

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/

Marilyn L. Holland
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MRP Business Services

6 Attachments

GLOSSARY

Assignment Right	The right of an employee to be assigned by bump or retreat in the second round of competition to a position in a different competitive level held by an employee with lower standing on a retention register.
Career Transition Services	These services are available to all employees affected by downsizing, reorganization, or similar events in accordance with the provisions of the Agency Career Transition Assistance Plan .
Competing Employee	An employee in tenure group I, II, or III in either competitive or the excepted service.
Competitive Area	Organizational units and geographical locations that outline the boundaries of competition within which employees compete for retention under the RIF regulations. All employees within the organizational units and geographical locations defined are included in the competitive area. Employees compete for retention only with other employees in the same competitive area.
Competitive Level	A grouping of positions in a competitive area that are in the same grade (or occupational level) and classified series, and that are similar enough in duties, qualification requirements, pay schedule, and working conditions so that an agency may reassign the incumbent of one position to any other position in the level without undue interruption.
Competitive Service	All civil service positions in the Executive Branch, except: <ol style="list-style-type: none">(1) Positions which are specifically excepted from the competitive service by or under statute;(2) Positions to which appointments are made by nomination for confirmation by the Senate, unless the Senate otherwise directs; and(3) Positions in the Senior Executive Service.

DD 214	Certificate of Release or Discharge from Active Duty.
Directed Reassignment	<p>The reassignment of an employee at his/her same grade level to a vacant position in another commuting area.</p> <p>NOTE: This type of action is not a RIF action and is encouraged by OPM as a tool to avoid RIF. An individual who declines a directed reassignment is separated under adverse action procedures and is not eligible for placement on the Reemployment Priority List (RPL).</p>
Excepted Service	Civil service positions that are not in the competitive service or the Senior Executive Service.
Furlough	Placement of an employee in a temporary nonduty and nonpay status for more than 30 consecutive calendar days, or more than 22 workdays if done on a noncontinuous basis, but not more than 1 year when the action is based on one of the RIF reasons and is not in accordance with pre-established conditions of employment.
Length of Service	The length of time in civilian service as a Federal employee and certain service in the Armed Forces is creditable for purposes of RIF.
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.
Merit Systems Protection Board	The Merit Systems Protection Board (MSPB) is an independent, quasi-judicial agency in the Executive branch. MSPB carries out its statutory responsibilities and authorities primarily by adjudicating individual employee appeals.
Office of Personnel Management	The Office of Personnel Management (OPM) is the Federal agency having responsibility for issuing regulations and supplementing Part 351 of Title 5, Code Federal Regulations, with instructions in its Workforce Restructuring Handbook.

Office of Human Resources Management	USDA, Department Management, Office of Human Resources Management (OHRM).
Program	A component of a MRP agency that is separately organized and clearly distinguished from other components in work function and operation.
Rating of Record	The performance rating prepared at the end of an appraisal period which results in assignment of a summary level of performance.
Reduction-In-Force	An agency must use the RIF regulations before the release of a competing employee from his or her competitive level by furlough for more than 30 days, or of more than 22 discontinuous workdays, separation, demotion, or reassignment requiring displacement of another employee. Normally, this release is required because of lack of work, shortage of funds, insufficient personnel ceiling, restructuring, or an employee's exercise of reemployment rights or restoration rights.
Retention Register	<p>The ranking of employees in the competitive level based on the four retention factors:</p> <ul style="list-style-type: none"> • Tenure of employment (i.e., type of appointment); • Veterans' preference; • Total creditable Federal civilian and uniformed service; and • Performance ratings.
Retention Standing	An employee's position on a retention register after the agency applies the four retention factors, tenure, veterans' preference, and length of service augmented by performance credit.
RIF Notice Specific Notice	<p>A written communication issued by the Human Resources office to an individual employee to advise the employee of the RIF action. The notice will include information on:</p> <ul style="list-style-type: none"> • The reason for the RIF;

- The RIF action being taken and how it affects the employee;
- The effective date of the action;
- The employee's competitive area, competitive level, retention subgroup, service date;
- The three most recent ratings of record received during the last four years;
- The location where the employee may inspect the regulations and the records pertinent to his or her case;
- Entitlements, depending on the RIF action to be taken; and
- Rights to appeal or grieve the action.

Notice Period

The period of time between notification that a RIF action will be taken and the date of the action. Agencies may request from the OPM an exception to the 60-day minimum requirement when the RIF is caused by unforeseeable circumstances.

Reorganization

The planned elimination, addition, or redistribution of functions or duties in an organization.

Tenure Groups

Categories of employees by status under their current appointments. Groups are defined as follows:

Competitive Service:

Group I includes each career employee who is not serving a probationary period.

Group II includes each career-career conditional employee and each employee serving a probationary period following appointment from a competitive list of eligibles.

Group III includes all employees serving under indefinite appointments, temporary appointments, status quo appointments, term appointments, and other nonstatus,

nonpermanent appointments which meet the definition of provision appointments.

Excepted Service:

Group I includes each permanent employee whose appointment carries no restriction or condition.

Group II includes each employee serving a trial period and employees whose tenure is equivalent to a career-conditional appointment in the competitive service.

Group III includes each employee whose tenure is indefinite, 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 has completed 1 year of current continuous service under a temporary appointment without a break in service.

Veteran's Preference

Veterans' preference comes from the Veterans' Preference Act of 1944. By law, veterans who are disabled or who served on active duty in the Armed Forces during certain specified time periods or in military campaigns are entitled to preference over others in hiring from competitive lists of eligibles and also in retention during reductions in force.

**Marketing and Regulatory Programs
Agricultural Marketing Service
Competitive Areas for Reduction-in-Force**

NOTE:

The local commuting area (LCA) is defined as the assigned duty station.

Organizational Unit:	Positions Covered:	Competitive Areas:
Cotton Program (CN)	<ul style="list-style-type: none"> • Positions with an assigned duty station of Washington, D.C. • All other positions. 	<ul style="list-style-type: none"> • HQ, AMS, Washington, D.C. metro area, LCA • Field, CN, LCA
Dairy Program (DA)	<ul style="list-style-type: none"> • Positions with an assigned duty station of Washington, D.C. • All other positions. 	<ul style="list-style-type: none"> • HQ, AMS, Washington, D.C., LCA • Field, DA, LCA
Fruit & Vegetable Program (F&V) Note: PPD “Area Officewide” means employees will compete within the boundaries of the Area Office to which assigned. PPD “Regional Office, LCA” means employees will compete within the local commuting area of the Regional Office to which assigned	Positions organizationally assigned to: <ul style="list-style-type: none"> • PACA, Regional Offices • Marketing Field Offices (MFO) • Market News Division, Field Offices • Processed Products Division(PPD), -Area Offices -Regional Offices • Fresh Products Division (FPD), Regional/Field/ Terminal Market Offices • All other positions 	<ul style="list-style-type: none"> • Field, F&V, PACA, LCA • Field, F&V, MFO, LCA • Field, F&V, Mkt. News, LCA • Field, F&V, PPD, Area Officewide • Field F&V, PPD, Regional Office, LCA • Field, F&V, FPB, LCA • HQ, AMS,

		Washington, D.C., LCA
Livestock and Seed Program (L&S)	<p>Positions organizationally assigned to:</p> <ul style="list-style-type: none"> • Livestock & Grain Marketing News Division(LGMND), Area and Field Offices • Meat Grinding & Certification Division (MGCD) • All other positions 	<ul style="list-style-type: none"> • Field, L&S, LGMNB, LCA • Field, L&S, MGCB, LCA • HQ, AMS, Washington, D.C., LCA
Poultry Program (PY)	<p>Positions organizationally assigned to:</p> <ul style="list-style-type: none"> • Grading Division, Regional Offices • Market News and Analysis Division • All other positions 	<ul style="list-style-type: none"> • Field, PY, Grading Division, LCA • Field, PY, Market News and Analysis, LCA • HQ, AMS, Washington, D.C., LCA
Science and Technology Program	<p>Positions with an assigned duty station of:</p> <ul style="list-style-type: none"> • Washington, D.C; Manassas, VA; and Beltsville, MD <p>Positions organizationally assigned to:</p> <ul style="list-style-type: none"> • National Science Laboratory (NSL) Gastonia, NC • Science Satellite Laboratories (SSL) -Winter Haven, FL -Blakely, GA 	<ul style="list-style-type: none"> • HQ, AMS, Washington metro area (Washington, D.C., Manassas, VA; and Beltsville, MD), LCA • Field, S&TP, NSL, duty station Gastonia, NC • Field, S&TP, SSL, duty station Winter Haven, FL • Field, S&TP, SSL,

	-Suffolk, VA	duty station Blakely, GA <ul style="list-style-type: none"> Field, S&TP, SSL, duty station Suffolk, VA
Tobacco Program (TB)	Positions organizationally assigned to: <ul style="list-style-type: none"> Field Operations Office All other positions 	<ul style="list-style-type: none"> AMS, TB, Raleigh, NC, LCA Field, TB, Nationwide
All other Programs, Office of the Administrator and subordinate staffs, and Office of the Deputy Administrators and subordinate staffs not otherwise listed	<ul style="list-style-type: none"> All positions 	<ul style="list-style-type: none"> HQ, AMS, Washington, D.C., LCA

**Marketing and Regulatory Programs
Animal and Plant Health Inspection Service
Competitive Areas for Reduction-in-Force**

NOTE:

 The local commuting area (LCA) is defined as the assigned duty station.

Organizational Unit:	Positions Covered:	Competitive Areas:
Headquarters, APHIS	Positions organizationally assigned to: <ul style="list-style-type: none"> •Office of the Administrator •All other positions 	<ul style="list-style-type: none"> • APHIS, OA, duty station Washington, DC metro area • By each program within the individual local commuting area NOTE: Frederick, MD is included in the local commuting area of the Washington, DC metro area
All other Programs and Staff Offices not otherwise listed	Positions organizationally assigned to: <ul style="list-style-type: none"> •Field locations 	<ul style="list-style-type: none"> • By each program within the individual local commuting area

**Marketing and Regulatory Programs
Grain Inspection, Packers and Stockyards Administration
Competitive Areas for Reduction-in-Force**

NOTE:

 The local commuting area (LCA) is defined as the assigned duty station.

Organizational Unit:	Positions Covered:	Competitive Areas:
Headquarters, GIPSA	Positions with an assigned duty station to: <ul style="list-style-type: none"> • Washington, DC • All other positions 	<ul style="list-style-type: none"> • HQ, GIPSA, duty station Washington, DC metro area • By each program within the individual local commuting area
All other Programs and Staff Offices not otherwise listed	Positions organizationally assigned to: <ul style="list-style-type: none"> • Field locations 	<ul style="list-style-type: none"> • By each program within the respective local commuting area

**Marketing and Regulatory Programs
Grain Inspection, Packers and Stockyards Administration
Competitive Areas for Reduction-in-Force**

Order of Release from Competitive Level -- Competitive Service

Tenure Group I

Includes all career employees not serving a probation period. A new supervisor or manager serving a probationary period for that type of position is not considered on probation if the employee previously completed a probationary period.

Tenure Group II

Includes career-conditional employees. It also includes career employees serving a probationary period because they have received a new appointment from an OPM certificate of eligibles. A career employee who obtains a new appointment from an OPM certificate of eligibles has to serve a probationary period of 1 year.

Tenure Group III

Includes employees serving under term appointments, temporary appointments, status quo appointments, and other nonstatus, nonpermanent appointments.

Veterans' Preference

Except for 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 the RIF regulation. Each of the three tenure groups are divided into three subgroups based upon entitlement to veterans' preference for retention. The tenure subgroups are defined as:

- Subgroup AD: Employees entitled to veteran preference who have a compensable service-connected disability of 30 % or more.
- Subgroup A: Employees entitled to veterans' preference who are not eligible for subgroup AD.
- Subgroup B: Nonveterans and employees not entitled to veteran preference in subgroups AD and A.

**Marketing and Regulatory Programs
Grain Inspection, Packers and Stockyards Administration
Competitive Areas for Reduction-in-Force**

Order of Release from Competitive Level -- Excepted Service

Tenure Group I

Includes each permanent employee whose appointment does not carry a restriction or condition, such as conditional, trial period, specific time limit, or indefinite.

Tenure Group II

Includes employees serving a trial period and employees whose tenure is equivalent to career- conditional in the competitive service.

Tenure Group III

Includes employees whose tenure is indefinite (i.e., without a specific time limit), but not actually or potentially permanent. It also includes employees whose appointments have a time limit of more than 1 year, or who have served in an appointment limited to 1 year or less, but who have been extended so they have actually worked more than 1 year without a break in service.

Veterans' Preference

Except for 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 the RIF regulation. Each of the three tenure groups are divided into three subgroups based upon entitlement to veterans' preference for retention. The tenure subgroups are defined as:

Subgroup AD: Employees entitled to veteran preference who have a compensable service-connected disability of 30 % or more.

Subgroup A: Employees entitled to veterans' preference who are not eligible for subgroup AD.

Subgroup B: Nonveterans and employees who are not entitled to veteran preference in subgroups AD and A.