

# **3 FAM 2530 REDUCTION-IN-FORCE<sup>3</sup>/<sub>4</sub>CIVIL SERVICE**

## **3 FAM 2531 GENERAL PROVISIONS**

### **3 FAM 2531.1 Authority**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

- 5 U.S.C. 3501-3504.
- 5 CFR 351.
- 5 CFR 1201.
- 22 U.S.C. 2658.
- 5 CFR 330.

### **3 FAM 2531.2 Purpose**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

These regulations establish reduction in force (RIF) policy and procedures for Civil Service employees in the Department of State.

### **3 FAM 2531.3 Definitions**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

Certain words and phrases have special meaning for RIF purposes. Definitions of terms used in these regulations can be found at 5 CFR 351.203.

### **3 FAM 2531.4 Employee Coverage**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. These regulations apply to all Civil Service employees in the Department, including those in the competitive and the excepted service, except those noted under section 3 FAM 2531.4 b.

b. These regulations do not apply to :

(1) Members of the Senior Executive Service;

(2) Members of the Foreign Service;

(3) Employees whose appointments are required by Congress to be confirmed by, or made with the advice and consent of, the U.S. Senate;

(4) Personal services contractors;

(5) Employees serving under time-limited appointments for one year or less; and

(6) Employees appointed to positions under Schedule C.

### **3 FAM 2532 USE OF GOVERNMENT-WIDE REDUCTION IN FORCE REGULATIONS**

#### **3 FAM 2532.1 Notification of AFGE**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

When a bureau notifies the Bureau of Personnel that it intends to conduct a RIF, PER will notify AFGE of their intent. AFGE may request information related to the intended RIF and make suggestions related to the issue. The Department will follow and apply these RIF regulations and the requirements of 5 CFR Part 351 only after apprising the union that a RIF has been determined necessary and giving the union an opportunity to ask questions and respond.

### **3 FAM 2532.2 Applicability**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

These regulations apply when a competing employee is released from his or her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement, when the release is required because of;

- (1) Lack of work;
- (2) Shortage of funds;
- (3) Insufficient personnel ceiling;
- (4) Reorganization;
- (5) The exercise of reemployment rights or restoration rights; or

(6) Reclassification of an employee's position due to erosion of duties when such action will take effect after the Department has formally announced a reduction in force in the employee's competitive area and when the reduction in force will take effect within 180 calendar days.

### **3 FAM 2533 COMPETITIVE AREAS**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. In the Washington, D.C. commuting area, separate competitive areas are established for each bureau or equivalent organization listed in 3 FAH-1 H-2530 . These competitive areas include those field office activities located in the Washington, D.C. commuting area that report to them.

b. Outside the Washington, D.C. commuting area, separate competitive areas are established for each activity in a local commuting area that reports to a bureau or equivalent organization listed in 3 FAH-1 H-2530 .

## **3 FAM 2534 PROCEDURES**

### **3 FAM 2534.1 Position Classification Appeals**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

The classification of an employee's position of record is a critical factor in making certain RIF determinations. Accordingly, the Department will issue at least once a year, in conjunction with the annual establishment of performance standards, the notice contained in 3 FAM 2534 Exhibit 2534.1 informing employees of the importance of assuring that their positions are classified in the correct series and at the correct grade for their actual duties and responsibilities. Any classification appeal by an employee filed with the Department shall be decided within 45 calendar days of receipt.

### **3 FAM 2534.2 Establishment of Competitive Levels**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

The Director of Personnel or qualified designee will establish competitive levels in accordance with 5 CFR 351.403, the applicable union contract, and these regulations.

### **3 FAM 2534.3 Establishment of Retention Registers**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

The Director of Personnel or designee will establish all retention registers required during a reduction in force, reflecting the retention standing of each competing employee in accordance with 5 CFR Part 351, Subpart E, the applicable union contract, and these regulations.

#### **3 FAM 2534.3-1 Retention Register**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. All competing employees officially assigned to positions in a competitive level are listed on the retention register for that level whether they are on active duty, on detail to positions in other levels, on paid or unpaid leave, or on nonmilitary furlough.

b. All competing employees temporarily promoted from positions in a competitive level to positions in other competitive levels must be listed on the register from which they are temporarily promoted.

c. Standing on the register will be based on tenure of employment, veterans preference, length of service, and performance credit in accordance with 5 CFR 351.503 and 351.504.

### **3 FAM 2534.3-2 Maintenance of Retention Registers**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. Upon request, employees will be entitled to review where they stand on the retention register. Upon request the union will be given an opportunity to review the retention register. Retention registers and related records that have been used to effect a RIF will be maintained by the Department for at least one year from the date that specific notices are issued, or as long as an administrative or judicial action is pending, whichever is longer.

b. Upon request, but no more frequently than once a calendar quarter, the Department will furnish to the union a current list by series, grades, and service computation dates of identified groups of positions. Such a list shall be sanitized by the removal of the names and the first digit of social security numbers.

### **3 FAM 2534.4 Release From Competitive Level**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. When reduction in force requires release of one or more competing employees from a competitive level, the Department will do so in accordance with these regulations, the applicable union contract, and 5 CFR Part 351, Subpart F.

b. The union will be apprised of management decisions that RIF actions will be taken. The union will upon request be briefed on factors related to the pending RIF. The union local may submit any views that it wishes management to consider.

c. When the Department has made a decision that a RIF is necessary, the Department will seek Voluntary Early Retirement Authority (VERA).

d. An employee scheduled to be released from his or her competitive level and who will not be offered another position as a right under 5 CFR Part 351 Subpart G, **Assignment Rights (Bump and Retreat)**, shall be eligible for priority placement as set forth in the applicable FAM provisions

and the Priority Placement agreement of January, 1996 ( 3 FAM 2534 Exhibit 2534.4 of this regulation).

e. Management will evaluate existing contracts to determine if contract employees may be terminated in lieu of direct hire employees.

### **3 FAM 2534.5 Transition Assistance**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. Except as provided in 3 FAM 2534.5 c, an employee who is scheduled to be separated from the service and who will not be offered another position as of right under 5 CFR Part 351, Subpart G, **Assignment Rights (Bump and Retreat)**, and who has not been assigned to another position under a priority placement or other reassignment procedure shall be eligible to participate in the full job search program as set forth in 3 FAM 6100 Appendix A , part 691.5-2 while in a paid status on a basis equal to that provided for an employee of the Foreign Service without regard to eligibility for retirement.

b. The Department will make a list of its contractors available to individuals participating in the job search program, and upon request, will forward resumes to contractors for their consideration.

c. When a reduction in force is caused by circumstances not reasonably foreseeable, a notification period of less than 120 days may be authorized (see section 3 FAM 2534.6-2 a) . In these circumstances, sufficient notice before separation may not be possible to allow participation in the full job search program as provided in section 3 FAM 2534.5 a. In this instances, employees will be eligible to participate in the job search program in an unpaid status after separation.

### **3 FAM 2534.6 Notice to Employees**

#### **3 FAM 2534.6-1 Advance Notice of Position Status**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. Employees may at any time request information about the future of their position. Supervisors shall promptly seek permission from appropriate authority to provide such information and release the material so authorized, such material to specifically include any plans to abolish, change, or otherwise substantially affect the position.

b. Employees may request information at any time regarding vacant positions. The Department will respond promptly providing any approved plans regarding such positions.

### **3 FAM 2534.6-2 Specific Notice of Reduction in Force**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. Competing employees affected by reduction in force will be given advance notice by the Director of Personnel or designee. The advance notice will normally be given at least 120 calendar days before the effective date of release from a competitive level. When the time element is such that a 120 day notice period will not permit meeting the employment ceilings, or shortage of funds would require separating employees earlier, the Director of Personnel may authorize a notification period of less than 120 days, but not less than 60 days. If a notification period less than 60 days is required, the Department will request authority from OPM to utilize a shorter notice period, but not below the minimum of 30 calendar days in accordance with 5 CFR 351.801(b).

b. The specific notice shall include the following information;

(1) The action to be taken and its effective date;

(2) The employee's competitive area, competitive level, subgroup, service date (computed in accordance with 5 CFR 351.503), and annual performance ratings of record received during the last four years;

(3) The place where the employee may inspect the regulations and records pertinent to his or her case;

(4) The reasons for retaining a lower-standing employee in the same competitive level, if applicable;

(5) Information on priority placement, and, if applicable, reemployment rights;

(6) The employee's right, as applicable, to appeal to the Merit Systems Protection Board (MSPB) under the provisions of the Board's regulations or to grieve under a negotiated grievance procedure; and

(7) Information required under 5 CFR 1201.21 relating to the MSPB.

c. In addition to the material cited above, upon written request from an affected employee, the Department will provide a copy of 5 CFR Part 351, the U.S. Office of Personnel Management's reduction-in-force regulations.

### **3 FAM 2534.6-3 Expiration of Notice**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. The specific notice period begins the day after an employee receives a specific notice.

b. A specific notice expires when it is followed by:

(1) The action specified therein; or

(2) An action less severe than that specified in the notice, or in an amendment made to the notice before the action takes effect.

c. A new specific notice will be given to an employee by the Director of Personnel or designee when the Department decides to take an action more severe than that first specified. A new specific notice period begins the day after an employee receives a new specific notice.

### **3 FAM 2534.7 Assignment Rights**

#### **3 FAM 2534.7-1 Assignment Involving Displacement**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

Competitive service and excepted service employees released from their service competitive level will be afforded assignment rights (bump and re-treat) in accordance with 5 CFR Part 351, Subpart G, the applicable union contract, and these regulations.

#### **3 FAM 2534.7-2 Qualifications for Assignment**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

a. In order to be assigned to a position involving displacement of another employee, the employee must meet the qualifications requirements contained in 5 CFR 351.702.

b. For assignment to a vacancy, the Director of Personnel or designee may waive qualifications requirements provided:

(1) The employee meets any minimum education requirements prescribed by OPM; and

(2) The Director of Personnel or designee determines that the employee has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

### **3 FAM 2534.7-3 Declination of Offer**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

An employee who refuses an offer that is in accord with their rights will be furloughed or separated in accordance with these regulations.

## **3 FAM 2535 ESTABLISHMENT AND MAINTENANCE OF REEMPLOYMENT PRIORITY LISTS**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

Reemployment Priority Lists will be established and maintained in accordance with 5 CFR 330. No civil service direct hire position may be filled in the Department unless there is no person qualified for that position on the Reemployment Priority List.

## **3 FAM 2536 APPEALS AND CORRECTIVE ACTION**

### **3 FAM 2536.1 Who May Appeal**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

An employee who has been furloughed for more than 30 days, separated, or demoted by a reduction in force action may appeal to the Merit Systems Protection Board. An employee reassigned by a RIF action may not appeal the action.

### **3 FAM 2536.2 Time Limit For Appeal**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

Appeals must be filed with MSPB during the 30-day period beginning the day after the effective date of the action.

### **3 FAM 2536.3 Content of Appeal**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

An appeal is required to be in writing and must be submitted to the appropriate regional MSPB office. The appeal must include the information required under 5 CFR 1201.24.

### **3 FAM 2536.4 Department Corrective Action**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

When the Department restores an employee to his or her former grade or rate of pay as a result of a decision that a reduction in force action was unjustified or unwarranted, the restoration will be effective retroactively to the date of the improper action.

### **3 FAM 2536.5 Back Pay Statute**

*(TL:PER-318; 5-28-96)*

*(State Only)*

*(Applies to Civil Service Employees Only)*

Pay, allowances, or differentials lost as a result of improper reduction in force action may be payable in accordance with 5 U.S.C. 5596 upon correction of the action.

### **3 FAM 2537 THROUGH 2539 UNASSIGNED**

# **3 FAM 2534 Exhibit 2534.1 ANNUAL POSITION CLASSIFICATION NOTICE**

## **Department Notice to All Civil Service Employees of the Department of State**

### **Subject: Position Classification**

Civil Service employees are reminded of the importance of their position classification and the avenues available to them for making classification appeals.

Your position's title, pay plan, series, and grade are determined by classification specialists in the Bureau of Personnel. These determinations are based on the written position description certified by your supervisor as accurately reflecting the principal duties and responsibilities of your position of record. Supervisors must be willing to assign duties to you before the duties can be included in your position description.

Many personnel processes depend on your position classification - e.g., development of job elements used in performance evaluation, pay setting, qualifying for promotions, grouping employees for reduction-in-force (RIF) competition, etc.

At this time, when employees and supervisors are establishing job elements for the performance evaluation process in the coming year, we remind employees that they may seek clarification of or changes to their position classification in one of two ways in the Department. You may seek revisions in your position description of record through your immediate supervisor who can have your position classification reviewed by the classification specialists in PER/CSP, or you may file an appeal with the classification policy analysts in PER/RMA. Classification appeals procedures are described in 3 FAM 1290 dated 08/25/92.

If you do not wish to file your appeal with the Department, or if you are not satisfied with the decision reached by the Department, you may file your appeal with the U.S. Office of Personnel Management (OPM). Information about OPM classification appeals may also be found in 3 FAM 1290 .

It is important to emphasize that the results of a classification appeal to the Department or OPM may not necessarily be in the employee's favor. For instance, the grade of the position may be made higher, may remain the same, or may be made lower than the grade originally determined. Whatever the outcome, that determination will become the official classification of the position even if it adversely affects the incumbent of the position.

For further information about your position classification, or for access to the regulations referred to in this notice, please consult the personnel specialists in your Executive Office.

**3 FAM 2534 Exhibit 2534.4 PRIORITY  
PLACEMENT AGREEMENT**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE AMERICAN FEDERATION OF GOVERNMENT  
EMPLOYEES  
LOCAL 1534  
AND THE  
DEPARTMENT OF STATE  
FOR THE ADMINISTRATION OF THE CIVIL  
SERVICE  
PRIORITY PLACEMENT PROGRAM**

Signed and Effective: January 24, 1996

FOR THE DEPARTMENT OF STATE

FOR THE AMERICAN  
FEDERATION OF  
GOVERNMENT EMPLOYEES

\_\_\_\_\_/s/  
William E. Struck  
Chief Labor Management  
Negotiator

\_\_\_\_\_/s/  
Fern Finley  
President  
Local 1534

(Original document available in DGP/PC/LM.)

# PRIORITY PLACEMENT PROGRAM

## 1. General Provisions

We recognize that whenever management reorganizes or abolishes positions, individual employees may be adversely affected. They are concerned about their future and we are concerned over how best to preserve our valuable human resources. The use of attritions and pre-RIF placement actions, such as reassignment or voluntary changes to lower grade with retained pay can limit the number of involuntary actions that must be taken by RIF. However, we may not be able to use these alternatives for some employees and RIF may be unavoidable. The Department wishes to avoid a RIF to the greatest extent possible. To this end, we will design and carry through a placement program that causes the least disruption to the Department's priorities and to displaced employees.

### Coverage:

Except as otherwise stated, this Program applies to all career or career-conditional employees in the competitive service whose positions have been identified to be abolished in the General Schedule, GS/GM-1 through GS/GM-15, or the Wage Grade equivalent.

### Exclusions:

The following employees are excluded from coverage under this Program (1) Employees serving in Senior Executive Service positions; (2) Employees serving in temporary and term positions in the competitive service; (3) Employees serving in Schedule A, B, or C excepted service positions; (4) Employees exempt from Chapter 51 and 53 under Title 5. (Although excluded, this does not preclude similar programs being established for this group of employees.)

### General Guidelines:

The **Priority Placement Program** is designed to meet the following general guidelines.

(a) Once an employee is identified for placement the individual will be given priority consideration for the first available position at his/her grade for which he/she meets the educational, general, specialized experience and any selective placement requirements identified for the position. If several positions are available the employee will be referred for interviews for each to provide a wider range of possible placements. When the employee is referred for an interview they will be allowed up to five days to revise their SF-171 or submit a Supplemental Statement. PER/CSP will assess the qualifications of employees against the specific requirements for the position. Although qualification requirements may be waived in specific cases, we cannot waive positive education requirements contained in the Qualifications

Handbook for General Schedule Occupations or the screen out factors for positions covered by the Job Qualifications System for Trades and Labor Occupations Handbook, X-118-C issued by the U.S. Office of Personnel Management (OPM) nor security or medical requirements.

(b) Bureaus will not be forced to accept individuals whose qualifications clearly fall short of what is required to match the Bureau's needs. However, where there is a **clear match** of qualifications, the bureau will be required to hire the candidate. A **clear match** is defined as meeting the education, **general** and **specialized** experience requirements and selective factors of the position.

(c) Management may exercise its authority to reassign employees at their **current** grade levels. Employees will not be placed in positions that have a higher full performance level than their current position or previously held on a permanent basis. Every effort will be made to place employees at their current grade levels. However, if a match is only available at a lower grade level, the employee may be assigned to the lower grade only on a **voluntary** basis. If management announces a reorganization or reclassification decision, employees who might be reduced in grade may be offered grade retention if they accept a **voluntary** downgrade under their grade and pay retention provisions of 5 CFR 536. An employee may decline an offer of a change to lower grade without adverse consequences. If a written notification is required to protect affected employees' rights PER/CSP will provide it as part of the official documentation in the assignment process.

(d) An employee whose position is abolished may also opt for regular or discontinued-service retirement if they are eligible.

(e) Assignments made under the Priority Placement Program are final. Once placed, the employee's name will be removed from the priority consideration list.

## 2. Specific Procedures

(a) All bureaus must provide PER/CSP with a list of occupied-abolished positions and/or an approved reorganization plan. This list should be revised whenever additional positions are added or employees are placed or leave the department.

(b) Once the bureau makes the decision to abolish an encumbered position, bureau management will make a special effort to notify the employee of this decision. They must also advise employees occupying positions to be abolished that PER/CSP will be working with them to place them in legitimate positions which are already included on the Department's approved hiring plan.

(c) PER/CSP will also review positions occupied by WAE (intermittent) employees to determine if full-time-permanent employees can be assigned to them.

(d) Affected personnel will submit updated employment applications to PER/CSP. PER/CSP will review all incoming Job Opportunity Announcements and will issue certificates listing the names of displaced employees who meet the qualifications for any of the requested postings. For employees who do not submit an updated employment application, CSP will use the position description of record and the job duties in the employee's most recent evaluation to determine placement possibilities. When new names are added to the Priority Placement List PER/CSP will review their qualifications and issue certificates for those jobs which have already been advertised, but for which no selection has yet been made.

(e) PER/CSP will contact Executive Directors in those bureaus requesting postings and advise them of the special consideration to be given affected employees. Interviews will be required and if CSP believes there is a match between position requirements and the employee, the bureaus must hire the referred employee.

(f) If a waiver of qualifications would allow the placement of a particular employee to a position approved on the Department's hiring plan a waiver will be made in accordance with Special Inservice Placement Provisions, as outlined in the Qualifications Standards Handbook.

(g) When an offer is made to an employee whose position is being abolished, PER/CSP will coordinate a release date with the losing and the gaining bureau. If the employee is assigned after December 31st, which is the end of the performance cycle for covered employees, bureaus are encouraged to afford appropriate consideration to the employee for purposes of performance and incentive award recognition.

(h) If an employee does not wish to accept an offer, they must submit their reasons, in writing, to PER/CSP who will pass them to the Director General's Senior Level Advisory Committee. If not, management will direct the reassignment, at which point the employee will have a choice of taking the directed reassignment, resigning, or, if eligible, executing his/her rights for a regular or discontinued service retirement. Failure to accept a management directed reassignment can result in dismissal from the service.

(i) The Director General will appoint a Senior Level Advisory Committee from outside PER to review any disputes of reassignment decisions from employees or bureaus and make placement recommendations. The final decision on reassignments will rest with the Director General.

(j) If an employee is placed into a position where qualifications have been waived, an Individual Development Plan (IDP) will be developed jointly by the bureau and the employee within 30 days. The Career Development Resource Center can provide assistance in developing the IDP. The IDP will identify specific training needs to help the employee reach optimum performance levels in the shortest period of time. This type of training should receive priority with the bureau. As resources permit, the National Foreign Affairs Training Center will give priority to training requests

for newly placed personnel. If necessary and as resources permit, NFATC will develop or procure training modules to support large scale placements.

### **3. Management of the Program**

This program will be managed by the Office of Civil Service Personnel (PER/CSP). Any questions regarding its operation or policies contained herein should be addressed to Mr. Ron Whitworth at 647-6238. The Director General will be responsible for assuring compliance with these policies which have been approved by the department's senior management.

**3 FAM 2530 Exhibit 2530 NEGOTIATED  
AGREEMENT FOR 3 FAM 2530 ,  
REDUCTION IN FORCE<sup>3/4</sup>CIVIL SERVICE**

The duration of the Agreement on 3 FAM 2530 Reduction In Force—Civil Service, is for a three-year period effective on the date of approval.

The Agreement may be modified or amended in writing at any time by the mutual agreement of the parties. Lacking such agreement, either party desiring to amend or terminate the Agreement may require negotiations provided it gives written notice of its intent to the other party not earlier than 90 calendar days nor later than 60 calendar days prior to the termination date. The Agreement will remain in effect until a new Agreement is reached.

If neither party gives notice in accordance with the preceding procedure, the Agreement shall be automatically renewed annually on the anniversary date.

FOR MANAGEMENT

FOR AFGE LOCAL 1534

“Agreed except for limitation of competitive areas to Bureau-wide only.\*”

\_\_\_\_\_/s/  
Susan E. Moorse

\_\_\_\_\_/s/  
Carol J. Light

Date of signature of the Parties 5/16/96

APPROVED BY THE UNDER SECRETARY FOR MANAGEMENT /s/  
R Moose

DATE OF APPROVAL 5/28/96

\* “AFGE hereby requests the Department’s written determination that the scope of competitive areas is non-negotiable.”