies in which they qualify, before selection of someone outside the Department. To be eligible, an employee must receive a specific RIF notice or a Certification of Expected Separation, not have declined an offer of a position with a representative rate at least as high as the position from which separated, and have an annual performance rating of record of at least Fully Successful (Level 3). An eligible employee may apply and be entered on the RPL only for the commuting area from which separated and may not apply for the RPL in any other location, except as provided under 5 CFR 330.227 (c) – (e). To be entered on the RPL, an employee must submit an application on or before their RIF separation date. The employee must be entered on the RPL no later than 10 calendar days after receipt of his/her application. An employee is entered on the RPL list for all requested positions for which he/she is qualified and available. RPL registration expires 2 years from the date of RIF separation for both Tenure Group I and Tenure Group II.

D. REEMPLOYMENT IN TEMPORARY POSITIONS

The Department may reemploy separated permanent employees in temporary positions. It is the policy of the Department to offer separated employees reemployment in available temporary positions without a break in service so their benefits will continue for the duration of their temporary employment. The RPL would determine the employee to be offered the temporary vacancy.

E. RELOCATION EXPENSES

Employees involuntarily separated from service within 1 year of official relocation to a new duty station are not bound by their Agreement to Remain in Service and will not be required to reimburse the Department for relocation expenses paid. Any employee who resigns because he/she expects to be involuntarily separated as a result of receiving a specific RIF notice and who had been relocated at Department expense less than a year prior to the resignation, shall not be required to reimburse the Department for associated relocation expenses that have been paid to the employee.

XI. GRIEVANCES AND APPEALS

Section 3.01a of Department Administrative Order (DAO) 202-771 excludes RIF from the scope of the administrative grievance procedure. The appeal rights of non-bargaining employees separated or demoted in RIF is to the Merit Systems Protection Board (MSPB). Employees in a bargaining unit must use their applicable negotiated grievance procedure (NGP) unless the NGP specifically excludes RIF from the scope of the NGP. In that case, the employee's appeal rights are to the MSPB. If the scope of the NGP does not specifically exclude RIF, but the employee alleges discrimination, the employee has the option under 5 U.S.C. § 7121(d) to use the NGP or the MSPB (i.e., "mixed case"). In addition, higher standing employees released from their competitive level out of retention order because of a decision to retain a lower standing employee as an exception may appeal this action to the MSPB or grieve under the applicable NGP as appropriate. Employees should consult the labor relations staff in their SHRO for specific appeal rights. SHROs must advise each employee who would otherwise have only a grievance right under an NGP of their option of filing a RIF appeal to the MSPB when a discrimination issue is raised under 5 U.S.C. § 2302(b)(1).

The employee is deemed to have made his/her choice when he/she first timely files a written grievance under the NGP, or timely files a formal appeal under the applicable appeal procedure, whichever occurs first. Note: The Equal Employment Opportunity Commission's (EEOC) regulations consider the employee to have made an election of the NGP if he/she files a written grievance, even if the grievance is an informal grievance. If the employee raises an allegation of prohibited discrimination, the employee can request further review of the final decision of the NGP by either the MSPB or the EEOC. The MSPB reviews the final decision of the NGP (i.e., (1) management's final decision on the grievance if no arbitration is invoked; (2) the arbitrator's award if no exception to the award is filed with the Federal Labor Relations Authority (FLRA) by the union or management; or (3) the final decision of the FLRA on exceptions filed to the arbitration award) on the issue (RIF) while the EEOC reviews the final decision of the NGP only as it pertains to the allegation of prohibited discrimination.

If the bargaining unit employee believes the separation or demotion in RIF involved a prohibited personnel practice other than prohibited discrimination, the employee may appeal the RIF and the allegation of a prohibited personnel practice to the Office of Special Counsel, the MSPB, or through the NGP. The employee is deemed to have made his/her choice when he/she first timely files a written grievance under the NGP, or timely files a formal appeal under the applicable appeal procedure, whichever occurs first.

Employees receiving grade or pay retention because of a RIF may not appeal nor use the NGP to challenge the RIF (5 U.S.C. § 5366(b)). Employees who accept an offer of assignment to another position at the same grade or representative rate have no right to appeal the RIF to MSPB.

An appealable RIF action may be appealed to the MSPB anytime during the period beginning with the day after the effective date of the action, and ending no later than 30 days after that effective date. The terms of the applicable collective bargaining agreement control the time limits to grieve under the NGP.

XII. RETENTION RECORDS

A. DISCLOSURE OF RETENTION RECORDS

Retention registers and records must be shown to employees who have received specific RIF notices upon request. Disclosure of records may include the employees' designated representatives. Before exhibiting such records, dates of birth and social security numbers must be redacted. Employees and their representatives are also entitled to see descriptions of competitive areas and levels, and the dates these were established or changed.

B. CONTENT OF RETENTION RECORDS

Retention registers for each competitive level will contain the minimum information necessary to establish standing for each employee, such as name; position title; series; grade; organization; tenure group and subgroup; service computation date adjusted for additional service credit; and the last performance rating of record. Other useful information, such as expiration date of mandatory retention after return from military duty, date of expected conversion to career, etc., can be added. Personal data should not be made a part of retention registers except as necessary to identify employees. Each retention register will include notations regarding what happened to the position (abolished, downgraded, etc.) as well as the effect on the incumbent (separated, reassigned to "X" position, etc.).

C. RECORDS

All records, registers, and worksheets sufficient to depict the conduct of a RIF will be maintained for 2 years from the issuance date of specific RIF notices.

APPENDIX A – PROCEDURES FOR REQUESTING PRIOR APPROVAL AND REPORTING REQUIREMENTS

Management must obtain the approval of the Director/HRM prior to the issuance of any RIF notice; obtain approval of the Director/HRM prior to changing an existing competitive area; and must send a written report to the Director/HRM no later than 40 days after the effective date of a RIF action. The request must be submitted 30 days prior to the issuance of the specific RIF notice. The Director/HRM may waive or shorten this period if the Director/HRM deems it necessary and in the interest of the Government. Management must also obtain approval of the Director/HRM prior to changing an existing competitive area. The following guidance pertains to the submission of a request for approval of a RIF or furlough (under RIF procedures) and to a request for approval to change an existing competitive area.

A. REQUESTING APPROVAL FOR RIF

The following information must be included in the request to the Director/HRM for prior approval of a RIF:

1. Action to be taken and cause of action;
2. The language to be used in the RIF notice as the “reasons” for the RIF;
3. Organizational and geographical description of the competitive area(s);
4. A certification that every employee in the competitive area(s) has a current rating of record as required by the applicable Department performance management system or a list of every employee in the competitive area(s) who does not have a current rating or record required by a Department performance management system. This listing must include the names of each employee’s rating and approving officials, and the reason(s) why the employee’s rating of record is not current;
5. Total positions to be abolished;
6. Estimate of the number of employees to be downgraded;
7. Projected issuance date of the specific notice and the number of specific notices to the employees and to the union(s) (if applicable);
8. Projected effective date of the RIF;
9. Details on any unusual situational factors involved; and
10. A brief description of alternative actions, including placement/outplacement efforts, that management has taken to minimize the impact of this action.

B. REQUESTING PRIOR APPROVAL FOR A FURLOUGH (UNDER RIF PROCEDURES)

The following information must be included in the request to the Director/HRM for prior approval of a furlough (under RIF procedures):

1. Action to be taken;
2. Definition of the existing competitive area, specified organizationally and geographically only;
3. Copy of the text of the proposed furlough notice;
4. Estimate of the number of employees to be furloughed;
5. Total staff days of furlough planned;
6. Inclusive dates of all furlough actions; and
7. Minimum and maximum duration of individual furloughs.

C. REQUESTING PRIOR APPROVAL TO CHANGE EXISTING COMPETITIVE AREAS

The Department must obtain prior approval from OPM to change an existing competitive area or establish a new competitive area within 90 days of the effective date of a RIF (5 CFR 351.402 (c)). Requests must be submitted to the Director/HRM no later than 135 days prior to the effective date of a RIF, in accordance with the requirements listed below. If no RIF is planned, the request and all supporting documentation must be submitted to the Director/HRM at least 45 days prior to the effective date of the requested change.

The request must include:

1. Identification of the proposed competitive area, including the organizational segment, geographic location, and limits on the local commuting area;
2. A description of how the proposed area differs from the one previously established for the same unit and geographic area;
3. An organizational chart of the agency showing the relationship between the organizational components within the competitive area and other components in the commuting area;
4. The number of competing employees in the proposed competitive area;
5. A description of the operation, work function, staff, and personnel administration of the proposed area, and, where appropriate, a description of how the area is distinguished from others in these respects;

6. A discussion of the circumstances that led to the proposed changes; and
7. If applicable, a statement certifying all obligations under Title 5, U.S.C., Chapter 71 have been satisfied.

D. REPORTING REQUIREMENTS

Management must send a written report to the Director/HRM no later than 40 days after the effective date of a RIF action. The report must provide the following:

1. The effective date of the RIF;
2. The number of specific RIF notices issued;
3. The number of downgrades, separations, Reemployment Priority List registrations, discontinued service retirements, optional retirements, and reassignments that resulted; and
4. Information on any RIF appeals.

Should the RIF action be cancelled, management must inform the Director/HRM in writing within 7 days of the cancellation. Should the RIF action be delayed, management must notify the Director/HRM in writing of the delay and provide a revised target effective date.

APPENDIX B – COMPETITIVE AREAS

This Appendix defines the Washington, DC, commuting area and provides a listing of the competitive areas within the Department of Commerce.

A. WASHINGTON, DC COMMUTING AREA

The Department defines the Washington, DC, metropolitan area as a local commuting area. The Washington, DC, metropolitan area includes the District of Columbia; Calvert, Charles, Frederick, Montgomery, Prince George's, and St. Mary's counties in Maryland; and Alexandria, Arlington, Fairfax, Loudon, Prince William, and Stafford counties in Virginia.

B. DEPARTMENT COMPETITIVE AREAS

The following is a complete list of non-SES competitive areas within the Department.

1. Office of the Secretary

- a. Each of the following operating units in the *Office of the Chief Financial Officer/ Assistant Secretary for Administration* is its own separate competitive area in each local commuting area. These offices include:
 - 1) *Office of Civil Rights*
 - 2) *Office of Budget*
 - 3) *Immediate Office of the Chief Financial Officer and Assistant Secretary for Administration*
 - 4) *Office of Small and Disadvantaged Business Utilization*
- b. Office of the Secretary employees in the Office of the Chief Financial Officer/ Assistant Secretary for Administration, *Office of Human Resources Management* in the Scientific and Engineering career path in each local commuting area (Agency Code = 51 and Career Path = ZP)
- c. Office of the Secretary employees in the Office of the Chief Financial Officer/ Assistant Secretary for Administration, *Office of Human Resources Management* in the Administrative career path in each local commuting area (Agency Code = 51 and Career Path = ZA)
- d. Office of the Secretary employees in the Office of the Chief Financial Officer/ Assistant Secretary for Administration, *Office of Human Resources Management* in the Support path in each local commuting area (Agency Code = 51 and Career Path = ZS)

- e. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Administrative Services* in the Scientific and Engineering career path in each local commuting area (Agency Code = 51 and Career Path = ZP)
- f. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Facilities and Environmental Quality* in the Administrative career path in each local commuting area (Agency Code = 51 and Career Path = ZA)
- g. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Facilities and Environmental Quality* in the Support path in each local commuting area (Agency Code = 51 and Career Path = ZS)
- h. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Financial Management* in the Scientific and Engineering career path in each local commuting area (Agency Code = 51 and Career Path = ZP)
- i. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Financial Management* in the Administrative career path in each local commuting area (Agency Code = 51 and Career Path = ZA)
- j. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Financial Management* in the Support path in each local commuting area (Agency Code = 51 and Career Path = ZS)
- k. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Acquisition Management* in the Scientific and Engineering career path in each local commuting area (Agency Code = 51 and Career Path = ZP)
- l. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Acquisition Management* in the Administrative career path in each local commuting area (Agency Code = 51 and Career Path = ZA)
- m. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Acquisition Management* in the Support path in each local commuting area (Agency Code = 51 and Career Path = ZS)

- n. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Security* in the Scientific and Engineering career path in each local commuting area (Agency Code = 51 and Career Path = ZP)
- o. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Security* in the Administrative career path in each local commuting area (Agency Code = 51 and Career Path = ZA)
- p. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Security* in the Support path in each local commuting area (Agency Code = 51 and Career Path = ZS)
- q. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Program Evaluation and Risk Management* in the Scientific and Engineering career path in each local commuting area (Agency Code = 51 and Career Path = ZP)
- r. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Program Evaluation and Risk Management* in the Administrative career path in each local commuting area (Agency Code = 51 and Career Path = ZA)
- s. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Program Evaluation and Risk Management* in the Support path in each local commuting area (Agency Code = 51 and Career Path = ZS)
- t. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Privacy and Open Government* in the Scientific and Engineering career path in each local commuting area (Agency Code = 51 and Career Path = ZP)
- u. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Privacy and Open Government* in the Administrative career path in each local commuting area (Agency Code = 51 and Career Path = ZA)
- v. Office of the Secretary employees in the Office of the Chief Financial Officer/Assistant Secretary for Administration, *Office of Privacy and Open Government* in the Support path in each local commuting area (Agency Code = 51 and Career Path = ZS). All other Office of the Secretary employees in *Federal Wage System* positions (Wage Grade) in each local commuting area (ORGLVL2 = 5100 through 5109)

- w. The *Office of the Chief Information Officer* is its own separate competitive area in each local commuting area.
 - x. The *Office of the General Counsel* is its own separate competitive area in each local commuting area.
 - y. All other Office of the Secretary employees in the *General Schedule* in each local commuting area (ORGLVL2 = 5100 through 5109)
2. Bureau of Industry and Security
- a. *Bureau of Industry and Security* employees in each local commuting area (Agency Code = 67)
3. Economics and Statistics Administration
- a. *Economics and Statistics Administration* employee in each local commuting area (Agency Code = 65)
 - b. *Census Bureau* (Agency Code = 63)
 - 1) *Atlanta Regional Office* employees working in the regional office in the Atlanta, Georgia metropolitan local commuting area.
 - 2) *Atlanta Regional Office* field employees working in the boundaries of the Field Supervisory Area.
 - 3) *Chicago Regional Office* employees working in the regional office in the Chicago, Illinois metropolitan local commuting area.
 - 4) *Chicago Regional Office* field employees working in the boundaries of the Field Supervisory Area.
 - 5) *Denver Regional Office* employees working in the regional office in the Denver, Colorado metropolitan local commuting area.
 - 6) *Denver Regional Office* field employees working in the boundaries of the Field Supervisory Area.
 - 7) *Los Angeles Regional Office* employees working in the regional office in the Los Angeles, California metropolitan local commuting area.
 - 8) *Los Angeles Regional Office* field employees working in the boundaries of the Field Supervisory Area.

- 9) *New York Regional Office* employees working in the regional office in the New York, New York metropolitan local commuting area.
- 10) *New York Regional Office* field employees working in the boundaries of the Field Supervisory Area.
- 11) *Philadelphia Regional Office* employees working in the regional office in the Philadelphia, Pennsylvania metropolitan local commuting area.
- 12) *Philadelphia Regional Office* field employees working in the boundaries of the Field Supervisory Area.
- 13) Employees of the *Office of the Director* working in the Greater Washington, DC metropolitan local commuting area.
- 14) Employees of the *Finance and Administration Directorate* working in the Greater Washington, DC metropolitan local commuting area.
- 15) Employees of the *Communication Directorate* working in the Greater Washington, DC metropolitan local commuting area.
- 16) Employees of the *Demographic Programs Directorate* working in the Greater Washington, DC metropolitan local commuting area.
- 17) Employees of the *Demographic Programs Directorate* working in the Jeffersonville, Indiana local commuting area.
- 18) Employees of the *Research and Methodologies Directorate* working in the Greater Washington, DC metropolitan local commuting area.
- 19) Employees of the *Information Technology Directorate* working in the Greater Washington, DC metropolitan local commuting area.
- 20) Employees of the *2010 Decennial Programs Directorate* working in the Greater Washington, DC metropolitan local commuting area.
- 21) Employees of the *Field Operations Directorate* working in the Greater Washington, DC metropolitan local commuting area.
- 22) Employees of the *2020 Census Directorate* working in the Greater Washington, DC metropolitan local commuting area.
- 23) Employees of the *Economic Programs Directorate* working in the Greater Washington, DC metropolitan local commuting area.

- 24) Employees of the *Economic Programs Directorate* working in the Jeffersonville, Indiana local commuting area.
 - 25) Employees of the *National Processing Center* working in the Jeffersonville, Indiana local commuting area.
 - 26) Employees of the *Hagerstown Telephone Center* working in the Hagerstown, Maryland local commuting area.
 - 27) Employees of the *Tucson, Arizona Telephone Center* working in the Tucson, Arizona local commuting area.
- c. *Bureau of Economic Analysis* employees in each local commuting area (Agency Code = 53)
 - d. *All other Economic and Statistics Administration* employees in each local commuting area (Agency Code = 65)
4. Economic Development Administration
- a. Headquarter, Greater Washington, DC metropolitan area
 - 1) *Office of the Secretary, HQ* employees in each local commuting area in Greater Washington, DC metropolitan area (Agency Code = 52)
 - 2) *Office of Innovation and Entrepreneurship, HQ* employees in each local commuting area in Greater Washington, DC metropolitan area (Agency Code = 52)
 - 3) *Office of External Affairs, HQ* employees in each local commuting area in Greater Washington, DC metropolitan area (Agency Code = 52)
 - 4) *Office of Chief Counsel, HQ* employees in each local commuting area in Greater Washington, DC metropolitan area (Agency Code = 52)
 - 5) *Office of Information Technology, HQ* employees in each local commuting area in Greater Washington, DC metropolitan area (Agency Code = 52)
 - 6) *Office of Regional Affairs, HQ* employees in each local commuting area in Greater Washington, DC metropolitan area (Agency Code = 52)
 - 7) *Office of Finance and Management Services, HQ* employees in each local commuting area in Greater Washington, DC metropolitan area (Agency Code = 52)

b. Regional Offices

- 1) *Atlanta Regional Office*. Employees of the Atlanta Regional Office working in the Atlanta, Georgia metropolitan local commuting area (Agency Code = 52)
- 2) *Austin Regional Office*. Employees of the Austin Regional Office working in the Austin, Texas metropolitan local commuting area (Agency Code = 52)
- 3) *Chicago Regional Office*. Employees of the Chicago Regional Office working in the Chicago, Illinois metropolitan local commuting area (Agency Code = 52)
- 4) *Denver Regional Office*. Employees of the Denver Regional Office working in the Denver, Colorado metropolitan local commuting area (Agency Code = 52)
- 5) *Philadelphia Regional Office*. Employees of the Philadelphia Regional Office working in the Philadelphia, Pennsylvania metropolitan local commuting area (Agency Code = 52)
- 6) *Seattle Regional Office*. Employees of the Seattle Regional Office working in the Seattle, Washington metropolitan local commuting area (Agency Code = 52)

5. International Trade Administration

- a. *International Trade Administration* employees in each local commuting area (Agency Code = 55)

6. Minority Business Development Agency

- a. *Minority Business Development Agency* employees in each local commuting area (Agency Code = 59)

7. National Institute of Standards and Technology

- a. *National Institute of Standards and Technology* employees in the Scientific and Engineering career path in each local commuting area (Agency Code = 57 and Career Path = ZP)
- b. *National Institute of Standards and Technology* employees in the Scientific and Engineering Technician career path in each local commuting area (Agency Code = 57 and Career Path = ZT)

- c. *National Institute of Standards and Technology* employees in the Administrative career path in each local commuting area (Agency Code = 57 and Career Path = ZA)
 - d. *National Institute of Standards and Technology* employees in the Support career path in each local commuting area (Agency Code = 57 and Career Path = ZS)
 - e. *All other National Institute of Standards and Technology* employees in each local commuting area (Agency Code = 57 and Career Path not equal to ZP, ZA, ZT, or ZS)
 - f. *National Technical Information Service* employees in each local commuting area (Agency Code = 62)
8. National Oceanic and Atmospheric Administration
- a. *National Environmental Satellite, Data and Information Service* employees in the Scientific and Engineering career path in each local commuting area of NESDIS (Agency Code = 54-40 and Career Path = ZP)
 - b. *National Environmental Satellite, Data and Information Service* employees in the Scientific and Engineering Technician career path in each local commuting area of NESDIS (Agency Code = 54-40 and Career Path = ZT)
 - c. *National Environmental Satellite, Data and Information Service* employees in the Administrative career path in each local commuting area of NESDIS (Agency Code = 54-40 and Career Path = ZA)
 - d. *National Environmental Satellite, Data and Information Service* employees in the Support career path in each local commuting area of NESDIS (Agency Code = 54-40 and Career Path = ZS)
 - e. *National Marine Fisheries Service (NMFS) Headquarters* employees in the Scientific and Engineering career path in each local commuting area of NMFS Headquarters (Agency Code = 54-30, Career Path = ZP and Headquarters Field Code = 1)
 - f. *National Marine Fisheries Service Headquarters* employees in the Scientific and Engineering Technician career path in each local commuting area of NMFS Headquarters (Agency Code = 54-30, Career Path = ZT and Headquarters Field Code = 1)
 - g. *National Marine Fisheries Service Headquarters* employees in the Administrative career path in each local commuting area of NMFS Headquarters (Agency Code = 54-30, Career Path = ZA and Headquarters Field Code = 1)

- h. *National Marine Fisheries Service Headquarters* employees in the Support career path in each local commuting area of NMFS Headquarters (Agency Code = 54-30, Career Path = ZS and Headquarters Field Code = 1)
- i. *National Marine Fisheries Service field* employees in the Scientific and Engineering career path in each local commuting area of the NMFS operating unit (Agency Code = 54-30, Career Path = ZP and Headquarters Field Code = 2)
- j. *National Marine Fisheries Service field* employees in the Scientific and Engineering Technician career path in each local commuting area of the NMFS operating unit (Agency Code = 54-30, Career Path = ZT and Headquarters Field Code = 2)
- k. *National Marine Fisheries Service field* employees in the Administrative career path in each local commuting area of the NMFS operating unit (Agency Code = 54-30, Career Path = ZA and Headquarters Field Code = 2)
- l. *National Marine Fisheries Service field* employees in the Support career path in each local commuting area of the NMFS operating unit (Agency Code = 54-30, Career Path = ZS and Headquarters Field Code = 2)
- m. *National Ocean Service (NOS) Headquarters* employees in the Scientific and Engineering career path in each local commuting area of NOS Headquarters (Agency Code = 54-10, Career Path = ZP and Headquarters Field Code = 1)
- n. *National Ocean Service Headquarters* employees in the Scientific and Engineering Technician career path in each local commuting area NOS Headquarters (Agency Code = 54-10, Career Path = ZT and Headquarters Field Code = 1)
- o. *National Ocean Service Headquarters* employees in the Administrative career path in each local NOS Headquarters commuting area (Agency Code = 54-10, Career Path = ZA and Headquarters Field Code = 1)
- p. *National Ocean Service Headquarters* employees in the Support career path in each local commuting area NOS Headquarters (Agency Code = 54-10, Career Path = ZS and Headquarters Field Code = 1)
- q. *National Ocean Service field* employees in the Scientific and Engineering career path in each local commuting area of the NOS operating unit (Agency Code = 54-10, Career Path = ZP and Headquarters Field Code = 2)
- r. *National Ocean Service field* employees in the Scientific and Engineering Technician career path in each local commuting area of the NOS operating unit (Agency Code = 54-10, Career Path = ZT and Headquarters Field Code = 2)

- s. *National Ocean Service field* employees in the Administrative career path in each local commuting area of the NOS operating unit (Agency Code = 54-10, Career Path = ZA and Headquarters Field Code = 2)
- t. *National Ocean Service field* employees in the Support career path in each local commuting area of the NOS operating unit (Agency Code = 54-10, Career Path = ZS and Headquarters Field Code = 2)
- u. *National Weather Service Headquarters* employees in the Scientific and Engineering career path in each local commuting area (Agency Code = 54-20, Career Path = ZP and Headquarters Field Code = 1)
- v. *National Weather Service Headquarters employees* in the Scientific and Engineering Technician career path in each local commuting area (Agency Code = 54-20, Career Path = ZT and Headquarters Field Code = 1)
- w. *National Weather Service Headquarters* employees in the Administrative career path in each local commuting area (Agency Code = 54-20, Career Path = ZA and Headquarters Field Code = 1)
- x. *National Weather Service Headquarters* employees in the Support career path in each local commuting area (Agency Code = 54-20, Career Path = ZS and Headquarters Field Code = 1)
- y. *National Weather Service field* employees in the Scientific and Engineering career path in each local commuting area (Agency Code = 54-20, Career Path = ZP and Headquarters Field Code = 2)
- z. *National Weather Service field* employees in the Scientific and Engineering Technician career path in each local commuting area (Agency Code = 54-20, Career Path = ZT and Headquarters Field Code = 2)
- aa. *National Weather Service field* employees in the Administrative career path in each local commuting area (Agency Code = 54-20, Career Path = ZA and Headquarters Field Code = 2)
- bb. *National Weather Service field* employees in the Support career path in each local commuting area (Agency Code = 54-20, Career Path = ZS and Headquarters Field Code = 2)
- cc. *Office of Marine and Aviation Operations* employees in the Scientific and Engineering career path in each local commuting area (Agency Code = 54-08 and Career Path = ZP)
- dd. *Office of Marine and Aviation Operations* employees in the Scientific and Engineering Technician career path in each local commuting area (Agency Code = 54-08 and Career Path = ZT)

- ee. *Office of Marine and Aviation Operations* employees in the Administrative career path in each local commuting area (Agency Code = 54-08 and Career Path = ZA)
- ff. *Office of Marine and Aviation Operations* employees in the Support career path in each local commuting area (Agency Code = 54-08 and Career Path = ZS)
- gg. *Office of Oceanic and Atmospheric Research* employees in the Scientific and Engineering career path in each local commuting area (Agency Code = 54-50 and Career Path = ZP)
- hh. *Office of Oceanic and Atmospheric Research* employees in the Scientific and Engineering Technician career path in each local commuting area (Agency Code = 54-50 and Career Path = ZT)
- ii. *Office of Oceanic and Atmospheric Research* employees in the Administrative career path in each local commuting area (Agency Code = 54-50 and Career Path = ZA)
- jj. *Office of Oceanic and Atmospheric Research* employees in the Support career path in each local commuting area (Agency Code = 54-50 and Career Path = ZS)
- kk. *Office of the Under Secretary (including Staff Offices under 54-01) and Program, Planning and Integration* employees in the Scientific and Engineering career path in each local commuting area (Agency Code = 54-01 and 54-60 and Career Path = ZP)
- ll. *Office of the Under Secretary (including Staff Offices under 54-01) and Program, Planning and Integration* employees in the Scientific and Engineering Technician career path in each local commuting area (Agency Code = 54-01 and 54-60 and Career Path = ZT)
- mm. *Office of the Under Secretary (including Staff Offices under 54-01) and Program, Planning and Integration* employees in the Administrative career path in each local commuting area (Agency Code = 54-01 and 54-60 and Career Path = ZA)
- nn. *Office of the Under Secretary (including Staff Offices under 54-01) and Program, Planning and Integration* employees in the Support career path in each local commuting area (Agency Code = 54-01 and 54-60 and Career Path = ZS)
- oo. *Staff Office* employees in the Scientific and Engineering career path in each local commuting area (Agency Code = 54-06 and Career Path = ZP)
- pp. *Staff Office* employees in the Scientific and Engineering Technician career path in each local commuting area (Agency Code = 54-06 and Career Path = ZT)

- qq. *Staff Office* employees in the Administrative career path in each local commuting area (Agency Code = 54-06 and Career Path = ZA)
- rr. *Staff Office* employees in the Support career path in each local commuting area (Agency Code = 54-06 and Career Path = ZS)

8A. For NOAA employees under the General Schedule:

- a. *Office of the Under Secretary* employees in each local commuting area (Agency Code = 54-01)
- b. *Office of the Chief Administrative Officer (OCAO)* employees in each local commuting area (Agency Code = 54-06-57)
- c. *Office of Acquisitions and Grants (AGO)* employees in each local commuting area (Agency Code = 54-06-06 (Grants))
- d. *Office of Acquisition and Grants (AGO)* employees in each local commuting area (Agency Code = 54-06-06 (Acquisitions))
- e. *Office of the Chief Information Officer (OCIO) Headquarters* employees in each local commuting area (Agency Code = 54-06-01)
- f. *Office of the Chief Information Officer (OCIO) field* employees in each local commuting area
- g. *Office of Acquisition and Grants (AGO) [Grants]* employees in each local commuting area (Agency Code = 54-06-06 (Grants))
- h. *Office of Marine and Aviation Operations (OMAO) Headquarters* employees in each local commuting area) (Agency Code = 54-08)
- i. *Office of Marine and Aviation Operations field* employees in each local commuting area
- j. *National Ocean Services (NOS)* employees within the designated program area in each local commuting area (Agency Code = 54-10)
- k. *National Weather Service (NWS)* employees within the designated program area in each local commuting area (Agency Code = 54-20)
- l. *National Marine Fisheries (NMFS)* employees within the designated program area in each local commuting area (Agency Code = 54-30)
- m. *National Environmental Satellite, Data and Information Service (NESDIS)* employees within the designated program area in each local commuting area (Agency Code = 54-40)

- n. *Oceanic and Atmospheric Research (OAR)* employees within the designated program area in each local commuting area (Agency Code = 54-50)
9. National Telecommunications and Information Administration
- a. *Office of Telecommunications and Information Applications* in the Greater Washington, DC metropolitan area in each local commuting area
 - b. *Office of Spectrum Management* in the Greater Washington, DC metropolitan area in each local commuting area
 - c. *Office of Policy Analysis and Development* in the Greater Washington, DC metropolitan area in each local commuting area
 - d. *Office of International Affairs* in the Greater Washington, DC metropolitan area in each local commuting area
 - e. *Office of the Assistant Secretary and its support offices* in the Greater Washington, DC metropolitan area in each local commuting area
 - f. *Office of Public Safety Communications* in the Greater Washington, DC metropolitan area in each local commuting area (approved 7/13/15)
 - g. *Institute for Telecommunications Sciences*, Boulder, Colorado local commuting area
 - h. *Staff employees* in the Gettysburg, Pennsylvania local commuting area
 - i. *FirstNet Headquarters* in the Reston, Virginia local commuting area and those *field employees* in each local commuting area (approved 7/13/15)
 - j. *FirstNet Technology Office*, Boulder, Colorado local commuting area (approved 7/13/15)
10. Office of the Inspector General (OIG)

Office of the Inspector General employees shall be a separate competitive area for each Inspector General activity established under authority of the Inspector General Act of 1978, Public Law 95-452, as amended, in which only employees of that office shall compete for retention under this part (5 CFR 351.402(d)).

- a. *Office of Inspector General* employees in each local commuting area

APPENDIX C – SAMPLE RETENTION REGISTER

A. APPLYING THE RIF REGULATIONS

1. Before a RIF begins, the operating unit identifies the existing competitive area. A competitive area may consist of all or part of the Department. The minimum competitive area is a subdivision of the Department under separate administration within a local commuting area.
2. The HR Specialist will group similar positions into competitive levels based on grade, series, qualifications, duties, and working conditions.

A typical competitive level would group all full-time, competitive service GS-201-11, HR Specialists with interchangeable duties in the same competitive level. These GS-201-11 specialists would be in a separate competitive level from any part-time, competitive service GS-201-11 specialists, as well as from any full-time, competitive service GS-201-12 specialists.

3. The four retention factors are applied so that employees are ranked in order within the competitive level, based on RIF retention standing. When this listing is done, the competitive level becomes a retention register, because it lists employees in the order of RIF retention standing. RIF retention standing is based on a combination of the following factors – tenure, veterans' preference, length of service, and performance.

B. TENURE

Employees are ranked on a retention register in three groups according to type of appointment:

1. Group I

- a. Career employees who are not serving on probation. (A new supervisor or manager serving a probationary period who is required on initial appointment to a supervisory or managerial position is not considered on probation if the employee previously completed a probationary period.)
- b. Includes permanent excepted service employees whose appointment carries no restriction or conditions such as conditional, indefinite, specific term limited, or trial period.

2. Group II

- a. Career employees who are serving a probationary period and career-conditional employees.
- b. Excepted service employees serving a trial period or whose tenure is equivalent to a career-conditional appointment in the competitive service in agencies having such excepted appointments.

3. Group III

- a. Career employees serving on term and similar non-status appointments.
- b. Excepted service employees whose tenure is indefinite (i.e., without specific time limit), but not actually or potentially permanent; whose appointment has a specific time limitation of more than 1 year; or who is currently employed under a temporary appointment limited to 1 year or less; but who has completed 1 year of current continuous service under a temporary appointment with no break in service of 1 workday or more.

Note: An employee serving on a temporary appointment in the competitive service is not a competing employee for RIF purposes and is not listed on the retention register. Such employees may be separated at any time at the discretion of the agency without regard to RIF procedures.

STEP 1: LIST BY TENURE GROUP	
Competitive Level: GS-201-11	
Bob	I
Carol	I
Ken	I
Susan	I
Jim	II
Alice	II
Tom	III

C. VETERANS' PREFERENCE

Divide each tenure group into three subgroups reflecting the employees' entitlement to veterans' preference:

- 1. Subgroup AD – Veterans with a compensable service-connected disability of 30 percent or more.
- 2. Subgroup A – Veterans not included in subgroup AD.
- 3. Subgroup B – Non-veterans.

An employee with military service is not necessarily entitled to veterans' preference for RIF. Veterans' preference is only awarded to those individuals who served on active duty in the Armed Forces that was performed:

- 1. In a war (this means a war declared by Congress, the last of which was World War II);

2. During the period April 28, 1952, through July 1, 1955;
3. For more than 180 consecutive days, any part of which occurred after January 31, 1955, and before October 15, 1976;
4. During the Gulf War period beginning August 2, 1990, and ending January 2, 1992;
5. For more than 180 consecutive days, any part of which occurred during the period beginning September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last day of Operation Iraqi Freedom;
6. In a campaign or expedition for which a campaign medal has been authorized, such as El Salvador, Lebanon, Granada, Panama, Southwest Asia, Somalia, and Haiti.

Medal holders and Gulf War veterans who originally enlisted after September 7, 1980, or entered on active duty on or after October 14, 1982, without having previously completed 24 months of continuous active duty, must have served continuously for 24 months or the full period called or ordered to active duty. Effective on October 1, 1980, military retirees at or above the rank of major or equivalent are not entitled to preference unless they qualify as disabled veterans.

Veterans' preference may also be awarded to:

- An unmarried spouse of certain deceased veterans;
- A spouse of a veteran unable to work because of a service-connected disability; or
- A mother of a veteran who died in service or who is permanently and totally disabled.

An honorable or general discharge is necessary to receive veterans' preference. Military retirees at the rank of major, lieutenant commander, or higher are not eligible for veterans' preference unless they are disabled veterans. National Guard or Reserve active duty for training purposes does not qualify for veterans' preference. Questions concerning veterans' preference eligibility should be addressed to the employee's SHRO.

D. TENURE SUBGROUPS

A retired member of the Armed Forces is considered a veteran for RIF purposes only if he/she meets one of the following:

1. His/her Armed Forces retired pay is directly based upon a combat-incurred disability or injury;
2. His/her Armed Forces retirement is based upon less than 20 years of active service; or

3. He/she has been working for the Government since November 30, 1964, without a break in service of more than 30 days. (If he/she meets this condition, but is retired at the rank of major (or equivalent) or higher, he/she must also meet the general definition of disabled veteran in Title 5, U.S.C. § 2108(2), in order to be considered a veteran for RIF purposes.)

Tenure group and veterans' preference are combined to form tenure subgroups. For example, a disabled veteran on a career-conditional appointment is placed in subgroup II AD.

STEP 2: ADD TENURE SUBGROUP	
Competitive Level: GS-201-11	
Tenure Group + Veterans' Preference = Tenure Subgroup	
Bob	I AD
Carol	I A
Ken	I B
Susan	I B
Jim	II A
Alice	II B
Tom	III B

E. LENGTH OF SERVICE

Employees in each tenure subgroup are ranked for RIF retention by their service computation dates. RIF service computation dates begin with all creditable civilian and military service, and are then adjusted due to additional service credit for performance ratings. Employees with more creditable service are ranked ahead of those with less service in each subgroup. For example, an employee with a service computation date of August 1, 1974, is listed higher than an employee with a service computation date of January 15, 1981.

STEP 3: ADD SERVICE COMPUTATION DATE (SCD)		
Competitive Level: GS-201-11		
Bob	I AD	09-01-68
Carol	I A	02-01-92
Ken	I B	09-15-88
Susan	I B	05-31-90
Jim	II A	10-01-91
Alice	II B	08-03-88
Tom	III B	12-14-97

F. PERFORMANCE CREDIT FOR SERVICE

1. Employees Covered by Five-Level or Pass-Fail Systems

Employees receive extra RIF service credit for performance based on the average of their last three ratings of record received during the 4-year period prior to the date the agency issues RIF notices. The 4-year look-back period begins on the date the agency issues RIF notices, or the date the agency freezes ratings before issuing RIF notices, if earlier.

- a. Five-level rating system: There are five rating levels. They are Level 5, Level 4, Level 3, Level 2, and Level 1. Only Levels 3 or higher receive credit. The amount of credit is 20 years for Level 5; 16 years for Level 4; and 12 years for Level 3.
- b. Two-level, Pass-Fail evaluation system: Employees with a meets or exceeds rating receive 12 years' service credit.

If fewer than three annual ratings were received during the 4-year period, the values of the ratings are added together and averaged (i.e., if two ratings were given, their values are added together and divided by two; if only one rating was received, its value is divided by one).

An employee may have no ratings of record due to unusual circumstances, such as extended absence for military duty or injury. In such a situation, he/she will receive performance credit based on the performance rating most often given to employees in the organization. The HR Specialist will calculate this value, called a "modal rating." The extra years of performance credit are added to the service computation date to form the adjusted service computation date, which is used in determining employees' RIF retention standing.

STEP 4: ADJUST SCD				
Competitive Level: GS-201-11				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	$L5+L5+L4=20+20+16=56\div3=19$	09-01-49
Carol	I A	02-01-92	$L4+L5+L4=16+20+16=52\div3=18$	02-01-74
Ken	I B	09-15-88	$L4+L5+L4=16+20+16=52\div3=18$	09-15-70
Susan	I B	05-31-90	$L5+L5+L5=20+20+20=60\div3=20$	05-31-70
Jim	II A	10-01-91	$L5+L3+L3=20+12+12=44\div3=15$	10-01-76
Alice	II B	08-03-88	$L3+L3=12+12=24\div2=12$	08-03-76
Tom	III B	12-14-97	$L4=16\div1=16$	12-14-81

STEP 4: ADJUST SCD (Pass/Fail)				
Competitive Level: GS-201-11				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	$P+P+P=12+12+12=36\div 3=12$	09-01-56
Ken	I B	09-15-88	$P+P+P=12+12+12=36\div 3=12$	09-15-76
Susan	I B	05-31-90	$P=12\div 1=12$	05-31-78
Carol	I A	02-01-92	$P+P=12+12=24\div 2=12$	02-01-80

2. Employees Covered by CAPS

- a. Employees with an overall performance score in the top 30 percent of scores within the same pay pool will receive 10 additional years service for retention purposes (E)¹.
- b. Employees rated Eligible (rating for performance above the Unsatisfactory level) with an overall performance score that does not fall within the top 30 percent of scores within a pay pool will receive 5 years of additional service for retention purposes (S).
- c. Employees who convert to CAPS from any other performance appraisal system within the Federal Government will receive 5 additional years of service for retention credit for each performance rating of record equivalent to an eligible rating in CAPS (X).

Retention service credit for RIF in CAPS is cumulative as opposed to being averaged.

STEP 4: ADJUST SCD				
Competitive Level: ZA-201-III				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	$E + E + S = 10 + 10 + 05 = 25$	09-01-49
Carol	I A	02-01-92	$S + E + S = 05 + 10 + 05 = 20$	02-01-72
Ken	I B	09-15-88	$S + E + S = 05 + 10 + 05 = 20$	09-15-68
Susan	I B	05-31-90	$E + E + E = 10 + 10 + 10 = 30$	05-31-60
Jim	II A	10-01-91	$E + S + S = 10 + 05 + 05 = 20$	10-01-71
Alice	II B	08-03-88	$S + S = 05 + 05 = 10$	08-03-78
Tom	III B	12-14-97	$S = 05$	12-14-92

¹ The abbreviations (E, S, and X) are just for the purpose of discussion and are not part of the official CAPS.

3. Employees Covered by APMS²

- a. The system consists of seven performance-rating levels. Those levels are EX, SP, MR, S, C, M, and U. EX receives 10 additional years; SP receives 8 additional years; MR receives 4 years; S receives 3 years; and C receives 1 additional year. M and U do not receive additional credit.
- b. The total credit is based on the employee's three most recent annual performance ratings of record received during the 4-year period prior to an established cutoff date, for a potential total credit of 30 years.
- c. No RIF credit converts to this system from any other performance appraisal system.

Retention service credit for RIF in APMS is cumulative as opposed to being averaged.

STEP 4: ADJUST SCD				
Competitive Level: ZA-201-III				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	EX + EX + SP = 10 + 10 + 08 = 28	09-01-40
Carol	I A	02-01-92	SP + EX + SP = 08 + 10 + 08 = 26	02-01-66
Ken	I B	09-15-88	SP + EX + SP = 08 + 10 + 08 = 26	09-15-62
Susan	I B	05-31-90	EX + EX + EX = 10 + 10 + 10 = 30	05-31-60
Jim	II A	10-01-91	EX + MR + MR = 10 + 04 + 04 = 18	10-01-73
Alice	II B	08-03-88	MR + MR = 04 + 04 = 08	08-03-80
Tom	III B	12-14-97	SP = 08	12-14-89

G. RUNNING RETENTION REGISTERS

Putting employees in RIF retention order is commonly referred to as "running a register."

1. Five-Level Performance Management System

STEP 5: PLACE IN RETENTION ORDER				
Competitive Level: GS-201-11				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	L5+L5+L4=20+20+16=56÷3=19	09-01-49
Carol	I A	02-01-92	L4+L5+L4=16+20+16=52÷3=18	02-01-74
Susan	I B	05-31-90	L5+L5+L5=20+20+20=60÷3=20	05-31-70

² The following abbreviations of the APMS rating levels are used for this discussion only: Exceptional (EX); Superior (SP); Meritorious (MR); Significant (S); Contributor (C); Marginal (M); and Unsatisfactory (U).

Ken	I B	09-15-88	$L4+L5+L4=16+20+16=52\div3=18$	09-15-70
Jim	II A	10-01-91	$L5+L3+L3=20+12+12=44\div3=15$	10-01-76
Alice	II B	08-03-88	$L3+L3=12+12=24\div2=12$	08-03-76
Tom	III B	12-14-97	$L4=16\div1=16$	12-14-81

2. CAPS

STEP 5: PLACE IN RETENTION ORDER				
Competitive Level: ZA-201-III				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	$E + E + S = 10 + 10 + 05 = 25$	09-01-49
Carol	I A	02-01-92	$S + E + S = 05 + 10 + 05 = 20$	02-01-72
Susan	I B	05-31-90	$E + E + E = 10 + 10 + 10 = 30$	05-31-60
Ken	I B	09-15-88	$S + E + S = 05 + 10 + 05 = 20$	09-15-68
Jim	II A	10-01-91	$E + S + S = 10 + 05 + 05 = 20$	10-01-71
Alice	II B	08-03-88	$S + S = 05 + 05 = 10$	08-03-78
Tom	III B	12-14-97	$S = 05$	12-14-92

3. APMS

STEP 5: PLACE IN RETENTION ORDER				
Competitive Level: ZA-201-III				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	$EX + EX + SP = 10 + 10 + 08 = 28$	09-01-40
Carol	I A	02-01-92	$SP + EX + SP = 08 + 10 + 08 = 26$	02-01-66
Susan	I B	05-31-90	$EX + EX + EX = 10 + 10 + 10 = 30$	05-31-60
Ken	I B	09-15-88	$SP + EX + SP = 08 + 10 + 08 = 26$	09-15-62
Jim	II A	10-01-91	$EX + MR + MR = 10 + 04 + 04 = 18$	10-01-73
Alice	II B	08-03-88	$MR + MR = 04 + 04 = 08$	08-03-80
Tom	III B	12-14-97	$SP = 08$	12-14-89

H. RELEASE

Managers determine how many positions in a given series and grade they need to abolish, thereby beginning the RIF process. If a competing employee's position is abolished, he/she may be released from his competitive level. If so, he will be released in the inverse order of his retention standing. (In other words, the employee with the lowest RIF standing will be released from his competitive level before others with higher standing are released.) Employees in Group III are released before employees in Group II, and employees in Group II are released before employees in Group I. Within tenure subgroups, employees in Subgroup B are released before employees in Subgroup A, and employees in Subgroup A are released before employees in Subgroup AD. Within each

subgroup, employees with less service are released before employees with more service. Any employee reached for release out of this regular order must be notified of the reasons.

1. Five-Level Performance Management System

STEP 6: EMPLOYEES RELEASED FROM COMPETITIVE LEVEL				
Competitive Level: GS-201-11				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	$L5+L5+L4=20+20+16=56\div3=19$	09-01-49
Carol	I A	02-01-92	$L4+L5+L4=16+20+16=52\div3=18$	02-01-74
Susan	I B	05-31-90	$L5+L5+L5=20+20+20=60\div3=20$	05-31-70
		Ken	Released	
		Jim	Released	
		Alice	Released	
		Tom	Released	

2. CAPS

STEP 6: EMPLOYEES RELEASED FROM COMPETITIVE LEVEL				
Competitive Level: ZA-201-III				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	$E + E + S = 10 + 10 + 05 = 25$	09-01-49
Carol	I A	02-01-92	$S + E + S = 05 + 10 + 05 = 20$	02-01-72
Susan	I B	05-31-90	$E + E + E = 10 + 10 + 10 = 30$	05-31-60
		Ken	Released	
		Jim	Released	
		Alice	Released	
		Tom	Released	

3. APMS

STEP 6: EMPLOYEES RELEASED FROM COMPETITIVE LEVEL				
Competitive Level: ZA-201-III				
		SCD	PERFORMANCE CREDIT SCD	ADJUSTED
Bob	I AD	09-01-68	$EX + EX + SP = 10 + 10 + 08 = 28$	09-01-40
Carol	I A	02-01-92	$SP + EX + SP = 08 + 10 + 08 = 26$	02-01-66
Susan	I B	05-31-90	$EX + EX + EX = 10 + 10 + 10 = 30$	05-31-60
		Ken	Released	
		Jim	Released	
		Alice	Released	

I. RIGHTS TO OTHER POSITIONS: BUMP AND RETREAT RIGHTS

1. Five-Level Performance Management System

If released from his/her competitive level, an employee may have rights to other positions by exercising assignment rights that are commonly referred to as bumping and retreating.

GS or WG employees in retention subgroup AD have expanded retreat rights to positions up to five grades or grade-intervals lower than the position held. In addition, an employee with a current annual performance rating of record of Level 2 only has retreat rights to positions held by employees with the same or lower current performance rating.

Group I or II employees who have a current performance rating of at least Level 2 are entitled to an offer of assignment if they have bumping or retreating rights to an available position in their same competitive area.

An available position must:

- a. Last at least 3 months;
- b. Be in the competitive service;
- c. Be one for which the employee qualifies; and
- d. Be at the same grade or within three grades (or grade-intervals) below the employee's present position.

Competitive service employees in Groups I and II with current performance ratings of Level 1, and all employees in Group III, have no assignment rights to other positions.

The grade limits of an employee's assignment rights are determined by the grade progression of the position from which the employee is released. The difference between successive grades in a one-grade interval occupation is a single grade, while the difference between successive grades in a multi-grade interval occupation is a grade interval. The grade limits are based upon the position the employee holds at the time of the RIF.

For example, an employee released from a GS-11 position that progresses GS-5-7-9-11 will have bump and retreat rights to positions from GS-11 through GS-5. If released from a GS-9 position that progresses GS-6-7-8-9, the employee will have bump and retreat rights to positions from GS-9 through GS-6.

2. CAPS

Bumps and retreats will occur only within the competitive area and only to positions for which employees are qualified in their same or next lower pay band. Please refer to "Department of Commerce Alternative Personnel System Operating Procedures Manual," Section II.C.1.b(2).

3. APMS

In the APMS, an employee may bump into a position held by another employee in a lower retention subgroup, provided the position is in the same career path and pay band or one pay band lower. An employee may retreat into a position held by an employee with a lower RIF service computation date in the same subgroup, provided the position is in the same career path and pay band or one pay band lower. A preference eligible employee with a 30 percent or more service connected compensable disability may retreat to a position held by a lower standing employee in the same subgroup, provided the position is in the same career path and pay band or two pay bands lower. Please refer to "NIST Alternative Personnel Management System (APMS) Project Operating Procedures," Section II.D.1.a(2).