

United States Department of Agriculture
Marketing and Regulatory Programs
Agricultural Marketing Service
Animal and Plant Health Inspection Service
Grain Inspection, Packers and Stockyards Administration

Directive MRP 4351.1

3/26/13

REDUCTION IN FORCE

1. PURPOSE

This Directive establishes Marketing and Regulatory Programs (MRP) policy, responsibilities, and guidelines for implementing a reduction-in-force (RIF).

2. REPLACEMENT HIGHLIGHTS

This Directive replaces MRP 4351.1, dated 12/20/99.

3. AUTHORITIES/REFERENCES

This Directive must be used in conjunction with the following authorities and references:

- a. Title 5, United States Code, Sections 3501-3503.
- b. Title 5, Code of Federal Regulations, Part 351.
- c. Title 5, Code of Federal Regulations, Part 430.
- d. Departmental Regulation 4030-330-001, Special Placement Program.
- e. Departmental Regulation, 4040-430, Performance Management.
- f. Departmental Regulation, 4300-4, Civil Rights Impact Analysis.
- g. Directive MRP 4330.1, Career Transition Assistance Plan.
- h. Directive MRP 4430.1, MRP Performance Management.
- i. Office of Personnel Management's (OPM) Restructuring Information Handbook.

4. POLICY

- a. It is MRP policy to comply with all Federal and Department RIF rules and regulations, with Departmental Regulation, 4300-4, Civil Rights Impact Analysis, and the terms of any negotiated bargaining agreements.
- b. MRP will make every effort to avoid or lessen the adverse impact of a RIF. Such measures include, but are not limited to, those recommended in Federal/ Departmental regulations.
- c. Competitive areas have been designated as shown in Attachments 2, 3, and 4. Competitive area may not be changed within 90 days of the effective date of the RIF without prior approval of the Office of Personnel Management (OPM).
- d. MRP will provide employees with as much advanced notice as possible to an impending RIF action. The minimum time of a notice period, in most cases, is 60 days between official notification to the employee and the date of the action. MRP may, in highly unusual circumstances, request from OPM permission to provide less than a 60 day notice period.

5. RESPONSIBILITIES

- a. Agency Managers/Supervisors will:
 - (1) Ensure that all practical measures have been used or considered to minimize the need to conduct RIF. Such measures may include, but are not limited to: hiring freezes, furloughs, separations, employee details, voluntary reassignment, directed reassignments, Voluntary Early Retirement (VERA), and Voluntary Separation Incentive Payments (VSIP).
 - (2) Contact servicing Human Resources office for advice and guidance when a RIF action is necessary.
 - (3) Contact their respective Civil Rights Title VII Program Manager.
 - (4) Ensure affected employees have a current performance appraisal.
 - (5) Notify the Director, HRD, MRP Business Services in writing of a need to conduct a RIF. The notification must include:
 - (a) A thorough description of the circumstances which require a RIF.
 - (b) Actions taken to avoid or lessen the adverse impact of a RIF.

- (c) Series, title, grade, number, and geographic location of the position(s) to be abolished.
 - (d) Any vacant position(s) to be filled.
 - (e) A proposed effective date.
- (6) As required, provide notification to recognized unions.
- b. The Human Resources Policy Branch (HRPB) will:
- (1) Develop Mission Area policy and provide statutory, regulatory, and policy interpretations in RIF.
 - (2) Serve as liaison with USDA, Office of Human Resources Management (OHRM).
 - (3) Ensure that requests are adequately justified and submitted to the OHRM for review/clearance prior to submission to OPM.
 - (4) Request proposed changes to competitive areas, and abbreviated notice periods (i.e., less than 60 days), if appropriate.
 - (5) When necessary, ensure that requests are justified and submitted to OHRM for review prior to submission to OPM for approval to: use special retirement or separation authorities.
 - (6) Ensure approval of '1010' reorganization packages has been received.
- c. Human Resources Operations (HRO) will:
- (1) Implement and conduct the RIF in accordance with established regulations, policies, procedures, and agreements.
 - (2) Identify competitive levels and establish retention registers in accordance with OPM requirements and have them available for review.
 - (3) Record Agency decisions pertaining to discretionary issues, such as: use of vacancies; waiving qualifications; assignment rights of excepted service employees, etc.
 - (4) Establish the effective date for the RIF.
 - (5) Issue specific written notices to all employees in the competitive area.
 - (6) Provide employees receiving specific RIF separation notices with

placement information, severance pay estimates, and unemployment insurance information.

- (7) Provide employees with information on rights to appeal or grieve the action.
- (8) Provide information about career transition services to affected employees.
- (9) Maintain official subject-matter files related to the RIF.
- (10) When requested, prepare and furnish reports, statistical data, and/or other information.
- (11) Provide expert witnesses during appeal/grievance hearings.

d. The HR Labor Relations Branch will:

- (1) In cooperation with Agency managers and supervisors, give written notice to recognized labor organizations, if appropriate, before issuance of general RIF notices or public announcement of impending RIF actions affecting represented employees, unless a negotiated agreement provides for other procedures.
- (2) When necessary, negotiate the impact and implementation of the RIF in accordance with applicable negotiated agreements.
- (3) Serve as the Agency representative for appeals and/or grievances.
- (4) Review actions for compliance with Federal, Departmental, and Agency regulations.

e. Employees will:

- (1) Update information in their Official Personnel Folder (OPF) to ensure that all periods of Federal service are documented, and their position description is accurate, and verify that the OPF contains their last DD-214 (discharge paper), if applicable. The information contained in the OPF is used to determine assignment rights to other positions.
- (2) Provide a current copy of their resume as requested by HRO.
- (3) Ensure that the Employee Performance File contains all ratings of record received over the last four years.

- (4) Respond in writing to official correspondence by due dates indicated. If a response is not received, it may adversely impact the employee's entitlements.
- (5) Provide explanation of why they are unable to accept reassignments outside their local commuting areas. This information is used to determine eligibility for unemployment compensation.
- (6) Actively participate in out-placement efforts in order to enhance opportunities for employment.
- (7) Make use of counseling sessions and other Agency provided assistance in order to understand procedures, entitlements, benefits, etc.
- (8) Contact state employment offices or agencies to obtain information on entitlement to benefits, if they are to be separated or decline a position offered in lieu of separation.

6. PROCEDURES

- a. Competitive Areas. MRP will adhere to the competitive areas described in Attachments, B, C, and D of this Directive unless a change in these areas has been approved by HRD, OHRM, and/or OPM, as required.
- b. Competitive Levels. Employees will be assigned to competitive levels in accordance with [5 CFR 351.403](#). A separate competitive level will be established for employees on mixed tours of duty.
- c. Retention Register. HRD establishes retention registers which group competitive and excepted employees separately by competitive level and, within each competitive level, by group and subgroup as required by part 351 of title 5, Code of Federal Regulations.
- d. Retention Standing. The order of retention among competing employees on a retention register is based on: tenure group, veteran's preference, length of service, and performance.
- e. Veteran's Preference in RIF. Except for an employee who is a retired member of the Armed Forces, an employee who is eligible for veterans' preference for purpose of initial appointment to the Federal service is also eligible for veterans' preference under RIF regulations.

By law, a retired member of the Armed Forces is a veteran under the RIF regulations only if the employee meets one of the following conditions:

- (1) The Armed Forces retirement (without regard to benefits from the Department of Veterans Affairs) is directly based upon a combat-incurred disability or injury; or
 - (2) The Armed Forces retirement is based upon less than 20 years of active duty.
- f. Performance Rating.
- (1) Employees receive additional service credit for RIF retention standing based upon the average of their last three annual performance ratings of record which were received during the 4-year period prior to the date the agency issues RIF notices.
 - (2) Performance ratings of record must be officially approved and on record with HRD for at least 30 calendar days before the date of issuance of the specific RIF notice.
 - (3) Performance ratings of record will be used for crediting additional service for RIF retention in accordance with the provisions of [5 CFR 430.208](#), [Directive MRP 4430.1](#), [MRP Performance Management](#), and [Departmental Regulation, 4040-430, Performance Management](#).
 - (4) Missing performance ratings will be calculated as required by [5 CFR 351.504](#).
- g. Tie Breaker. When two competing employees have the same retention standing, a tie breaker will be imposed by MRP Business Services, HRD to determine the order of retention standing. The tie breaker will be based upon the last number of the employee's social security number, using random number procedures published by OPM in Appendix L of OPM's Delegated Examining Operations Handbook.
- h. Assignment Rights. Employees who may be potentially affected by RIF will be given an opportunity to submit an updated application to MRP Business Services, HRD to assure assignment rights are accurately determined. A cut-off date for receipt of applications will be established before the issuance of specific RIF notices.
- i. Discretionary Administrative Assignment Practices. Optional methods of assigning employees contained in [5 CFR 351.705](#) will be followed, as necessary.
- j. Optional Use of RIF Procedures. Although the following types of actions do not meet the definition of RIF, the same retention registers used to identify affected employees may be used at the Program's discretion after consultation with MRP Business Services, HRD:

- (1) Furloughs for 30 calendar days or less when there are temporary or seasonal curtailments in work programs and the employees are to be returned to duty upon expiration of the furlough.
 - (2) Termination of: reemployed annuitants, federally controlled employees under a cooperative agreement when the agreement expires or is terminated; and temporary employees appointed for periods limited to 1 year or less who have not completed 1 year of current continuous service.
 - (3) Directed reassignment.
- k. RIF Notice. Each competing employee to be released from a competitive level is entitled to a specific written notice at least 60 calendar days before the effective date of the RIF action. The notice period begins the day after the employee receives the specific notice.
- NOTE: The 60 calendar day timeframe is an OPM minimum requirement. If an organizational unit has a negotiated agreement which specifies a longer time frame, the time frames in that agreement must be followed.
- l. Use of Annual Leave. Employees affected by the RIF may use annual leave to remain on the rolls after the date of separation to enable them to qualify for an immediate annuity or to carry health benefits into retirement.

7. APPEALS AND GRIEVANCES

- a. An employee who has been furloughed, separated, or demoted by RIF action has the right to appeal the action to the Merit Systems Protection Board (MSPB) except when a negotiated procedure must be used. Such an appeal must be in writing and must be submitted to the appropriate office of the MSPB within 30 calendar days after the effective date of the action.
- b. Employees who are in a bargaining unit covered by a negotiated grievance procedure that does not exclude RIF, must use the negotiated grievance procedure and may not appeal RIF actions to MSPB except in limited situations. Time limits and procedures for filing and processing a grievance under a negotiated grievance procedure are contained in the applicable collective bargaining agreement.

8. INQUIRIES

- a. General inquiries on procedural matters regarding RIF should be directed to the servicing Human Resources Specialist.

- b. Requests for policy interpretations should be referred to the Human Resources Policy Branch.
- c. Human Resources directives are available at [MRPBS, Publications - HR Guides & Directives](#).

/s/

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6 Attachments