

CITY OF CHESAPEAKE, VIRGINIA

NUMBER: 2.17 (21.4)

ADMINISTRATIVE REGULATION

EFFECTIVE DATE: 03/27/02

**SUBJECT: DEPARTMENT OF HUMAN RESOURCES
REDUCTION-IN-FORCE POLICY**

SUPERSEDES: 11/13/81

I. PURPOSE

To establish an effective and objective process to be implemented in the event that the City of Chesapeake determines that a reduction-in-force is necessary.

A reduction-in force may be determined necessary by the City Manager due to circumstances such as financial shortfalls, curtailment or reduction of services, reorganizing/streamlining operations, privatizing functions, or other situations.

II. SCOPE

This Policy applies to all full-time, part-time and temporary employees under the direction of the City Manager. "Special project" employees, hired for a specific period covering the duration of an assigned project, are not subject to the provisions of this Policy. Any State-funded position, which the City supplements, may be subject to a reduction or elimination of the City supplement. A loss of City supplement may not ultimately result in a position reduction.

For the purpose of this Policy, it is understood that all references to the City Manager, the Director of Human Resources, or department head shall be considered to include reference to "designee" (i.e. the City Manager/designee; the Director of Human Resources/designee; department head/designee).

III. DEFINITIONS

Reduction-in-force – A reduction in the number of approved positions due to lack of funds and/or the elimination of one or more program functions.

Classification – All positions of the same title and grade.

Affected Classification – In response to the issue of a reduction-in-force order by the City Manager, the department head shall identify a classification (classifications) of positions subject to termination or layoff consideration.

Probationary employee – For the purpose of this Policy, an employee who is serving the *initial* probationary period following employment.

Continuous service date – Considers both length of service and performance evaluation credits, if applicable, in determining order of placement on the retention list of an affected classification.

Red circled - the method of identifying an employee whose salary exceeds the maximum of the pay range to which they are assigned. The employee is not eligible for salary increases until the maximum of the salary range for the position assigned is increased to a level above the employee's current salary.

IV. GENERAL

A. Need for a Reduction-in-force

Every reasonable effort shall be made to accomplish the elimination of a position without having to layoff an employee in the event that regular City positions must be eliminated due to circumstances such as financial shortfalls, curtailment or reduction of services, reorganizing/streamlining operations, privatizing functions, or other situations.

The City shall take proactive steps whenever practical to avoid or minimize a reduction-in-force. Such steps may include elimination of temporary service and other contract workers, implementation of a hiring freeze, eliminating overtime hours, incentives for retirement, job sharing, reduced work hours, or other strategies which may curtail expenses or hold open potential vacancies for employees whose positions will be eliminated.

When warranted, the City Manager shall issue a reduction-in-force order. The order may be non-specific, identifying only a specific dollar amount or percent of salaries to be eliminated or reduced, or the directive may identify certain program functions to be eliminated or reduced.

B. Identification of Affected Classifications

1. Department heads shall determine the position classifications to be reduced or abolished (affected classifications) in response to the reduction-in-force order. The department head shall recommend to the Director of Human Resources the number of positions within the affected classifications to be eliminated. The Director of Human Resources shall forward the recommendation with appropriate comments to the City Manager. Final approval of affected classifications and numbers to be reduced rests with the City Manager. Once the affected department head has received approval from the City Manager to delete positions, the department head must apply the procedures outlined in this Policy.
2. The department head may request that a particular classification, program function, status, or employee deemed critical to the operation of the department be exempted from this process. The request should be directed to the Director of Human Resources for review and approval. In lieu of such a request, the reduction-in-force will be accomplished in the manner prescribed below.

C. Retention Groups

1. The department head shall establish retention groups for employees within each of the affected classifications.
 - a. Regular full-time employees and those recently transferred, whose last overall performance rating was “Solid” or better, will be placed within **Group I** for the affected classifications.
 - b. Probationary full-time employees, whose last overall performance rating was “Solid” or better, will be placed within **Group II** for the affected classifications.
 - c. The order of placement for Group I and Group II employees will be based on the continuous service date that reflects length of service and performance evaluation credits. The employee with the earliest continuous service date, considering length of service and performance evaluation credits, if applicable, will be placed at the top of each group with the remainder following in order.
 - d. Temporary, on-call, substitute, and part-time employees, whose last overall performance rating was “Solid” or better will be placed within **Group III** for the affected classifications. The employee with the earliest continuous service date, considering length of service and performance evaluation credits, if applicable, will be placed at the top of each group with the remainder following in order.
 - e. Employees with current official performance evaluation ratings of "Improvement Required" or "Unsatisfactory Performance" and employees who have received documented official disciplinary action for unsatisfactory work performance since their last official performance evaluation will be placed within **Group IV** for the affected classifications.
 - f. Group IV and III employees in affected classifications, respectively, must be moved out of their jobs before any employee in Group I or Group II may be reached by the reduction-in-force.

D. Implementation

When a reduction-in-force is ordered, the following sequence of steps shall apply within affected classifications:

1. Normal attrition;
2. Termination of Group IV employees;
3. Termination of Group III employees;
4. Termination of Group II employees;

5. Reassignment of Group I employees to funded or authorized positions;
6. Layoff of Group I employees not accommodated by reassignment.

E. Notices of Reduction-in-force to Employees

In the event of a reduction-in-force, employees in affected positions shall be given notice that their positions are targeted for elimination.

1. Employees will be notified at the beginning of the process with a *Notice of Intent* that a reduction-in-force will take place. The Director of Human Resources shall provide to department heads the general format for the Notice of Intent to all affected employees. The department head will prepare the actual Notice of Intent for each affected employee. A copy of all such notices shall be forwarded to the Department of Human Resources. The department head or designee shall meet with each affected employee individually to provide the Notice of Intent.
2. Once final decisions concerning terminations and layoffs are made, affected employees will be informed through a *Notice of Separation*. Employees receiving the Notice of Separation shall be terminated/laid off immediately but shall be paid for the appropriate period of notice. Group III and IV employees shall be compensated for all scheduled work hours during a fourteen (14) calendar day period of notice. Group I and II employees shall be compensated for all scheduled work hours during a thirty (30) calendar day period of notice. The payment for period of notice is not considered a part of the severance pay to which Group I employees are entitled at time of layoff. Affected employees shall be paid for the period of notice in weekly or semi-monthly intervals, as appropriate, until the payment obligation for the notice period has been met.

If a department head determines that it is in the best interest of the organization to allow an employee to continue to work through the period of notice, justification for such a decision must be provided to the Director of Human Resources for approval prior to the issue of the Notice of Separation. In such instances, Group I and II employees shall be entitled to one week of leave to seek employment outside the organization. The time may be granted in a block or intermittently, at the department head's discretion, and shall be taken during the period between receipt of the Notice of Separation and the date of separation.

The Director of Human Resources shall provide to department heads the general format for the Notice of Separation to all affected employees. The department head will prepare the actual Notice of Separation for each affected employee. A copy of all such notices shall be forwarded to the Department of Human Resources. The department head or designee shall meet with each affected employee individually to provide the Notice of Separation.

F. Calculation of Continuous Service Date

For the purpose of this Policy, an employee's service date considers total length of continuous service and performance evaluation credit, as warranted.

1. *Determining performance evaluation credit* - An employee's current annual official performance evaluation on the date of issuance of the Notice of Intent is the rating that determines whether he/she is entitled to additional service credit.
 - a. The Director of Human Resources must establish a single, official date of issuance of the Notice of Intent to implement a reduction-in-force so that the date is the same for all employees in each affected job category. In this manner, the performance evaluation on every employee in each affected classification will be "frozen" as of a specific date, e.g. date of issuance of the Notice of Intent.
 - b. Performance evaluations that were due on or before the date of issuance of the Notice of Intent but were not officially approved and put on record in the Department of Human Resources until after the issuance of the Notice do not affect the employee's retention standing.
 - c. An employee who does not have a current official annual performance evaluation on record as of the date of issuance of the notice is considered to have a "Solid" performance rating for determining his/her relative retention standing.
2. *Determining the service date* – An employee's service date is one of the following dates which reflects total length of continuous service and performance evaluation credit, as applicable.
 - a. For employees who have had no break in service and received a "Solid" performance evaluation, the service date will be the date of employment origin with the City.
 - b. For employees who have had a break in service and received a "Solid" performance evaluation, the service date will be the most recent employment date with the City.
 - c. For employees who worked in a temporary, on-call, substitute, or part-time status prior to becoming full-time employees and received a "Solid" performance evaluation, the service date will be the date that the employee attained full-time status.

- d. For employees who received a performance evaluation above “Solid,” the service date is obtained by subtracting from (a.), (b.), or (c.) the service equivalent allowed for a performance evaluation above “Solid.”
 - 1) Four (4) years are subtracted from the service date for an employee with an “Outstanding” performance evaluation, and two (2) years are subtracted from the service date for an employee with an evaluation of “Exceeds.”
 - 2) Subtracting from the employment date for employees with “Outstanding” or “Exceeds” performance evaluations increases their actual length of service by four years and two years, respectively.

IV. PROCEDURES

Step 1: Normal Attrition

When the City Manager implements a reduction-in-force, the Director of Human Resources shall halt the processing of recruitment or selection for all classifications of employees indicated in the reduction-in-force order. No further applications for affected positions shall be released to any department.

Step 2: Termination of Group IV Employees

Upon a determination by the City Manager, in consultation with the Director of Human Resources, that normal attrition (Step 1) shall not fully implement the reduction-in-force order, the termination of Group IV employees shall commence.

Step 3: Termination of Group III Employees

Upon a determination by the City Manager, in consultation with the Director of Human Resources, that the termination of Group IV (Step 2) shall not fully implement the reduction-in-force order, the termination of Group III employees shall commence. The Group III employee with the *least* continuous service, considering performance credits, if applicable, will be separated first. If there is a tie for order of separation, the employee with the higher overall rating score will have preference over the employee with the lower score.

Step 4: Termination of Group II Employees

Upon a determination by the City Manager, in conjunction with the Director of Human Resources, that the termination of Group III employees (Step 3) shall not fully implement the reduction-in-force order, the termination of Group II employees shall commence. The Group II employee with the *least* continuous service, considering performance credits, if applicable, will be separated first. If there is a tie for order of separation, the employee with the higher overall rating score will have preference over the employee with the lower score.

Step 5: Reassignment of Group I Employees to Funded or Authorized Positions

Upon a determination by the City Manager, in consultation with the Director of Human Resources, that the termination Group II employees (Step 4) shall not fully implement the reduction-in-force order, outstanding vacancies that have not been designated for elimination shall be filled by the reassignment of Group I employees to the same or appropriate positions in the City. The Group I employee with the *most* continuous service, considering performance credits, will be given first consideration for reassignment to the same or an appropriate position for which he/she is minimally qualified.

It is not mandatory that a department head fill a vacant position once the reduction-in force procedure has been initiated by the City.

Step 6: Layoff of Group I Employees Not Accommodated by Reassignment

Following the implementation of Steps 1 through 5, the layoff of Group I employees shall be initiated, if necessary, to complete the reduction specified in the reduction-in-force order.

When positions within a classification have been designated for reduction, the Group I employee with the *least* continuous service, considering performance credits, will be laid off first. If there is a tie for order of layoff, the employee with the higher overall rating score will have preference over the employee with the lower score.

VI. SALARY AND BENEFITS

A. Salary

Employees who have been demoted as a result of a reduction-in-force action shall retain the salary of the position held prior to the demotion. If this salary exceeds the range of the classification to which the employee was demoted, the employee will be red circled and will receive no pay increase until such increase would be within the range of the classification to which the employee was demoted.

Employees recalled to their former position within twelve (12) months of layoff shall be compensated at the rate of pay they would be entitled to had the layoff not occurred. If the recall places the employee in a lower level position than previously occupied, the employee will be red circled and will receive no pay increase until such increase would be within the range of the classification to which the employee was demoted. If a recall places the employee in a higher level position than previously occupied, the employee will be paid in accordance with the provisions of the City's promotion policy.

Employees recalled within twelve (12) months of layoff, shall benefit from any cost-of-living adjustment effected during the interim period. Merit increases are based on performance and are, therefore, not a consideration in the event of a layoff.

B. Benefits

Leave - The employee shall be paid for all accrued annual leave, compensatory leave, and overtime leave at the time of layoff, provided all City property is returned. Sick leave balances shall remain to the credit of the employee placed on layoff for a period of twelve (12) months or until the employee is recalled or terminated from City employment. No sick or annual leave shall accrue during the period of layoff. Time spent on layoff, up to a maximum of twelve (12) months, shall be counted as active service in determining annual leave accrual rates at recall.

Health Care Benefits - The employee's health care benefits shall be continued, and the City shall pay its portion of the health care premium for a period of one month following the date of layoff. A full-time employee who has been separated through a reduction-in-force may elect continuous coverage through COBRA (Consolidated Omnibus Reconciliation Budget Act) for a period of up to eighteen (18) months. During the period of participation, the separated employee shall be required to pay the full monthly premium for the elected coverage. The two percent (2%) administrative fee, typically charged to a separating employee participating in COBRA, shall be waived for employees affected through a reduction-in-force.

Retirement – Employees on layoff who elect to withdraw their accumulated contributions may do so without forfeiting their right to recall. Such employee who elects to withdraw his/her accumulated contributions shall forfeit all retirement credit for prior service and upon recall shall be considered as a new employee with respect to the retirement system. Employees on layoff who elect to not withdraw their accumulated contributions shall not receive any service credit toward retirement for the period of time while on layoff. The City shall make no contributions to the VRS during the period of layoff. Service credit and contributions by the City for purposes of retirement shall begin effective as of the date of recall.

Life Insurance – An affected employee's basic life insurance benefit shall terminate on the effective date of termination/layoff. A separated Group I or II employee may elect to purchase an individual whole life policy at non-group rates within 31 days of the last day of the month in which the layoff occurred.

Deferred Compensation Plan (Section 457) – An employee, separated through termination/layoff, may elect to withdraw, rollover, or receive monies from his/her deferred compensation plan account.

Flexible Benefit Plan – An employee, separated through termination/layoff, may continue participation in this benefit by electing COBRA for the remaining months of the plan year. The contributions will be on an after tax basis.

Employee Assistance Program – Separated employees and their immediate families shall continue to be eligible for services provided by the City's Employee Assistance Program for the period of severance payment.

Unemployment Compensation – Employees affected by a reduction-in-force are eligible to apply for unemployment benefits with the Virginia Employment Commission. The Commission will determine eligibility and award of this benefit.

C. Severance Pay

Group I employees are eligible to receive severance pay as a result of layoff due to a reduction-in-force. Severance pay will be provided for such employees according to the following schedule. For the purposes of this subsection, a “day” is considered to be eight (8) hours. The Director of Human Resources will develop and administer the severance pay schedule for those classifications of employees who have special or unusual work schedules.

<u>Years of Service</u>	<u>Days of Severance Pay</u>
1-4	20 days
5-9	30 days
10-14	40 days
15-19	50 days
20 +	60 days

Upon the effective date of the layoff, the employee shall be entitled to receive his/her severance pay allowance, at weekly or semi-monthly intervals, as appropriate, until the total severance pay to which the employee is entitled has been exhausted.

An employee who declines a transfer, reassignment, or demotion to another vacant position without good cause prior to the effective date of layoff shall not be eligible for severance pay. Severance payment to an affected employee shall cease, if not already exhausted, upon the reinstatement of the employee to a City position or upon a decline of offer of reinstatement by the employee without good cause.

If an employee declines an offer, he/she shall state the reasons in writing and provide such statement to the department head. The department head shall forward such statement to the City Manager within 5 work days of its receipt. The City Manager shall evaluate the reasons given by the employee for declining an offer and shall have the final decision whether the employee has stated good cause under this subsection and whether severance pay shall continue or cease under the terms of this policy.

VII. EMPLOYEE TRANSITION/PLACEMENT ASSISTANCE

- A. The Department of Human Resources will make every effort to promote the stability of employment of regular full-time employees whose jobs are affected by changing manpower requirements. All regular full-time employees to be separated as a result of a reduction-in-force shall be scheduled for a transition information session with a representative of the Department of Human Resources. Counseling will be provided

through the Employee Assistance Program. The Department of Human Resources will initiate a vigorous outplacement effort targeting this group of displaced workers.

- B. Group I and II employees who are terminated/laid off as a result of a reduction-in-force and who are allowed to work through the period of Notice of Separation shall be entitled to one week of leave to seek employment outside the organization. The time may be granted in a block or intermittently, at the department head's discretion, and should be taken during the period between receipt of the Notice of Separation and the date of separation.
- C. It is the intent of the City of Chesapeake to give priority consideration to regular full-time employees who have been displaced due to the reduction-in-force when filling vacant positions. The department head will establish a *Priority Consideration Placement List* as soon as it becomes known that employees in that department will be reassigned or released due to the reduction-in-force.
 - 1. To qualify for inclusion on the Priority Consideration Placement List, the employee must be a regular full-time employee from the Group I listing who has been reassigned or released from employment as a result of the reduction-in-force.
 - 2. Pertinent personnel information will be entered on the listing as follows: the employee's name, grade, job title, release date, availability date if earlier than release date, retention group, adjusted service date, and other positions for which the employee is qualified. The department will forward this listing to the Director of Human Resources with regular monthly updates. In addition to the listing, an updated employment application should be forwarded to the Department of Human Resources for each employee that is released.
 - 3. An individual may remain on the Priority Consideration Placement List (PCPL) for a period of twelve (12) months. Names are removed from the list as separated employees are rehired to former positions or accept another position in City service or they request that their name be removed. If a position is offered and not accepted, the individual is deleted from the list. The PCPL will remain in effect until the names of all employees have been deleted or removed from the list as outlined above.
 - 4. City departments will not fill any vacant positions without first referring to the Priority Consideration Placement List (PCPL). Every consideration will be given to individuals on this list in order to fill vacant positions. Selection for vacant positions will be made on the basis of qualifications and service date. The eligibility of a person on the list for selection and placement is not limited to the last position held. Eligibility extends to all positions for which the person qualifies including those higher than he/she ever held. If a suitable candidate cannot be obtained from the Priority Consideration Placement List (PCPL), justification must be submitted to the Director of Human Resources or designee as to the reason for non-selection.

5. A department has the option to hire a minimally qualified PCPL candidate without conducting recruitment or interviewing other applicants, unless the department is also considering internal applicants for the position. A department must hire a PCPL candidate who is determined by department management to be minimally qualified, unless the department chooses to hire an applicant who is currently a department employee. In instances where there is more than one qualified PCPL candidate, the position must be filled competitively from among these applicants, unless a current department employee is selected.

D. Employee Responsibility

1. It is the responsibility of the employee subject to rehire through the Priority Consideration Placement List to notify the Department of Human Resources of any change in address or telephone number.
2. Employees shall be notified by certified mail to return to work. Any individual who fails to reply to the notice to return to work within fifteen (15) calendar days of the date of issue of notification shall forfeit all further rehire rights with regard to the reduction-in-force.

- E. Employees who retain their jobs after a reduction-in-force may also be affected in a number of ways, such as by an increased workload and concerns about job security. The Department of Human Resources will work with departments to take action to assist retained employees with the transition.

VIII. RIGHT OF APPEAL

Discharge, demotion or layoff because of lack of work, reduction-in-force, or job elimination is non-grievable under the City's Grievance Policy and Procedure. Appeals to the City Manager will be considered only on the basis of procedural errors or alleged discrimination. Appeals should specifically state the policies and procedures that the employee believes have been misapplied in their case and why the separation is in error. The employee must submit the appeal, in writing and directly to the City Manager, within five (5) working days of the alleged occurrence.

It must be clearly understood that this Policy is not legally required, and the City retains the right, at any time, to abolish positions and terminate the employment of employees occupying such positions at the time because of economic necessity, reorganization to improve efficiency, and other governmental reasons.

Dr. Clarence V. Cuffee, City Manager

Date