

SES REDUCTION IN FORCE (RIF)

An agency may conduct SES Reduction in Force under 5 U.S.C. 3595 and 5 CFR 359 subpart F when circumstances such as elimination or modification of a position due to reorganization, lack of funds, curtailment of work, or any other factor require separation of career SES appointees. These rules do not apply removal of SES noncareer, limited term or limited emergency employees who may be removed from the SES based upon 1 day advance written notice.

An agency must issue and provide to OPM written SES RIF procedures before implementing a reduction in force affecting career SES members. These must include competitive procedures based primarily upon performance (annual summary ratings only) that will be used to determine which career appointees (including probationers and non-probationers) are subject to removal. Other factors may be used in the competition, except that veterans' preference may not be used based on 5 U.S.C. 2108(3). An agency may consult OPM in advance for help in ensuring procedures conform to law and regulation.

Written procedures should define the competitive area(s) broadly to provide adequate competition, e.g., the entire agency or a major subcomponent. Competitive levels may also be defined within the competitive areas to group positions similar enough in qualifications requirements, duties and responsibilities that incumbents may be reassigned among the positions without undue interruption of work. Competition also may be among all career appointees and provide that a career appointee may only displace the incumbent of a position for which he or she meets the qualifications requirements.

The agency's SES RIF procedures must also ensure:

- 1) A non-probationary career SES appointee identified for removal by SES RIF is entitled to be assigned to any vacant SES position in the executive agency for which he or she is qualified;
- 2) The agency head may certify a non-probationary career appointee for OPM placement assistance only if there is no vacant SES position in the agency for which he or she qualifies;
- 3) Competitive procedures apply to a probationary career appointee as well; however –
 - a. A non-probationary career appointee must be retained over a probationer with the same retention standing;
 - b. A non-probationary career appointee identified for RIF is entitled to a vacant SES position before a probationer identified for RIF may be assigned to it;
 - c. A probationer identified for RIF is not entitled to an agency SES vacancy or to OPM placement assistance and may be removed under 5 CFR 359.405 with 1 day notice.
- 4) A non-probationary career appointee identified for removal by SES RIF will receive a specific written notice at least 45 days before removal and a second notice 1 day before removal.
- 5) A career appointee (probationer or non-probationer) removed by SES RIF has guaranteed placement in a non-SES position at or above GS-15 (5 U.S.C. 3594; 5 CFR 359 subpart G)

OPM 45 day placement period begins when OPM acknowledges the agency head certification, and a non-probationary career SES appointee must apply to OPM to initiate assistance. The agency may remove the career appointee by SES RIF upon expiration of the agency notice period only after;

- 1) OPM advises that the career appointee has declined a reasonable placement offer; or
- 2) OPM advises that the 45 day period has expired without a placement.