

# Chapter 9

## Downsizing Policies

### Section 1

#### Reductions in Force and Furloughs

An agency is required to use reduction-in-force (RIF) procedures when an employee is faced with separation or downgrading because of a reorganization, lack of work, a shortage of funds, insufficient positions available, or the exercise of certain re-employment or restoration rights. RIF rules are at 5 CFR 351.

The agency decides whether a RIF is necessary, and if so when it will take place and what jobs will be abolished. However, the abolishment of a position does not always require the use of RIF procedures. For example, the agency may reassign an employee to a vacant position at the same grade and pay, regardless of where the position is located.

An agency must follow specific procedures to determine which employees will be affected by a RIF. Employees of agencies other than the Defense Department (see below for special rules applying there) compete for retention on the basis of (in descending order):

- type of appointment (tenure);
- veterans' preference;
- total creditable civilian and military service; and
- performance ratings.

Note: Executive Order 13839 of 2018 instructed the Office of Personnel Management to issue rules to "prioritize performance over length of service when determining which employees will be retained following a reduction in force." The policies below apply, pending the finalization of implementing rules proposed in December 2020, to agencies other than the Defense Department, which places higher priority on performance under a pre-existing authority as described below.

In the first round of a RIF competition, the agency applies the four retention factors to a competitive level to identify which employee has the lowest retention standing. In the second round, the agency again applies the factors, this time to determine whether a released employee has a bump or retreat right to a position in a different competitive level that is held by an employee with even lower retention standing.

For RIF purposes, "agency" means a Cabinet department or an independent establishment. For example, the Department of Defense is considered to be one agency, with the Army, Navy, and Air Force being components within that agency.

Further information on RIFs, including separate guides written from the perspective of employees and agency management, is at [www.opm.gov/policy-data-oversight/workforce-restructuring/reductions-in-force](http://www.opm.gov/policy-data-oversight/workforce-restructuring/reductions-in-force).

#### Competitive Areas and Levels

**Competitive Area**—A competitive area is the area that will be used as the geographical and organizational limits within which employees compete for retention. A competitive area may consist of all or part of an agency. The minimum competitive area is an organization in a local commuting area that is separate from other agency organizations because of differences in operation, work function, staff, and personnel administration.

A local commuting area usually includes one population center in which employees live and reasonably travel back and forth to work. The regulations do not define a mileage standard for local commuting area. Instead, the agency must determine what is reasonable for a specific geographic location. At its option, an agency may establish a competitive area larger than the minimum standard. The regulations do not set a maximum size of a competitive area. An inspector general activity covered by the Inspector General Act of 1978 is always defined as a separate competitive area.

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An agency that wants to redefine a competitive area within 90 days of the RIF effective date must obtain the Office of Personnel Management's approval.

**Competitive Levels**—Each competitive level includes positions with the same grade, classification series, and official tour of duty (such as full-time, part-time, seasonal, or intermittent). All positions in a competitive level must have interchangeable qualifications, duties, and responsibilities. The agency establishes a competitive level based on official position descriptions, not on the employees' personal qualifications.

The agency establishes separate competitive levels for positions filled as part of a formally designated trainee or developmental program, for positions filled on competitive service appointments, and for positions filled on excepted service appointments.

The agency places two similar positions (same grade, classification series, work schedule, etc.) in the same competitive level when the position descriptions for the two positions show that an employee in either one of the positions needs no more than 90 days to be able to perform the key tasks of the other position. The agency does not include competitive service employees with temporary appointments in the competitive level because these employees serve at the will of the agency. The agency includes excepted employees with temporary appointments of one year or less in the competitive level only after the employee completes more than one year of current continuous service under the same type of appointment.

**Pay Banding Situations**—Competitive areas or levels cannot be established for pay banded positions separate from those not under pay banding.

### Retention Registers, Competitive Service

After grouping interchangeable positions into competitive levels, the agency applies the retention factors—tenure, veterans' preference, length of service, and performance—in establishing separate "retention registers" for each competitive level that may be involved in the RIF. The agency lists each employee on the retention register in the order of the employee's relative retention standing after applying those factors.

**Tenure**—Employees are ranked on a retention register in three groups according to their types of appointment. Group I is for career employees who are not serving a probationary period. Group II is for career employees who are serving a probationary period and career-conditional employees. Group III consists of employees serving under term and similar non-status appointments.

Retention registers for excepted service positions use similar tenure groups.

**Veterans' Preference**—Each of the tenure groups is divided into three subgroups reflecting entitlement to veterans' preference. A retired member of the Armed Forces is considered to be a veteran for RIF purposes only if the Armed Forces retired pay is directly based on a combat-incurred disability or injury, or for members retired below the rank of major (or equivalent) who are not disabled veterans if the retirement is based on less than 20 years of active service or in other limited situations.

Subgroup AD includes eligible veterans with a compensable service-connected disability of 30 percent or more. Subgroup A includes eligible veterans not included in Subgroup AD. Subgroup B includes non-veterans and veterans not eligible for preference.

**Length of Service**—Employees are ranked by their service dates within each subgroup. Their service dates reflect total federal service, civilian and creditable military service, and additional service credit for certain performance ratings. A retired member of the Armed Forces with 20 or more years of military service who is not eligible for veterans' preference under the RIF regulations receives retention credit only for Armed Forces service during a war, or service performed in a campaign or expedition for which the individual received a badge. Additionally, an employee may not receive dual retention service credit for service performed on active duty in the Armed Forces that was performed during concurrent civilian employment as a federal employee.

Credit is allowed for non-appropriated fund (NAF) service if the employee moved, without a break in service of more than three calendar days, from a NAF position to an appropriated fund position within the Defense Department.

**Performance**—Employees may receive additional service credit for performance based

on the average of their last three actual performance ratings of record received during the four-year period prior to the date the agency issues RIF notices or freezes ratings before issuing RIF notices. An employee is given additional service credit based on the mathematical average of the value of the employee's last three annual ratings, rounded in the case of a fraction to the next whole number. If an employee received more than three annual ratings during the four-year period, the three most recent annual ratings are used. If an employee received fewer than three annual ratings during the four-year period, the actual ratings received are averaged and rounded up to a whole number. Employees who have received no ratings of record are given performance credit based on the most frequently assigned performance rating in their agency or organization. When all employees in the competitive area have ratings earned under the same type of performance rating pattern, then the standard formula for assigning performance credit is:

- 20 additional years for an Outstanding rating;
- 16 additional years for an Exceeds Fully Successful rating; and
- 12 additional years for a Fully Successful rating.

There is no additional service credit for performance ratings below Fully Successful or equivalent.

For example, an employee with three years of service has one Outstanding rating of record (20), and two Exceeds Fully Successful (16) ratings of record would receive additional RIF service credit based on the three actual ratings of record:  $20 + 16 + 16 = 52$ , divided by  $3 = 17.3$ , rounded up to 18 years of additional retention credit for performance. This additional credit is added to the employee's other service for RIF purposes.

If an agency has employees in a competitive area who have performance ratings of record under more than one summary rating pattern, at its option the agency may provide different amounts of additional retention service credit for employees who have the same summary level, but are under different patterns. The range of additional service credit is from 12 to 20 years.

**Defense Department**—P.L. 114-92 required the Defense Department to establish procedures to provide that, in any reduction in force of civilian positions in the competitive or excepted service, the order of retention will be based primarily on performance. The department finalized that change with a policy effective January 19, 2017.

Under those procedures, employees are placed on a retention register based on these factors, in descending order: 1) rating of record; 2) tenure group; 3) average score; 4) veterans' preference; and 5) DoD service computation date.

The rating of record is the average of the most recent two performance ratings within a four-year period, rounded to the next highest whole number. For employees with only one rating in that time, that rating will be used.

Tenure groups follow government-wide definitions as described above. Temporary employees and those with term appointments (Tenure Group III) are ranked below, and will always be released before, employees with permanent appointments (Tenure Groups I and II). Employees in Tenure Groups I and II with ratings of record of Unacceptable still are ranked above any Tenure Group III employee, but below other Tenure Group I and II employees with ratings of record other than Unacceptable or who have no ratings of record.

The average score is the average of scores on individual performance elements within the last two ratings, rounded to the nearest tenth of a decimal point.

For veterans preference, first priority is given to those with a 30 percent or more disability rating, then others with veterans status, then those with no veterans status.

The DoD service computation date is the date the employee entered government, adjusted for any military service. In general, employees with periods of assessed performance of less than 12 months are categorized and ranked below employees with periods of assessed performance of 12 months or more. Special provisions apply to employees rated under the three-level Defense Performance Management and Appraisal Program. The procedures otherwise follow general rules, regarding matters such as the establishment of competitive areas and levels and reassignment rights. The policy does not apply to employees covered by alternative personnel systems such as the acquisition demonstration project, the Science

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and Technology Reinvention Laboratories project or the Defense Civilian Intelligence Personnel system, provided that those systems also put performance first.

### Excepted Service

Retention registers for excepted service positions (see Types of Appointments in Chapter 8, Section 1) use similar tenure groups to those for competitive service positions but the two are separate.

An employee with an excepted service appointment has no “bump” or “retreat” (see below) assignment rights under the RIF regulations. However, an agency may elect to provide its excepted employees with RIF assignment rights to other excepted positions under the same appointment authority. See Retirement Benefits in RIFs in this section.

### SES RIF Procedures

Before an agency conducts a RIF that will affect Senior Executive Service members, it must have a plan that explains its RIF procedures and how the agency will determine who is affected. The agency defines the area of competition; it may be the full agency or a major component of the agency. The agency’s career SES members in the competitive area are organized on retention registers, based on performance and other factors, as set out in the agency plan. Individuals with the lowest retention standing are identified for RIF.

Executives identified for RIF are entitled to placement in any SES position (for which qualified) in the agency. Since “agency” refers to a Cabinet department or independent establishment, this right cannot be restricted to jobs in an organizational component, regardless of the competitive area established for the RIF. If there is no such position, the agency head certifies that fact, in writing, to OPM. The individual is then entitled to OPM placement assistance. The agency must continue to try to place the individual in the agency during the OPM priority placement period.

The executive is entitled to two notices. The first notice advises that he/she has been released from the retention register and cannot be placed in the agency. This notice must be given at least 45 days before removal from the SES. This usually occurs at the time the agency refers the executive to OPM for placement assistance. The second is a one-day notice before the removal date, which is given after OPM notifies the agency that the placement effort was unsuccessful.

If OPM cannot place the executive in an SES position in another agency, the original agency removes the executive from the SES and places him/her in a vacant GS-15 position in the agency. If no GS-15 vacancy exists, the agency must create one. Executives removed from the SES as a result of RIF are entitled to appeal to the Merit Systems Protection Board on the competitive procedures used by the agency. If eligible, the executive may take discontinued service retirement in lieu of placement at GS-15.

### Employee Release Order

Employees are released from a competitive level in the inverse order of their retention standing, beginning with the employee with the lowest standing on the retention register (see above for special rules applying to Defense Department employees). In other words, all employees in Group III are released before employees in Group II, and all employees in Group II are released before employees in Group I. Within the subgroups, all employees in Subgroup B are released before those in Subgroup A, and all workers in Subgroup A are released before those in Subgroup AD.

However, an agency may not release a competing employee from a competitive level while retaining in that level an employee with a specific limited appointment, specifically limited temporary or term promotion, or an employee who has received a written decision that removes or demotes the employee from the competitive level.

### RIF Notices and Records

An agency must give each non-SES employee at least 60 days specific written notice before he or she is released for a RIF action. In certain circumstances, an agency may, with OPM approval, give an employee 30 rather than 60 days specific written notice of a RIF action.

In the RIF notice, the agency must include the employee's competitive area, competitive level, subgroup, service date, and last three annual performance ratings of record received during the last four years; the place where the employee may inspect the regulations and records; the reasons for proceeding out of order in retaining a lower-standing employee in the same competitive level; information on career transition and placement programs; a severance pay estimate; information on unemployment benefits and dislocated worker programs; the option to authorize release of employment information to potential employers; and the employee's right to grieve or appeal the agency's decision.

Employing agencies are required to provide employees and their designated representatives with access to retention records showing how the employee was selected for release. By regulation, an agency cannot meet its obligation to provide this information by giving the employee a sanitized retention record with all the pertinent information blocked out. In addition, employees are entitled to see any agency records that detail their bump-and-retreat rights (see below). Also, agencies must keep all records relating to a RIF for at least one year after the date the agency issues RIF notices.

### **Rights to Other Positions**

Competitive service employees in Groups I and II who are released from their competitive level and have current performance ratings of at least Minimally Successful are entitled to an offer of assignment, if they have "bumping" or "retreating" rights to an available position in the same competitive area. Among other requirements, the position must last at least three months, be one for which the employee is qualified, have a pay rate no higher than that of the employee's present position, have the same type of work schedule, and, in the case of a retreating employee, be no more than five grades below the employee's current position. Employees in Group III have no rights to another job.

An employee with an excepted service appointment has no assignment rights under the RIF regulations. However, an agency may elect to provide its excepted employees with RIF assignment rights to other excepted positions under the same appointment authority.

Promotion potential is not a consideration in filling a position under the RIF regulations. A RIF offer may have less, more or the same promotion potential as the released employee's present position.

**Bumping**—"Bumping" means displacing an employee in a lower tenure group, or in a lower subgroup within the released employee's own tenure group. Although the released employee must be qualified for the job, it may be a job he or she never held. At its option, the agency may consider an employee's total service in determining bumping rights. This option provides the first offer to the otherwise eligible released employee with the most service.

**Retreating**—"Retreating" means displacing an employee with less service within the released employee's own tenure group and subgroup. The position must also be the same position or essentially identical to a position held by the released employee in a federal agency on a permanent basis. An employee with a current annual performance rating of Minimally Successful only has retreat rights to positions held by employees with the same or lower rating. The position may be up to five grades (or appropriate grade intervals) below the position from which the employee was released.

**Grade Intervals**—The agency determines the grade limits of a released employee's assignment rights on the basis of the position the employee holds on the RIF effective date, regardless of how the employee progressed to the position. For example, an employee released from a GS-11 position that progresses GS-5-7-9-11 has potential bump and retreat rights to available positions from GS-11 through GS-5.

### **Use of Vacant Positions**

An agency is not required to offer vacant positions in a RIF, but may choose to fill all, some, or none of the vacancies.

When an agency chooses to fill a vacancy with an employee reached for release from the competitive level by RIF, the agency must consider the relative retention standing of all the released employees. For example, the agency must offer a position to the released



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employee in the highest group and subgroup before offering a position to an employee in a lower group and subgroup. This is consistent with a bump offer to an occupied position.

The agency is not required to consider total service in offering positions to employees in the same group and subgroup unless the employee with the most service also formerly held the position on a permanent basis. This is consistent with a retreat offer of an occupied position.

The agency satisfies a released employee's right to RIF assignment rights if the agency offers the employee a vacant position at the grade to which the employee has bump or retreat rights.

An agency may choose to waive qualifications in offering an employee RIF assignment to a vacant position. However, the agency may not waive a minimum educational requirement. (An agency may never waive qualifications requirements in offering assignment to an occupied position.)

An agency may make a RIF offer of a vacant position to a released employee only if the vacancy is in the same competitive area, and within three grades (or grade intervals) of the employee's present position.

When an agency chooses to fill a vacancy with an employee reached for a RIF action, it must follow subgroup retention standing. A RIF offer of assignment to a vacant position can only be in the same competitive area, and must be within three grades (or grade intervals) of the employee's present position. The agency may offer employees reassignments or voluntary changes to lower-graded positions in other competitive areas in lieu of RIF.

### RIF Appeals and Grievances

An employee who has been separated, downgraded, or furloughed for more than 30 days by RIF has the right to appeal in writing to the Merit Systems Protection Board (MSPB), if the employee believes the agency did not properly follow the RIF regulations. The appeal must be filed during the 30-day period beginning the day after the effective date of the RIF action. MSPB's review of agency actions is limited to the written record unless MSPB determines that there are facts in dispute. See Appeal Procedures in Chapter 10, Section 3.

An employee in a bargaining unit covered by a negotiated grievance procedure that does not exclude RIF actions must use the negotiated grievance procedure. The employee may not appeal to the MSPB unless the employee alleges the action was based upon discrimination. The time limits and procedures for filing a grievance are set in the collective bargaining agreement. See Negotiated Grievance Procedures in Chapter 8, Section 6.

Grounds for a challenge may include, but are not limited to:

- improper retention of another employee in a lower subgroup;
- insufficient advance notice given (agencies must give a minimum 60-day written notice unless OPM has granted permission for a 30-day notice);
- inadequate reasons or failure to give reasons for regulatory exceptions;
- denial of right to examine the regulations or to inspect the retention registers and related records;
- excessive restriction of the competitive area;
- improper tenure groups assigned;
- violation of veterans' preference;
- error in computing a service computation date; or
- failure to comply with agency RIF administrative procedures.

If MSPB rules in favor of the employee, the agency must restore the employee to the job that the employee was separated from or should have been assigned. The agency usually is required to give back pay to the affected employee.

Also see [www.opm.gov/policy-data-oversight/workforce-restructuring/reductions-in-force](http://www.opm.gov/policy-data-oversight/workforce-restructuring/reductions-in-force).

### Transfer of Function

A transfer of function takes place when a continuing function moves to another organization, or when the entire organization moves to another geographic location. A "function"

is a clearly identifiable activity of the agency's mission. Not every organizational relocation of work is a transfer of function. A transfer of function takes place only when, after the transfer, the gaining organization undertakes a new class of activity. (For example, no transfer of function occurs when an agency realigns geographic boundaries so that an installation performing a particular function begins to handle that function for a broader geographic area. Instead, the gaining organization simply assumes responsibility for another part of the same function or class of activity, but with different geographic boundaries.) Also, no transfer of function takes place when activities, assignments, or functions shift within an organization; this is a "reorganization."

If the transfer of function will require the losing organization to have a reduction in force, the competing employees in the function must be given the opportunity to transfer with the function instead of being separated or downgraded by RIF in the losing organization. This is the only situation in which employees have the right to transfer with their function—when the alternative in the losing organization is separation or downgrading. An employee properly identified with a function to be transferred who refuses to transfer may be separated by adverse action procedures.

If the transfer of function results in the identification of more employees than the gaining organization needs to perform the function and the employee cannot be retained in the losing organization, the gaining organization may be required to have a RIF. In this situation, the employees coming in with the function have a right not only to compete among themselves for retention in the function, but also to compete with employees already in the organization. In other words, the gaining organization must treat the incoming employees as its own in the RIF. Employees separated under these circumstances go on the re-employment priority list of the gaining organization rather than the losing organization.

Agencies use two methods to identify employees with a transferring function: Method One must be used to identify each position to which it is applicable. Method Two is used to identify positions and employees only when Method One is not applicable.

Method One specifies that employees are identified with a transferring function if they perform the function during at least half of their work time, or if the function they perform includes their grade-controlling duties.

Method Two applies to employees who perform the function during less than half of their work time and are not otherwise covered by Method One. Under Method Two, the losing organization must determine the number of positions needed to perform the transferring function. To determine which employees are identified for transfer, the losing organization must establish a RIF-style retention register that includes the name of each employee who performed the function. Competing employees listed on the retention register are identified for transfer in the inverse order of their retention standing. If for any retention register this procedure would result in separation or demotion by RIF at the losing organization of any employee with higher retention standing, the losing organization must identify employees on that retention register for transfer in the order of their retention standing. The losing organization may permit other employees to volunteer for transfer with the function in place of employees identified under Methods One or Two. However, these other employees may be transferred only if no employee identified under Methods One or Two is separated or demoted solely because a volunteer transferred in place of him or her to the gaining organization.

In a transfer involving a geographic relocation, unless they are sure they will not move with the activity, employees should accept the offer of transfer. This assures them a job in the new location, but it does not keep them from looking for a job in their current area. An employee may later change an initial acceptance without penalty if the employee declines before the transfer of function's effective date.

An employee may not file an appeal to the Merit Systems Protection Board based solely on a transfer of function issue. However, an employee who is reached for separation or demotion because of a reduction in force or an adverse action after declining transfer may raise transfer of function as an issue in that appeal.

Employees who decline to transfer with their function are not placed on the agency

re-employment priority list, but they may be entitled to placement through the Career Transition Assistance Plan (CTAP) and the Interagency Career Transition Plan (ICTAP) if they are career or career-conditional employees. See Section 2 of this chapter.

Employees whose permanent duty station changes and who start working in a different pay area receive the locality pay applicable to that area. Their pay may increase or decrease depending on how the rates at the new duty station compare with those of the former duty station.

After receiving a separation notice, the employee becomes eligible for most of the benefits available to an employee who receives a notice of reduction in force separation. An employee may not file an appeal to the Merit Systems Protection Board based solely on a transfer of function issue. However, an employee who is reached for separation or demotion because of a reduction in force or an adverse action after declining transfer may raise transfer of function as an issue in that appeal.

### RIF-Related Benefits

**Grade and Pay Retention**—Employees who are placed in a lower graded position in their agency as a result of RIF procedures are eligible to retain the same grade for two years. The employee must have completed at least 52 consecutive weeks at a higher grade than that of the position to which he or she was demoted. Employees who are downgraded after receiving a specific RIF notice and take a lower-graded position offered by management are eligible for grade retention on the same basis as an employee who was actually downgraded by a RIF action.

The employee's retained grade is considered for most purposes (including pay and pay administration, retirement, life insurance, eligibility for training, promotions, and within-grade increases) as the grade of the position the employee holds after downgrading because of RIF. However, in any subsequent RIF the employee competes for retention based on the lower grade. For example, an employee who holds a GS-12 position and is downgraded because of a RIF to a GS-9 position is still considered a GS-12 for most purposes, but for a subsequent RIF, would compete as a GS-9.

After grade retention expires, an employee will be eligible for indefinite pay retention, even if he or she is downgraded because of a RIF but doesn't meet the 52-week eligibility for grade retention. If the former rate of basic pay fits in the pay range for the lower-graded position, the employee will be placed in the lower pay range without a reduction in pay, and pay retention will cease. If the employee's former rate of basic pay is greater than the maximum rate of the pay range for the new position, the former rate will be continued as a retained rate (not to exceed 150 percent of the maximum rate for the grade in which the employee has been placed). The employee will then receive 50 percent of any adjustments (e.g., annual salary increases) in the maximum rate for the lower (reduced) grade until that maximum rate equals or exceeds the higher (retained) rate. At that point, pay retention will cease.

If the employee is on a temporary or term appointment at the time of a RIF, grade and pay retention will not apply. Also see Grade and Pay Retention in Chapter 1, Section 4.

**Re-Promotion Priority**—Agencies can give priority consideration to the re-promotion of employees who have been downgraded involuntarily to positions up to their former grade level.

**Severance Pay**—Severance pay is available to most individuals who have served at least 12 months continuously and are separated by a RIF, provided that they have not refused to accept a position within two grades of their current level in the same commuting area, are not eligible for an immediate annuity for either federal or Armed Forces service, and are not receiving any type of injury compensation benefits.

The severance benefit is computed at the rate of one week's pay for each year of service prior to separation. After ten years of service, an employee receives two weeks of pay for each additional year. For each year the employee is over age 40, an additional 10 percent of severance pay is received. The maximum is one year's salary. Severance benefits generally are paid out at regular pay intervals.

Also see Chapter 1, Section 8.



**Unemployment Compensation**—The unemployment insurance program for federal employees is administered by the Department of Labor through state governments. Separated employees should file a claim for benefits at their state employment service office or their unemployment insurance claims office, where they also can register for work. Employees must bring their Social Security card, official notice of separation or non-pay status (Standard Form 50), and notice about unemployment insurance (Standard Form 8). Payments such as an annuity, incentive pay, lump-sum annual leave, or workers' compensation may affect eligibility for unemployment compensation. The applicable state employment security agency makes that determination. Also see Chapter 5, Section 7.

**Unused Leave**—All civilian employees eligible for annual leave are entitled to receive a lump-sum payment for accumulated and accrued annual leave upon separation from federal service. See Lump-Sum Payments in Chapter 5, Section 1.

Under 5 CFR 351.606(b), certain employees who are being involuntarily separated through no fault of their own have the option of using accumulated annual leave in order to remain on the agency's employment rolls beyond the RIF effective date in order to reach initial eligibility for retirement; and/or continuance of Federal Employees Health Benefits program coverage into retirement. Eligible employees are put on annual leave status beyond the scheduled separation date, up to the date they first become eligible for immediate retirement or for continuation of health benefits into retirement, or both. Sick leave may not be used to extend employment for this purpose.

There is no payment for unused sick leave. However, employees who are separated from the federal government are entitled to have their sick leave re-credited if they are later re-employed in the federal service. For policies on crediting unused sick leave as time served toward retirement benefits, see Credit for Unused Sick Leave in Chapter 3, Section 3.

**Voluntary RIFs**—Voluntary reduction in force authority allows Defense Department employees who are unaffected by a RIF to volunteer for separation so that employees who would otherwise be separated by RIF may be retained. RIF volunteers get some, but not all, of the benefits applying to those separated involuntarily in a RIF. Also see Voluntary RIFs under Department of Defense RIF and Placement Benefits, below.

**Reinstatement Rights**—Former career or career-conditional federal employees may be reinstated to positions in the federal service noncompetitively—that is, without getting on a civil service list of eligibles again—under certain conditions. See Reinstatement Rights in Section 1 of Chapter 8.

### Health Insurance in RIFs

After separation, employees not eligible for an immediate annuity continue to be covered by their Federal Employees Health Benefits insurance for 31 days at no charge. They can enroll for an additional 18 months as long as they pay both the employee and employer share of the premiums, plus 2 percent for administrative costs. See Temporary Continuation of Coverage in Chapter 2, Section 1. The Defense Department continues to pay the employer share of FEHB premiums, plus the administrative charge, for 18 months on behalf of its employees separated by RIF as described in Department of Defense RIF and Placement Benefits, below.

Employees who are eligible for an immediate annuity may continue their enrollment in the FEHB, if they have been continuously enrolled or covered as a family member for the five years of service immediately preceding the commencing date of annuity payments, or for all service since the first opportunity to enroll. The Office of Personnel Management has granted pre-approved waivers of this requirement for certain employees who retire during a period when agencies are authorized to use buyout and/or early retirement authority as commonly is allowed during RIFs; separate but similar rules apply to the Defense Department. See FEHB Coverage After Retirement in Chapter 2, Section 1.

### Life Insurance in RIFs

Separated employees are covered free by the Federal Employees' Group Life

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Insurance program for 31 days. Employees who are separated and are not eligible for an immediate annuity may convert all or part of their life insurance to an individual policy without having to take a medical examination. The employee pays the entire cost of the conversion policy. The conversion must be made within 31 days after the effective date of the RIF or within 30 days after receiving the notice from the employing office about the right to convert, whichever is later. See Federal Employees' Group Life Insurance in Chapter 8, Section 5.

Employees who retire on an immediate annuity are eligible to continue their Basic life insurance as well as any type of optional insurance they have. At retirement, employees can elect a percentage of Basic, Option B and Option C coverage they wish to retain after age 65. Those who retire before age 65 are sent a notice on reaching that age reminding them of their decisions regarding those two options and are given the option to change those decisions. For those already over age 65 at the time of retirement, the notice is sent as soon as the retirement processing is completed. See Life Insurance in Retirement in Chapter 2, Section 2.

### Other Insurance in RIFs

Under the Federal Long-Term Care Insurance Program, anyone currently enrolled upon separation, with or without eligibility for retirement, can remain enrolled by continuing to pay the premiums. Those who are retiring can arrange to have the premiums deducted from their annuities or can pay the premiums directly; other separated persons must pay the premiums directly. Retirees, along with their spouses and certain family members, can initially enroll after retirement, but those separated without eligibility for an annuity may not enroll unless they are otherwise eligible—for example, by being the spouse of an eligible employee or retiree. See Eligibility in Chapter 2, Section 3.

Under the Federal Employees Dental and Vision Insurance Program, those separating with eligibility for an immediate annuity can continue an enrollment or, if not enrolled, can enroll at the next open season. Those separating without entitlement to an immediate annuity may not continue a current enrollment or enroll, unless they are otherwise eligible. (Note: Federal Employees Retirement System employees who retire on a Minimum Retirement Age +10 years of service (MRA+10) annuity and who elect to postpone receipt of their annuity lose FEDVIP coverage upon separation from service but can re-enroll within 60 days of the date on which they start receiving their annuity, or in an open season afterward.) See Eligibility in Chapter 2, Section 4.

### Retirement Benefits in RIFs

An employee facing a RIF who meets age and service requirements for voluntary retirement may choose to retire at any point in the process.

**Discontinued Service Retirement**—Both the Civil Service Retirement System and Federal Employees Retirement System provide for immediate retirement with reduced age and service requirements for employees who are involuntarily separated (other than for cause on charges of misconduct or delinquency) and who have not declined a reasonable job offer.

Once employees receive official notice that they will be involuntarily separated, they may then retire, and are not required to wait until the action has been taken. However, if the notice is rescinded prior to the employee's retirement, the right to retire also terminates.

To be eligible for a discontinued service retirement, an employee must be at least age 50 with 20 years of creditable service, or be any age with 25 years. Under CSRS, the annuity is reduced by 2 percent for each year the individual is under age 55 (a penalty that rarely applies now because almost all CSRS employees are above that age). There is no age reduction under FERS, but the employee is not eligible for the Special Retirement Supplement (payable under FERS until age 62 in lieu of Social Security benefits), until attainment of the Minimum Retirement Age (55 to 57, depending upon year of birth). See Discontinued Service Retirement in Chapter 3, Section 5.

**Early Voluntary Retirement**—If OPM, responding to the request of an agency, determines that an agency is undergoing a major RIF or reorganization that will result in a

significant number of employees losing their jobs or having their pay reduced, it may authorize early retirement for employees during a limited period. (Note: The Defense Department does not need OPM's permission to offer early retirement.) The eligibility and computation factors are the same as those of discontinued service retirement, above. See Early Voluntary Retirement in Chapter 3, Section 5.

**Deferred and Postponed Annuities**—Under both FERS and CSRS, separating employees who do not meet the requirements for an immediate annuity but who have at least five years of creditable civilian service are entitled to a deferred annuity, as long as they don't take a refund of their retirement contributions. Under both systems, this deferred annuity can commence at age 62. Under FERS, it further can begin at age 60 if the former employee has 20 years of service.

Under FERS only, employees who have at least 10 years of creditable service may elect to retire at or after their Minimum Retirement Age (see above) under the MRA+10 provision, subject to a reduction in the annuity of 5 percent for each year they are under 62 when the annuity commences. They can postpone the receipt of the annuity to a later date up to age 62 to reduce or eliminate that penalty. See Computing Deferred Retirement Benefits in Chapter 3, Section 4.

**Refund of Retirement Contributions**—Separated employees who are not eligible for an immediate annuity may elect to withdraw their retirement contributions in a lump sum, or may leave those contributions in the retirement fund to retain eligibility for a deferred annuity. For considerations involved, see Retirement—FERS or Retirement—CSRS in Chapter 8, Section 5.

### Thrift Savings Plan

All employees who separate from federal service, including those separated involuntarily by a RIF, have TSP options including: purchasing a life annuity (of at least \$3,500) with part or all of the account, taking one or more lump-sum withdrawals, taking a series of installment payments, or a combination of those options; within limits, some or all of lump-sum withdrawals and installment payments may be transferable to an individual retirement account or other qualified retirement plan. If you leave federal service before the year in which you attain age 55 (age 50 for law enforcement officers, firefighters and air traffic controllers), you may be assessed a 10 percent early withdrawal tax penalty on all direct payments received before age 59 ½. See Chapter 6, Section 4.

If you leave your money in the TSP, you must take certain minimum withdrawals paid directly to you by April 1 of the year following the year you reach age 72 (70 ½, for those who reached that age before calendar year 2020). See Chapter 6, Section 5.

### Furloughs

Furloughs are mandatory periods of leave without pay. Most furloughs are covered by adverse action procedures. The total number of days that any employee may be furloughed under adverse action procedures may not exceed 30 calendar days if consecutive, or 22 workdays if discontinuous (for example, one day a week for a specified number of weeks). Employees must be given at least 30 days advance written notice, except in the case of "unforeseeable circumstances." Employees are entitled to appeal the action to the Merit Systems Protection Board, or grieve under an applicable negotiated grievance procedure.

Longer furloughs invoke RIF procedures (see above). An employee reached for a continuous RIF furlough generally does not have assignment rights to a position held by another employee who is not affected by the furlough unless the furlough extends for 90 or more consecutive days. Also, an employee reached for a discontinuous RIF furlough action does not have assignment rights to another position.

Agencies have flexibility in scheduling required furlough days, subject to any applicable collective bargaining requirements. Further information on various special considerations including differences between administrative, or "save money" furloughs, and emergency, or "shutdown" furloughs, is at [www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance](http://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance).

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Note: When an employee's pay is not sufficient to permit all deductions, agencies follow a standard order of priority in making deductions; see a July 30, 2008 memo at [www.chcoc.gov/transmittals](http://www.chcoc.gov/transmittals).

**Retirement**—Retirement coverage will continue without cost if you are on consecutive furlough of 30 days or less. For discontinuous furloughs, the coverage continues but your contributions will be adjusted in proportion to the basic salary received during each pay period.

In general, your retirement annuity benefits will not be affected. Since both the Civil Service Retirement System and the Federal Employees Retirement System allow for credit of up to six months of non-pay status in a calendar year, furlough days generally will count toward the total amount of creditable service. Likewise, although there is a loss of actual pay during the furlough period, a furlough does not result in a change in the rate of basic pay and therefore does not affect a high-3 salary computation.

**Health Insurance**—Your Federal Employees Health Benefits program coverage will continue as long as your salary is sufficient to withhold premiums. Your agency also will continue paying its share.

If your pay is insufficient to cover your FEHB premiums during a pay period, you may opt to pay the premiums directly to your payroll office, incur a debt, or terminate coverage. If you choose to incur a debt, you must agree to pay in full and make arrangements to have the debt collected from your pay once you return to a full pay status. If you terminate coverage, you may reenroll within 60 days after the end of the first pay period in which your pay becomes sufficient to cover the premium. If you don't reenroll within 60 days, you must wait for the next open season to enroll or until you experience another qualifying life event.

**Life Insurance**—Your Federal Employees' Group Life Insurance coverage continues during both consecutive and discontinuous furloughs. There is no cost to you during consecutive furloughs, but if you are on discontinuous furloughs, premiums will be assessed if your salary during the pay period is sufficient to cover deductions.

If your pay is insufficient to cover your FEGLI premiums, you may opt to pay the premiums directly to your payroll office or terminate some or all coverage. If you elect to terminate coverage, your coverage will be reinstated when your pay again becomes sufficient to allow premium withholdings. If you opt to make premium payments directly to your payroll office and fail to make payments on time, coverage will be canceled and will not be reinstated when your pay becomes sufficient.

**Federal Dental and Vision Insurance Program**—FEDVIP coverage continues so long as you continue to pay the premiums. When FEDVIP premiums cannot be withheld during a pay period due to insufficient pay, payments will accrue and, once you return to full pay status, your payroll office will collect premiums for twice the biweekly amount for as long as is needed to make up any missed premium deductions. If funds are insufficient to pay premiums for three or more consecutive pay periods, you will be billed directly and you must pay the bill within the designated time in order to continue coverage.

**Federal Long Term Care Insurance Program**—FLTCIP coverage continues so long as you continue to pay the premiums; you may wish to arrange for direct billing if you are paying premiums through payroll withholding and your pay would be insufficient. See Premiums in Chapter 2, Section 3 for policies regarding missed payments.

**Flexible Spending Accounts**—FSA withholdings and reimbursement of eligible expenses continue so long as your salary is sufficient to pay them. If an insufficient salary prevents the deduction of your allotment, reimbursements for eligible health expenses will not be made, but you will continue to be reimbursed for dependent care expenses up to the balance in that account as long as the expenses incurred allowed you (or your spouse, if married) to work, look for work, or attend school full-time. Once you return to sufficient pay, your allotment will restart and the remaining balance due on your account will be recalculated to coincide with the remaining pay periods to match your annual election amounts. Reimbursement of health care expenses will also resume.

**Thrift Savings Plan**—The impact of a furlough on TSP payroll withholdings depends on whether you are investing on a biweekly dollar amount basis or on a percentage of salary basis. In the former, so long as your pay for that pay period is sufficient to make that investment, withholdings remain the same, as do the agency matching contributions for FERS employees (the automatic 1 percent of salary agency contributions for them are reduced proportionately to their reduction in pay, however, since those contributions are based on that percentage even if the employee invests according to a dollar amount).

For percentage of salary investors, the investment is based on the pay you actually received during the pay period; for FERS employees, both automatic and matching agency contributions also are reduced proportionately.

If you are furloughed: you may change between a percentage of salary investment to a dollar amount investment and may change the level of your withholdings; you generally may take out financial hardship withdrawals, if you qualify otherwise; if you have existing loans, you must stay current on your payments or risk having a taxable distribution declared; and new loans may be taken out only under more limited circumstances. See Chapter 6, Section 3.

**Leave**—A furloughed employee may not substitute paid time off for furlough time. Annual and sick leave accrual is not affected unless you reach a total of 80 hours of unpaid leave in a leave year. You will not earn annual and sick leave in the pay period in which that 80-hour accumulation is reached. If you again accumulate 80 hours of non-pay status, you will again not earn leave in the pay period in which that new 80-hour total is reached.

**Injury Compensation**—If you are injured while on furlough, you are not eligible for Federal Employees Compensation Act benefits. They are paid only for injuries incurred while performing official duties. For the impact of furloughs on those already receiving injury compensation, see General Rules and Procedures in Chapter 5, Section 5.

**Unemployment Compensation**—While on furlough, you may become eligible for unemployment benefits under state policies of your duty station. You must report any earnings during a period for which you are claiming unemployment benefits. If you are receiving earnings, your benefit may be reduced and even eliminated. If you fail to report earnings, you may be determined to have been overpaid benefits and be required to repay your state. Employees who receive back pay for furlough time, which may happen after a “shutdown” type furlough, must repay any unemployment compensation benefits received. See Chapter 5, Section 7.

**Outside Work**—If you are on furlough you remain a federal employee and therefore standards of ethical conduct and restrictions on outside employment continue to apply. In addition to government-wide policies, rules specific to an agency or occupation also may require prior approval of, or may prohibit, certain types of outside employment. See Chapter 10, Section 5.

**Learn more about furloughs in 1105 Media Inc.’s book *How to Manage Your Federal Job Furlough*. Please call (800) 989-3363 for ordering information.**

## Section 2

### Career Transition Assistance

Regulations at 5 CFR 330 require that agencies establish career transition assistance programs to help surplus and displaced workers find other jobs when their agency downsizes or restructures. Agency plans must consist of:

- **Career Transition Services**—Each agency provides career transition services to surplus employees, giving them skills and resources to help them find other employment. These services might include skills assessment, resume preparation, counseling, or job search assistance. Agencies must also develop policies on retraining their surplus employees.

- **Re-Employment Priority Lists**—Each agency must also maintain a Re-Employment Priority List (RPL) for each local commuting area where it separates employees by RIF. Employees can register for their agency’s RPL as soon as they receive a RIF separation notice. Before the agency can select a candidate outside its workforce, it must first check



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the RPL for that location. With a few exceptions, the agency must select a qualified employee from the RPL before hiring anyone from outside the agency.

- **Career Transition Assistance Plans**—Agencies must give selection priority to their own well qualified surplus or displaced employees who apply for vacancies in other agency components in the local commuting area. Agencies must notify their surplus or displaced employees when they plan to fill these jobs. With a few exceptions, the agency must select those who apply and are eligible and well qualified before any other candidate from within or outside the agency.

In addition, the Office of Personnel Management operates the Interagency Career Transition Assistance Plan (ICTAP), in which displaced employees apply for positions in the local commuting area and in which an eligible, well-qualified employee gets selection priority over almost any other applicant from outside the hiring agency.

Note: Because the Defense Department manages a separate program that provides selection priority to surplus and displaced employees within DoD—the Priority Placement Program (see below)—it is exempt from the special selection requirement affecting its own employees under the CTAP. However, DoD employees may enroll separately in the RPL program and may request selection priority for jobs in non-DoD agencies using the ICTAP.

Further information is at [www.opm.gov/policy-data-oversight/workforce-restructuring/employee-guide-to-career-transition](http://www.opm.gov/policy-data-oversight/workforce-restructuring/employee-guide-to-career-transition).

### Career Transition Assistance Plans

Each agency must establish a Career Transition Assistance Plan (CTAP) to actively assist its surplus and displaced employees under 5 CFR 330 subpart F. The plan must include policies to provide career transition services to all surplus and displaced agency employees affected by downsizing or restructuring, including employees in the excepted service and the Senior Executive Service. The plan also must include policies to provide special selection priority to well qualified surplus or displaced agency employees who apply for agency vacancies in the local commuting area, before selecting any other candidate from either within or outside the agency, as well as agency procedures for reviewing qualification issues, and operation of the agency’s Re-Employment Priority List.

Special selection priority is available for an individual who:

- is a surplus or displaced employee still on the agency rolls;
- has a current performance rating of record of at least Fully Successful or equivalent;
- applies for a vacancy that is at or below the grade level from which the employee is being separated and that does not have a greater promotion potential than the position from which the worker is being separated;
- files an application for a specific vacancy within the time frames established by the agency;
- occupies a position in the same local commuting area as that of the vacancy; and
- is determined by the agency to be well qualified for the specific vacancy.

You are “surplus” if you:

- are in the competitive service;
- are in tenure Group I or II; and
- have an official notice from your agency saying that your position is no longer needed.

This notice could be: a “certificate of expected separation”; an agency certification that you are in a surplus organization or occupation; a notice that your position is being abolished; or a letter saying you are eligible for discontinued service retirement.

You are “displaced” if you:

- are in the competitive service;
- are in tenure Group I or II; and
- have an official notice from your agency saying you will be separated by RIF. This notice could be: a specific RIF separation notice; or a notice of proposed removal because you declined a directed reassignment or transfer of function out of the local commuting area.

See Retention Registers, Competitive Service in Section 1 of this chapter for the definition of tenure groups.

Agencies can extend the definition of a “surplus” or a “displaced” employee to include employees in the excepted service if they are on Schedule A or B appointments without time limit and have received an appropriate notice. Selection priority for these employees is limited to other permanent Schedule A or B positions in the same agency and local commuting area.

Eligibility for special selection priority begins on the date the agency issues the employee a RIF separation notice, certificate of expected separation, notice of proposed separation for declining a directed reassignment or transfer of function outside of the local commuting area, or other official agency certification identifying the employee as being in a surplus organization or occupation.

Eligibility expires on the earliest of:

- the RIF separation date, the date of the employee’s resignation from the agency, or the date of separation under adverse action procedures for declining a directed reassignment or transfer of function to another local commuting area;
- cancellation of the notice that made the employee eligible;
- when an eligible employee receives a career, career-conditional, or excepted appointment without time limit in any agency;
- when an employee moves to another position in the agency not affected by the RIF;

or

- when the employee is no longer being separated by the RIF.

**Order of Selection**—An agency, when filling a vacancy, must select an eligible employee under its Career Transition Assistance Plan (CTAP) before selecting any other internal or external candidate, unless the agency can show that another employee would otherwise be separated by a RIF.

Agencies may not procure temporary help services in lieu of appointing a surplus or displaced employee.

Once the agency has met its obligation to select employees eligible under its CTAP, it is free to select any other competitive service tenure Group I or II candidate from its workforce, following the appropriate procedures. An agency may provide selection priority to surplus and displaced agency employees from another commuting area after it has discharged its obligation to eligible surplus and displaced agency employees from the local commuting area.

When an agency has met its CTAP obligations and elects to fill a position from outside its workforce, it must first select agency employees who have been separated through RIF and are eligible under its Re-Employment Priority List (RPL); then, federal employees who are displaced from other agencies and who apply for positions in the local commuting area and are eligible under the Interagency Career Transition Assistance Plan (ICTAP).

**Exceptions**—Numerous actions are not covered by these requirements, including: reassignments, changes to lower grade, or promotions, when no eligible employees apply; re-employment of a former agency employee exercising regulatory or statutory re-employment rights, including the re-employment of injured workers who have either been restored to earning capacity by the Office of Workers’ Compensation Programs or who have received a notice that their compensation benefits will cease because of recovery from the disabling injury or illness; position changes resulting from disciplinary actions; temporary appointments of under 121 days (including all extensions); exchange of positions between or among agency employees, when the actions involve no increase in grade or promotion potential, that is, job swaps; noncompetitive placement of an employee into a different position as a result of a formal reorganization, when the former position ceases to exist, and no actual vacancy results; assignments made under the Intergovernmental Personnel Act; the filling of a position through an excepted appointment; details; and time-limited promotions of under 121 days, including all extensions. At the time it issues a specific RIF separation notice, certificate of expected separation, or other official agency certification, an agency must give eligible employees information in writing about the CTAP special selection priority available to them. Such information must contain guidance to the employee on how

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to apply for vacancies under the CTAP, and the documentation generally required as proof of eligibility. Agencies must take reasonable steps to ensure eligible employees are notified of all vacancies the agency is filling and what is required to be determined well qualified for the vacancies. Vacancy announcements within an agency must contain information on how eligible employees within the agency can apply, what proof of eligibility is required, and the agency's definition of "well qualified."

Each agency is required to advise, in writing, its surplus and displaced employees who apply for specific vacancies within its local commuting area of the results of their application, and whether they were found well qualified. If they are not found well qualified, such notice must include information on the results of an independent, second review conducted by the agency. If an applicant is found well qualified, and another well qualified surplus or displaced candidate is selected, the applicant must be so advised.

To receive this special selection priority, an eligible employee must apply for a specific agency vacancy in the same local commuting area as the position the employee occupies within the prescribed time frames, attach the appropriate proof of eligibility, and be determined well qualified by the agency for the specific vacancy.

An agency may decide the specific order of selection of its eligible employees (for example, the agency may decide to select displaced employees before surplus employees or may select surplus and/or displaced employees from within a particular component of the agency before selecting surplus and/or displaced employees from another component of the agency). An agency cannot select any other candidate from within or outside the agency if eligible employees are available for the vacancy or vacancies. If two or more eligible employees apply for a vacancy and are determined to be well qualified, any of these eligible employees may be selected. If no eligible employees apply or none are deemed well qualified, the agency may select another agency employee.

### Re-Employment Priority Lists

In addition to affording eligible current employees special selection priority for internal vacancies through the CTAP as described above, agencies also maintain Re-Employment Priority Lists (RPL) to give rehiring priority to employees who have RIF separation notices and those who have been separated from competitive service positions by RIF. Rules are at 5 CFR 330 subpart B.

To be eligible to register for an RPL, you must:

- be in the competitive service in tenure Group I or II;
- have received a performance rating above unacceptable as the last annual performance rating of record;
- have received a specific RIF notice of separation or a certification of expected separation; and
- have not declined a job offer.

You also can register if you separated more than one year ago due to a work-related injury, you have fully recovered, and your workers' compensation benefits have ended. Group I employees get two years of rehiring priority starting from the date your name is put on the agency RPL and Group II employees get one year of priority.

Your eligibility ends if you:

- ask the agency to remove your name from the RPL;
- receive a career, career-conditional, or excepted service appointment without time limit in any agency;
- decline a permanent job offer at your current or former grade;
- decline an interview;
- don't respond to an offer or an availability inquiry, or fail to appear for a scheduled interview; or
- separate for some other reason (such as retirement or resignation) before the RIF date.

To be entered on the RPL, you must submit a completed agency application form, which may specify types of positions you will accept and other conditions, within 30 days after the separation date.

RPLs give employees hiring preference only within the employee's own agency and in the

local commuting area and only for positions at or below the grade level of the position from which they are being (or may be) separated, and that have no higher promotion potential. Registrants will be given priority consideration in filling vacancies for which they qualify within the commuting area as long as they are on the RPL. Registrants get priority consideration when the agency fills competitive service vacancies from outside the agency. If a registrant is available, an agency may not fill a permanent or time-limited competitive service position by a new appointment (unless the individual appointed is a 10-point veteran) or by transfer or re-employment (unless the individual appointed is exercising restoration or re-employment rights).

However, an RPL candidate does not necessarily get priority if:

- the agency is filling positions from within the current workforce.
- no qualified RPL registrants are available, they decline the position, or they fail to respond to an agency inquiry of interest;
  - a current, qualified agency employee is available through detail, noncompetitive conversion to the competitive service; reappointment without a break in service; or extension of a temporary appointment; or
  - the position is being filled by a 30-day “special needs” appointment, an appointment for persons with disabilities; or another excepted appointment.

Those who believe that their re-employment priority rights under the program have been violated may appeal to the Merit Systems Protection Board.

### Interagency Career Transition Assistance Plan

ICTAP provides priority consideration and selection in other federal agencies for displaced employees. The vacancy must be in the same commuting area as the location where they were or are being separated. If an individual meets the eligibility requirements, the agency must select that person before hiring outside the agency. The program requires publication of job information on all federal vacancies for this purpose. Rules are at 5 CFR 330 subpart G.

To receive selection priority in other agencies, your current or last position must be/have been in tenure Group I or II in the competitive service, and you must fall under one of these categories:

- **RIF**—you have been (or are being) involuntarily separated from an executive branch agency through a RIF;
- **Transfer of Function/Directed Reassignment**—you have been (or are being) separated under adverse action procedures because you declined a transfer of function or directed reassignment to another local commuting area;
- **Injury Compensation**—you were separated due to work-related injury, your worker’s compensation benefits have stopped because you recovered, and your former agency is unable to place you through its Re-Employment Priority List;
- **Disability Annuant**—you retired with a disability and your annuity has been/will be terminated because OPM considers you recovered;
- **RIF-Retired**—you received a RIF separation notice and elected either optional retirement on the RIF effective date, or discontinued service retirement on or before the RIF date; or
- **Disabled Reserve/National Guard Technician**—you were a Reserve or National Guard technician and now receive a special OPM disability retirement annuity.

Excepted service employees are not eligible for selection priority in other agencies under the ICTAP.

Eligibility for special selection priority begins when you receive: a RIF separation notice; a notice of proposed removal for declining a directed reassignment or transfer of function to another local commuting area; an OPM notice that your disability annuity has been (or will be) terminated; certification from your former agency that it cannot place you after your recovery from a compensable injury; or certification from the National Guard Bureau or military department that you are eligible for a disability retirement and will receive the special OPM annuity. The application must comply with all job announcement instructions and a copy of the RIF separation notice must be attached.

Eligibility expires: one year after your RIF separation; one year after your agency sepa-

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rates you for declining a directed reassignment or transfer of function to another local commuting area; one year after your agency certifies that they cannot place you after your recovery from a compensable injury; one year after you are notified that your disability annuity has been or is being terminated; when you receive a career, career conditional, or excepted service position without time limit in any agency; when your agency cancels or rescinds your RIF or removal notice; if you move to another position, time-limited or permanent, before the RIF date; if you separate by resignation or non-discontinued service retirement before the RIF effective date; or with a specific agency, if you decline a permanent offer from that agency.

Generally, when filling a vacancy from outside the agency's workforce, an agency must select: current or former agency employees eligible under its Career Transition Assistance Plan; then from its Re-Employment Priority List; then current or former federal employees displaced from other agencies eligible under the ICTAP; and then any other candidate under appropriate selection procedures, if there are no well qualified ICTAP candidates.

At the time it issues a specific RIF separation notice or notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area, an agency must give each of its eligible employees information in writing about the special selection priority available to them under the ICTAP. Such information must contain guidance to the employee on how to apply for vacancies under the ICTAP, and what documentation is generally required as proof of eligibility.

Agencies must take reasonable steps to ensure eligible employees are notified of all vacancies the agency is filling and what is required for them to be determined well qualified for the vacancies. Each agency is required to advise, in writing, ICTAP candidates who apply for specific vacancies within its local commuting area of the results of their application, and whether they were found well qualified. If they are not found well qualified, such a notice must include information on the results of an independent, second review conducted by the agency. If an applicant is found well qualified, and another well qualified surplus or displaced candidate is selected, the applicant must be so advised.

To receive this special selection priority, eligible employees must apply directly to agencies for specific vacancies in the local commuting area within the prescribed time frames, attach the appropriate proof of eligibility, and be determined well qualified by the agency for the specific position. In making selections, an agency must adhere to the overall order of selection set forth above.

An agency cannot select another candidate from outside the agency if eligible employees are available for the vacancy or vacancies. If two or more eligible employees apply for a vacancy and are determined to be well qualified, any of these eligible employees may be selected. If no eligible employees apply or none is deemed well qualified, the agency may select another candidate. This flexibility does not apply to selections made from the agency's Re-Employment Priority List. If no eligible employees are available through its CTAP, an agency may at any time select a candidate from its re-employment priority List or another current agency employee.

### Job Vacancy Information

The government's main site for jobs and employment information is [www.usajobs.gov](http://www.usajobs.gov). Job seekers can access current job vacancies, review federal employment information and apply for jobs online. Complete job announcements are attached to job listings and can be printed or saved from the screen. Other features include an email service to assist with job searches, an online résumé builder, and a section designed specifically for students.

In addition, some agencies post vacancies and other employment information on their own sites and through social media. Links to most agencies are at [www.usa.gov](http://www.usa.gov).

Intelligence agencies collectively maintain a central listing of their vacancies at [www.intelligencecareers.gov](http://www.intelligencecareers.gov) and a central listing of cybersecurity-related positions is at [www.cybercareers.gov](http://www.cybercareers.gov).

See Chapter 8, Section 1 for further information on job vacancy announcements and the hiring process.



**Defense Department RIF and Placement Benefits**

In addition to the RIF-related benefits described in Section 1 of this chapter, Defense Department employees may be eligible for benefits unique to that department, some of which have special provisions related to base closings and realignments, as described below. Also see [www.cpms.osd.mil/Content/Documents/Displaced\\_Employee\\_Guide.pdf](http://www.cpms.osd.mil/Content/Documents/Displaced_Employee_Guide.pdf).

**Priority Placement Program**—The PPP is an automated referral program for those facing involuntarily separation, downgrade, or transfer of function, which is designed to assist DoD employees in locating positions within the agency. If eligible, individuals may register voluntarily in the PPP to seek employment at other DoD installations. Those scheduled to receive severance pay benefits must register for installations within their commuting areas.

Current competitive service employees on an appointment without time limitation who have career or career-conditional status or those in the excepted service with or without personal competitive status may register in the PPP if they are scheduled for displacement. The employee's performance and conduct must be fully satisfactory.

Unless early registration is authorized, employees become eligible to register when they: receive a specific RIF notice of separation or demotion, decline in writing an official RIF reassignment or demotion out of the commuting area, decline in writing a transfer of function or a covered management-directed reassignment out of the commuting area, or receive a notice of furlough for six months or more. Employees entitled to severance pay are automatically registered.

Employees must register for their current skill and may register for a total of five skills, provided they are well qualified. Mandatory registrants must be registered for all skills for which they are well qualified, including appropriate special skill identifiers.

Employees must register while still employed. The employee must fill out registration forms, which are available through DoD civilian personnel offices. DoD sends personnel specialists to bases identified for closure to assist employees registering in the PPP. Unless registration is mandatory, individuals can select locations and grade levels for which they wish to be considered within program guidelines.

Competitive service employees may register no higher than their current permanent grade or retained grade. If registering for other pay systems, registration is restricted to the grade having the representative rate equal or below the representative rate of the registrant's current permanent or retained grade. If registering from GS to other pay systems, the individual may register for the highest grade for which well qualified; the potential gaining activity makes the determination as to whether an offer should be made based on their local pay scale.

Generally, employees may register down to three GS grades or equivalent below their current permanent grade. Employees facing separation are registered for the minimum number of activities nearest their duty station likely to provide a reasonable opportunity for placement. They may not skip over DoD activities or states to register for more distant locations. Activities in an adjoining zone that are no more distant from the employee's duty station than the furthest activity selected in the zone may be included in the initial area of referral.

Registration does not, in and of itself, guarantee an offer of continued employment. Placement can only occur when a vacancy matching the skills is being filled and the applicant is deemed well qualified.

PPP uses a computerized system that continually matches the skills of displaced employees with vacant DoD positions. If an employee meets the skills and grade level of a vacant position, that opening must be offered to the employee. Use of an automated "stopper" and referral system ensures consideration within DoD.

Employees are referred using a numeric priority (1 through 3). The priority assigned is based on the severity of the employee's proposed personnel action. For example, an employee facing RIF separation with no offer of continued employment is assigned a Priority 1, while an employee with a RIF offer of a change to a grade one grade below their current grade held is assigned Priority 3. Priority 1 employees must be considered for placement before priority 2 and 3 employees. Additionally, the priority assigned determines which recruitment actions are "stopped" when a match occurs. Generally, individuals can remain

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in the program for the duration of the notice period and for 12 months after separation. During this period, placement in an appropriate position, declining a valid offer, optional retirement, or a personal request can terminate registration.

Only one valid offer will be made. If that offer is declined, the employee is removed from the program. If an individual accepts a PPP offer, the government will pay related travel and transportation costs to the new location under the DoD Joint Travel Regulations.

**RPL and ICTAP**—The Re-Employment Priority List (RPL), which is administered under government-wide regulations (see above), is an additional opportunity for placement consideration for DoD employees. The RPL program is separate from the PPP and requires a separate application. RPL rights apply only to DoD installations within the same commuting area as the position from which the employee has been, or will be, separated. A DoD employee who registers for the RPL will receive preference over non-DoD applicants for vacant competitive service DoD positions that match their qualifications.

DoD employees also are eligible to enroll in the Interagency Career Transition Assistance Plan (see above).

These programs are available only to those who have not previously declined a reasonable offer.

**Retained Grade Placement Program**—Employees on a competitive and/or excepted appointment and serving under grade retention as a result of a RIF or job reclassification are required to register in this program, sometimes known as “Program R.” Normally, the area of referral for the duration of the retained grade period must include all DoD installations in the commuting area. However, for those who relocate to the current DoD activity at government expense, registration is restricted to the new installation for one year. After one year, your area of referral will be expanded to include all other DoD activities within the commuting area. If an offer is made through this program, you must accept the offer or lose retained grade entitlement.

**Defense Outplacement Referral System**—DORS is an automated referral system operated through a cooperative effort between DoD and OPM. The purpose of DORS is to provide placement opportunity for current DoD civilian personnel through referral to other DoD activities, non-DoD agencies, state and local governments, and the private sector.

Registration and placement through DORS is voluntary for both employees and participating employers. A spouse of a DoD employee may register as well, provided the employee is registered in the Priority Placement Program. This includes spouses who have never worked for the federal government. An employee may register for any location in the U.S. and/or overseas; the spouse’s area of referral must be the same as the sponsor’s.

Registrants may remain in the program even if they decline an offer and even after accepting one with DoD.

Registrants should respond to employment offers within four calendar days. If an offer is accepted, individuals must be available to report for duty within two to four weeks of acceptance, or within six weeks if employed overseas. Relocation expenses are not guaranteed.

**Local Placement Programs**—Contacts with local, federal, state, and private employers are made by the installation in an effort to locate acceptable employment opportunities for those who wish to remain in the local area.

**Training and Retraining**—The Department of Labor, in coordination with local downsizing activities and installations, manages training and retraining programs authorized by the Work Force Investment Act of 1998. This training normally is targeted to a specific and known employment opportunity. Closing or downsizing activities create employee assistance/transition centers to provide career transition instruction, including resume preparation, interview and job search techniques, financial planning, and other services. Similarly, instruction in skills such as written communication is provided through the installation’s transition assistance center. Also see [www.doleta.gov](http://www.doleta.gov).

**Job Exchanges**—Job exchanges may be made available at installations that are closing, for example due to base closings, in which an employee at the closing installation trades jobs with one at an installation that is not closing. Employees who are eligible, or

will soon be eligible, for retirement may be interested in taking a job slated for abolition since the program provides them a chance to leave the federal service sooner than would otherwise be feasible, and would qualify them for certain separation benefits.

The human resources office registers the position online in a system administered through the Priority Placement Program. Non-closing installations are then required to publicize job exchange opportunities along with other vacancy announcements.

Job exchanges are allowed only when the two employees occupy positions at the same grade, and only if the employee being reassigned to the closing installation will be eligible for optional retirement or discontinued service retirement (DSR) on or before the closure date. If eligibility for the job exchange is based on DSR eligibility, the employee reassigned to the closing installation must remain employed there for at least 12 months before retiring and the position must be designated as “critical” to installation operations. Additionally, employees must acknowledge in writing that they will remain in their new positions until released by the closing installation, and they will not be eligible for registration in the PPP in conjunction with the installation’s closure.

A position must be expected to last at least an additional 12 months to qualify for a job exchange.

**Leave Restoration**—When an installation has been designated for realignment or closure through the Base Realignment and Closure process, any excess leave that affected employees forfeit due to leave carry-over restrictions may be restored so long as they continue to work at their current activity. Annual leave restored under this special BRAC provision (5 U.S.C. 5551(c) and 6304(d)(3)) is placed in a separate leave account, and employees are not required to use their restored leave before other available annual leave. They’re also exempt from the standard requirement of having to previously schedule leave before it can be restored. Those who are placed at a DoD facility not being closed or realigned, or in another federal agency, will receive the value of that leave in a lump sum.

**Placement Assistance for Spouses**—If you register in the PPP and subsequently accept a DoD position outside the commuting area, your spouse (or qualifying domestic partner) may register in the PPP if he or she is a permanent DoD employee and is included as a dependent on your permanent change of station orders. The area of consideration is limited to DoD activities within the commuting area of your new permanent duty station.

**Voluntary RIFs**—5 U.S.C. 3502(f) provides a “voluntary RIF” authority at the Defense Department. The program allows the release of an employee who volunteers for separation in a RIF even though the employee would not otherwise be subject to separation. The provision is designed to help minimize the impact of downsizing by encouraging employees to volunteer to be separated in lieu of another employee who is slated to be separated. The authority is subject to periodic renewal and has been extended several times.

The authority gives component heads the discretion to allow RIF volunteers if the following requirements are met:

- There is a formal RIF, that is, where official RIF notices will be issued.
- Both the separation volunteer and the person to be “saved” are in the same competitive area.
- Matches of separation volunteers with those affected by the formal RIF are based on the similarity of their positions. Any position affected by the RIF can be identified for the placement of a RIF separation volunteer, if separation of the RIF volunteer would result in the cancellation of a RIF separation action, and the subsequent placement of a RIF-affected employee. The placement cannot result in promotion.

Where there are more volunteers than needed and all are equally good matches, activities will process voluntary RIF applicants in order of seniority. Where there are fewer volunteers than needed and there are equally good matches for placement, activities will select RIF-affected employees for placement in order of RIF retention standing.

If, at any point in the RIF process, it is determined that the voluntary separation would not result in saving a RIF-affected employee, the voluntary separation will be canceled. Volunteering for separation under the provisions of the policy does not con-

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fer RIF assignment rights. Only U.S. citizen civilian employees of DoD serving under an appointment without time limitation, who are not re-employed annuitants, and who do not have a pending or approved application for disability retirement may be RIF volunteers.

Generally, employees occupying critical or hard-to-fill positions, or with critical knowledge and skills, will not be allowed to participate except with the approval of the commanding officer or activity head. Employee participation in the program is not an entitlement and is subject to the discretion of the military departments, defense agencies, and their activities and installations.

Separation volunteers will be issued RIF separation notices effective on the RIF effective date. The notice will advise them of their entitlements under the RIF. Volunteers must sign a statement that they realize the action is irrevocable once they have been issued a RIF separation notice. However, activities may cancel the action if necessary. Separation volunteers are treated as involuntary RIF separations and are eligible for most of the benefits accrued to those involuntarily separated, such as severance pay (except for retirement eligibles) and temporary continuation of federal health insurance coverage. However, they are ineligible for registration in the Priority Placement Program or voluntary separation incentive payments (buyouts). Separation volunteers who are re-employed by the federal government are subject to the rules governing repayment of severance pay.

**Relocation Entitlements**—Generally, when relocation is in the best interest of the government, relocation expenses are paid to move the individual from one duty station to another at a different location. Relocation services, also known as permanent change of station (PCS) benefits, are provided to defray the costs of transporting employees, their families, and households to new locations.

At the discretion of the organization, an employee relocating under permanent change of station may be authorized round trip travel for up to 10 days for him/herself and his/her spouse for the purpose of seeking residence quarters. Separate round trips by the employee and spouse may be allowed, provided the overall cost is less than or equal to the cost of one round trip for the employee and spouse traveling together.

The benefit is not authorized until the employee has agreed to transfer and the date of the transfer has been established.

The supporting personnel and transportation offices provide counseling on these benefits. Rules governing PCS benefits can be found in Chapter 4 of the DoD Joint Travel Regulations, Volume 2, at [www.defensetravel.dod.mil](http://www.defensetravel.dod.mil).

Relocation expenses usually reimbursed include:

- transportation, packing, crating, and temporary storage of household goods and personal effects up to 18,000 pounds;
- per diem and transportation for the employee and spouse when seeking permanent housing at the new duty location;
- temporary quarters subsistence expense payments for up to 60 days when warranted, which can be extended 60 days based on exceptional circumstances;
- specified expenses, when authorized, when the employee sells a residence or settles an unexpired lease at the old duty station or when buying a residence at the new duty location;
- payment of miscellaneous moving expenses without receipts of the lesser of two weeks' pay or \$1,000 for those with dependents who relocate, and one week of pay or \$500 for those without (payment with receipts may be up to two weeks of pay with dependents who relocate or one week of pay without); and
- permanent storage of household goods and personal effects when the assignment is to an isolated area where living quarters are not available.

**Early Retirement and Buyouts**—DoD has permanent authority to reduce staff by allowing employees to retire under reduced age and service requirements of age 50 with 20 years of service or any age with 25 years of service. See Chapter 3, Section 5. DoD also has permanent authority to reduce staff for either downsizing or restructuring purposes by offering voluntary separation incentive payments, also called buyouts. See DoD Authority in Section 3 of this chapter.

In early retirements and buyouts, DoD operates under special rules regarding waivers of the general requirement that a retiring employee needs to have been in the Federal Employees

Health Benefits program for five years before retirement in order to continue health insurance in retirement. See FEHB Coverage After Retirement in Chapter 2, Section 1.

**FEHB Premiums**—Under 5 U.S.C. 8905a(d)(4), DoD continues to pay its share of Federal Employees Health Benefits program premiums, plus the administrative surcharge, for up to 18 months for employees who take temporary continuation of coverage (see Temporary Continuation of Coverage in Chapter 2, Section 1):

- after separation due to a reduction in force;
  - after voluntarily separating from positions that have been identified as surplus for RIF purposes;
  - after resigning after receiving a RIF separation notice; or
  - after volunteering for separation under the voluntary RIF authority.
- The former employee must continue to pay the enrollee share.

Those who had been serving on temporary appointments are eligible if they receive a government contribution to their FEHB coverage, and their appointments are terminated or allowed to expire because of RIF.

**Hiring Incentives**—Under 5 U.S.C. 5724(e), the department may subsidize moving expenses as an incentive for other federal agencies to hire displaced DoD employees. If your installation or activity is offering this subsidy, you will receive information to include with your applications for jobs in other federal agencies.

**Severance Pay Options**—Under 5 U.S.C. 5595(i), DoD employees who are eligible for severance pay may elect to receive that pay as a lump sum rather than in biweekly installments. Biweekly severance pay payments are terminated on reemployment in a federal agency by a career or career-conditional appointment. If you receive a lump-sum severance payment and are subsequently reemployed under a career or career-conditional appointment during the severance pay calculation period, you must repay the portion of the payment reflecting the time between rehiring and the end of that period.

## Section 3

### Buyouts

#### (Voluntary Separation Incentive Payments)

A buyout, also called a voluntary separation incentive payment (VSIP), may be offered to encourage eligible employees to separate voluntarily through resignation, early retirement, or regular retirement during an agency downsizing or restructuring. Offers can be targeted on the basis of organizational unit, occupational series or level, geographic location, skills, knowledge, or other job related factors, or a combination.

A buyout is a lump-sum payment equivalent to an employee's severance pay entitlement, generally up to a maximum of \$25,000. Some buyout maximums have been lower; the Defense Department has authority to pay up to \$40,000.

Buyout payments are taxable for purposes of federal withholding, Medicare, applicable state and local taxes, and Social Security for those covered by that system. They also are subject to reduction for debt owed to the agency, commercial garnishment, or court-ordered alimony or child support. The payments are not counted as basic pay for purposes of calculating benefits such as annuities and cannot be invested in Thrift Savings Plan accounts.

Buyout offers commonly are coupled with early retirement offers although there is no requirement that both be offered.

A buyout recipient is ineligible to go into phased retirement (see Phased Retirement in Chapter 3, Section 1) because phased retirees do not separate from service but rather change to part-time employment (while drawing a partial annuity). Those already in phased retirement may take a buyout to retire fully, if they meet the agency's eligibility criteria.

An agency is responsible for ensuring that employees are not coerced into separation and for ensuring that the employee's decision is not based on erroneous or misleading information. An employee who separates with a buyout but who believes that the separation was involuntary may appeal to the Merit Systems Protection Board.

The following applies to buyouts created by the general authority under P.L. 107-296 at



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5 U.S.C. 3521-3523 and regulations at 5 CFR 576. An agency with other statutory buyout authority (including the Defense Department; see below) may choose which authority it wishes to use, or offer incentives under both. Also see [www.opm.gov/policy-data-oversight/workforce-restructuring/voluntary-separation-incentive-payments](http://www.opm.gov/policy-data-oversight/workforce-restructuring/voluntary-separation-incentive-payments).

**Requirements for Approval**—An agency (other than the Defense Department; see below) seeking to use buyouts must submit to OPM a detailed plan describing the intended use of the incentive payments. This is to include the specific positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational series, grade level and any other factors related to the position; a description of the categories of employees who will receive offers, identified by organizational unit, geographic location, occupational series, grade level, and any other factors, such as skills, knowledge, or retirement eligibility; the period during which incentives may be paid; the number and maximum amounts to be offered; a description of how the agency will operate without the eliminated or restructured positions and functions; a proposed chart displaying the expected changes in the organizations; and, if applicable, details of how voluntary early retirement authority will be used in conjunction with the incentives.

OPM may alter terms of a plan before approving it and will set a range of allowable dates. An agency may offer more than one buyout “window” within that range.

**Eligibility**—To be eligible, an employee must: be serving in a position for which an offer is made under an appointment without time limit; have been currently employed by the Executive Branch for a continuous period of at least three years; and apply within the designated period.

Agencies must inform employees currently away from the workplace for reasons such as leave without pay, workers’ compensation or details outside the agency of offers that would cover them. An employee on active duty in the Armed Forces who would otherwise be eligible for an offer will have 30 days following restoration to the agency to accept or reject the offer, even if the opportunity has expired by then.

Certain employees are ineligible, including re-employed annuitants, employees eligible for disability retirement, employees about to be separated for misconduct or unacceptable performance, and employees who have previously received a buyout from the federal government. Also ineligible are those who have received (or are pending receipt of): a student loan reimbursement during the 36 months prior to separation; a recruitment or relocation incentive during the prior 24 months; or a retention incentive during the prior 12 months.

Note: Employees who take buyout incentives for either early or standard optional retirement must meet the age and service requirements for retirement eligibility by the effective date of their retirement.

An agency may stop accepting employee applications before the closing date once it receives a specified number of applications. If an agency needs to limit the number it approves, it must communicate to employees the impartial formal procedure used to make those decisions, based on factors such as total creditable federal civilian service, service within the agency or organizational component, or the order applications are received from employees.

**Terms and Conditions**—Employees who accept buyouts lose eligibility for benefits that would have applied if they had been laid off in a RIF. These include the full amount of the severance pay entitlement (which could be larger than the buyout maximum), discontinued service retirement (if otherwise eligible), selection priority under the Career Transition Assistance Program (CTAP) and Interagency Career Transition Assistance Program (ICTAP), and job search assistance. In addition, most states consider buyout takers ineligible for unemployment compensation benefits.

Those accepting buyout offers generally must promise to separate on an agreed-upon date and may withdraw their acceptance up to that date, except when the agency can show a valid reason why allowing them to change their minds would cause a hardship to the agency. Such reasons may include that the person’s position already has been abolished, the agency does not have enough other buyout takers to avoid a RIF, or another employee whose job had been saved by the separation agreement would be adversely

affected. Employees leaving with a buyout have the same options to continue federally sponsored insurance as do similarly situated workers retiring or resigning, as pertinent, without an incentive payment. See Chapter 2 for insurance policies for those retiring and see Chapter 8, Section 5, for policies for those separating before retirement eligibility.

Those accepting buyout offers generally must promise to separate on an agreed-upon date and may withdraw their acceptance up to that date, except when the agency can show a valid reason why allowing them to change their minds would cause a hardship to the agency. Such reasons may include that the person's position already has been abolished, the agency does not have enough other buyout takers to avoid a RIF, or another employee whose job had been saved by the separation agreement would be adversely affected.

Employees leaving with a buyout have the same options to continue federally sponsored insurance as do similarly situated workers retiring or resigning, as pertinent, without an incentive payment. See Chapter 2 for insurance policies for those retiring and see Chapter 8, Section 5, for policies for those separating before retirement eligibility.

**Re-Employment Restrictions**—Employees accepting the incentives must agree not to return to another federal job within five years unless they repay the full (pretax) amount of their payments prior to their first day at the new government job. This applies to any appointment, of any duration, full- or part-time, temporary or permanent, including in the Postal Service.

The general rule is that the restriction covers any position in which the salary is paid by the government. In some cases, the re-employment ban also applies to working for an agency under a personal services contract, the definition of which covers most consulting type arrangements. Working as an employee of a company under contract to the government may not protect an employee from falling under the definition of a personal services contract. OPM can waive the repayment at the request of an Executive Branch agency if the individual possessed unique abilities and is the only qualified applicant available or in situations involving emergencies that threaten life or property. Similar authority applies to the deciding authority for buyouts offered by the Legislative or Judicial Branches.

Employees who have received buyouts should check with the legal counsel at the agency that paid the buyout before returning to work.

### **DoD Authority**

Public Law 108-136 created permanent authority at 5 U.S.C. 9902(i) for the Defense Department to offer buyouts (as well as early retirement; see Chapter 3, Section 5) for either downsizing or restructuring purposes. The number of buyouts is limited to 25,000 a year department-wide, not counting actions related to base closing activities or offers made to non-appropriated fund employees. The total is allocated among DoD components according to their percentage of the department's civilian workforce.

Under internal DoD policy, the incentives may be used to reshape or reduce the workforce, create vacancies for the placement of employees subject to involuntary separation by RIF, or avoid the need for involuntary separations during a RIF. Employees accepting a buyout must separate from service voluntarily by retirement or resignation. Terms of the offers and the re-employment restrictions parallel those described above.

Downsizing buyouts may be offered at any time and location where the acceptance of an incentive will avoid involuntary separations and typically are offered at least 30 days before RIF notices are to be issued, although a component head may waive that deadline.

A restructuring buyout must be tied directly to workplace restructuring actions where management offers the buyout to create vacancies that will be reshaped to meet mission objectives. Restructuring buyouts may be used to correct skill imbalances or to reduce the number of high grade, managerial or supervisory positions. Position restructuring is restricted to the vacancy created by application of the buyout.

DoD may pay buyouts in lump sums or installments: biweekly payments at a rate selected by the employee until the full amount of the buyout is paid, up to one year, or in two equal payments, one following separation and the other half six months later.

Those who have not been employed within the department continuously for at least 12 months are ineligible, as are: employees serving under time-limited appointments; re-

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employed annuitants; those with disabilities that would qualify them for disability retirement; those who have previously received buyouts; those who have accepted a position in another federal agency; those who have declined to relocate with their position or declined a transfer of function; those who have received a specific notice of RIF separation; and those in receipt of involuntary separation notices for misconduct or unsatisfactory performance.

Buyouts are available only with waivers to those: covered by a written service agreement resulting from permanent change of station or training; in receipt of recruitment, relocation or retention incentive payments; in a position for which special salary rates are approved; occupying a position defined as hard to fill; or in senior executive or equivalent levels.

In addition to the requirement to repay a buyout if they return to federal employment within five years (see above), recipients of buyouts from DoD generally cannot be re-employed by that department under any circumstances within 12 months of their separation date, under DoD Issuance 1400.25 (at [www.esd.whs.mil/dd](http://www.esd.whs.mil/dd)). Both restrictions apply to all federally compensated forms of employment, including temporary appointments, as well as employment in nonappropriated fund organizations or as a government contractor. The department may waive either re-employment restriction if the individual is the only qualified applicant available for the position. Since OPM does not have jurisdiction over the department's authority, waiver authorities granted by OPM do not apply to DoD buyouts.

**Phase II**—Under a program known as Voluntary Separation Incentive Pay Phase II (5 U.S.C. 9902(i)), DoD may offer cash incentives to encourage employees at non-downsizing installations to resign or retire to create vacancies for Priority Placement Program registrants who are facing involuntary separation at downsizing or closing activities. The authority to offer Phase II buyouts is delegated to installation commanders and activity heads.