



Department of Defense INSTRUCTION

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SUBJECT: DoD Civilian Personnel Management System: Retraining and Outplacement Assistance

- References:
- (a) Public Law 105-220, "Workforce Investment Act," August 7, 1998, as amended (codified in sections 1087vv, 2308, 2328, 2411, 6002, 6381d, 6434, 6453, 6455, 7512, 9201, 9252, 9272, 9274, and 9276 of title 20 and in chapter 30 of title 29, United States Code)
 - (b) Parts 330 and 351 of title 5, Code of Federal Regulations
 - (c) Civilian Personnel Management Service, "DoD Displaced Employee Guide," October 2007¹
 - (d) Part 52, "Solicitation Provisions and Contract Clauses," of the Federal Acquisition Regulation, current edition
 - (e) Subpart 222.71, "Right of First Refusal of Employment," of the Defense Federal Acquisition Regulation Supplement, April 12, 2006
 - (f) File B-226380 of the Decisions of the Comptroller General, December 5, 1988

1. PURPOSE

a. Instruction. This Instruction is composed of several volumes, each containing its own purpose. The purpose of the overall Instruction is to establish and implement policy, establish procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the Department of Defense.

b. Volume. This Volume of this Instruction establishes DoD policy concerning retraining, transition, and outplacement assistance for employees facing involuntary separation.

2. PROCEDURES. See Enclosure.

¹ Available through the Internet on the CARE Web site at <http://www.cpms.osd.mil/care/>.

3. RELEASABILITY. UNLIMITED. This Volume is approved for public release and is available on the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

4. EFFECTIVE DATE. This Volume is effective immediately.

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ENCLOSURE

GUIDANCE AND PROCEDURES

1. WORKFORCE INVESTMENT ACT (WIA) ELIGIBILITY

a. The U.S. Department of Labor provides funding for retraining and readjustment assistance to displaced Federal workers in accordance with Public Law 105-220 (Reference (a), commonly known and hereafter referred to as the “WIA”). The WIA provides assistance including retraining, counseling, testing, and placement assistance and other related support activities. This assistance is made available to employees through the appropriate State employment security agencies. Displaced employees are eligible only after being terminated or receiving a specific notice of separation. Special procedures are necessary to arrange the release of WIA funds in advance of the issuance of separation notices. (WIA provisions referenced in this Volume apply to similarly affected nonappropriated fund (NAF) employees.)

b. Eligible DoD employees may apply for WIA assistance upon receipt of a Certificate of Expected Separation (CES) as outlined in part 351.807(a) of title 5, Code of Federal Regulations (Reference (b)). Sample CES letters are provided in Appendixes 1 and 2. The DoD activities may issue a CES to an eligible employee only when a determination has been made that:

(1) There is a credible likelihood that the employee shall be separated by reduction in force (RIF);

(2) Employment/placement opportunities are limited or nonexistent for the same or similar positions at the employee’s own activity or at other Federal activities in the commuting area; and

(3) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated, in writing, intent to retire.

c. The CES must:

(1) Be addressed to the individual, eligible employee;

(2) Be signed by an appropriate activity official;

(3) Contain the expected date of RIF;

(4) Contain a statement that each factor in paragraph 1.b. of this enclosure has been satisfied; and,

(5) Contain a description of available WIA programs, the Reemployment Priority List (RPL), and the Interagency Career Transition Assistance Plan (ICTAP). The requirement to provide RPL and ICTAP information may be met by providing the employee a copy of the

benefits and entitlement information provided by the Civilian Personnel Management Service publication (Reference (c), commonly known as the DoD Displaced Employee Guide, or “DEG”).

d. A CES does not substitute for a specific RIF notice. The DoD activities may not use a CES to meet any of the RIF specific notice requirements. Furthermore, a CES does not establish eligibility for voluntary early or discontinued service retirement.

e. Installation commanders and activity heads or their designees shall contact the appropriate State employment services office(s) to insure the DoD employees receive WIA assistance at the earliest possible opportunity. The supporting human resources office shall provide employees information about and outline eligibility requirements for WIA.

f. Employees assigned to DoD installations approved for closure or realignment may apply for WIA assistance up to 24 months in advance of the effective date of the closure or realignment. Under these circumstances, no CES is required.

g. A CES may be issued to employees in surplus skill categories up to 6 months prior to the planned effective date of a RIF.

2. HIRING PREFERENCE FOR CERTAIN CONTRACTOR JOBS

a. In accordance with part 52.207-3 of the Federal Acquisition Regulation and subpart 222.71 of the Defense Federal Acquisition Regulation Supplement (References (d) and (e)), contractors retained to perform functional requirements within the Department of Defense must give affected, displaced employees the right of first refusal for their vacant positions under certain circumstances. Specifically, adversely affected DoD employees must be given this hiring preference when a function is converted to contract, or when the contractor is retained to prepare a DoD installation for closure or to maintain the installation after closure. Right of first refusal includes employees in the function who are converted to contract and employees outside the function who are adversely affected. The contractor must afford eligible and qualified DoD employees right of first refusal prior to hiring from any other source.

b. Employees permanently assigned to a closing installation are eligible for this preference only at that installation.

c. The appropriate ethics counsel should be consulted if employees subject to post-Government service employment restrictions are assigned to a position that may trigger such restrictions. Employees retiring under a voluntary early retirement authority and/or receiving a voluntary separation incentive payment (buyout) are also ineligible for this hiring preference.

d. Questions regarding post-Government service employment restrictions should be referred to appropriate legal counsel. Otherwise, employee inquiries, particularly those related to early retirement and buyouts, should be referred to the appropriate supporting human resources office.

e. Supporting human resources offices shall provide the contracting officer with a list of adversely affected employees as soon as possible after the performance decision is made. The contracting officer shall provide the contractor a list of all civilian employees scheduled to be adversely affected or separated as a result of the contract. The supporting human resources office shall also verify the employee's right to hiring preference upon the employee's request.

f. The employee is responsible for preparing and submitting an application for a specific contractor vacancy. Questions concerning the exercise of this preference should be referred through the supporting human resources office to the appropriate contracting officer's technical representative. The contractor makes all final qualification determinations on employees eligible for this hiring preference.

3. FUNDS FOR OUTPLACEMENT ASSISTANCE

a. File B-226380 of the Decisions of the Comptroller General (Reference (f)) confirms that Federal agencies may authorize expending appropriated funds for outplacement assistance when this benefits the Department and the costs are reasonable. The basis for determining the assistance is a legitimate agency personnel administration requirement. Outplacement assistance is an integral part of the Civilian Assistance and Re-Employment (CARE) Program. Therefore, assistance may be provided, consistent with the Comptroller General decision, for:

- (1) Career transition training or remedial training;
- (2) Contractor placement services in which there is no job placement fee;
- (3) Administrative support such as use of computers, copiers, and other equipment; and,
- (4) Clerical support to prepare job applications or resumes.

b. Commanders, activity heads, and equivalent officials with authority to do so may authorize outplacement assistance as appropriate.

4. PROMPT RELEASE OF EMPLOYEES. Activities being closed or realigned shall not inhibit the recruitment, selection, or prompt release of activity employees for other Federal positions. When necessary, departing employees may be replaced with temporary or term appointees by detail of personnel from other activities or by temporary use of military personnel.

5. HUMAN RESOURCES SUPPORT FOR CARETAKER WORKFORCE. When a DoD activity is being closed, a supporting human resources office must be designated to provide personnel services to any caretaker or other residual workforce and to fulfill the duties and responsibilities associated with the CARE Program, especially the Priority Placement Program (PPP). Unless otherwise authorized by the DoD Component, the nearest DoD supporting human resources office, regardless of Component, shall assume these duties.

6. CAREER TRANSITION

a. General. Subpart G of part 330 of Reference (b) prescribes minimum criteria for agency career transition assistance plans and the ICTAP.

b. Defense Career Transition Assistance Plan (DCTAP)

(1) Subpart F of part 330 of Reference (b) requires Federal agencies to provide specific career transition services, procedures for selecting well-qualified surplus and displaced employees, and continued operation of agency RPLs. In part 330.601(c) of Reference (b), OPM recognized that the DoD PPP meets the second requirement and excluded the Department of Defense from the requirements of OPM regulations (parts 330.602(a)(2) and 330.604-330.609 of Reference (b)).

(2) To implement the remaining requirements, the DCTAP at Appendix 3 was developed to support the transition of displaced employees. This plan delineates the transition services each DoD Component must provide its affected employees and provides guidance for plan implementation.

c. ICTAP

(1) As described in subpart G of part 330 of Reference (b), the ICTAP is a special interagency transition assistance program specifically established for Federal employees affected by severe Federal downsizing. Through ICTAP, employees holding notices of RIF separation, or of proposed separation for declining a transfer of function or directed reassignment outside the local commuting area, receive special selection priority when applying for vacancies in other Federal agencies. A Federal activity is required to notify affected employees of this program at the time it issues a RIF notice, or a notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area. Detailed requirements of the ICTAP are provided in subpart G of part 330 of Reference (b).

(2) Each DoD activity must provide surplus employees with information regarding their eligibility for participation in ICTAP at the time it issues a RIF notice, or a notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area. This information is contained in subpart G of part 330 of Reference (b).

d. RPL. Displaced employees are eligible to register for priority employment consideration through the RPL as described in subpart B of part 330 of Reference (b) and Volume 330 of this Instruction. The RPL provides hiring priority at all DoD activities within the registrant commuting area. Eligible career employees are retained on the list for 2 years following the date of registration; eligible career-conditional employees are retained for 1 year. The DoD supporting human resources offices shall counsel eligible employees and ensure proper consideration of RPL registrants.

Appendixes

Sample CES: Appropriated Fund Employees

Sample CES: NAF Employees

DCTAP

APPENDIX 1 TO ENCLOSURE

SAMPLE CES: APPROPRIATED FUND EMPLOYEES

[DATE]

FROM: [COMMANDER/DESIGNEE]
TO: [EMPLOYEE'S NAME]

SUBJECT: Certificate of Expected Separation (CES)

As a result of continued restructuring and downsizing in the Department of Defense, you may be involuntarily separated by reduction in force (RIF) procedures on or about [ESTIMATED EFFECTIVE DATE]. At least 60 days before an adverse RIF action affects you, you shall receive a specific RIF notice providing you information regarding your position, the action to be taken, your retention standing, entitlements, job placement benefits, and other transition programs available to you.

Although no final decisions have been made, based on a review of your personnel records, we have determined that you will likely be separated by RIF. This CES establishes your eligibility to participate in retraining and readjustment programs and to receive placement assistance.

Because your employment opportunities in this area are very limited, you can use this certificate to register in job placement and career transition assistance programs. The attached Defense Displaced Employee Guide provides information on programs that will improve your opportunities for continued employment. The human resources office and the state employment security agency staff shall give you specific information on how and where to apply for assistance.

To enroll in any of these programs, you must have received this certificate or a notice of RIF separation. For more information, contact [NAME, PHONE NUMBER AND ADDRESS OF THE HUMAN RESOURCES OFFICIAL].

[SIGNATURE]

Attachment:
As stated

APPENDIX 2 TO ENCLOSURE

SAMPLE CES: NAF EMPLOYEES

[DATE]

FROM: [COMMANDER/DESIGNEE]
TO: [EMPLOYEE'S NAME]

SUBJECT: Certificate of Expected Separation (CES)

As a result of continued restructuring and downsizing in the Department of Defense, you may face a Business Based Action (BBA) on [ESTIMATED EFFECTIVE DATE]. At least 30 days before you are affected by a BBA, you shall receive a specific BBA notice giving you information on determinations made concerning your position, your retention standing, entitlements, job placement benefits, and other transition assistance programs available to you.

Although no final decisions have been made, based on a review of your personnel records, we have determined that you will likely be separated in accordance with the BBA. This CES establishes your eligibility to participate in retraining and readjustment programs and to receive placement assistance.

Because your employment opportunities in this area are very limited, you can use this certificate to register in job placement assistance programs. The human resources office and the state employment security agency staff shall give you specific information on how and where to apply for assistance. Programs that will improve your prospects for employment are:

a. Workforce Investment Act (WIA). The U.S. Department of Labor provides funding through the State for employees like you who may be facing separation. Various types of retraining and readjustment assistance such as counseling, placement assistance, testing, support services, and financial counseling are available to you.

b. Reemployment Priority List (RPL). Through the RPL, this activity gives priority hiring preference to its NAF employees separated by a BBA. Also, employees separated by a BBA may receive priority consideration for NAF jobs at other NAF activities in the local commuting area.

To enroll in any of these programs, you must be in receipt of this certificate (or a notice of the BBA separation action). For more information, contact [NAME, PHONE NUMBER AND ADDRESS OF THE HUMAN RESOURCES OFFICIAL].

[SIGNATURE]

Attachment:
As stated

APPENDIX 3 TO ENCLOSURE

DCTAP

1. This plan sets forth a framework for Component career transition assistance programs and complies with Office of Personnel Management regulations. Components may tailor their DCTAP to expand career transition opportunities for surplus and displaced employees but may not offer less than the minimum requirements of the DCTAP.
2. Career transition services shall be provided to all surplus and displaced employees, including those in the excepted service and the Senior Executive Service. Consistent with this, each Component shall identify and establish career transition assistance programs that assist these employees. Components shall coordinate with local, State, and other Federal employers and labor partners, as appropriate, to make career transition services available to all eligible employees. Consistent with the DCTAP, Component programs should address these services:
 - a. Skills assessment;
 - b. Assistance in developing resumes and resume transmittal cover letters;
 - c. Networking and interview techniques;
 - d. Career placement counseling, including a specific orientation session on the use of career transition services and program eligibility (e.g., DoD PPP, ICTAP, Component-specific transition assistance, private sector placement, and use of automated placement techniques including the Internet) as well as information on how to apply for vacancies under ICTAP, if applicable;
 - e. Retraining/remedial training opportunities, if applicable (e.g., WIA, basic educational skills, personal financial planning);
 - f. Administrative support (e.g., use of computers, facsimile machines, copiers, and other equipment);
 - g. Authorized absence from duty for job interviews and to permit employee use of services/facilities;
 - h. Post-separation use of transition services or facilities;
 - i. Training for employees, managers, supervisors, and union representatives on the use of available services;
 - j. Employee access to transition services and facilities, including employees in field offices and remote sites and those with disabilities;

- k. Availability of information on other Federal, State, and local assistance to support career transition for employees with disabilities;
- l. Role of assistance programs in providing services to affected employees; and
- m. Operation of the RPL.