

# CYBER EXCEPTED SERVICE

# Civilian Reduction in Force Guide



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## Introduction

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The Office of the DoD Chief Information Officer (DoD CIO), in partnership with the Office of the Under Secretary of Defense for Personnel & Readiness (USD(P&R)) is providing this guidance to implement procedures and practices specific to DoD Cyber Excepted Service (CES) civilian employees impacted by a reduction in force (RIF). This Guide is being implemented pending development of a formal Instruction for CES-designated Component organizations.

Section 1599f of Title 10, United States Code (U.S.C.) establishes the policies, procedures, responsibilities and delegations for programs in the CES. CES-related personnel matters addressed in the 3000 Volumes series of DoD Instruction 1400.25 are subject to the provisions of Title 5 and 10 of United States Code (U.S.C.) and Title 5 of Code of Federal Regulations (CFR). The information contained within this Guide will be updated as required to ensure compliance with regulatory requirements and changes in procedures.

### 1. Applicability

- a. This guidance applies to:
  - (1) Office of the Secretary of Defense (OSD), the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff (OCJCS) and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense (IG DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD that employ individuals under the CES (referred to collectively in this issuance as the "DoD Components").
  - (2) All personnel on excepted service appointments on CES-designated positions within the Department.
  - (3) Members of the Defense Senior Executive Service (SES) only insofar as they make RIF decisions or perform other similar managerial functions with respect to RIF.
- b. Does not apply to:
  - (1) Employees covered by the Defense Civilian Intelligence Personnel System; the Federal Wage System, or equivalent; non-appropriated fund employees; competitive service employees; other excepted service and foreign national employees employed under authority other than the CES.
  - (2) Employees in CES-designated cyber positions who declined the voluntary opportunity to convert to the CES.
  - (3) Employees in cyber positions that are not CES-designated.
  - (4) Employees in the SES, senior level, scientific and professional, and equivalent positions.



## 2. Policy

- a. The order of retention when a reduction in the CES civilian workforce is necessary, will be in accordance (IAW) with Section 1597 of Title 10, U.S.C. and part 351 of Title 5, CFR. Unless identified in this guidance, DoD Components will refer to DoDI 1400.25, Volume 351, "DoD Civilian Personnel Management System: Reduction in Force," for general guidance for RIF of civilian personnel.
- b. As prescribed in DoDI 1400.25, Volume 351, the determination as to which employees will be separated from employment must be made primarily on the basis of performance. Consideration will also be given to employee's tenure group, veterans' preference, and years of service.
- c. Implementation of any RIF for CES civilian positions will be determined under any applicable performance management system.
- d. To prevent or mitigate the size of RIF, DoD Components will consider and employ every reasonable available option to include:
  - (1) Advanced resource and workforce planning.
  - (2) Job change or retention to include placement assistance and referral programs within and outside the DoD Component.
  - (3) Use of Voluntary Early Retirement Authority (VERA) and Voluntary Separation Incentive Pay (VSIP).
  - (4) Hiring freezes.
  - (5) Termination of employees on temporary appointments.
  - (6) Management-directed reassignments.
  - (7) Reduction in work hours.
  - (8) Curtailment of discretionary spending.

## 3. Responsibilities

- a. DoD CIO in conjunction with the USD(P&R) will support the development of civilian personnel policy covered by this Guide and monitor its execution by DoD Components, ensuring consistent implementation and continuous application throughout the DoD.
- b. DoD Components heads:
  - (1) Assess the need for a RIF within their respective DoD Components based on mission and budget priorities and organizational effectiveness.
  - (2) Administer RIFs IAW with this Guide.
- c. CES Supervisors and Managers will:
  - (1) Actively support this Guide and comply with provisions contained herein.
  - (2) Keep subordinates informed of the provisions of this Guide.



- (3) Counsel employees concerning RIF and resources for career development and training opportunities.
- d. CES Employees will:
  - (1) Stay informed on the provisions of this Guide.
  - (2) Ensure that official personnel records and any other supporting documentation are accurately reflected, (e.g., work experience, veterans' preference, education, training, certifications, performance ratings and awards).
  - (3) Notify the local HRO of any errors in the official personnel record.
  - (4) Notify the local HRO and supervisor in writing of the intent to exercise their appeal rights.

## 4. Component Supplemental Guidance

- a. DoD Components are authorized and encouraged to develop and issue supplemental guidance that align to the provisions specified in the 3000 Volume series of DoD Instruction 1400.25 and this Guide. To eliminate redundancy and foster expediency, it is recommended that DoD Components only develop supplemental guidance for areas that require local organizations to administratively carry out facilitation where a DoD civilian CES RIF is exercised.
- b. Components will, at minimum, establish supplemental guidance to the extent it further defines applicability of the intent for internal tracking and documenting of Order of Retention for participating employees. This supplemental guidance will be IAW required documentation of the assignment (e.g., all required agreements/statements of understanding; personnel actions and documents as required for auditing purposes; exceptions granted, appeal requests and outcomes).
- c. Components will comply with applicable labor relations obligations in connection with RIFs, consistent with current Federal and DoD guidelines.

## 5. Approval and Coordination of RIFs and Notification to Congress

- a. Assessment and implementation of any DoD CES RIF will be performed by the DoD Component Head to determine the need, impact on positions covered by DoD CES, and the DoD civilians assigned to these covered positions.
- b. Any finalized assessment and implementation plan for a RIF performed in the DoD of CES civilian employees will be submitted through the DoD Component Head to the DoD CIO for approval no later than 120 days prior to the planned RIF effective date. The request to the DoD CIO to conduct a RIF must include:



- (1) The competitive area(s) that will be affected.
  - (2) The reason for the planned RIF.
  - (3) The criteria and method used to support the force-structure decision.
  - (4) The number of personnel, listed by occupation, work category, work level, and DoD Cyberspace Workforce Framework (DCWF) work role who will be affected by the action.
  - (5) The RIF planned effective date.
  - (6) The anticipated dates for issuing employee notifications, e.g., Certificate of Expected Separation, "General Notice", individual employee specific RIF notice.
  - (7) A summary of the actions taken to mitigate the need for or size of the RIF (refer to paragraph 2.d. of this Guide), and the effects achieved by these actions.
  - (8) The funding impact of the action.
  - (9) The draft congressional notification letter as required by paragraph 5.c. of this Guide.
- c. IAW Section 1597 of Title 10, U.S.C, DoD Components must submit a report to Congress 45 days prior to implementing an approved RIF. DoD Components will coordinate the proposed report to Congress with DoD CIO and USD(P&R) following the requirements described in DoDI 1400.25, Volume 351, paragraph 3.c. and 3.d.

## 6. Competitive Areas

Competitive areas will be established IAW Section 351.402 of Title 5, CFR.

## 7. Competitive Levels

Competitive levels will be established IAW Section 351.403 of Title 5, CFR.

## 8. Retention Registers

Retention registers will be established IAW with Sections 351.404 and 351.405 of Title 5, CFR, and DoDI 1400.25, Volume 351, paragraph 3.4.

## 9. Retention Factors

IAW DoDI 1400.25, Volume 351, competing employees must be listed on a retention register based on the performance rating of record, tenure group, average score, veterans' preference, and DoD service computation date-RIF (SCD-RIF) categories.

- a. Performance rating of record.
  - (1) Periods of assessed performance under CES will be IAW DoDI 1400.25, Volume 351, paragraph 3.3.a.



- (2) Modal rating's determination will be IAW DoDI 1400.25, Volume 351, paragraph 3.3.b.
- (3) The determination on an employee's performance rating of record will be made IAW DoDI 1400.25, Volume 351, paragraph 3.3.c.(1).
- b. Tenure Group  
 Tenure group determinations will be made IAW Section 351.502(b) of Title 5, CFR and DoDI 1400.25, Volume 351, paragraph 3.3.c(2).
- c. Average Score  
 An employee's average score will be determined IAW DoDI 1400.25, Volume 351, paragraph 3.3.c.(3).
- d. Veterans' Preference  
 Competing employees are placed in a veterans' preference subgroup IAW the definitions in Section 351.501(c) of Title 5, CFR and DoDI 1400.25, Volume 351, paragraph 3.3.c.(4).
- e. DoD SCD-RIF  
 The SCD-RIF includes all creditable service authorized by Section 351.503(a) and (b) of Title 5, CFR. IAW with DoDI 1400.25, Volume 351, paragraph 3.3.c.(5), DoD does **not** follow Section 351.504 of Title 5, CFR, which provides for granting additional retention service credit in RIF based on an employee's ratings of record.

## 10. Release from Competitive Level (Round One)

Components must apply the provisions in Part 351, Subpart F, of Title 5, CFR in conjunction with the procedures in DoDI 1400.25, Volume 351, paragraph 3.5.

## 11. Assignment Rights (Round Two)

- a. DoD Components must apply the provisions of Sections 351.702 and 351.703 of Title 5, CFR, when making qualifications determinations. DoD Manual (DoDM) 8140.03 should also be used when defining minimum requirements for positions that are coded with a DCWF work role.
- b. All CES employees in Tenure Groups I and II will be granted administrative assignment rights under the provisions of Section 351.705(a)(3), of Title 5, CFR.
- c. DoD Components may grant CES employees in Tenure Group III administrative assignment rights under the provisions of Section 351.705(a)(2) of Title 5, CFR. This decision must be documented and maintained as part of the RIF records.
- d. The provisions of DoDI 1400.25, Volume 351, paragraph 3.6. will be used when determining the assignment rights of CES employees. DoD RIF procedures do **not** apply the retreat process described in Part 351, of Title 5, CFR. There are only two types of potential





assignments rights to positions in different competitive levels: displacing an employee of lower retention standing, i.e., bumping another employee, or an offer to a vacant position.

- e. An employee in the excepted service does **not** have assignment rights to a position in the competitive service, or vice versa (Section 351.705(b)(5) and (b)(6) of Title 5, CFR).

## 12. Appeals and Corrective Action

Under the CES, all employees affected by a RIF, other than a reassignment, maintain the right to appeal to the Merit Systems Protection Board (MSPB) if they believe the process/procedures were not properly applied. Part 351, Subpart I, of Title 5, CFR, governs procedures for the appeal and correction of actions taken in a RIF.

## 13. Pay Rates/Applicable Grades

DoD Components will apply Section 351.701(e) and (f) of Title 5, CFR, in determining pay rates and applicable grades.

## 14. Notice to Employee

- a. DoD Components will comply with all notification provisions established in Part 351, Subpart H, of Title 5, CFR and DoDI 1400.25, V-351, paragraph 3.10.
- b. RIF notices will not be issued or made effective on or between December 15 and January 3. DoD Components with independent appointing authority (for their Components and their serviced activities) may authorize an exception if specific situations make delay inadvisable or available resources preclude delay.

## 15. Records

- a. DoD Components will comply with Section 351.505, Title 5, CFR. Notwithstanding Section 351.505 (c)(1) of Title 5, CFR, the completed RIF retention registers and service computation dates will be consistent with the procedures prescribed in DoDI 1400.25, Volume 351.
- b. Complete and accurate records relating to a RIF must be maintained for at least 2 years after the final action has been taken. Refer to the relevant DoD Component's records disposition schedule for specific retention periods.
- c. An employee who has received a specific RIF notice has the right to review any completed records used in the RIF action that was taken, or will be taken, against the employee. An employee who has not received a specific RIF notice has no right to review the retention list and related records.





## 16. Releasability

UNLIMITED. This guidance is approved for public release.

## References

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- a. Code of Federal Regulations, Title 5
- b. DoD Directive 1100.4, "Guidance for Manpower Management," February 12, 2005
- c. DoD Directive 5144.02, "DoD Chief Information Officer (DoD CIO)," November 21, 2014
- d. DoD Directive 8000.01, "Management of the Department of Defense Information Enterprise (DoD IE)," March 13, 2016
- e. DoD Directive 8140.01, "Cyberspace Workforce Management," October 5, 2020
- f. DoD Instruction 1400.25, Volume 351, "DoD Civilian Personnel Management System: Reduction in Force", June 24, 2021
- g. DoD Instruction 1400.25-V 431, "DoD Civilian Personnel Management System: Performance Management and Appraisal Program," January 10, 2022
- h. DoD Instruction 1400.25-V3001, "DoD Civilian Personnel Management System: Cyber Excepted Service Introduction," August 15, 2017
- i. DoD Instruction 1400.25-V3005, "DoD Civilian Personnel Management System: Cyber Excepted Service Employment and Placement," August 15, 2017
- j. DoD Instruction 1400.25-V3006, "DoD Civilian Personnel Management System: Cyber Excepted Service Compensation Administration," October 1, 2024
- k. DoD Instruction 1400.25-V3007, "DoD Civilian Personnel Management System: Cyber Excepted Service Occupational Structure," August 15, 2017
- l. DoD Manual 8140.03, "Cyberspace Workforce Qualification and Management Program," February 15, 2023
- m. United States Code, Title 5, Section 5102(c)(11)
- n. United States Code, Title 5
- o. United States Code, Title 10



## Appendix A: Abbreviations and Acronyms

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CES	Cyber Excepted Service
CFR	Code of Federal Regulations
DCWF	DoD Cyberspace Workforce Framework
DoD CIO	DoD Chief Information Officer
DoDD	DoD Directive
DoDI	DoD Instruction
DoDM	DoD Manual
HRO	Human Resources Office
IAW	In accordance with
IG DoD	Inspector General of the Department of Defense
MSPB	Merit Systems Protection Board
OCJCS	Office of the Chairman of the Joint Chiefs of Staff
OSD	Office of the Secretary of Defense
RIF	Reduction in force
SCD-RIF	Service computation date – reduction in force
SES	Senior Executive Service
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel & Readiness
VERA	Voluntary Early Retirement Authority
VSIP	Voluntary Separation Incentive Pay



## Appendix B: Definitions

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**Bumping.** The assignment of an employee to a position in a different competitive level that is held by another employee with a lower retention standing.

**Competing employee.** As defined in Section 351.203 of Title 5, CFR.

**Competitive area.** The organizational entities and geographic locations in which employees compete in a RIF.

**Competitive level.** All positions in a competitive area that are in the same grade (or occupational level) and classification series, and that are similar enough in duties, qualification requirements, pay schedules, and working conditions such that an agency may reassign the incumbent of one position to any of the other positions in the competitive level without undue interruption.

**Excepted service.** Consists of those civil service positions which are not in the competitive service IAW with Section 2103 of Title 5, U.S.C.

**Independent appointing authority.** Component/official delegated the authority to take final action on matters pertaining to the employment, direction, and general administration of personnel.

**Modal rating.** The rating of record most frequently given among the actual ratings of record, given to employees within the same competitive area, for the appropriate rating cycle or cycles.

**Personnel Action.** An action that affects an employee's compensation, appointment, promotion, demotion, transfer, work assignment, separation or other personnel changes.

**Preference eligible.** A veteran, disabled veteran, sole survivor veteran, spouse, widow, widower, or parent who meets the definition of "preference eligible" in Section 2108(3) of Title 5, U.S.C.

**Reduction in force.** A downsizing method that involves use of defined retention status and assignment rights to move or release employees from the workforce because of lack of work or funds, abolition of position or agency, or cuts in personnel authorizations.

**Retention register.** A rank-ordering of employees in the competitive area resulting from application of the retention factors. Employees are listed on the retention register in the order of the employee's relative retention standing. For example, the employee with the highest standing is at the top of the register, and the employee with the lowest standing is at the bottom of the register.

**Retention standing.** An employee's relative standing on a retention register based on the rating of record, tenure group, average score, veterans' preference, and DoD SCD-RIF.



**Tenure.** The period of time employees may reasonably expect to serve under their current appointment. It is granted and governed by the type of appointment under which an employee is currently serving without regard to whether the employee has a competitive status or whether the appointment is in a competitive service or in an excepted service position.

**Tenure groups.** Categories of employees ranked in priority order for retention during RIF. Tenure group definitions in the excepted service are:

- a. Tenure 0 - Employees who are not in tenure groups I, II or III
- b. Tenure I - Employees whose appointments carry no restrictions or conditions such as conditional, indefinite, specific time limitation, or trial/probationary period.
- c. Tenure II - Employees who are serving trial/probationary periods and employees whose tenure is equivalent to career conditional tenure in the competitive service in agencies that use that type of appointment system.
- d. Tenure III - Employees who:
  - (1) are serving under indefinite appointments, that is, appointments without specific time limitation but not actually (or potentially) permanent; or
  - (2) are serving under appointments with specific time limitations of more than one year; or
  - (3) though currently under appointments limited to one year or less, complete one year of current, continuous service.

**Undue interruption.** A degree of interruption that would prevent the completion of the required optimum quality or quantity of work within a reasonable period (i.e., 90 days) after the employee has been placed in a different position.

**Veterans' preference.** Defined in Section 2108 of Title 5, U.S.C.

**Veterans' preference subgroup.** Competing employees are placed in a veterans' preference subgroup IAW the definitions in 5 CFR 351.501(c). The three veterans' preference subgroups are:

- a. **Subgroup AD.** Includes each preference eligible employee who has a compensable service-connected disability of 30 percent or more.
- b. **Subgroup A.** Includes each preference eligible employee not included in subgroup AD. A veteran who is eligible for preferential status but not eligible for placement in Subgroup AD (disabled less than 30%).
- c. **Subgroup B.** An employee not eligible for Subgroup AD or A. Subgroup B includes each non-preference eligible employee.

**Work role.** Defined in DoDD 8140.01.



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