



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

MEMORANDUM

TO: Heads and Acting Heads of Departments and Agencies
FROM: Charles Ezell, Acting Director, U.S. Office of Personnel Management
DATE: March 12, 2025
RE: Guidance on Collective Bargaining in Connection with RIFs

On February 26, 2025, the U.S. Office of Management and Budget (OMB) and U.S. Office of Personnel Management (OPM) issued [guidance](#) for agencies on Agency Reduction-in-Force (RIF) and Reorganization Plans (ARRPs).¹ This memorandum provides collective bargaining guidance to agencies engaged in RIFs.

I. Collective Bargaining

Under the Federal Service Labor-Management Relation Statute (FSLMRS), each agency has the right to determine whether to conduct a RIF and exercise its discretion in determining which positions will be abolished or retained.²

Because government-wide regulations prescribe a detailed, comprehensive process for agencies to follow when conducting a RIF,³ the scope of collective bargaining should be limited to procedures and appropriate arrangement that do not run afoul of these regulations.⁴ Additionally, federal sector collective bargaining agreements (CBAs) often contain comprehensive RIF articles that may obviate an agency's obligation to further collective bargaining.

Thus, each agency should conduct a comprehensive review of their CBAs to determine how to fulfill their labor obligations and incorporate those activities into their planning processes. In addition, they should review all CBAs to determine whether and to what extent RIFs are covered by their CBAs. To the extent that such matters are contained in or covered by an existing CBA

¹ See Exec. Order No. 14210, 90 Fed. Reg. 9669 (Feb. 14, 2025).

² 5 U.S.C. 7106(a)(2)(A); *AFGE Local 1827*, 58 FLRA 344, 345 (2003).

³ 5 C.F.R. Part 351. OPM notes that some federal agencies retain separate statutory authority for conducting RIF-like processes, and these differences might impact collective bargaining.

⁴ 5 U.S.C. 7117(a); *Am. Fed'n of Gov't Emps., Local 32, v. FLRA*, 110 F.3d 810, 816 (D.C. Cir. 1997) (*Local 32*) (the combination of 5 U.S.C. 7117(a)(1) and OPM's RIF regulations narrow the scope of bargaining).

between the parties, an agency may not be obligated to bargain on such matters again.⁵

Any CBA provisions that are inconsistent with OPM regulations⁶ or that excessively interfere with management's rights to "determine the organization" and the "number of employees" of the agency, as well as "layoff, and retain employees in the agency" are unenforceable.⁷ To the extent any union proposals concern certain aspects of a RIF that are not covered by a government-wide regulation or a CBA and on which the agency has discretion on implementation, agencies may have a duty to bargain over these proposals. For example, negotiable proposals may include such matters as:

- Requiring an agency to provide impacted bargaining unit employees advance notice before implementing a RIF.⁸
- Giving hiring preferences to qualified employees.⁹
- Providing training to help impacted employees meet requirements of a new position.¹⁰
- Granting preference for a return to specific locations or positions.¹¹

II. Information Requests Regarding RIFs

The FSLMRS permits a labor union to request and management to provide information concerning a RIF, so long as the union articulates a particularized need for the requested information. 5 U.S.C. 7114(b)(4).¹² To establish a particularized need, a union must articulate with specificity why it needs the requested information, including the uses to which the union will put the information and the connection between those uses and the union's representational responsibilities under the FSLMRS.¹³ Satisfying this burden requires more than conclusory or bare assertions. It is not satisfied merely by showing that the requested information would be relevant or useful. Rather, the union must articulate its need for all information requested. General efforts to "ensur[e] compliance with Merit System Principles," "monitor contract compliance," "address bargaining unit . . . concerns," represent employees in "further legal actions," and otherwise audit

⁵ See *HHS*, 47 FLRA 1004 (1993).

⁶ 5 U.S.C. 7117(a)(1); *Local 32*, 110 F.3d at 816.

⁷ See *CFPB 335*, 73 FLRA 670, 675-76 (2023).

⁸ See *Fed. Educ. Ass'n*, 73 FLRA. 262 (2022).

⁹ See *Nat'l Ass'n of Gov't Emps., Local R1-203*, 55 FLRA 1081 (1999); *Dep't of Defense Fort Bragg Dependents Schools*, 49 FLRA 333 (1994).

¹⁰ See *Bremerton Metal Trades Ass'n.*, 32 FLRA 643 (1988).

¹¹ See *Nat'l. Ass'n of Gov't Emps., Local R14-87*, 21 FLRA 380 (1986).

¹² See e.g. *Dep't of the Air Force*, DE-CA-07-0059, 2007 WL 5174925 (FLRA 2007) (right to mock RIF retention registers); *Library of Congress*, 63 FLRA 515 (2009) (studies and other materials used by the agency to determine whether to eliminate bargaining unit positions).

¹³ *IRS*, 50 FLRA 661 (1995).

management are insufficient to meet particularized need requirements.¹⁴

Additionally, agencies should ensure that they do not disclose information that constitutes guidance, advice, and counsel for management officials relating to collective bargaining.¹⁵ Examples of such information prohibited from disclosure include:

- courses of action agency management should take in negotiations with the union;
- how a provision of the collective bargaining agreement should be interpreted and applied;
- how a grievance or unfair labor practice charge should be handled; and
- other labor-management interactions which have an impact on the union's status as the exclusive representative.¹⁶

Agency labor relations staff should work with agency legal counsel on these issues. For additional information, agency-headquarters-level human resources offices may contact OPM at awr@opm.gov. Component-level human resources offices must contact their agency headquarters for assistance.

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, Human Resources Directors, and Chiefs of Staff.

¹⁴ See *Air Force Materiel Command*, 60 FLRA 791 (2005).

¹⁵ 5 U.S.C. 7114(b)(4)(C).

¹⁶ *NLRB v. FLRA*, 952 F.2d 523, 527 (D.C. Cir. 1992).