

CHAPTER 12

REDUCTION-IN-FORCE

INTRODUCTION
12.0

This chapter establishes the Department's policy and procedures to implement an SES reduction-in-force (RIF) in accordance with legal requirements and OPM regulations. It replaces HUD Handbook 920.1, Reduction-In-Force, dated July 1983.

Coverage
12.1

This chapter applies to career employees in the SES, including those who are serving a probationary period. It does not apply to the Office of Inspector General, noncareer employees, or those on a limited emergency or limited term appointment.

Definitions
12.2

Reduction-In-Force
12.2.1

The elimination or modification of a position due to: reorganization; lack of funds; curtailment of work; a withdrawal of SES spaces by OPM; a total agency shutdown; a determination that the position no longer meets the definition for an SES position in 5 U.S.C 3132(a) because of a change in duties or responsibility, or because of a finding that the position was incorrectly designated at the SES level; or any other factor.

Competitive Area
12.2.2

The organizational and geographical area within which career employees compete for job retention in the Department.

Competitive Level
12.2.3

All positions in a competitive area that are in the same occupational field or are sufficiently similar in technical and managerial qualification requirements, so that the incumbent of one position can be reassigned to another position without unduly

interrupting the work of the program, and with the expectation that the executive will be able to perform in a fully successful manner.

Performance
Rating
12.2.4

The official SES performance rating which, after review by the PRB, is approved by the Secretary of HUD, or by the authorized official of another agency, prior to the issuance of a General RIF Notice.

Procedures
12.3

Notice of
Anticipated
RIF
12.3.1

The Assistant Secretary who plans an organizational change that may result in a RIF action in Headquarters or in the Field must submit a written request to the Office of Personnel and Training, through the Assistant Secretary for Administration.

The Office of Personnel and Training will review and evaluate the proposed organizational change and make a recommendation to the Assistant Secretary for Administration. The Assistant Secretary for Administration will determine if a RIF action is appropriate.

If a RIF action is determined to be appropriate, the Assistant Secretary for Administration makes a recommendation to the Secretary and requests approval to initiate the RIF action. The recommendation to the Secretary will include the following:

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- o Organizational changes to be made;
- o Outcome of the RIF process;
- o Consideration given to the placement of the surplus individuals into vacancies, if any, in the competitive area;
- o Certification by the Assistant Secretary for Administration that there are no vacant SES positions in the competitive area for which the affected individuals are qualified; and

- o Request that the Secretary sign the General RIF Notice to the affected individuals.

RIF Implementaion
12.3.2

After the Secretary has authorized the RIF, the following steps occur:

- o The General RIF Notice is delivered to the affected employees; and
- o The Office of Personnel and Training refers the affected employees to other HUD organizations to be considered for placement in vacant SES positions for which they are qualified.

Within 15 workdays after the affected employees are referred, the Assistant Secretary responds to the Office of Personnel and Training (through the Assistant Secretary for Administration) by either:

- o Recommending placement of the employees in his/her organization; or
- o Certifying that the employees are not qualified for the vacant SES positions, and providing reasons why the employees are not qualified.

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If the affected employees cannot be placed into HUD SES vacancies, the Secretary refers the affected employees to OPM for Federal Government-wide placement consideration. OPM has 45 days to place the employees.

If OPM cannot place the SES employees, the Secretary authorizes delivery of the Specific RIF Notice to the employees being released from their competitive levels (see Section 12.8.2).

Retention Factors
12.4

Competitive Areas
12.4.1

The SES competitive areas are:

- o Headquarters. Each Assistant Secretary is

a separate competitive area.

- o Field. One competitive area for all Field positions.

Competitive
levels
12.4.2

The Assistant Secretary for Administration, based on recommendations from the Office of Personnel and Training, is responsible for establishing or modifying competitive levels in the Department (see Section 12.2.3).

Significant changes in duties and responsibilities of existing positions held by career employees must be reviewed by the Office of Personnel and Training to determine impact, if any, on competitive level designations. Newly established positions to be held by career employees must also be reviewed by the Office of Personnel and Training to determine appropriate competitive levels.

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Retention
Standing
12.4.3

Career employees (including probationary employees) in the same competitive level are ranked on the basis of their three most recent performance ratings and other factors identified below in order of the cumulative point value assigned. The following point system is used:

- o Performance ratings received in the previous 3 years while serving as an SES employee.

| | |
|------------------------------|------------|
| Outstanding | - 5 points |
| Superior | - 4 points |
| Fully Acceptable | - 3 points |
| Presumptive Fully Acceptable | - 3 points |
| Minimally Satisfactory | - 0 points |
| Unsatisfactory | - 0 points |

- o Presidential Rank Awards received within the last 3 years.

5 points

- o Performance awards and incentive awards, which are \$2,500 or more, received within the last 3 years while serving as an SES employee.

2 points

Total points will be computed for each SES employee. The computation will result in employees within a competitive level being ranked in numerical order. The employee with the highest cumulative point value will receive the highest ranking.

Employees will be released from the competitive level in the inverse order of their retention standing, beginning with the lowest standing employee in the competitive level.

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Retention
Standing Ties
12.4.4

If after totaling numerical points assigned to performance ratings, Presidential Rank Awards, performance awards, and incentive awards of \$2,500 or more, received within the last 3 years, two or more employees have identical cumulative point values, the procedure which is stated in Section 12.5. will be followed.

Performance
Rating
12.4.5

Prior to a formal RIF action, an employee who did not receive an SES performance rating during the last appraisal cycle, but has been observed on the job for a period of 90 days, will be rated based on established objectives and standards.

The PRB will review the rating and make a recommendation to the Secretary. The final rating will be made by the Secretary after considering the Board's recommendation.

If an employee does not have an SES rating because of length of time on the job (less than 90 days of observed job performance), a rating of Presumptive Fully Acceptable is assigned for RIF purposes.

If an employee does not have an SES rating for any years of previous service, a Presumptive Fully Acceptable rating will be assigned for each year.

Retention
Registers
12.4.6

The Office of Personnel and Training establishes retention registers of employees in each competitive area, showing each competitive level. Employees are listed on the retention registers in the order prescribed in Sections 12.4 and 12.5.

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All competing employees officially assigned to positions in a competitive level are listed on the retention register for that level.

Employees who receive a General RIF Notice are entitled to review the retention register and any related records for their own competitive level.

Maintenance of
Registers
12.4.7

The Office of Personnel and Training maintains the official records needed to determine the retention standing of competing employees. All records are kept for 2 years from the date the employee is issued a Specific RIF Notice.

Release From
Competitive Level
12.5

Competing employees are selected for release from their competitive level in the inverse order of their retention standing, beginning with the employee having the lowest standing.

In establishing retention standings, employees are ranked in competitive levels on the basis of the cumulative point value of their three most recent performance ratings and other factors as stated in Section 12.4.

If a tie exists after using the point factors listed in Section 12.4.3, the appropriate points will be assigned to the factors considered for the fourth year. If a tie still exists, the same procedure will be used for the fifth year.

Should tied ratings occur after using the factors for a maximum of 5 years, the ties will be broken by the SES appointment date.

If an additional tie breaker is required, the service computation date in the Federal Government will be used.

Placement Rights
12.6

General
12.6.1

This section describes placement rights which apply to career employees in the SES, including those who are serving a probationary period.

Process
12.6.2

Originating Organization

- o An organization that initiates an SES RIF action has a responsibility to place the SES member in a valid vacant SES position within its own organization for which the employee qualifies. Reassignments as a result of RIF must be approved by the Secretary.
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Intra-Department

- o An affected career employee who cannot be placed in his/her organization will be placed in a vacant SES position for which he/she meets the technical and managerial qualifications, if one is available within the Department.

If there is more than one competing employee who meets the technical and managerial qualifications of a vacant SES position, placement eligibility will be based on the cumulative point value of the retention factors and tie-breakers explained in Sections 12.4. and 12.5. The Secretary will decide in which vacant SES position to place an employee, based upon the recommendations of the Assistant Secretary for Administration.

Office of Personnel Management

- o If there is no vacant SES position in the Department for which a nonprobationary

career employee is qualified, the Secretary must certify this finding in writing to OPM. OPM must then take all reasonable steps to place the employee in a vacant SES position for which he/she qualifies in another agency.

The employee is entitled to placement in another agency unless the head of the agency determines that he/she is not qualified for the position and certifies that to OPM. By law, OPM placement efforts shall be for 45 days.

Guaranteed
Placement and
Pay Entitlement
12.6.3

A nonprobationary career employee identified for removal from the SES through RIF is entitled to the placement rights and basic pay entitlement outlined in Chapter 9.

Removal
12.7

General
12.7.1

These procedures apply to the removal of career SES employees who are identified for release from their competitive level, and who are not placed or decline placement in an appropriate SES position.

Career
Employees
12.7.2

An SES employee identified for RIF who declines a directed reassignment approved by the Secretary to an SES position for which qualified shall be removed from the SES under 5 U.S.C. 7543(a).

An SES employee identified for RIF who declines a reasonable offer of placement in an SES position in another Department Agency through OPM placement efforts shall be removed from the SES under 5 U.S.C. 3595(b)(4).

An SES employee identified for RIF who cannot be placed by OPM within 45 days of agency certification shall be removed from the SES under 5 U.S.C. 3595(b)(5) and shall be placed in a continuing position at GS-15 or above in the General Schedule or an

equivalent position.

Probationary
Employees
12.7.3

A probationary SES employee who is not placed through the intra-department placement procedures shall be removed from the SES under 9 U.S.C. 3592(a)(1). Section 5 U.S.C. 3594(c) provides that a career probationary employee appointed from a position held under a career or career-conditional appointment (or an appointment of equivalent tenure) is, if otherwise eligible, entitled to be placed in a continuing position at GS-15 or above in the General Schedule or an equivalent position.

RIF Notice
12.8

General Notice
12.8.1

Each competing employee whose position has been identified for abolishment will receive a written General Notice which specifies that the effective date of his/her separation will be no sooner than 30 days from the date of the written Specific Notice.

Each General Notice will contain:

- o The action to be taken;

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- o The effective date of the action;
 - o Why the action is being taken;
 - o Placement efforts to be taken;
 - o When applicable, employee's eligibility for immediate retirement;
 - o When applicable, the employee's entitlement to placement in a continuing position at GS-15 or above of the General Schedule or an equivalent position; and
 - o Information on the RIF process and employee rights which will be provided by the Office of Personnel and Training.
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Specific Notice
12.8.2

Each competing employee identified for release from the competitive level who cannot be placed under the required procedures must receive a written Specific Notice explaining the necessity for the removal from the SES.

Each Specific Notice will contain:

- o The action to be taken;
- o Effective date of the proposed separation or other action;
- o Why the action is being taken;
- o Competitive area;
- o Competitive level;
- o How placement of the employee within the SES in the Department was attempted;
- o The results of OPM placement efforts for the 45 days required by law;
- o When applicable, the employee's eligibility for immediate retirement;

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- o The place where the employee may inspect the regulations and records pertinent to the action;
 - o The employee's appeal rights to the Merit Systems Protection Board under Section 3595(c);
 - o When applicable, the employee's entitlement to placement in a continuing position at GS-15 or above in the General Schedule or an equivalent position; and
 - o Information on the RIF process and employee rights which will be provided by the Office of Personnel and Training.
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RIF Appeal
Procedures
12.9

Any SES employee may appeal to the Merit Systems Protection Board whether the RIF complied with competitive procedures required under 5 U.S.C. 3595(a).

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