

## **RIF POLICY AND PROCEDURES**

### **Questions and Answers**

**Q. What is a reduction-in-force (RIF)?**

A. In the Federal Government, lay-offs are called reduction in force (RIF) actions. When an agency must abolish positions, the RIF procedures determine whether an employee keeps his or her present position, or whether the employee has a right to a different position. When reducing the number positions, most Federal agencies are required to follow Office of Personnel Management (OPM) RIF regulations contained in title 5, Code of Federal Regulations (C.F.R.), Part 351. However, section 1597 (f) of Title 10, United States Code (U.S.C.), requires that the Secretary of Defense establish RIF procedures which provide that civilian reductions will be primarily on the basis of performance.

**Q. Why did Congress require the Department to make this change?**

A. Congress required this change to ensure the Department is retaining its highest performing employees when circumstances necessitate a RIF. As such, Congress required that in implementing any RIF of civilians in the DoD in the competitive or excepted service, the determination of which employees shall be separated from employment shall be made primarily on the basis of performance, as determined under any applicable performance management system.

**Q. To what extent does the Department anticipate to RIF in 2017?**

A. During times of reduced resources and efforts to attain increased efficiencies, the Department anticipates that RIF may be necessary in 2017 as a tool to achieve required civilian manpower reductions. However, wherever possible, the Department will use every available option to mitigate the need for and minimize the impact of any proposed RIF.

**Q. What did Section 1101 of the National Defense Authorization Act (NDAA) for FY 2016 change with regard to RIF procedures?**

A. Section 1101 of the NDAA for FY 2016, which is codified in section 1597 (f) of Title 10, U.S.C., requires that the Secretary of Defense establish procedures to provide that, in implementing any reduction in force for civilian positions in the DoD in the competitive service or excepted service, the determination of which employees shall be separated from employment in the Department will be made primarily on the basis performance. This required DoD to develop an implementation plan and make corresponding changes in DoD instructions, policies, and regulations that DoD to implement the change in law, which became effective by Deputy Secretary of Defense Memorandum, dated January 19, 2017. These policies and procedures will be applied to RIF initiated in DoD after effective date of the memorandum. The Office of the USD(P&R) will expand and update DoD Instruction 1400.25, Volume 351, "DoD Civilian Personnel Management System: Coordination and Clearance Requirements for Personnel Reductions, Closures of Installations and Reductions of Contract Operations in the United States," to incorporate these policies and procedures as soon as practicable.

**Q. When was the new law effective?**

A. The law went into effect on November 25, 2015, when the President signed into law the NDAA for FY 2016 (P.L. 114-92). The new policy and procedures, dated January 19, 2017, are effective immediately.

**Q. RIF should be last resort. What measures/tools are in place to try to avoid and/or mitigate RIF?**

A. Reasonable options to mitigate the size of a proposed RIF include job changes or retraining, the use of voluntary early retirement authority or voluntary separation incentive payments, hiring freezes, termination of temporary employees, reductions in work hours, curtailment of discretionary spending, and other pre-RIF placement activities for employees eligible for placement assistance and referral programs. Use of any such option shall be consistent with applicable policies and procedures.

**Q. The new procedures introduce the concept of “periods of assessed performance.” What is considered periods of assessed performance for purposes of RIF?**

A. An employee’s period of assessed performance, for purposes of RIF, will be the sum of the months of assessed performance associated with the employee’s performance appraisals within the most recent four year period preceding the “cutoff date” established for the RIF. Employees are placed in one of two categories: employees with a period of assessed performance of less than 12 months and employees with a period of assessed performance of 12 months or more.

**Q. Why did the Department decide to establish a minimum period of assessed performance as part of the retention rules? Why is a period of assessed performance of less than 12 months and 12 months or more the mark of differentiation for determining retention in RIF? Why is there a difference between an employee with 11 months of assessed performance and an employee with 13 months of assessed performance?**

A. Establishing a minimum period of assessed performance allows the Department to equitably compare the performance of individuals in different tenure groups, using performance appraisals with assessed performance over the same period of time. Once the appropriate category of assessed performance is determined, each employee is then listed on the retention register based on the new DoD RIF retention factors. Since performance is the primary factor in DoD RIF, this approach ensures an equitable comparison of employees whose performance has been assessed over a comparable period of time, i.e., 12 months or more, or less than 12 months. The Department has determined that a period of assessment of 12 months or more is a reasonable period of time for evaluating employee performance, and therefore, such employees are placed in a higher retention standing. While assessed performance of 11 months versus 13 months may not be a significant difference in the amount of assessed performance, the Department established a standard of 12 months to ensure consistency in application of RIF procedures.

**Q. If an employee’s performance is not assessed, i.e., associated with a performance appraisal, how is the employee given credit for performance?**

A. Periods of time in a rating cycle for which the employee’s performance was not assessed are not included in the employee’s period of assessed performance. For example, if an employee receives a rating after serving 10 months of the 12 month cycle, the employee’s period of assessed performance is “10 months” for that rating cycle.

**Q. How is an employee's rating of record factored for RIF retention?**

A. An employee's rating of record will be the average of the ratings of record (rounded to the nearest whole number) drawn from the two most recent performance appraisals received by the employee within a four year period except when the rating of record in the employee's most recent performance appraisal is "unacceptable." When the most recent rating of record is "unacceptable," only that rating of record will be considered for purposes of RIF.

**Q. Current procedures allow for the averaging of three ratings of record in the preceding 4-year period when considering performance, now procedures only allow for ratings of record drawn from the two most recent performance appraisals in the preceding 4-year period. Why?**

A. In DoD's new RIF procedures, performance is the primary retention factor. The Department has determined that the ratings of record derived from the two most recent performance appraisals in the preceding 4-year period is sufficient for determining the first retention factor, i.e., rating of record, for each employee. However, when an employee has only one performance appraisal within the 4-year period, the employee's rating of record for purposes of RIF will be drawn from that appraisal. When an employee's most recent rating of record is "unacceptable," only that rating of record will be considered for purposes of RIF.

**Q. Are Tenure Groups defined the same under the new DoD RIF procedures?**

A. Yes. Tenure Groups are defined in 5 C.F.R. § 351.501(b) for competitive service and 5 C.F.R. § 351.502(b) for excepted service.

**Q. The rest of the Federal government conducts RIF with tenure as the first retention factor, why is the Department of Defense different?**

A. Congress directed the Department to establish procedures to provide that, in any RIF of civilian positions in the competitive or excepted service, the determination of which employees shall be separated from employment shall be made primarily on the basis of performance. Therefore, the Department places a greater emphasis on individual employee performance as opposed to an employee's longevity in service.

**Q. What is average score and how is it used in a DoD RIF?**

A. An employee's average score is the average of the average scores drawn from the two most recent performance appraisals received by the employee, except when the performance appraisal reflects an "unacceptable" rating. When the most recent performance appraisal reflects an "unacceptable" rating, only that performance appraisal will be considered for purposes of the employee's average score. In general, an employee's average score for one performance appraisal is derived by dividing the sum of the employee's performance element ratings by the number of performance elements. The resulting quotient will be rounded to the nearest tenth of a decimal point (i.e., an average total of 4.63 will be rounded down to 4.6; an average total of 4.65 will be rounded up to 4.7).

**Q. Performance is subjective; how will the Department ensure fairness?**

A. The Department utilizes performance retention factors, i.e., ratings of record and average scores, derived from performance appraisals of approved performance management systems that provide for a fair performance appraisal program. For example, the DoD Performance

Management and Appraisal Program (DPMAP) provides for a fair, credible, and transparent performance appraisal program for linking bonuses and other performance-based actions to employee performance. The Department has also established procedures that must be applied fairly and consistently by DoD Components whenever a RIF or AIF is conducted.

**Q. All employees are not under the same performance management system. How will the Department ensure a level playing field among unlike systems?**

A. To ensure the consistent application of performance retention factors, DoD Components will calculate “ratings of record” by converting the employee’s numeric rating of record for each such performance appraisal to be commensurate with DPMAP ratings of record level description. DoD Components using an other than DPMAP performance management program that assigns a numeric rating of record, but uses a non-numeric rating system to evaluate employee performance on each element of a performance plan, will assign numeric values to each element rating and the average of these element ratings will become the employee’s average score for that performance appraisal. If it is not feasible for components to assign a numeric value to the employee’s performance on each element of a performance plan, components will assign an average score by calculating the mathematical average of ratings of record for each performance appraisal, and rounding to the nearest tenth of a decimal point.

**Q. The Department has begun implementing the new DPMAP, but does not anticipate full implementation until FY 2018. How will this change in RIF procedures impact the DPMAP rollout?**

A. The current schedule for the rollout of DPMAP is unaffected by the new DoD RIF procedures.

**Q. I am a Transfer/Reassignment employee from an agency not covered under the Defense Performance Management Appraisal Program (DPMAP). How will this affect me during a RIF?**

A. The new policy contains provisions to address employees transferring into DoD with non-DPMAP ratings. When the rating patterns authorized by a system other than DPMAP (including a system used by another federal agency with which the employee was formerly employed) do not align with the DPMAP performance rating level descriptions, the DoD Component will determine the rating of record by converting the employee’s two most recent numeric ratings of record to be commensurate with the DPMAP performance rating levels. This is further detailed in the DoD policy.

**Q. How does the DoD RIF policy affect veterans’ preference?**

A. Competing employees are placed in a veterans’ preference subgroup in accordance with the definitions in 5 C.F.R. § 351.501(c). The three veterans’ preference subgroups are: AD (a 30% disabled veteran); A (a veteran who is eligible for veterans’ preference for purposes of RIF, but is not eligible for placement in the AD category); and B (an employee not eligible for veterans’ preference for purposes of RIF). Like in government-wide regulations, employees with a veterans’ preference category of AD are ranked above those with a category of A, who are ranked above those with a category of B. However, wherein government-wide regulations place veterans’ preference as the second factor for determining retention order (i.e., tenure group, veterans’ preference, length of service, and performance), the new DoD RIF procedures place

veterans' preference as the fourth factor (i.e., rating of record, tenure, average score, veterans' preference, and DoD service computation date-RIF). In this regard, performance is given greater emphasis in RIF than veterans' preference.

However, while the Department was required to reprioritize the order of retention for DoD RIF, placing greater emphasis on performance than any other factor including veterans' preference, it does not change the fact that veterans are a key part of the civilian workforce because they represent a highly skilled, extremely well-trained cadre of employees who are among the best qualified for the Department's mission. The Department firmly believes that highly performing veterans in the civilian workforce will not be disadvantaged by the change in the order of retention of veterans' preference in DoD RIF.

**Q. Will the Service Computation Date (SCD) be adjusted?**

A. The DoD SCD-RIF includes all creditable service authorized by 5 C.F.R. § 351.503 (a) and (b). DoD will not follow 5 C.F.R. § 351.504, which provides for granting additional retention service credit in RIF based on an employee's ratings of record.

**Q. What are the current RIF procedures? How are the procedures changing for DoD?**

A. In accordance with OPM regulations, retention is based on the following factors: 1) tenure; 2) veterans' preference; 3) length of service; and 4) performance. In a DoD RIF, employees will be placed on a retention register in one of two categories: employees with a period of assessed performance of less than 12 months and employees with a period of assessed performance of 12 months or more. Employees will be further listed on a retention register based on the following retention factors: rating of record; tenure group; average score; veterans' preference; and DoD service computation date-RIF (DoD SCD-RIF).

**Q. How will a DoD RIF Retention Register be established?**

A. In general, employees with a period of assessed performance of less than 12 months are categorized and ranked below employees with a period of assessed performance of 12 months or more. Tenure Group III employees are ranked at the bottom of the retention register regardless of performance; and Tenure Group III employees with 12 months or more of assessed performance are listed above Tenure Group III employees with less than 12 months of assessed performance. Employees with an unacceptable performance rating are listed above Tenure Group III employees. Tenure Group I and II employees with less than 12 months of assessed performance are listed above employees who received an unacceptable performance rating. Tenure Group I and II employees with 12 months or more of assessed performance are listed above the Tenure Group I and II employees with less than 12 months of assessed performance. Employees are further ranked in each category by the following:

- By rating of record. Employees with a higher rating of record are ranked above employees with a lower rating of record.
- When ratings of record are the same for two or more employees, those employees will be further ranked by Tenure Group. Employees in Tenure Group I will be ranked above employees in Tenure Group II.

- Within Tenure Groups, employees are further ranked by average score. Employees with a higher average score are ranked above employees with lower average score.
- When average score calculations are the same for two or more employees, those employees will be further ranked by veterans' preference. Employees with a veterans' preference category of AD are ranked above employees with a veterans' preference category of A. Employees with a veterans' preference category of A are ranked above employees with a veterans' preference category of B.
- When veterans' preference is the same for two or more employees, those employees will be further ranked by DoD SCD-RIF. Employees with a DoD SCD-RIF furthest in the past will be ranked above employees with a DoD SCD-RIF that is more recent.

**Q. How will an employee be released in a DoD RIF?**

A. DoD Components must select employees competing in RIF for release from a competitive level (including release from a competitive level involving a pay band) beginning with the employee with the lowest retention standing on the RIF retention register.

**Q. Will an employee receive an assignment to another position once released in a DoD RIF?**

A. In the competitive service, an employee released from a competitive level may have a right under RIF procedures to a position in a different competitive level. Assignment rights are mandatory for competitive service employees in Tenure Groups I and II whose current performance appraisal reflects a rating of minimally successful or greater. Excepted service employees do not have mandatory assignment rights. There are two types of potential assignment rights, in the competitive service, to positions in the same or different competitive levels: displacing an employee of a lower retention standing, or an offer to a vacant position. DoD RIF procedures do NOT apply the retreat process.

**Q. What is Displacement in a DoD RIF?**

A. Displacement is the assignment of an employee to a continuing position in the same or different competitive level that is held by another employee with a lower retention standing (i.e., "bumping" another employee). Displacement may be at the same grade or at a grade up to three grades or grade intervals (or equivalent) below the position of the released employee. For preference eligible employees with a compensable service-connected disability of 30% or more, displacement can be to a position at the same grade or to a position up to five grades below the grade of the position from which released. A released employee may have displacement rights to a position without regard to whether the employee previously held the position of the employee with lower retention standing.

**Q. Will an employee be offered a vacant position as a possible assignment right?**

A. When a DoD Component chooses to fill a vacancy with an employee who has been reached for release from the competitive level, the DoD Component must consider the relative retention standing of all released employees. The DoD Component must offer a position to the released employee with the highest retention standing before offering a position to a released employee with a lower retention standing.

**Q. Why is a Tenure Group III employee being released before a Tenure Group I employee if the Tenure Group III employee has a better performance rating? Aren't we supposed to be looking at performance first?**

A. Tenure Group III employees, as defined in 5 C.F.R. § 351.501 for the competitive service and 5 C.F.R. § 351.502 for the excepted service, and are ranked below any Tenure Group I or II employee, notwithstanding any other retention factor. Tenure Group III employees include employees serving under indefinite and similar non-status appointments. Such employees will be released during RIF prior to any permanent, career or career-conditional employees.

**Q. Based on the procedures for establishing a retention register, it is possible for a Tenure Group II employee with less than two years of service and still on probation to have a higher retention ranking than a Tenure Group I employee with three or more years of service. Why did the Department establish procedures that appear to disadvantage longer serving employees? Notwithstanding that performance is now the primary factor in RIF, why didn't the Department rank employees by rating of record within tenure groups to avoid this scenario?**

A. Congress directed the Department to establish procedures to provide that, in any RIF of civilian positions in the competitive or excepted service, the determination of which employees shall be separated from employment shall be made primarily on the basis of performance. Therefore, the Department places a greater emphasis on individual employee performance than an employee's length of service.

As a result, a Tenure II employee with less than three years of service, and who may still be on probation, may be ranked above a Tenure I employee with three or more years of service if that Tenure II employee has a higher rating of record (one rating or an average of two ratings within the preceding four year period) than the Tenure I employee. However, the Department recognizes tenure as an important factor in retention, and established in its procedures that employees in Tenure Group I will be ranked above employees in Tenure Group II within each rating of record group. This ensures that within each rating of record group, permanent career employees (Tenure I) are retained over career-conditional employees, who may also be on probation (Tenure II).

**Q. What incentivizes employees with any longevity to continue their career with DoD during a period of drawdown when tenure is no longer the primary factor for determining RIF retention? Wouldn't it be more beneficial for them to go to another federal agency because they'd be protected?**

A. While performance is the primary retention factor for DoD RIF, the new procedures consider tenure, which is often associated with longevity, as the second factor, recognizing tenure as an important factor to employee retention. To that end, the Department will retain employees with career tenure (tenure group I) over those with career conditional tenure or who are in a probationary status (tenure group II) within each rating of record group. However, the procedures are designed such that when circumstances necessitate a RIF, the Department will ensure its ability to retain our highest performing employees.

**Q. I am a veteran, but I was just hired by the DoD as a civilian. Why am I being let go before someone with 13 months of service? Why don't my years of service to the country matter?**

A. Congress directed the Department to establish procedures to provide that, in any RIF of civilian positions in the competitive or excepted service, the order of retention will be based primarily on individual employee performance versus an employee's tenure, veterans' preference, or longevity in service, ensuring that the Department retains the highest performing employees. To that end, employees with assessed performance of 12 months or more will be retained over employees with less than 12 months of assessed performance. Veterans will continue to receive preference eligibility for RIF, as appropriate, in accordance with the new DoD RIF procedures, and will receive service credit for military time, as appropriate, in accordance with 5 C.F.R. 351 (a) and (b).

**Q. If performance is the primary factor in RIF, and average score is a factor that considers performance, why isn't average score the second retention factor rather than tenure?**

A. Tenure is placed as the second retention factor after rating of record to ensure that employees with career tenure (tenure group I) are retained over those with career conditional tenure or who are in a probationary status (tenure group II) within each rating of record group. While performance is the primary retention factor in DoD RIF, i.e., rating of record is the first retention factor, the Department recognizes tenure as an important factor to employee retention. Average score is then used to make meaningful distinctions in performance within each rating of record and tenure group. Tenure Group III employees, including employees serving under indefinite and similar non-status appointments, will be released during RIF prior to any Tenure Group I or II employees.