UNDER SECRETARY OF WAR
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

PERSONNEL AND
READINESS

SEP 30 2025

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP
COMMANDERS OF THE COMBATANT COMMANDS
DEPARTMENT OF WAR AGENCY AND DOW FIELD ACTIVITY DIRECTORS

SUBJECT: Separation of Employees with Unacceptable Performance

Supervisors and human resources (HR) professionals are directed to act with speed and conviction to facilitate the separation from Federal service of employees performing unsuccessfully. Subject to any collective bargaining obligations, all DoW Components must adhere to the processes for removal pursuant to chapter 75 of title 5, U.S.C., as set forth below. To accomplish this, I grant a 2-year exception to policy eliminating any additional requirements imposed by Department of Defense Instruction (DoDI) 1400.25, Volume 431, "DoD Civilian Personnel Management System: Performance Management and Appraisal Program," February 4, 2016, as amended. DoDI 1400.25, Volume 431, will be updated to reflect these requirements.

1. **Notice:** Supervisors will work with HR to issue the written notice of proposed removal detailing specific performance deficiencies and consistent failures of an employee to meet quality standards, deadlines, or productivity targets. HR, in coordination with the supporting legal office, has 10 calendar days to respond to the supervisor, providing advice on the sufficiency of the supporting documentation and further assistance, as needed. See Attachment 1 for criteria for unacceptable performance to substantiate removal, and Attachment 2 for an example of a proposal notice memorandum. This notice will be delivered to the employee.

2. **Response Opportunity:** The employee will be provided 7 calendar days to respond orally and/or in writing to the proposed notice, or as consistent with collective bargaining agreements. Employees can request copies of all materials relied upon and have the right to be represented, consistent with DoW Component procedures.

3. **Decision:** The deciding official, who shall be no more than two levels above the supervisor in the reporting chain or who may be outside of the rating chain, as designated, will review the detailed notice and the employee's response and deliver a written decision within 30 calendar days of the written notice of proposed removal. The deciding official will consider the *Douglas* factors and determine whether lesser penalties are appropriate. See Attachment 3 for an example decision memorandum. Decisions should be informed by rapid HR and legal coordination. Unlike removals pursuant to chapter 43 of title 5, U.S.C., performance improvement plans (also known as PIPs) are not required. Suspensions should not substitute for removal to the extent

removal is warranted. Supervisors must consider all past performance deficiencies and past corrective and/or disciplinary actions.

DoW Oversight

The Office of the Under Secretary of War for Personnel and Readiness (OUSW(P&R)) will support DoW Components by providing review for certain cases. If a deciding official fails to provide a final decision within the 30-calendar day window, HR shall, within 7 calendar days from the final decision, submit the case file in its possession directly to OUSW(P&R). Similarly, if a deciding official does not uphold the proposed removal, HR shall, within 7 calendar days of notification, submit the redacted case file to OUSW(P&R). OUSW(P&R) will review submitted cases for trends with timeliness delays and/or supporting documentation, and to assess potential supervisor and/or HR training needs. Case files shall be submitted through encrypted email to osd.pentagon.ousd-p-r.mbx.separation-review@mail.mil.

In addition, the Deputy Assistant Secretary of War for Civilian Personnel Policy (DASW(CPP)) will review the feasibility and impacts of centralizing HR Employee Relations functions related to disciplinary and adverse actions. This review will include identifying potential opportunities for efficiency and standardization within HR service providers related to disciplinary and adverse actions. The DASW(CPP) will provide recommendations to the Under Secretary of War for Personnel and Readiness within 120 days of this memorandum.

Additional Separation Tools

To facilitate efficient employee removals, once a notice of proposed removal has been issued to an employee for unacceptable performance the following may be offered to that employee, in conjunction with a standard termination agreement:

1. **Voluntary Separation Incentive Payments (VSIP).** Supervisors may offer VSIP, up to $25,000, provided funds for this purpose are available and the employee meets the eligibility requirements. Positions must be abolished or restructured in accordance with VSIP requirements. To accept a VSIP in lieu of removal, an employee will be required to sign a settlement agreement stating that the VSIP is voluntary and waiving all rights to challenge the VSIP or the removal action. OUSW(P&R) will provide implementing details to track VSIP utilized for these purposes.

2. **Voluntary Early Retirement Authority (VERA).** Supervisors may offer VERA to eligible employees who have been employed continuously within DoW for more than 30 days before the date on which the determination to conduct a reduction or restructuring within one or more DoW Components is approved. To accept a VERA in lieu of removal, an employee will be required to sign a settlement agreement stating that VERA is voluntary and waiving all rights to challenge the VERA or the removal action. OUSW(P&R) will provide implementing details to track VERA utilized for these purposes.

3. **Individualized Deferred Resignation Program (DRP).** Supervisors may offer an individualized DRP opportunity for up to 12 weeks, providing employees paid administrative leave in exchange for waiving any and all potential claims against the Department. See Attachment 4 for an example of a DRP Agreement.

Heads of DoW Components must hold managers at all levels accountable for addressing poor employee performance.

All labor obligations, if appropriate for select communities, must be satisfied prior to any changes in the conditions of employment of bargaining unit employees. Your servicing HR provider will be able to provide specifics as required.

Thank you again for your commitment to ensuring the Department meets the President's priority of accountability in our workforce.

Anthony J. Tata

Attachments:
As stated

Attachment 1: Criteria for Unacceptable Performance to Substantiate a Removal Under 5 U.S.C. § 7513

To justify removal under 5 U.S.C. § 7513, the unacceptable performance must demonstrate the removal promotes the efficiency of the service:

- **Substantial and Specific Deficiencies:**
  - The employee must have been notified that they were expected to perform a particular duty and the employee's performance was unacceptable in that duty. The measurement of the employee's unacceptable performance was accurate and reasonable. Examples include:
    - Consistent failure to meet deadlines, quality standards, or productivity targets.
    - Inability to perform key tasks (e.g., a financial analyst producing inaccurate reports, a program manager failing to oversee projects effectively).
    - Repeated errors or omissions that disrupt operations or harm agency objectives.
  - Minor or isolated performance issues (e.g., occasional mistakes) typically do not suffice unless they accumulate into a pattern of significant impact.
- **Impact on Efficiency of the Service:**
  - The unacceptable performance must negatively affect the Agency's ability to carry out its mission or operations.
  - This could include:
    - Delays in critical projects or services.
    - Increased workload or errors affecting colleagues or stakeholders.
    - Undermining public trust or agency reputation (e.g., poor customer service in public-facing roles).
  - The Agency must show a clear link between the employee's unacceptable performance and operational harm.
- **Documented Evidence:**
  - The Agency must provide specific, objective evidence of unacceptable performance, such as:
    - Performance evaluations or ratings (e.g., "Unacceptable" or "Needs Improvement" on critical elements).
    - Written complaints, incident reports, or work product reviews.
    - Supervisor notes or counseling records detailing deficiencies and feedback.
  - Vague or subjective claims (e.g., "poor attitude") are insufficient without concrete examples.

A common lens through which to evaluate removal is through the **Douglas Factors**. These are not a rigid checklist, and not all factors apply in every case. DoW evaluates those factors relevant to the specific situation, allowing flexibility to address performance issues swiftly and effectively. For example, a single serious incident impacting a mission-critical operation may justify removal. This approach empowers supervisors to act decisively when performance undermines DoW's objectives, reinforcing a culture of excellence. Supervisors are to use the Douglas Factors in consideration of their action.

Consideration when identifying and listing specific deficiencies should be given to the potential for appeal, and the examples provided above are illustrative only. Being provided these examples does not absolve supervisors of the requirement of working with HR and the Office of General Counsel to construct solid examples to support the proposed action.

The 12 Douglas Factors

Below are the 12 Douglas Factors with clear explanations and examples to illustrate their application. These factors underscore the importance of maintaining a workforce capable of meeting the demands of our critical mission.

1. **Nature and Seriousness of the Offense:**

    - DoW assesses how an employee's actions affect mission execution, prioritizing issues that disrupt operations.

    - Example: An HR Specialist's errors in processing soldier benefits delay critical support, impacting morale and readiness.

    - Focus: Even small lapses can accumulate to justify removal if they hinder DoW's efficiency.

2. **Employee's Role and Responsibilities:**

    - The expectations tied to an employee's position.

    - Example: A Logistics Specialist's failure to deliver supplies on time jeopardizes troop deployments, given their role's critical nature.

    - Focus: Every DoW position supports the mission, so deficiencies in any role can warrant strong action.

3. **Employee's Past Disciplinary Record (consistent with collective bargaining agreement requirements, if applicable):**

    - Past corrective actions indicate whether an employee has had opportunities to improve.

- Example: A Budget Analyst previously disciplined for inaccurate forecasts faces heightened scrutiny for ongoing errors.

- Focus: Any prior feedback that reinforced the need for accountability to protect DoW resources.

4. **Overall Work Record:**

   - An employee's service record is considered.

   - Example: An employee's recent maintenance failures are considered in light of their long-standing service and performance.

   - Focus: Current deficiencies that disrupt operations justify removal to meet DoW's immediate needs.

5. **Impact on Employee's Ability to Perform Duties:**

   - DoW evaluates whether the issue erodes trust in the employee's capacity to fulfill their role.

   - Example: An IT Specialist's repeated network outages undermine confidence in maintaining DoW's cybersecurity.

   - Focus: Loss of reliability in mission-critical tasks supports swift action to restore operational trust.

6. **Consistency with Past Disciplinary Actions:**

   - DoW seeks alignment with agency penalties and with similar cases to ensure fairness.

   - Example: Removing a Contracting Officer for flawed contract awards aligns with prior DoW actions for acquisition errors.

   - Focus: DoW's unique mission allows tailored responses, but consistency reinforces decisive accountability.

7. **Consistency with Table of Penalties:**

   - Action is consistent with applicable table of penalties.

   - Example: Removal of an attorney for providing inaccurate information during a proceeding that led to cost to the agency is consistent with like charges in the table of penalties.

   - Focus: DoW consistently applies expectations.

8. Notoriety and Impact:

- Issues that could damage DoW's credibility, internally or externally, are closely examined.
- Example: A Public Affairs Specialist's inaccurate communications risk misleading stakeholders, affecting DoW's public trust.
- Focus: Potential reputational harm, even within the organization, highlights the urgency of corrective action.

9. Clarity of Notice:

- DoW confirms employees were aware of their responsibilities through policies, training, or guidance.
- Example: A Security Officer's failure to follow access protocols after annual briefings shows non-compliance with clear standards.
- Focus: Established expectations support removal when employees fail to meet them.

10. Potential for Rehabilitation:

- DoW considers whether an employee can realistically correct their deficiencies.
- Example: A Maintenance Technician's ongoing repair errors after retraining suggest limited potential for improvement.
- Focus: Persistent issues signal the need for removal to safeguard resources, personnel, and mission outcomes.

11. Mitigating Circumstances:

- External factors (e.g., personal issues, lack of training) are reviewed.
- Example: An employee's personal challenges do not excuse repeated recordkeeping errors if adequate support was provided.
- Focus: DoW's mission demands consistent performance, so mitigating factors must strongly justify leniency.

12. Alternative Penalties:

- DoW explores options like suspension or demotion but prioritizes mission efficiency.

- Example: Removing an Engineer for unsafe designs is preferred if lesser measures risk ongoing safety threats.

- Focus: Removal is often the most effective solution to ensure immediate operational reliability.

Final decision and determination should consider the impact on DoW operations:

- The effect of an employee's performance on mission execution is a primary consideration.

- Example: A Financial Analyst's budget errors delaying program funding disrupt DoW's strategic objectives.

- Focus: Any operational disruption underscores the necessity of removal to maintain a ready workforce.

Attachment 2: Example of Notice of Proposed Removal

[**Letter Head**]

[insert date]

MEMORANDUM FOR: Ms. Jane A. Doe, Human Resources Specialist, GS-0201-09 G-1,
Civilian Personnel Division

SUBJECT: Notice of Proposed Removal for Unacceptable Performance Under 5 U.S.C. § 7513

1. Purpose: This is a notice of my proposal to remove you from your position as [Insert position title and grade], and from the Federal Service for unacceptable performance that fails to promote the efficiency of the service, pursuant to 5 U.S.C. § 7513.

2. Reasons for Proposed Removal: Over the past eight months, your performance has consistently fallen below the standards required for your position, as evidenced by repeated errors, missed deadlines, and failure to execute critical personnel actions. These deficiencies have disrupted [Component] operations, delayed mission support, and required excessive supervisory intervention. The following specifications support this action:

   a. Failure to Process Personnel Actions Accurately:

   - Between October 2024 and May 2025, you processed more than five personnel actions (e.g., promotions, reassignments) with significant errors, including incorrect pay grades, benefits codes, and effective dates.
   - These errors, documented in supervisory logs and error reports (Attachments 1–3), violate your performance plan's requirement to "ensure accurate and timely processing of personnel actions."

   b. Missed Deadlines for Recruitment Actions:

   - You failed to meet deadlines for submitting vacancy announcements on more than five occasions between January and April 2025, delaying recruitment for mission-critical positions. These delays caused staffing shortages.

3. Nexus to Efficiency of the Service: Your underperformance has significantly impaired the efficiency of the [Component's] mission at [location]. Inaccurate personnel actions led to financial losses and rework, delayed critical hires, and disrupted unit readiness. Inaccurate records caused audit failures and planning errors, undermining the [leader's] ability to support 45,000 personnel. Retaining you in this role would continue to harm operational effectiveness, as your errors require excessive supervisory resources and erode trust in HR services.

4. Prior Efforts to Address Performance:

- On October 15, 2024, you received written counseling from your supervisor, [________], outlining errors in personnel actions and providing guidance on DCPDS procedures (Attachment 6).
- On December 5, 2024, you completed a two-day training on "Accurate Personnel Processing" but showed no sustained improvement, as evidenced by continued errors.
- On February 10, 2025, you received a Letter of Reprimand for missed recruitment deadlines, with instructions to prioritize timeliness (Attachment 7).

5. Douglas Factors Analysis: The following factors were considered in determining the appropriateness of removal:

a. Past Disciplinary Record: You received a Letter of Reprimand on February 10, 2025, indicating prior attempts to correct behavior.
b. Past Work Record: Your three years of service show satisfactory performance until October 2024.
c. Effect on Job Performance: Your underperformance undermines confidence in HR operations and burdens colleagues with rework.
d. Consistency of Penalty: Removal aligns with agency penalties imposed on other HR specialists for similar errors.
e. Notoriety: Your errors have reduced the public's trust in the Federal hiring process and can dissuade individuals from applying to our positions.
f. Clarity of Standards: Performance expectations were clearly communicated via your position description, counseling, and action plan.
g. Potential for Rehabilitation: Despite training and feedback, you have not improved, suggesting limited potential for correction.
h. Mitigating Circumstances: No personal or medical issues were reported to explain your performance; adequate training was provided.
i. Alternative Sanctions: Lesser penalties (e.g., suspension, demotion) were considered but deemed insufficient, as your role requires precision and reliability.

Based on this analysis, allowing you to remain employed with continued performance deficiencies would further disrupt mission support and resources allocations. As such, your removal remains the appropriate penalty.

6. Proposed Action: Based on the severity of your underperformance, its impact on Army efficiency, and the Douglas Factors, I propose your removal from your position and the Federal Service, effective no earlier than 30 calendar days from your receipt of this notice.

7. Right to Reply:

- You have the right to reply to this proposal orally, in writing, or both, within seven calendar days from receipt of this notice. Submit your reply to Mr. John Smith, General Counsel, [address/location], or via email at john.smith.civ@mail.mil.
- You may furnish affidavits or other evidence to support your reply.

- You have the right to be represented by an attorney or other representative, such as a union official if you are in a recognized bargaining unit. If you choose representation, provide their contact information in your reply.

8. Access to Supporting Materials:
    - You may review the materials relied upon in this proposal (Attachments 1–8) by contacting, your supervisor, at [insert supervisor's email] or [insert supervisor's phone number]. Materials will be provided in compliance with 5 U.S.C. § 552a (Privacy Act).

9. Appeal Rights:
    - If effected, and you have the right to appeal to the MSPB and you wish to appeal this action to the MSPB, you must file an appeal within 30 calendar days after the effective date of the action, or 30 days after the date of your receipt of the decision notice, whichever is later. You may obtain a copy of the appeals form and information about the appeals process from the MSPB website at: http://www.mspb.gov/appeals/appeals.htm or contact your servicing Employee Relations Specialist at **<insert local HR contact name, phone number, and email address>**. <u>If your appeal is not submitted within the time set by statute, regulation, or order of a judge, it will be dismissed as untimely filed unless a good reason for the delay is shown. The judge will provide the appealing party an opportunity to show why the appeal should not be dismissed as untimely.</u>

    - Your appeal must be filed with the MSPB regional or field office serving the area of your duty station when the action was taken. Based upon your duty station, the appropriate regional or field office is **<insert regional/field office, mailing address, phone and fax numbers>**. The MSPB strongly encourages the use of electronic filing at: https://e-appeal.mspb.gov. You may wish to check the MSPB's website for its operating status during this time. Employees with appeal rights to the MSPB have a right to representation in this matter and may be represented by an attorney or other person of their choosing at no expense to the Government.

    - The MSPB will send an Acknowledgment Order and copy of your appeal to **<insert contact information including the official's mailing address, email address, telephone and fax number >**.

    - If you are a bargaining unit employee, you may grieve this action in accordance with the applicable negotiated agreement <**negotiated agreement citation**>, or you may appeal to the MSPB in accordance with the procedures outlined above, but not both. Your election to proceed under one process will be considered made when, in a timely manner you: file a grievance in writing; or file a notice of appeal, whichever event occurs first. To obtain information on filing a grievance under the negotiated grievance procedure, contact: <**name of exclusive union representative**>. If you believe the action was effected in a discriminatory manner and elect to proceed under the applicable negotiated agreement's grievance procedure, you may request MSPB review of the final decision on your grievance by filing an appeal with the MSPB within 35 days after the date of issuance of the decision, or within 30 days of receipt of the decision, whichever is later.

- If you believe this action was taken as reprisal for whistleblowing, you may elect to file a complaint with the MSPB: https://e-appeal.mspb.gov/, file a complaint with the Office of Special Counsel (OSC):https://osc.gov/, which can be followed by an Individual Right of Action appeal filed with the MSPB; or, if you are a bargaining unit employee, file a grievance in accordance with the applicable negotiated agreement. Your election to proceed under one process will be considered made when, in a timely manner you: file a complaint with the MSPB; file a complaint with OSC; or file a grievance in writing, whichever event occurs first.

- You have the right to file a complaint with your Equal Employment Opportunity (EEO) Office if you believe that this action was affected in a discriminatory manner. Information regarding the federal sector EEO process is available on the EEO Commission website at: http://eeoc.gov/federal/fed_employees/complaint_overview.cfm. You may contact your servicing EEO Office at **[insert EEO office contact information]**. The servicing EEO Office may send the Acknowledgment Order and copy of the appeal to **<insert local HR contact name, phone number, and email address>**. *[Note: Consult local collective bargaining agreements to determine if discriminatory matters are covered under the negotiated grievance procedure. If so covered, employees may use either the EEO complaint process or the negotiated grievance procedure, but not both.]*

10. Point of Contact: For questions, contact [Insert POC name, phone, email]

Sincerely,

/s/

Attachments:

1. Error Reports
2. Supervisory Logs
3. DCPDS Error Screenshots
4. Recruitment Tracking Reports
5. Audit Findings
6. Counseling Memo
7. Letter of Reprimand
8. Mid-Year Performance Review and Action Plan

Attachment 3: Example of Decision to Remove Memorandum

The following is an example of a decision letter, subject to local requirements:

Sample Memorandum

MEMORANDUM FOR:
Ms. Jane Doe
[Insert position title, grade][Insert address]

SUBJECT: Final Decision on Proposed Removal for Unacceptable Performance Under 5 U.S.C. § 7513

1. **Purpose:** This memorandum constitutes my final decision regarding the proposed removal from your position as a [insert position name] [insert position grade], and from the Federal Service, as outlined in the Notice of Proposed Removal dated June 2, 2025. After careful consideration of the proposal, your reply, and all relevant evidence, I have decided to sustain the proposed removal for unacceptable performance, effective July 7, 2025.

2. Review of Proposed Action: The Notice of Proposed Removal, issued by[insert supervisor's name], cited your unacceptable performance over seven months, including frequent errors in supply data management, delays in processing distribution orders, and inadequate coordination with DoW customers. The notice detailed prior efforts to address your performance, none of which resulted in sustained improvement. The proposed removal was based on these performance failures and their impact on the efficiency of the service, as analyzed through the Douglas Factors.

3. Consideration of Your Reply:

a. You submitted a written reply on June 9, 2025, and an oral reply on June 10, 2025, through your designated representative, [insert representative's name], a union official. In your reply, you argued that: (1) the performance standards were unclear, (2) you were not given sufficient training, (3) workload pressures contributed to delays, and (4) mitigating personal circumstances affected your performance.

b. I carefully reviewed your arguments and supporting documentation (e.g., your statement and emails from colleagues). However, I find removal to be appropriate:

- **Clarity of Standards:** Your position description, mid-year performance review, and counseling memos clearly outlined expectations.
- **Training Provided:** The training and resources made available to you were adequate for a GS-09 employee with two years in the role.
- **Workload Pressures:** Your workload was consistent with that of other Supply Management Specialists, who met performance expectations. No evidence suggests unique circumstances prevented you from meeting deadlines.
- **Mitigating Circumstances:** You mentioned personal stressors but provided no documentation (e.g., medical records) to substantiate their impact on your performance.

c. Your reply did not refute the specific incidents of errors, delays, or coordination failures noted in the proposal. These incidents demonstrate a pattern of unacceptable performance.

4. **Nexus to Efficiency of the Service:** Your performance deficiencies significantly impaired DLA's logistics operations. Retaining you in this position would perpetuate inefficiencies, as your performance did not improve despite multiple interventions.

5. **Douglas Factors Reassessment:** I re-evaluated the Douglas Factors in light of your reply:
- **Nature and Seriousness:** Your errors and delays directly affected DoW mission readiness, a serious offense for a logistics role.
- **Job Level and Duties:** As a GS-09, you were expected to perform routine tasks accurately with minimal supervision.
- **Past Disciplinary Record:** Your March 5, 2025, written counseling indicates the prior performance concerns were addressed.
- **Past Work Record:** Your two-year tenure shows no exceptional contributions to offset recent deficiencies. Your past work record has been minimally satisfactory to acceptable with constant supervision and oversight but not consistently commensurate with your grade level. You have been a federal employee for 4 years and you generally get along with others.
- **Effect on Job Performance:** Your performance eroded trust in J3's services and increased colleagues' workload.
- **Consistency of Penalty:** Removal is consistent with DLA penalties and for similar performance issues.
- **Notoriety:** Your coordination failures frustrated DoW customers, impacted operations, and affected DLA's reputation.
- **Clarity of Standards:** Expectations were clearly communicated through multiple channels.
- **Potential for Rehabilitation:** Your lack of improvement after counseling, training, and a 30-day action plan suggests limited potential for bringing your performance to an acceptable level.
- **Mitigating Circumstances:** No substantiated personal or medical issues justify your performance failures. In your response you noted [list key points raised]. These were found to be insufficient [list relevant issues] when considering demonstrated unacceptable performance outlined in the notice of proposed removal.
- **Alternative Sanctions:** I considered lesser penalties (e.g., demotion or suspension) but found them inadequate, as your role requires consistent reliability critical to mission support.
- Based on this analysis, allowing you to remain employed with continued performance deficiencies would further disrupt DLA's logistics mission. As such, your removal is appropriate.

6. **Final Decision:** I have decided to remove you for unacceptable performance under 5 U.S.C. § 7513. You will be removed from your position as a [insert position title and grade], and from the Federal Service, effective close of business on July 7, 2025. Until that date, you will remain in a paid, non-duty status, and you must return all government-issued property (e.g., laptop, badge) to your supervisor, [insert supervisor's name], by July 3, 2025.

- **Appeal Rights:**
  If you have the right to appeal to the MSPB and you wish to appeal this action to the MSPB, you must file an appeal within 30 calendar days after the effective date of the action, or 30 days after the date of your receipt of the decision notice, whichever is later. You may obtain a copy of the appeals form and information about the appeals process from the MSPB website at: http://www.mspb.gov/appeals/appeals.htm or contact your servicing Employee Relations Specialist at **<insert local HR contact name, phone number, and email address>**. If your appeal is not submitted within the time set by statute, regulation, or order of a judge, it will be dismissed as untimely filed unless a good reason for the delay is shown. The judge will provide the appealing party an opportunity to show why the appeal should not be dismissed as untimely.

- Your appeal must be filed with the MSPB regional or field office serving the area of your duty station when the action was taken. Based upon your duty station, the appropriate regional or field office is **<insert regional/field office, mailing address, phone and fax numbers>**. The MSPB strongly encourages the use of electronic filing at: https://e-appeal.mspb.gov. You may wish to check the MSPB's website for its operating status during this time. Employees with appeal rights to the MSPB have a right to representation in this matter and may be represented by an attorney or other person of their choosing at no expense to the Government.

- The MSPB will send an Acknowledgment Order and copy of your appeal to **<insert contact information including the official's mailing address, email address, telephone and fax number >**.

- If you are a bargaining unit employee, you may grieve this action in accordance with the applicable negotiated agreement <**negotiated agreement citation**>, or you may appeal to the MSPB in accordance with the procedures outlined above, but not both. Your election to proceed under one process will be considered made when, in a timely manner you: file a grievance in writing; or file a notice of appeal, whichever event occurs first. To obtain information on filing a grievance under the negotiated grievance procedure, contact: <**name of exclusive union representative**>. If you believe the action was effected in a discriminatory manner and elect to proceed under the applicable negotiated agreement's grievance procedure, you may request MSPB review of the final decision on your grievance by filing an appeal with the MSPB within 35 days after the date of issuance of the decision, or within 30 days of receipt of the decision, whichever is later.

- If you believe this action was taken as reprisal for whistleblowing, you may elect to file a complaint with the MSPB: https://e-appeal.mspb.gov/, file a complaint with the Office of Special Counsel (OSC):https://osc.gov/, which can be followed by an Individual Right of Action appeal filed with the MSPB; or, if you are a bargaining unit employee, file a grievance in accordance with the applicable negotiated agreement. Your election to proceed under one process will be considered made when, in a timely manner you: file a complaint with the MSPB; file a complaint with OSC; or file a grievance in writing, whichever event occurs first.

- You have the right to file a complaint with your Equal Employment Opportunity (EEO) Office if you believe that this action was affected in a discriminatory manner. Information regarding the federal sector EEO process is available on the EEO Commission website at: http://eeoc.gov/federal/fed_employees/complaint_overview.cfm. You may contact your servicing EEO Office at **[insert EEO office contact information]**. The servicing EEO Office may send the Acknowledgment Order and copy of the appeal to **<insert local HR contact name, phone number, and email address>**. *[Note: Consult local collective bargaining agreements to determine if discriminatory matters are covered under the negotiated grievance procedure. If so covered, employees may use either the EEO complaint process or the negotiated grievance procedure, but not both.]*

7. **Point of Contact:** For questions about this decision or your appeal rights, contact[insert supervisor's name], your supervisor, at [phone number] or [email address]. For personnel processing, contact the [servicing] Human Resources Office at [phone number] or [email address].

Sincerely,
/s

Attachment 4: Deferred Resignation Agreement

This agreement is between Department of War and the Employee identified below.

WHEREAS, Department of War has offered Employee a voluntary deferred resignation option. The offer states that those employees who accept the offer will not be subject to any reduction in pay and benefits by their agency and exempts them from all applicable in-person work requirements until [12 WEEKS FROM EMPLOYEE AND MANAGEMENT DECISION DURING NOTICE PERIOD], or earlier if they choose to accelerate the resignation date for any reason (Deferred Resignation Program); and

WHEREAS, Department of War has received Employee's voluntary request to be included in the Deferred Resignation Program; and

WHEREAS, Department of War accepts Employee's request to be included in the Deferred Resignation Program; and

WHEREAS, the parties wish to express the terms and conditions of the agreement between the parties concerning Employee's participation in the Deferred Resignation Program.

WHEREFORE, the parties hereto agree as follows:

1. Employee is accepted into the Deferred Resignation Program.

2. Employee agrees to turn in all Department of War equipment and property on or before [DATE] as directed by Employee's supervisor.

3. Employee shall be placed on paid administrative leave no later than [DATE]. Employee shall remain on paid administrative leave up through and including [DATE], or such earlier date on which Employee may choose to resign or otherwise separate from federal service (deferred resignation period). Employee agrees not to challenge the Department of War's use of paid administrative leave in any forum. In the event that the use of paid administrative leave is found unlawful or set aside, Employee agrees to accept placement into another duty status, with the understanding that Employee shall not be required to perform work after [DATE].

4. During the deferred resignation period, and subject to the availability of appropriations, Department of War shall continue to pay Employee's current salary and Employee shall continue to retain and receive all benefits of Employee's federal employment, including but not limited to TSP contributions, health, dental, vision and/or any other similar benefits, with Department of War making the government's contribution. Employee will continue to accrue annual and sick leave during the deferred resignation period. Employee will receive retirement service credit during the deferred resignation period. If Employee becomes eligible for a within-grade increase during the deferred resignation period, Department of War shall process the within-grade increase and Employee shall receive the associated salary increase.

5. After [DATE] , Employee shall not be expected to work during the deferred resignation period—regardless of what duty status the employee is placed in.

6. Employee agrees that Employee's effective resignation date from Department of War, and separation from federal service, shall be [12 WEEKS FROM EMPLOYEE AND MANAGEMENT DECISION DURING NOTICE PERIOD]. Employee, however, may resign from the federal service on any date prior to the Decision Notice. Department of War shall not take steps to terminate Employee's employment with the federal service prior to [12 WEEKS FROM EMPLOYEE AND MANAGEMENT DECISION DURING NOTICE PERIOD], except where Employee is convicted of a felony crime that would render Employee ineligible for Federal employment.

7. Employee will receive a lump sum payment of accrued annual leave in accordance with 5 C.F.R. part 550 upon separation from service, subject to availability of appropriations.

8. Nothing in this agreement prevents Employee from retiring from federal service at any time if Employee is eligible to do so under the applicable provisions of CSRS or FERS. If Employee is eligible and elects to retire before [12 WEEKS FROM EMPLOYEE AND MANAGEMENT DECISION DURING NOTICE PERIOD], Employee's retirement election shall override any benefits that would be available to Employee under this agreement after the effective date of Employee's retirement. Employee understands that Employee is responsible for submitting a CSRS or FERS application.

9. Nothing in this agreement prevents Employee from retiring from federal service on or before [INSERT VERA END DATE] if Employee is eligible to do so under the Voluntary Early Retirement Authority (VERA). If Employee is eligible and elects to retire under VERA, Employee's retirement election shall override any benefits that would be available to Employee under this agreement after the effective date of Employee's retirement. Employee understands that Employee is responsible for submitting a VERA application.

10. Employee may accept non-federal employment during the deferred resignation period provided it does not violate the Standards of Ethical Conduct for Employees of the Executive Branch at 5 C.F.R. part 2635, applicable federal laws, or any supplemental Standards of Ethical Conduct for Employees or regulations of Department of War.

11. By signing this agreement, the parties acknowledge that they have entered the agreement knowingly, voluntarily, and free from improper influence, coercion, or duress. Employee understands that, except as provided in paragraph 14 applicable to Employees 40 years of age or older, Employee cannot rescind this agreement, except in the sole discretion of the Agency Head, which shall not be subject to review at the Merit Systems Protection Board (MSPB), Equal Employment Opportunity Commission (EEOC) or any other forum, and waives all rights to challenge the resignation before the MSPB, EEOC, or any other forum.

12. Employee acknowledges that Department of War, in conjunction with other federal departments, agencies and units, will immediately rely on the terms of this agreement in consolidating and reassigning roles and otherwise taking steps to reform the agency workforce.

As of the effective date of this agreement, Employee will permanently cease to serve in the position from which Employee is agreeing to resign. Consequently, Employee understands that this agreement is final and Employee's decision to resign effective [12 WEEKS FROM EMPLOYEE AND MANAGEMENT DECISION DURING NOTICE PERIOD], unless Employee resigns or retires earlier as set forth above, is final. Department of War shall comply with all terms of this agreement even if Employee's position is eliminated or reassigned prior to September 30, 2025. Employee shall not be subject to furlough, termination, reduction in force or layoff as a result of an agency-initiated reorganization or reduction in force. Employee agrees to cooperate with steps taken by Department of War (such as reassignment to a different component) to exempt Employee from any reduction in force.

13. If there is a lapse in appropriations during the term of this agreement that requires Employee to be placed on furlough status, Employee shall be placed on furlough status during the lapse. Once the lapse is over, Employee shall be taken off furlough and shall receive back pay consistent with the Government Employee Fair Treatment Act of 2019.

14. Employee forever waives, and will not pursue through any judicial, administrative, or other process, any action against Department of War or its employee in their official and/or personal capacity that is based on, arising from, or related to Employee's employment at or termination of employment from Department of War or the deferred resignation offer, including any and all claims, known or unknown, that were or could have been brought concerning said matters, and including any group, class or collective actions in which Employee is or might be included. This waiver includes all claims Employee may have under the Age Discrimination in Employment Act, the Civil Rights Act of 1964, as amended, the Civil Service Due Process Amendments of 1990, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, the Family, and Medical Leave Act, and any other Federal, state, local or common law. Employee unconditionally releases Department of War and its present and former employees, officers, agents, representatives, and all persons acting by, through, or in concert with any of those individuals, either in their official or individual capacities, from any and all liability based on, arising from, or relating to the matters that Employee may have against them, including any and all claims that were or could have been brought (including as a member of a group action, class action or collective action). Consistent with applicable law, Employee similarly waives any claim that could be brought on Employee's behalf by another entity, including Employee's labor union or other non-government organization that purports to represent Employee.

15. If 40 years of age or older, Employee understands that he or she is entitled to rights and benefits under the Age Discrimination in Employment Act (ADEA) and Older Workers Benefit Protection Act (OWBPA). The parties acknowledge that the Employee has preserved and/or executed the following rights and responsibilities:

a. The Employee has reviewed the entire agreement and understands its provisions;
b. The Employee has not waived any ADEA or OWBPA rights or claims that may arise after the date this agreement is signed;
c. The Employee has the right to consult with an attorney prior to signing this Agreement;
d. Federal law provides that the Employee may have 45 days from receipt of this Agreement to review and consider this Agreement before signing it;

e. Federal law further provides that the Employee may revoke this Agreement within seven days after signing and delivering the Agreement to the Agency; the Agreement is not effective and enforceable until this seven-day revocation period has passed; and
f. Having been informed of these rights and after an opportunity to consult with an attorney, the Employee hereby waives these rights.

16. Consistent with law, Department of War agrees to waive any debt owed by Employee to Department of War pursuant to a recruitment incentive, student loan repayment, or other service agreement. Department of War also agrees to waive any remaining service requirements from taking paid parental leave.

17. Should Employee become subject to military orders during the deferred resignation period, then any laws, rules, or other guidance applicable to the Employee as a servicemember that are inconsistent with provisions of this agreement shall supersede the inconsistent terms of this agreement.

18. This agreement shall constitute the entire agreement between the parties, and shall supersede all prior agreements, understandings and negotiations between the parties with respect to the terms of Employee's resignation.

19. In case any provision of this shall agreement be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

ON BEHALF OF Department of War:

____

[NAME, TITLE]

EMPLOYEE

____

[NAME, TITLE]