

June 5, 1998

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Reduction in Force and Performance Management

The Office of Personnel Management (OPM) issued final regulations concerning Reduction in Force (RIF) and performance management on November 24, 1997, amending Parts 351, 430, and 531 of title 5, Code of Federal Regulations. The final regulations change the manner in which RIF retention service credit is determined. In the Department of the Army, the new rules become effective on October 1, 1998. For any RIF with an effective date prior to October 1, 1998, activities must assign retention credit in accordance with the current provisions in 5 CFR §351.504 in effect on January 1, 1997.

There are four principal changes pertaining to RIF retention credit: (1) the method for averaging actual ratings; (2) the use of "modal" ratings for employees who have no ratings of record; (3) the use of performance evaluations given under appraisal systems not covered by 5 CFR Part 430; and (4) the system for assigning retention service credit when there are mixed rating patterns within the same competitive area. The following four paragraphs will explain each of those principal changes.

The method for averaging ratings during the 4-year "look back" period will no longer involve using presumed Fully Successful ratings for employees who have fewer than three ratings of record. Instead, the actual rating(s) will serve as the sole basis of the employee's credit. For example, if an employee has only two actual ratings during the 4-year look back period, the value assigned to each rating is added together and divided by two to derive the amount of additional retention service credit. If an employee has only one rating, the value of that single rating is used to assign the additional retention service credit.

If an employee has no rating of record during the look back period, additional retention service credit will be given based upon the most common, or "modal" summary rating level within the competitive area. In the Department of the Army, the modal rating will be the summary rating level assigned most frequently among the actual ratings of record within the competitive area during the 12 month period preceding the date of issuance of RIF notices or the established cutoff date after which no new ratings will be put on record. A presumed Fully Successful rating will no longer be used.

Performance evaluations given under a Federal agency system not covered by 5 CFR Part 430 ("non-430 ratings") no longer will be excluded in determining

RIF retention credit. A Federal sector non-430 rating will be considered a rating of record for RIF purposes if the evaluation was officially issued under the agency's performance evaluation system, was based on established expectations, and identifies whether the employee performed acceptably. Agency evaluations meeting those criteria may be found in the Peace Corps, General Accounting Office, and Postal Service. Additional information regarding non-430 ratings will be provided to assist activities in making the determination of whether a rating meets the specified conditions.

The new rules also provide for flexibility in crediting performance for RIF retention service credit in situations in which there are mixed rating patterns within the competitive area. Since 1995, agencies have had the option of determining the pattern of summary rating levels under their performance appraisal programs. There are eight possible patterns ranging from the traditional five-level program used in Army to a two-level "pass/fail" program. As a result of this flexibility, it is possible for there to be employees within the same competitive area who have received ratings under different patterns. Recognizing that this has implications for employees' relative retention standing in RIF, OPM determined that agencies should have the flexibility to decide how many years of service credit within the range of 12 to 20 years to assign to particular summary rating levels. The method adopted by agencies will apply only to ratings put on record on or after October 1, 1997 and only in situations in which there are mixed rating patterns. Ratings put on record before that date or in single pattern situations are credited based on the current 12/16/20 year formula for additional service credit. In the Department of the Army, the 12/16/20 year formula also will be used when there are mixed rating patterns within the competitive area.

As these changes affect bargaining unit employees' conditions of employment, management is obligated to notify local unions of these changes and afford them an opportunity to request bargaining prior to implementation. It is our position that the substance of these matters is outside the duty to bargain based on the Federal Labor Relations Authority's decision in U.S. Office of Personnel Management, 51 FLRA 491 (1995). We do not expect any serious union opposition as these changes do not negatively impact the employees' working conditions. Additional information regarding the labor relations implications of these changes will be provided via labor relations channels.

The point of contact for additional information on RIF is Carolyn Davis; she can be reached on (703) 325-9986 (DSN 221) or e-mail: davisc@asamra.hoffman.army.mil. For additional information on performance management issues, contact Mike McClure on (703) 325-1335 (DSN 221) or e-mail: mcclurem@asamra.hoffman.army.mil. Questions concerning the labor relations implications of these changes should be addressed to David Helmer on (703) 695-4011 (DSN 225) or email: helmeda@hqda.army.mil.

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(Civilian Personnel Policy)