

MEMORANDUM OF AGREEMENT

This agreement is made and entered into by and between the Oak Ridge Field Office and the Office of Scientific and Technical Information, U.S. Department of Energy and the Office and Professional Employees International Union Local No. 268. Upon completion of negotiations, this memorandum of agreement will be incorporated into the finalized negotiated agreement.

Effective upon signing, Part II, Article 20 of the negotiated agreement between the United States Department of Energy's Oak Ridge Field Office and the Office of Scientific and Technical Information and the Office and Professional Employees International Union, Local no. 268, AFL, CIO is amended to read as follows:

ARTICLE 20 RIF AND TRANSFER OF FUNCTION

SECTION 1 REDUCTION IN FORCE

A. Definition

A *Reduction in Force (RIF)* occurs when the Employer must release employees from their competitive levels by separation, demotion, furlough, for more than 30 days, or reassignment requiring displacement, and such action is due to lack of work or funds, reorganization, reclassification due to change in duties, or the need to make a place for a person exercising reemployment rights.

Assignment rights will be determined in accordance with the provisions of 5 CFR 351, Subpart G.

Bumping means displacing an employee in the same competitive area who is in a lower tenure group, or in a lower subgroup within the released employee's own tenure group. Although the released employee must be qualified for the position, it may be a position that he or she has never held.

Retreating means displacing an employee in the same competitive area who has less service within the released employee's own tenure group and subgroup. The positions may be up to five grades (or grade intervals) lower than the position held by the released employee if he or she is in the same subgroup. The position into which the employee is retreating must also be the same position (or an essentially identical position) previously held by the released employee in any Federal agency on a permanent basis.

B. Applicable Regulations

RIF actions will be accomplished in accordance with OPM, and DOE-wide regulations.

C. Notification to the Union

1. When the employer initiates reduction-in-force planning, the Union will be notified. The Managers of ORO and OSTI or their designees will meet with the Union Shop chairman and the Union chief steward weekly to discuss any changes in the planning of the RIF.

2. When the Employer has determined that a reduction in force will be necessary, the Union will be notified at least 30 calendar days prior to the date when reduction-in-force notices are to be given to the employee(s). This 30-calendar day notice period will be abrogated only when the Employer has not received information which makes the RIF necessary in time to provide this notice and when a delay in the effective date would result in more employees being adversely affected by the RIF.

3. This notification will be in writing and will include the following information:

- a. Reason for the RIF;
- b. Approximate number of employees that will be affected initially;
- c. Competitive areas and levels that may be involved initially in a RIF;
- d. Anticipated effective date that action will be taken.

4. Information on the exact positions to be abolished will be provided to the Union by the Principal Management Contact as soon as this information is available to the Contact but, in any case, prior to the commencement of any bump and retreat exercise. This information will include a list of ORO and OSTI positions to be abolished, the position description numbers, the position titles, and the organizations to which the positions are assigned.

5. The Employer will provide OPEIU with two copies of the applicable master retention list(s) and the final retention register(s) prior to the conduct of a RIF and with updated information concerning the RIF (such as additional positions affected, revised implementation dates, etc.), as soon as such information is available, but in any case prior to delivery of RIF notices. All information supplied to the Union for ORO and OSTI employees will be prepared and presented in the same format/manner. OPEIU recognizes that retention registers contain confidential information and hereby agrees that said confidential information will be used solely for the purpose of representational duties and responsibilities and will not be released or disclosed except for purposes related to representational duties and responsibilities.

6. Prior to the issuance of RIF notices, the Employer will provide OPEIU with a list of all bump and retreat actions taken and a list of all employees who will leave the payroll. OPEIU recognizes that such information is confidential and will use it solely for the purpose of representational duties and responsibilities and will not release copies of or disclose information contained in the list except for the purposes related to representational duties and responsibilities.

7. Six months after a RIF, the Employer will provide OPEIU with a report containing the numbers and series of employees rehired by the Employer, including all new employees. Thereafter, the Employer will provide OPEIU with a copy of the annual CTAP report.

8. The Union shall be notified as to the number of vacant positions that the Employer has authorized for staffing when a RIF has become necessary.

9. The Union will be provided a copy of (1) the most recent ORO and OSTI program direction budget submission for the current fiscal year, and access to (2) the complete ORO/OSTI budget (3) congressional reports and bills for the current fiscal year appropriations applicable to the Department of Energy, and (4) future year's ORO and OSTI program direction budget submissions which are available for release (which are not considered embargoed information).

D. Negotiations on Impact and Procedures

The parties will meet at the request of either party to bargain on negotiable aspects of the procedures used to carry out a RIF and on appropriate arrangements for the employees adversely. If impasses arise during such negotiations, they may be referred to the FSIP for resolution. Disputes over the negotiability of a specific proposal may be referred to the FLRA.

1. The Employer agrees to attempt to avoid, or minimize the impact of, a RIF by taking actions which would include, but not be limited to, the following:

a) Use attrition to accomplish staff reductions and other means of cutting costs to the extent possible before conducting a RIF;

b) Prior to effecting the RIF, the Employer shall eliminate immediately all recruitment efforts and place qualified employees otherwise to be separated by RIF in vacant positions in the competitive area, provided there is a current need and ability to fill such vacant positions as determined by the Employer;

- c) Restrict non-career ladder promotions to the extent possible;
- d) Whenever applicable, conduct a cost study to determine whether less costly alternatives to a RIF are available, specifically:

- i. Instituting a furlough;
- ii. Conducting a retraining program;
- iii. Significantly reducing travel cost;
- iv. Significantly reducing training cost;
- v. Significantly reducing other miscellaneous expenditures.

Before the initiation of this study, the OPEIU will be consulted as to methodology of the study. A copy of the study will be provided to the OPEIU within three days of its completion. The OPEIU will be afforded an opportunity to comment on this study when a determination has been made that a RIF is necessary.

2. The Employer will submit a request for early out authority from OPM through DOE Headquarters. This request will be made as soon as possible but no later than 15 days after the RIF planning has begun.

3. If Voluntary Separation Incentives (VSI) are available through legislation, the Employer will offer a VSI to all employees who meet the criteria mandated in the authorizing legislation and the approved DOE plan. The number of buyouts offered and approved will be based on funds availability, cost savings from VSI, and mission, program, and skill mix requirements. Based on those same factors, the Employer will consider granting requests from employees in a position not eligible for a VSI for a transfer to a qualified position in order to take advantage of the VSI. When considering the request, the Employer will determine if the non-eligible position could be filled by another ORO/OSTI employee who is qualified for the position or could become qualified within a reasonable period. When time permits, notice will be sent out to all employees to request qualified applicants to voluntarily backfill the position to be vacated. Any costs associated with the employee becoming qualified will be taken into consideration when evaluating the VSI cost savings of the incumbent. If there are more qualified employees desiring a VSI than the number available, then the VSI will be awarded to the senior persons based on service computation date adjusted by one year for each \$1,000.00 in cost savings. Receipt of a RIF notice does not disqualify an employee from being approved for a buy out.

4. An employee may withdraw his/her resignation or retirement application, including under a VSI, at any time before it has become effective. The Employer may decline a request to withdraw such application before its effective date *only* when the Employer has a valid reason and explains that reason to the employee. A valid reason includes, but is not limited to, administrative disruption or the hiring or commitment to hire a replacement. Avoidance of adverse action proceedings is not a valid reason.

5. When any bargaining unit employee is tied in retention standing with another employee, e.g., two employees in the same subgroup have the same service computation date, and one or more but not all tied employees must be released from the competitive level, the employer shall first ask for volunteers. If there are no volunteers, the tie will be broken on the basis of:

- a. Length of DOE service, and if a tie remains,
- b. Time within grade, and if a tie remains,
- c. By lottery (OPEIU will conduct, with management and affected employees present).

6. An employee who has been offered a position due to a RIF or transfer of function will be given seven calendar days to accept or reject the offer.

7. Employees who are RIFFED while in an approved training class will be reimbursed upon successful completion of the class as described in DOE Orders.

8. If the work or a portion of a RIFFED employee's work is to be transferred to another employee, the Employer will provide the Union with all information related to the transfer of such work and will bargain with the Union on appropriate arrangements for employees impacted by the transfer of the work. The Parties agree to meet and discuss within 10 days from the date the Union is notified of the proposed transfer of work.

9. When the determination is made that a function assigned to a position to be abolished will be incorporated into an existing contract, Management will negotiate with the contractor regarding (1) the number of additional positions required to perform the work, if any, and (2) arrangements for "first refusal" options for displaced federal employees. Prior to adding any work to an existing contract, Management will provide the Union with details as to the scope of work and the number of positions affected.

E. CAREER TRANSITION ASSISTANCE PROGRAM

1. If a reduction in force becomes necessary, the Employer will conduct a diligent placement assistance program in accordance with the DOE Career Transition and Assistance Program, both inside and outside the Department, which shall be available to all employees to be adversely affected in the RIF.

2. The personnel office will provide technical advice to employees on resume and application preparation upon request.

3. The Employer agrees to grant administrative leave to employees who receive a RIF notice for the purpose of counseling, job search, resume preparation or time spent at the out placement center.

4. ORO/OSTI agree that relocation of employees covered under the bargaining agreement who are RIFFED is in the best interest of the government.

5. ORO/OSTI agree to provide a listing of the positions held with dates in each position for each RIFFED bargaining unit employee. In addition, ORO/OSTI agree to provide the Union with a list of all DOE prime contractors along with a human resources contact for each.

6. A copy of the Priority Placement and Career Transition and Assistance (CTAP) Manual will be provided to all bargaining unit employees.

7. The Union and Management will jointly develop and present one or more workshops on the CTAP Program for all interested employees within 120 days after signing this agreement. In addition, all bargaining unit employees who have received a Notice of Separation through RIF will be given the opportunity to attend another joint workshop on CTAP

8. Employees in receipt of a Notice of Separation through RIF will be provided with current toll-free and other telephone numbers to access employment information. During the RIF planning process, all employees will be notified about access to current job listings and pertinent telephone numbers and/or WEB sites as part of the RIF communication process.

9. When current or former bargaining unit applicants have been determined well qualified under CTAP Provisions for a position, ORO/OSTI will make job offers as follows:

1. Current or former bargaining unit applicants from the local commuting area based upon highest retention standing with ORO/OSTI.

2. Current or former bargaining unit applicants from outside the local commuting area based on highest retention standing with ORO/OSTI.

3. Former U.S. government employees from the local commuting area based on highest retention

standing with the U. S. government.

4. Former U. S. government employees from outside the local commuting area based on highest retention standing with the U.S. government.

10. If a current or former bargaining unit employee is deemed not well qualified as defined in the Priority Placement and Career Transition Assistance Program policy, a written justification will be given to the applicant.

11. The parties accept the Priority Placement and Career Transition Assistance Program dated August 20, 1997 as a part of this Agreement.

F. Retraining

1. The Employer will offer formal position and occupational training to employees adversely impacted by a RIF in accordance with the provisions of the CTAP and this agreement.

2. The Employer agrees to give consideration to the temporary assignment of adversely affected employees, based on highest retention standing, to other available positions within the unit for retraining purposes. Permanent assignment to such a position would depend on the employee attaining a "meets expectations" rating during the period of temporary reassignment not to exceed 120 calendar days. An *adversely affected employee* for the purpose of this section is defined as an employee who is to be involuntarily separated, furloughed, or reduced in grade or pay. It is understood that this does not apply to disciplinary actions or to actions based on performance.

SECTION 2 TRANSFER OF FUNCTION

A. Definition

A *transfer of function* is defined as the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, or a movement of the competitive area in which the function is performed to a different commuting area. When an employee's work transfers, he or she is entitled to transfer with it if lack of an opportunity to do so would result in his or her demotion or separation.

B. Identification of Positions

1. Management will make a good faith effort to place bargaining unit employees who do not want to transfer into vacant positions which will preserve their current career ladder opportunities.

2. If an employee's position is identified for transfer and the employee does not want to transfer, Management will request volunteers for the transfer. If qualified for the volunteer's position, the originally identified employee will be placed in the position vacated by the volunteer.

3. If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area will give preference to the volunteers with the highest retention standing.

C. Placement Assistance

1. The Employer will conduct a diligent placement assistance program, both inside and outside the Department, for bargaining unit employees who do not accept transfer and who are separated for failure to transfer. This assistance will continue until the employee accepts other employment or until one year from the date of separation, whichever is earlier.

2. Under OPM guidelines, employees who are separated for failure to transfer with their position may not be placed on the reemployment priority list.

SECTION 3 UNION'S ROLE IN ACCOMPLISHMENT OF AGENCY MISSION

The Employer recognizes the efforts of Union representatives as important in promoting a quality workplace and the Union representatives' role in assisting the Employer in the accomplishment of its mission. To assure that bargaining unit employees have sufficient representation, the Employer will make a temporary exception under 5 CFR 351.608 to extend the Shop Chairman's and the Chief Steward's separation date 60 days beyond the effective date of the reduction in force. Decisions as to the number of additional stewards to be retained in order to provide adequate representation for impacted employees will be made jointly by the Shop Chairman and the Principal Management Contact. The temporary retention of a steward shall not adversely affect the rights of any higher standing employee who is released ahead of a steward with lower retention standing. Stewards will balance official time with the duties of their positions of record during the extended time in accordance with the provisions of Article 8.

FOR: Department of Energy

FOR: Office and Professional Employees

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