

## Reduction in Force Process and Federal Employee Rights

**OF NOTE, THIS MEMO DOES NOT CONSTITUTE NOT LEGAL ADVICE. IT IS MERELY INFORMATION SHARED FOR EDUCATIONAL PURPOSES.**

### I. Introduction – The Basics

**When an agency must abolish positions, Reduction in Force laws and regulations determine whether an employee keeps their present position or has a right to a different position. The primary focus is not how cuts are made, but how employees are protected when cuts occur.**

The agency first establishes its purpose (such as reorganization) in a plan, figures out what positions it needs to meet that purpose, and then uses RIF procedures to rank and determine which employees will be retained, and which will be subject to the RIF.

The agency first defines a competitive area, which is the geographical area where a RIF will happen, as well as the “organizational units” in each agency to determine where it will rank and compare similar positions. It appears the competitive area will be each EPA Regional Division. Then, the agency establishes competitive levels that include groups of interchangeable positions (e.g., attorneys, life scientists, program officers, etc.)

The agency applies four RIF retention factors (tenure, veteran’s preference, length of federal service, and performance ratings) to the competitive level to create retention registers, which lists employees in the order of their relative retention standing.

The agency gives each employee subject to the RIF either 30 or 60 days written notice (likely 30) of when their position will be “released” (eliminated). Unions by contract are supposed to have at least 90 days’ notice before a RIF. Word is they may have a couple of days before employees are sent notice. The agency will likely place employees on administrative leave during a 30-day notice period.

Employees have the right to review the retention register to see how they were ranked and raise any discrepancies between the register and the employee records to the agency for it to fix. There may be an opportunity for employees subject to the RIF to “bump” or “retreat” to take another position within the competitive area. (This is unlikely.)

Once the notice period ends, and the RIF occurs, employees will either have 30 days to appeal any grounds to challenge their termination (and related errors in the RIF process) to the Merit

System Protection Board or be part of a union grievance under its contract. The effective date of the RIF is the date an employee is released, not the date an employee receives a RIF notice.

## II. Reorganization Purpose

EPA determines categories of required positions, where to locate them, and when to fill, abolish, or vacate these positions. Agencies can use a RIF for reasons such as *reorganization*, lack of work, shortage of funds, insufficient personnel ceiling, etc. (5 C.F.R. 351.201)

- Agencies are to evaluate knowledge, skills, and abilities needed for current and future positions, as well as account for current and projected attrition and turnover rates, including retirement eligibles over at least the next 1-5 years. (OPM 2017 Workforce Reshaping Operations Handbook (“Handbook”), p. 5)
- The HR RIF team is out of RCD in Cincinnati, rather than out of the Chicago HR office.

**Questions:** Who is the RIF team leader for R5 EPA? (The RIF team leader is responsible for accurately determining employees’ retention rights under OPM’s RIF regulations.) Are people assigned as staff assistants (for credit determinations, dates, etc.), clerical support staff, benefits specialists, and computer specialists? Does HR have a RIF checklist? How is the agency safeguarding PII of personnel records, per 5 C.F.R. Part 293? Does staff need to submit a FOIA to access personnel records and the retention register or is that automatic per the regs? Beyond the recent 2025 memo, is there agency policy on providing retention service credit where the agency has flexibility, using vacant positions as offers to employees reached for RIF actions, and repromotion priority for employees demoted by RIF? (OPM 2017 Handbook, pp. 14-18)

## III. Competitive Area

A Competitive Area defines the geographical and organizational limits for RIF competition. (e.g., national, regional, division-wide within the region) See 5 C.F.R. 351.402.

- Minimum area: Organization in a local commuting area that is separate from other work agency organizations because of different operations, work functions, staff, and personnel administration.
- According to an EPA memo, the agency intends to use division-wide competitive areas.
- Descriptions of all competitive areas must be made readily available for review.

## IV. Competitive Levels

After establishing the competitive area, the agency establishes competitive levels that include groups of interchangeable positions. See OPM 2017 Handbook, p. 33.

- Within the competitive area, the agency groups positions into competitive levels that are the in the same grade or occupation level (e.g., GS-level) and classification series (e.g., 0401 for life scientist), AND are similar enough in duties, qualification requirements (in Position Description), pay schedules, and working conditions so that EPA could assign staff to another position in that competitive level without undue interruption. See 5 C.F.R. § 351.403; OPM 2017 Handbook, p. 34.
- You can find your three-letter competitive level code in box 12 of your OF-8.
  - First letter: Functional Class Code. This is a more specific description of your function than your occupational code. [OPM](#) describes functional classification for scientists and engineers as a system for describing related kinds of work activities for those employees. For example, the code “42” relates to employees that fall under “Regulatory enforcement and licensing”. A list of functional classes can be found in Appendix A of this document. Your functional class code can also be found in box 40 of your SF-50. (See below.)
  - Second letter: Media.
    - A = Air
    - B = Chemicals / Toxics
    - C = Land/Waste
    - D = Pesticides
    - E = Water
    - F = Homeland Security
    - G = Env. J
    - H = Multi-media
  - Third letter: Supervisory or Non-Supervisory. The third letter in your competitive level code will signify whether you hold a supervisory (“S”) or non-supervisory (“N”) position.
- It is important to ensure your SF-50 and Position Description are accurate – especially your SF-50. Final versions of both should be in your .eopf files. Check your SF-50 against

your PD and especially ensure your tenure, occupational code, and functional class are correct.

- In your SF-50:
  - Your GS (grade) level is in box 10.
  - Your tenure (permanent, career conditional or probation, or temporary) is in box 24.
  - Your Occupational Code (classification series like 0401 for Life Scientist) is in box 9. (See <http://www.opm.gov/policy-data-oversight/classification-qualifications/general-schedule-qualification-standards/#url=Occupational-Series>)
  - Your Functional Class is in box 40. (See [dw.opm.gov](http://dw.opm.gov)) For example Class 42 is for “Regulatory Enforcement and Licensing”.
- In your Position Description (OF8-PD):
  - Your GS (grade) is in the last column under line 24.
  - (I did not see a line with tenure.)
  - Your Occupational Code (classification series) is in the second to last column under line 24. (You may qualify under more than 1 classification series, like both a life scientist and physical scientist.)
  - Your Functional Class is in line 16.
- If a competitive area includes positions in one or more GS level or pay band, each set of interchangeable positions in that level or pay band is a separate competitive level. See OPM 2017 Handbook, p. 34.
- In practice, the agency generally establishes competitive levels based on each employee’s official position of record, including the employee’s Position Description (PD). See OPM 2017 Handbook, p. 33.
- If grouped by pay-band, agencies MAY supplement an employee’s PD with other applicable records that document their actual duties and responsibilities. See 5 C.F.R. § 351.403. (On employee appeal, the Merit System Protection Board has the right to consider additional information beyond the employee’s PD. See OPM 2017 Handbook, p. 33.)
- There must be separate competitive levels for: competitive and excepted service; different pay schedules; and employees in designated trainee/development programs.
- Competitive levels CANNOT be based only on grade promotion potential, difference in local wage areas, difference in applicable locality payments, etc.
- In the draft EPA HR Bulletin, EPA listed the following criteria to group positions into competitive levels:
  - Positions subject to an OPM functional classification code and media type within each series;

- Environmental Protection Specialist positions by media type within the function; and
- All other staff positions by title and function, using OPM classification standards and qualifications standards for each position, as well as organization rosters and position descriptions to identify separate functions for positions.
- Supervisory positions are categorized by the function of the group supervised and are coded into separate competitive levels based on the supervisory duties. See “EPA HR Bulletin-Competitive Areas and Competitive Levels for RIFv6” (25001B), p. 5.

## Sample Competitive Levels

Human Resource Specialist	<b>GS-0201-12 (Employee Relations)</b>
<ul style="list-style-type: none"> <li>• All full-time GS-12 HR specialists in employee relations are grouped together because they perform similar work and require the same qualifications.</li> </ul>	
Human Resource Specialist	<b>GS-0201-12 (Recruitment &amp; Staffing)</b>
<ul style="list-style-type: none"> <li>• Separate from the Employee Relations GS-12 specialists because recruitment and staffing require different knowledge and expertise.</li> </ul>	
Human Resource Specialist	<b>GS-0201-11 (Generalist)</b>
<ul style="list-style-type: none"> <li>• Includes all GS-11 HR specialists who handle various HR tasks, as they can perform each other’s work with minimal retraining.</li> </ul>	
Human Resources Specialist	<b>GS-0201-09 (Benefits &amp; Payroll)</b>
<ul style="list-style-type: none"> <li>• These employees specialize in benefits and payroll, so they form a separate competitive level from generalist HR specialists.</li> </ul>	

OPM Guidance (03.25.2025), p. 48.

### V. Retention Register

The retention register lists all the competing employees in the order of their relative retention standing in a single competitive level. See 5 U.S.C. § 3502; 5 C.F.R. § 351.404, OPM 2017 Handbook, p. 38.

#### Process

- The agency RIF team prepares retention registers, determines which employees are released from these registers because their positions are abolished, and determines whether released employees have a right to a continuing position on a different retention register. See OPM 2017 Handbook, p. 19.
- The agency applies four RIF retention factors (tenure, veteran’s preference, length of overall service, and performance ratings) to the competitive level in order to create a retention register.

- The agency first groups employees by tenure. Then, the Agency calculates in veteran's preference, length of overall federal service, and high-performance ratings to rank employees in each group.
- EPA then assigns each employee a prioritization number. The agency must list at the bottom of the register the name of each employee in the competitive level with a written decision of removal. *See* 5 U.S.C. § 351.404(b)(2).
- Before the agency releases any employees on the retention register, it first must release employees holding temporary appointments to a position in that competitive level, employees serving a term promotion or temporary promotion to a position in that competitive level (these employees are returned to their permanent positions of record, or equivalent), and employees that received a written decision of removal or demotion because of unacceptable performance or an adverse action (who then compete for retention from the position the employee will be/has been demoted). *See* 5 C.F.R. §§ 351.404(a)(1)-(a)(3), 351.404(b); OPM 2017 Handbook, p. 53.
- Breaking ties: When employees in the same retention subgroup have identical service dates and are tied for release, the agency has the right to determine the order in which the tied employees are released. *See* OPM 2017 Handbook, p. 53.
- Retirement: An agency may not retain an employee subject to the RIF past the date that the employee first becomes eligible for immediate retirement, and/or for continuation of health benefits into retirement, except that an employee may be retained long enough to satisfy both retirement and health benefits requirements. *See* OPM 2017 Handbook, pp. 54-55.

#### RIF Retention Factor #1: Tenure

Tenure is the type and length of employment at the agency. Look at "Tenure" box 24 on your SF50.

- Group 3: Term or temporary positions – 1<sup>st</sup> RIF'd. (Listed as "3" Indefinite)
- Group 2: Probationary (>1 yr) and Career Conditional (>3 years) - 2<sup>nd</sup> to be RIF'd (Listed as "2" for Conditional in SF-50 Box 24)
- Group 1: Permanent employees (tenured after 3 years) – 3<sup>rd</sup> to be RIF'd. (Listed as "1" for Permanent in SF-50 Box 24)
- All of Group 3 in a competitive level is released before 2, and all of Group 2 goes before Group 1. *See* 5 § C.F.R. 351.501.

**Note 1:** A new supervisor or manager who is serving a probationary period that is required on initial appointment to that type of position is not considered to be serving on probation if the employee previously completed a probationary period. *See* 5 C.F.R. § 351.501(b)(1).

**Note 2:** Registers for excepted positions use similar tenure groups. See 5 C.F.R. § 351.502.

### RIF Retention Factor #2: Veteran's Preference

After employees are grouped by tenure, the agency divides employees into three subgroups based on their entitlement for RIF status. (See 5 U.S.C. § 3501(a))

- While this is more complicated, the digest version is that employees qualify if: (1) they are a veteran with a disability (e.g., they have a compensable service-connected disability of 30% or more with acceptable performance ratings) (Subgroup AD); or (2) they are a veteran, generally (e.g., retirement is based upon less than 20 years active duty) (Subgroup A) This includes all employees eligible for “derivative preference” under 5 U.S.C. § 2108(3)(D)-(G).
- Employees not eligible for Veteran's Preference - A nonveteran that has been working for the Government since November 30, 1964, without a break in service of more than 30 days (Subgroup B).
- To see whether an employee is entitled to veterans' preference for retention, or to determine whether an employee's service in the Armed Forces is creditable for retention, refer to OPM's *VetGuide*, which is available on the OPM website at [www.opm.gov](http://www.opm.gov). See OPM 2017 Handbook, p. 42. To check your records, look for whether the right Subgroup is listed in boxes 6 and 23 of your SF-50.

### RIF Retention Factor #3: Length of Service (Seniority)

All credible Federal civilian and military service time. See 5 C.F.R. § 351.503 to calculate your adjusted service computation date (total qualifying time as a Federal employee).

**Note:** A veteran with 20+ years of military service who is not eligible for RIF veteran's preference only receives credit for Armed Forces service during a war or campaign/expedition for which the employee received a badge.

### RIF Retention Factor #4: Credit for Performance Ratings

Employees can receive credit for up to 12 to 20 years of extra service in calculating RIF status for high performance “ratings of record”. (See 5 C.F.R. § 430.208(d); 5 C.F.R. § 351.504):

- Employees receive extra retention credit for overall high rating in the last 3 annual performance ratings over the last four years (generally as of the date of the RIF notice). See 5 C.F.R. § 351.504 (b)(1).

- If an employee received more than 3 ratings during the 4-year period, the agency uses the 3 most recent annual ratings of record. (*What about if you are rated for a detail?*)
- Employees that don't yet have an annual rating of record are given credit based on the "modal rating for the summary level pattern" applied to that person's official position of record at the time of the RIF. A modal rating is the summary rating level assigned most frequently among the actual ratings of record given that are: assigned under the same summary pattern; given within the same competitive area or larger agency subdivision; on record (signed final PARS); and for the most recently completed appraisal period before the RIF notice is issued.
- If an employee has less than 3 annual reviews over the last 4 years (e.g., career conditional), the total rating in each existing review will be divided by the number of annual reviews. (e.g., if the person received two annual ratings, then the agency would add both scores together, divide by two, and round up to the next whole number.)

**Note:** The agency must consistently apply performance credits within a competitive area. The agency must also specify the number of years of additional retention service credit for each level and make this information available for review. See 5 CFR § 351.504(e)(7).

## VI. Bump and Retreat

Competitive service employees in Tenure group I or II with current performance ratings of at least Minimally Successful (or equivalent) who are reached for release from the competitive level are entitled to an offer of assignment if they have bump or retreat rights to an available position in the same competitive area, and they would otherwise be separated or demoted by RIF. (OPM 2017 Handbook, pp. 19-20, 53, 59.) More senior employees can take the jobs of less senior employees. See 5 U.S.C. § 351.201(b).

- Bumping means assigning an employee to a position in a different competitive level held by another employee in a lower retention tenure group or a lower subgroup within the same tenure group (See OPM 2017 Handbook, p. 59.)
- A released employee has bumping rights to a position based on the employee's personal qualifications in relation to the position held by the lower-standing employee. A released employee may have bumping rights to a position regardless of whether the employee previously held the position of the lower-standing employee. (See OPM 2017 Handbook, p. 62.)

- Retreating means assigning an employee to a position in a different competitive level that is held by another employee with less service in the same retention group. (See OPM 2017 Handbook, p. 59.)
- A released employee may have a right to retreat to an essentially identical position in the present competitive area that is filled at a different grade, classification series, work schedule, appointing authority, etc., than the position the released employee actually encumbered, provided that the two positions meet the standard described above in this paragraph. See OPM 2017 Handbook, p. 64.
- A released employee has a right of assignment to a position in a different competitive level when that position is:
  - Held by another employee in the same retention tenure group and subgroup who has less total creditable service for retention;
  - The same position as, or a position that is essentially identical to, a position previously held by the released employee on a permanent basis in any Federal agency. See OPM 2017 Handbook, p. 63.
- Limitations: 3-grade level bumping limitation (15 to 12). A veteran with 30% disability can bump 5-grade levels below. Retreat: GS-15 Sup can retreat to a GS-12 staff position the previous person held.
- If you had a salary for at least 52 weeks, you have the right to the same salary if you take a position up to 2 grades down.
- An agency may opt to provide intervening displacement within the competitive level before final release of the employee with the lowest retention standing from the competitive level. See OPM 2017 Handbook, p. 53.
- If a higher-standing employee takes a position of a lower-standing employee, it is not considered to be a RIF action. See OPM 2017 Handbook, p. 53.
- See the OPM 2017 Handbook for further information on offers of assignments (pp. 60-62); consideration of qualifications in assignments (pp. 74-77); and how a RIF treats assignments to Trainee and Development positions (pp. 78-79).

***NOTE: It is unclear whether there will be R5 bump and retreat opportunities since the competitive area will likely be at the Division level.***

## VII. What Should Happen if you are RIF'd and What Should You Do?

### Notice

You (and the union) must get written notice that you will be RIF'd. *See generally* 5 U.S.C. § 3502(d)(1). *See* OPM 2017 Handbook, p. 85, for specifics on computing the RIF notice period.

Notice must include:

- The personnel action to be taken with respect to the employee involved (that your position is to be eliminated as part of the RIF);
- The reason for the RIF; (*See* OPM 2017 Handbook, p. 83)
- The effective date of the action (last date you are working);
- A description of the procedures applicable in identifying employees for release (information on the RIF process); and
- The employee's ranking relative to other competing employees, and how the agency determined your retention ranking and standing.
  - Includes the employee's RIF service computation dates, originally and as adjusted for additional service credit. *See* OPM 2017 Handbook, p.52.
  - The information should include reasons why the EPA retained any lower standing employees in the same competitive area. *See* 5 U.S.C. § 3502(d)(1).
  - This information tells you where you are in the RIF line, including your competitive area, competitive level, retention subgroup, grade and pay retention information, service date, performance ratings used, etc. *See* 5 U.S.C. § 3502(d)(1); OPM 2017 Handbook, pp. 83-84.
- A description of any available rights to appeal or reemployment. This should include your option to either grieve as a union member under Article 38, Negotiated Grievance Procedure in the AFGE contract or to appeal if you qualify to the Merit System Protection Board.

According to OPM 2017 Handbook, pp. 83, 86-87, notice will also include:

- Where to inspect the regulations and records used in your case
- Information on reemployment rights and how to apply for unemployment

## Separation, No Severance Pay or Retirement

### Memorandum

To: (Employee Name)  
From: (Agency Head or Chief Human Capital Officer)  
Subject: Specific Notice of Reduction in Force (RIF)

This memorandum is to inform you that because **(Specify either: your position is being abolished OR you are being displaced from your position)**, you will be separated from the Federal service.

**(Reason for RIF. Example:** This RIF is necessary to implement the abolishment of the Office of Procurement Operations.)

This is your specific notice of how the Office of Procurement Operations RIF will affect you. You will be released from your competitive level and, based on your retention standing, you do not have an assignment right to another position in the competitive area. Consequently, you will be separated from the Federal service effective **(Month, Day, Year)**. You will continue in your present position during this specific notice period.

This RIF was conducted by the Human Resources Office (HRO) by preparing retention registers which listed employees in retention standing order based on civil service tenure, veteran's preference, length of Federal service, and performance ratings. The following information was used to determine your retention standing as of the RIF effective date:

- Competitive Area:
- Type of Service:
- Position Title, Series, Grade:
- Competitive Level:
- Tenure Group and Subgroup:
- Service Computation Date (SCD):
- Three Most Recent Performance Ratings received during the last 4 years (*include number of years credited for each*):
- Adjusted SCD (SCD-RIF):

### Length of Notice

***You will likely have 30 days between when you get notice and when you will be RIF'd.***

- Normally, the agency must give employees **at least 60 days** of notice that an employee is released as part of the RIF. See 5 U.S.C. § 3502(d)(1); OPM Guidance (3.25.2025), p. 27. (Under the AFGE contract, the union is supposed to have at least 90-days prior notice.)
- If necessary due to unforeseeable situations like a natural disaster, the notice period may be shortened to a minimum of 30 days before a RIF. See 5. U.S.C. § 3502(e), OPM 2017 Handbook, pp. 87-88, OPM/OMB Memo "Guidance on Agency RIF and Reorganization Plans Requested by Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative" (Feb. 26, 2025), p. 7.

- *Reality.* Certain people (unions, some management) may be notified 2-3 days before the agency emails notice to staff that their position is to be eliminated as part of the RIF. The agency will likely place these staff on 30-days administrative leave, which will run through their 30-day notice period. After the 30-day notice period ends, people notified will be RIF'd.

#### Caution: Potential Authorization for Release of Information

The RIF notice many include an “Authorization for Release of Information”. (See example on next page.) Attorneys have advised against signing the release, expressing concern for the following reasons:

- Severance pay cannot be withheld for refusing to sign. RIF-related severance is a legal entitlement. The government cannot make signing this release a condition for receiving it. If they do, there are legal remedies available.
- References can still be provided without signing. Supervisors and former colleagues are still allowed to give employment references.
- The release is unusually broad. It authorizes disclosure of far more than basic employment verification, including information about wages, attendance, performance, and “other related matters”—an undefined, open-ended phrase.
- It unnecessarily includes union membership. The form allows for disclosure of information related to union membership or affiliation, which is highly unusual and may deter members from future organizing or expose them to unfair scrutiny.
- Signing this waives your legal rights. If the government provides incorrect or damaging information (e.g., false performance issues or misstatements about your position), signing this form waives your ability to take legal action—even in the event of a privacy breach or reputational harm.
- It lacks sufficient identifiers and poses privacy risks. The form only requests a name and the last four digits of the SSN, with no reference to the employee’s agency or contact information. Sending this to a generic email account increases the risk of errors or unauthorized disclosure—and again, you’re waiving your right to respond if something goes wrong.
- It cites an outdated Executive Order. The EO referenced dates back to 1943 and concerns the early use of Social Security Numbers—not modern personnel practices or data privacy standards.

**AUTHORIZATION FOR RELEASE OF INFORMATION**

PRIVACY ACT STATEMENT

In compliance with the Privacy Act of 1974, the following information is provided: Basic authority to provide the requested information is contained in 5 U.S.C 552a. This form is furnished for the purpose of obtaining information about you and your activities in connection with an **[insert agency]** concerning: (1) fitness for Federal and private sector employment, (2) clearance to perform contractual services for the Federal Government or private sector, or (3) any other legitimate law enforcement purpose within the scope of responsibilities exercised by the **[insert agency]**. Furnishing the requested information is voluntary.

AUTHORIZATION

I authorize **[insert agency]** by whom I have been employed or sought employment, any **[insert agency]** labor union of which I am or have been a member, and **[insert human resources/payroll department]** to release my employment, past or present information, to include but not limited to employment applications, information pertaining to my wages, position, performance, date of employment, attendance, eligibility for rehire, and other related matters. To provide the requested employment information to the **[other federal agencies, private sector employers human resources professionals]**, official requesting this release. This release of information will be used only for official purposes by the **[insert agency]** and may be disclosed to third parties as necessary in accordance with applicable laws and regulations in fulfillment of official responsibilities.

I release any individual or organization from any and all liability for actual or alleged damages to me as a result of good faith compliance with this authorization.

Should you have questions on the validity or scope of this release, you may contact me as indicated below.

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Last 4 of SSN)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\*Your Social Security Number is needed to keep records accurate, because other people may have the same name. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

**Right to Retention Register**

If you receive a RIF notice, you have the right to and should immediately demand to see the retention register to check whether the Agency made a mistake in how it ranked you. (You must ask for it.) See 5 U.S.C. §§ 351.505(b), 351.505(c)(1), OPM 2017 Handbook.

- Sample language: "Pursuant to 5 U.S.C. § 351.505(b), I am requesting that you provide me with the retention register and the records used to compile that."
- You have the right to review:

- The complete retention register with your name and other relevant retention information (including the names of all other employees listed on that register, their individual service computation dates and their adjusted service computation dates so that you can consider how the agency constructed the competitive level, and how the agency determined the relative retention standing of the competing employees;
- The complete retention registers for other positions that could affect how the agency calculated your competitive level , and/or the determination of your assignment rights (e.g., registers to which the released employee may have potential assignment rights under [§ 351.701\(b\)](#) and [\(c\)](#)).

**Note:** The agency is responsible for ensuring that each employee's access to retention records is consistent with both the Freedom of Information Act ([5 U.S.C. 552](#)), and the Privacy Act ([5 U.S.C. 552a](#))

- Compare the register to your SF-50, Annual Performance Evals, Computation Date for when you started with the agency, etc. to see if the RIF register was calculated correctly.
- Immediately notify the agency in writing of any errors in the retention register. (Email: [r5\\_workforcedevelopment@epa.gov](mailto:r5_workforcedevelopment@epa.gov) (HR), cc: supervisor, local union. *If you have an attorney, seek their advice.*)
- When an agency “discovers” an error (e.g., when you notify it of an error in writing), the agency must correct the error and adjust any erroneous RIF action accordingly to reflect your proper retention standing. *See* 5 C.F.R. § 351.506(c).
- *Words of Caution:* Employees with another federal agency have been given 5 pages of instructions to review their records. Employees were then told to certify that their records are correct without explaining how the records have bearing on the retention register. Attorneys have advised against signing certifications in that the agency has the burden of producing an accurate retention register – certification could be construed as a way of shifting that burden onto employees.

### MSPB Appeal

If you decide not to grieve with the union, you MUST appeal to the MSPB within 30 days of when you are RIF'd or you will lose your right to an administrative appeal. Some actions (e.g., voluntary or not part of RIF) are not appealable. OF NOTE, the MSPB currently doesn't have a quorum to decide matters, which means there will be a significant delay in hearing appeals. Recent regulatory changes by the Administration also struck probationary employee rights to appeal to the MSPB.

- Employees can appeal to the MSPB if they were separated, demoted, or furloughed for more than 30 consecutive calendar days or 22 discontinuous workdays (not more than 1 year).
- An employee could potentially work with the union to file a grievance if they are released regarding errors in the RIF under the AFGE contract. OPM 2017 Handbook, p. 90, states an employee in a bargaining unit covered by a negotiated grievance procedure with exclusive procedures for resolving any personnel action (including a RIF) that could otherwise be appealed to the Board. Such an individual must use the negotiated grievance procedure in lieu of appealing the RIF action to the Board unless the employee alleges discrimination under 5 U.S.C. § 7121(d). For people that are covered by the union, please refer to the AFGE Bargaining Agreement for terms regarding a RIF.
- The agency must advise each employee who would otherwise have only a grievance right under a negotiated grievance procedure that the employee also has the option of filing a RIF appeal to the Board when a discrimination issue is raised under 5 U.S.C. § 2302(b)(1).
- Employees that represent themselves or retain an attorney instead of pursuing a grievance with the union must file an appeal with the MSPB within 30 days of the RIF (when employees are released, not the notice date), alleging that they were wrongfully RIF'd. To have standing, employees must allege discrimination, per 5 U.S.C. § 2302(b). See <https://www.mspb.gov/appeals/appeals.htm>.

## VIII. Other Actions You Can Take

- (1) Voluntary Early Retirement Authority (VERA) allows permanent employees to retire early if their organization is undergoing a RIF, reorganization, transfer of function or other workforce shaping.
- (2) Voluntary Separation Incentive Payment (VSIP) (if served for at least 3 years)
- (3) Career Transition Assistance Plan (CTAP):
  - a. An agency's CTAP must include policies to provide career transition services to all employees who are surplus or displaced because of downsizing or restructuring (including employees in the excepted service and the Senior Executive Service). See OPM 2017 Handbook, pp. 92-93.
  - b. Process: The agency automatically places employees subject to the prioritization list for 2 years. When the agency posts a new position, the released employee indicates on their application that they are on the CTAP list. The employee then submits qualifications like any other applicant, but is prioritized for hire before the agency considers other applicants for the subsequent position.

- c. You can find more information on CTAP here:
- (4) Interagency Career Transition Assistance Plan (ICTAP)
  - (5) Reemployment Priority List
  - (6) Unemployment
  - (7) Insurance
  - (8) Job Opportunities

IX. Resources:

- (1) RIF Statutes (5 U.S.C. 3501-3504):  
<https://uscode.house.gov/view.xhtml?path=/prelim@title5/part3/subpartB/chapter35/subchapter1&edition=prelim>
- (2) RIF Regulations: <https://www.ecfr.gov/current/title-5/chapter-I/subchapter-B/part-351/subpart-E/section-351.505> (See 64 FR 16800)
- (3) OPM RIF Powerpoint (3/25/25)  
[https://www.youtube.com/redirect?event=video\\_description&redir\\_token=QUFFLUhqBxh3QWlycE5tS0M1NkdKY084X1B6bVlyZ1ZuUXxBQ3Jtc0trZG5qc1I5US14ZzJCWUh0SGstOUI1QnNESEJyekduS2lpSVJvV0JETmZFcXMTckpwef6bTZJbzhyMThZdzBvZFNQYy1xb1Fmbk5H5SkIZSXBH5k1vU212VFctZHpjZGxKWk00TmJXTDE1cFQ1bGZUWQ&q=https%3A%2F%2Fwww.opm.gov%2Fpolicy-data-oversight%2Fworkforce-restructuring%2Freductions-in-force-rif%2Frif-learning-series-intro-mechanics-part-1-march-25-2025.pdf&v=ytVHY5wpT28](https://www.youtube.com/redirect?event=video_description&redir_token=QUFFLUhqBxh3QWlycE5tS0M1NkdKY084X1B6bVlyZ1ZuUXxBQ3Jtc0trZG5qc1I5US14ZzJCWUh0SGstOUI1QnNESEJyekduS2lpSVJvV0JETmZFcXMTckpwef6bTZJbzhyMThZdzBvZFNQYy1xb1Fmbk5H5SkIZSXBH5k1vU212VFctZHpjZGxKWk00TmJXTDE1cFQ1bGZUWQ&q=https%3A%2F%2Fwww.opm.gov%2Fpolicy-data-oversight%2Fworkforce-restructuring%2Freductions-in-force-rif%2Frif-learning-series-intro-mechanics-part-1-march-25-2025.pdf&v=ytVHY5wpT28)
- (4) OPM Workforce Reshaping Operations Handbook (2017) (RIF Process):  
[https://www.opm.gov/policy-data-oversight/workforce-restructuring/reductions-in-force-rif/workforce\\_reshaping.pdf](https://www.opm.gov/policy-data-oversight/workforce-restructuring/reductions-in-force-rif/workforce_reshaping.pdf)
- (5) OPM/OMB Memo “Guidance on Agency RIF and Reorganization Plans Requested by Implementing the President’s “Department of Government Efficiency” Workforce Optimization Initiative” (Feb. 26, 2025): <https://www.opm.gov/policy-data-oversight/latest-memos/guidance-on-agency-rif-and-reorganization-plans-requested-by-implementing-the-president-s-department-of-government-efficiency-workforce-optimization-initiative.pdf>

## Appendix A: Functional Classification Codes

11 - Research: Systematic, critical, intensive investigation directed toward the development of new or fuller scientific knowledge of the subject studied. It may be with or without reference to a specific application. The work involves theoretical, taxonomic, and experimental investigations or simulation of experiments and conditions to: (1) Determine the nature, magnitude, and inter-relationships of natural and social phenomena and processes; (2) Create or develop theoretical or experimental means of investigating such phenomena or processes; and (3) Develop the principles, criteria, methods, and a body of data of general applicability for use by others. Excluded from this category is work concerned primarily with the administration and monitoring of research contracts and research grants.

12 - Research Contract and Grant Administration: The administration and monitoring and grant of research contracts and research grants.

13 - Development: Systematic application of scientific knowledge directed toward the creation of new or substantially improved equipment, materials, instrumentation, devices, systems mathematical modals, processes, techniques, and procedures which will perform a useful function or be suitable for a particular duty. The work involves such activities as: (1) Establishing requirements for technical objectives and characteristics; (2) Devising and evaluating concepts for design approaches: criteria, parameters, characteristics and interrelationships; (3) Experimenting, investigating, and testing to produce new data, mathematical modals, or methods to test concepts, formulate design criteria, and measure and predict natural and social phenomena and performance; (4) Designing and developing prototypes, breadboards, and engineering modals including the direction of their fabrication as required; (5) Developing standards and test plans to assure reliability; and (6) Managing specific developments being executed in-house or under contract. Development, like research, advances the state of art, but it is further characterized by the creation of specific end-items in the form of equipment or equipment systems ("hardware" development) and/or methodologies, mathematical modals, procedures and techniques ("software" development).

14 - Test and Evaluation: The testing of equipment, materials, devices, components, systems and methodologies under controlled conditions and the systematic evaluation of test data to determine the degree of compliance of the test item with predetermined criteria and requirements. This work is characterized by the development and application of test plans to be carried out in-house or under contract or grant utilizing one or more of the following kinds of tests: physical measurement techniques; controlled laboratory, shop, and field (demonstration) trials; and simulated environmental techniques. This category includes: (1) Development testing to determine the suitability of the test item for use in its environment; (2) Production and post-production testing to determine operational readiness; (3) Testing in regulatory programs to determine compliance with laws, regulations and standards; and (4) Testing in the social

sciences using demonstration or experimental and control groups to determine the effectiveness of new methodologies or practices.

21 - Design: The planning synthesis, and portrayals for purposes of fabrication or construction of structures, equipment, materials, facilities, devices, and processes which will perform a useful function or be suitable for a certain duty. The work involves such activities as: (1) Investigating, analyzing, and determining needs and design considerations; (2) Planning, synthesizing and proportioning the structure or mechanism so that the result is achieved with safety and economy; (3) Preparing design criteria, detailed designs, specifications, cost estimates, and operating instructions; and (4) Reviewing and evaluating design proposals and designs prepared by others including the management of architectural and engineering contracts. For present purposes, design in a research and development organization is the application of the known state of the art in the form of standard guidelines and references to prepare the detailed working plans and data required for fabrication, assembly, and production.

22 - Construction: The original erection, repair and improvement of structures that provide shelter for people and activities, support transportation systems, and control natural resources. The work involves surveillance and control of construction operations carried out in-house or under Federal grants, contracts, or loans through such activities as: (1) Conducting site surveys; (2) Reviewing and interpreting project plans and specifications; (3) Making cost analyses and estimates; (4) Layering out and scheduling operations; (5) Investigating materials, methods, and construction problems; (6) Negotiating with utilities, contractors, and agencies involved; and (7) Inspecting work in progress and completed work and final acceptance of completed work.

23 - Production: The fabrication and manufacture of structures, equipment, materials, machines and devices. The work involves surveillance and control of production operations carried out in-house or under contract through such activities as: (1) Planning, directing, controlling, inspecting and evaluating production processes, equipment and facilities; (2) Refining designs to adapt them to production facilities and processes; and (3) Devising, applying and monitoring procedures to measure and assure quality.

24 - Installation, operations and maintenance: The installing, assembling, integrating, and assuring of the proper technical operation and functioning of systems, facilities, machinery, and equipment. The work involves such activities as: (1) Analyzing operating and environmental conditions in order to provide design inputs and feedbacks and modifying designs as necessary to adapt them to actual environments; (2) Developing and determining logistic requirements, documentation, technical plans, procedures, controls and instructions; (3) Equipping, supplying, and commissioning facilities; (4) Analyzing performance and cost data and developing actual performance and cost data requirements; (5) Integrating equipment installation and operating schedules; (6) Managing on site an operating facility such as a power plant, test range, mission

control center, irrigation station, data acquisition station, or flight control station; and (7) Managing installation, operations or maintenance contracts.

31 - Data collection, processing and analysis: This category includes the collection, processing, and analysis of general purpose scientific data describing natural and social phenomena. General and purpose scientific data include newly gathered statistics, observations, instrument readings, measurements, specimens, and other facts obtained from such activities as statistical and field surveys, exploration, laboratory analyses, photogrammetry, and compilations of operating records for use by others. The work involves such activities as: (1) Determining data needs and data processing requirements; (2) Planning, directing, and evaluating collection activities performed in-house or under contract; (3) Designing overall processing plans and systems to handle, control, operate, manipulate, reduce, store, check and retrieve data; (4) Analyzing raw and processed data for validity and subject-matter interpretation; (5) Providing analytic services such as chemical analyses; (6) Forecasting and projecting data and conditions; and (7) Summarizing and presenting data for general use. Excluded from this category are collection and analysis of data only for research and development projects and internal operating or administrative purposes such as policy formulation and planning.

32 - Scientific and technical information: The processing and dissemination of published and unpublished technical documents and information on work in progress and completed work to facilitate information. The work involves developing and implementing information systems through such activities as: (1) Providing for the selection, acquisition, compilation, exchange, and storage of scientific and technical information; (2) Cataloging, abstracting, and indexing information for retrieval and dissemination; (3) Providing reference, literature search and bibliographic services for information users; (4) Interpreting, evaluating, and briefing on the significance and relevance of information; (5) Disseminating information through briefings, technical publications, and other communications media; and (6) Classifying and declassifying technical information where use must be controlled in the national interest.

41 - Standards and specifications: The preparation and determination of mandatory and/or specifications voluntary standards including rules, regulations, and codes. These standards are for purposes of: (1) Government regulation and (2) The assuring of the acceptability, quality, and/or standardization of products, materials, and parts as required for design, production, purchasing, logistics, and documentation. The work involves the development of performance criteria, test and inspection methods, and data for the application of the standards to technological products and services.

42 - Regulatory enforcement and licensing: The application and enforcement of laws, rules, regulations, orders, and governmental agreements through inspection, investigation, surveillance, licensing, certification, and similar activities. The work includes such activities as: (1) Licensing power plants and radio stations; (2) Enforcing plant or animal disease eradication programs; (3) Examining applications for patents; (4) Inspecting operations for compliance with

requirements; (5) Approving utility rates and services; (6) Investigating aircraft accidents; (7) Allocating radio frequencies; and (8) Determining compliance with engineering aspects of Federal tax laws.

51 - Natural Resource Operations: The development and utilization of Federally owned and trust lands and natural resources for the operations purposes of bringing current use into balance with natural processes of renewal to assure sustained yields to meet present and future public needs. Natural resources include land, air, and water and their related products or uses, such as soil, minerals, forage, wildlife's power, and recreation. The work involves implementing programs and projects to inventory, classify, utilize, improve, conserve, regulate, protect, sell, lease, exchange, or market natural resources. Resource operations as defined here are concerned with managing and conserving the land and resources in a specified geographic area.

81 - Clinical practice, counseling, and ancillary medical services: The provision of direct clinical and related services to patients and clients including examining, testing, diagnosis, treatment, therapy, casework, counseling, and disability evaluation, related patient care.

91 - Planning: The study and projection of present and future needs and the formulation of alternative policies and ways of meeting these needs for the utilization of: land, natural, social, industrial, material and manpower resources; physical facilities; and social and economic services and programs. The work involves (1) Gathering, compiling, analyzing and evaluating data; (2) Projecting needs and establishing goals; (3) Developing single or alternative plans, policies, programs, and recommendations and measures of their economic, social, and political costs, benefits, and feasibility; and (4) Reevaluating progress to assure that plan objectives are realized in putting the plans into effect. This category includes physical, economic, and social planning for land population centers and missions, policy, and program planning.

92 - Management: The direction and control of scientific and engineering programs in any one or combination of functions in a line or staff capacity with responsibilities that have a direct and substantial effect on the organizations and programs managed. The work involves decisions, actions, and recommendations that establish the basic content and character of the programs directed in terms of program objectives and priorities, program initiation and content, funding, and allocation of organizational resources. This category is not intended to cover those primarily engaged in the supervision or monitoring of work carried out through contracts and grants or in contracts and grants administration. Such positions are to be coded to the appropriate function.

93 - Teaching and training: The teaching of scientific and technical subjects: the education and training of scientific and technical personnel in-house and through programs consisting of

fellowships, traineeships, and training grants; and the development of curricula and training materials and aids.

94 - Technical assistance and consulting: The provision of scientific and technical expert assistance, consultation, and advice to other scientific personnel; foreign governments; government agencies at the Federal, State, or local level; private industry; organized groups, and individuals. The work involves advising upon and promoting application of the results of research and specialized program knowledge.

99 - Other - Not elsewhere classified: This category is to be used for: (1) Positions with highly specialized activities which are not classified or covered in any of the other categories; (2) Positions of such generalized nature that a primary function cannot be identified; and (3) Trainee positions for which functional assignments have not been made.