

[BBS file "RIH04A98.WP"; Restructuring Information Handbook, Module 4 ("TRANSFER OF FUNCTION"), Unit A ("REQUIRED PROCEDURES"), dated September 1998 in WordPerfect 5.1 format. Use 10 or 12 point courier print font. Restructuring Information Handbook Module 4 is developed by OPM's Workforce Restructuring Office to provide information on transfer of function.]

U.S. OFFICE OF PERSONNEL MANAGEMENT
WORKFORCE RESTRUCTURING OFFICE
RESTRUCTURING INFORMATION HANDBOOK

MODULE 4, TRANSFER OF FUNCTION (September 1998 version)

* * * * *

UNIT A (REQUIRED PROCEDURES)

SECTION 1. OVERVIEW OF TRANSFER OF FUNCTION, pg 5

1. TRANSFER OF FUNCTION REGULATIONS
2. PURPOSE OF THE TRANSFER OF FUNCTION REGULATIONS
3. SUMMARY OF WHEN A TRANSFER OF FUNCTION TAKES PLACE BECAUSE OF ORGANIZATIONAL CHANGE
4. SUMMARY OF WHEN A TRANSFER OF FUNCTION TAKES PLACE BECAUSE OF THE RELOCATION OF AN ORGANIZATION
5. IDENTIFICATION OF EMPLOYEES WITH A TRANSFERRING FUNCTION
6. USE OF RIF IN TRANSFER OF FUNCTION
7. USE OF TRANSFER OF FUNCTION CANVASS LETTERS
8. TRANSFER OF FUNCTION APPEALS

SECTION 2. TRANSFER OF FUNCTION DEFINITIONS, pg 9

1. DEFINITION OF TRANSFER OF FUNCTION
2. DEFINITION OF COMPETITIVE AREA
3. DEFINITION OF FUNCTION
4. EXPLANATION OF FUNCTION
5. DEFINITION OF COMPETING EMPLOYEE
6. OTHER DEFINITIONS
7. DEFINITION OF REORGANIZATION

SECTION 3. APPLICABILITY OF THE TRANSFER OF FUNCTION REGULATIONS, pg 11

1. THE TWO SITUATIONS WHEN THE TRANSFER OF FUNCTION REGULATIONS APPLY
2. AUTHORITY FOR A TRANSFER OF FUNCTION
3. IN A TRANSFER OF FUNCTION A FUNCTION MUST CONTINUE IN AN IDENTIFIABLE FORM
4. THE MOVEMENT OF A FUNCTION WITHIN A COMPETITIVE AREA IS NOT A TRANSFER OF FUNCTION
5. THE TRANSFER OF A FUNCTION FOR LIQUIDATION IS NOT COVERED BY THE TRANSFER OF FUNCTION REGULATIONS
6. A TRANSFER OF FUNCTION MAY BE INTRA- OR INTERAGENCY

SECTION 4. DETERMINING WHETHER THE TRANSFER OF FUNCTION REGULATIONS ARE APPLICABLE, pg 13

1. MANAGEMENT'S RIGHT TO MAKE TRANSFER OF FUNCTION DECISIONS
2. MANAGEMENT'S RIGHT TO TAKE OTHER ACTIONS
3. BASIS FOR TRANSFER OF FUNCTION DECISIONS

SECTION 5. APPLICATION OF THE TRANSFER OF FUNCTION REGULATIONS IN ANY SITUATION, pg 14

1. THE SAME TRANSFER OF FUNCTION PROVISIONS COVER ALL MOVEMENT OF WORK
2. IMPORTANCE OF COOPERATION BETWEEN THE LOSING AND THE GAINING COMPETITIVE AREAS

SECTION 6. IDENTIFICATION OF EMPLOYEES AND POSITION WITH A TRANSFERRING FUNCTION-GENERAL, pg 16

1. RESPONSIBILITY OF THE LOSING COMPETITIVE AREA TO IDENTIFY POSITIONS AND EMPLOYEES
2. THE TWO PROCEDURES AGENCIES USE TO IDENTIFY POSITIONS AND EMPLOYEES FOR TRANSFER
3. THE TWO IDENTIFICATION PROCEDURES ARE MANDATORY
4. USE OF IDENTIFICATION METHOD ONE VERSUS USE OF IDENTIFICATION METHOD TWO
5. USING THE POSITION DESCRIPTION TO IDENTIFY EMPLOYEES FOR TRANSFER
6. SUPPLEMENTING THE POSITION DESCRIPTION TO IDENTIFY EMPLOYEES FOR TRANSFER

SECTION 7. IDENTIFICATION OF EMPLOYEES AND POSITION WITH A TRANSFERRING FUNCTION-IDENTIFICATION METHOD ONE, pg 18

1. IDENTIFICATION METHOD ONE
2. GRADE-CONTROLLING DUTIES MUST SUPPORT ENTIRE GRADE OF POSITION
3. IDENTIFICATION METHOD TWO-TRANSFER OF POSITIONS WHEN BOTH METHOD ONE AND METHOD TWO APPLY TO THE SAME RETENTION REGISTER

SECTION 8. IDENTIFICATION OF EMPLOYEES AND POSITION WITH A TRANSFERRING FUNCTION-IDENTIFICATION METHOD TWO, pg 19

1. IDENTIFICATION METHOD TWO-GENERAL
2. IDENTIFICATION METHOD TWO-NUMBER OF EMPLOYEES WITH A RIGHT TO TRANSFER
3. IDENTIFICATION METHOD TWO-DEVELOPING RETENTION REGISTERS
4. IDENTIFICATION METHOD TWO-USING RETENTION REGISTERS TO IDENTIFY EMPLOYEES FOR TRANSFER WITH THE FUNCTION
5. IDENTIFICATION METHOD TWO-TRANSFER OF POSITIONS WHEN BOTH METHOD ONE AND METHOD TWO APPLY TO THE SAME RETENTION REGISTER

SECTION 9. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-EMPLOYEES OF THE LOSING COMPETITIVE AREA, pg 23

1. RIGHT OF AN EMPLOYEE TO TRANSFER WITH THE FUNCTION
2. SEPARATION OF AN EMPLOYEE WHO REFUSES TO TRANSFER WITH THE FUNCTION
3. USE OF REDUCTION IN FORCE PROCEDURES IN THE LOSING COMPETITIVE AREA

SECTION 10. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-EMPLOYEES OF THE GAINING COMPETITIVE AREA, pg 24

1. NO IMPACT OF THE TRANSFER OF FUNCTION ON EMPLOYEES OF THE GAINING COMPETITIVE AREA WITHOUT OTHER ORGANIZATIONAL CHANGES
2. TRANSFERRING EMPLOYEES COMPETE FOR POSITIONS ON THE BASIS OF THEIR POSITIONS OF RECORD
3. RIGHTS OF TRANSFERRED EMPLOYEES IN THE GAINING COMPETITIVE AREA
4. ACTUAL RELOCATION OF TRANSFERRING EMPLOYEES NOT NECESSARY BEFORE A REDUCTION IN FORCE
5. EMPLOYEES SEPARATED BY REDUCTION IN FORCE ARE COVERED BY THE GAINING REEMPLOYMENT PRIORITY LIST
6. STATUS OF COMPETITIVE SERVICE POSITIONS

SECTION 11. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-
TRANSFER OF POSITIONS FOR LIQUIDATION, pg 26

1. THE LIQUIDATION PROVISION DOES NOT PROVIDE AN EMPLOYEE WITH REDUCTION IN FORCE RIGHTS IN THE GAINING ORGANIZATION
2. THE TRANSFER OF A FUNCTION FOR TERMINATION IS NOT COVERED BY THE TRANSFER OF FUNCTION REGULATIONS

SECTION 12. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-
TRANSFER OF FUNCTION CANVASS LETTERS, pg 27

1. PURPOSE OF A TRANSFER OF FUNCTION CANVASS LETTER
2. TRANSFER OF FUNCTION CANVASS LETTERS ARE OPTIONAL
3. TRANSFER OF FUNCTION CANVASS LETTERS ARE ONLY USED WHEN A GEOGRAPHIC WILL TAKE PLACE
4. CONTENT OF TRANSFER OF FUNCTION CANVASS LETTERS-GENERAL
5. CONTENT OF TRANSFER OF FUNCTION CANVASS LETTERS-ACCEPTANCE OF THE OFFER TO TRANSFER
6. CONTENT OF TRANSFER OF FUNCTION CANVASS LETTERS-DECLINATION OF THE OFFER TO TRANSFER

SECTION 13. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-
VOLUNTEERS FOR TRANSFER, pg 30

1. USE OF VOLUNTEERS FOR TRANSFER-GENERAL
2. USE OF VOLUNTEERS IS OPTIONAL
3. TEMPORARY EMPLOYEES MAY VOLUNTEER FOR TRANSFER WITH THE FUNCTION

SECTION 14. EMPLOYEES' RIGHT TO RAISE TRANSFER OF FUNCTION
ISSUES IN AN APPEAL OR GRIEVANCE, pg 31

1. NO BASIC RIGHT TO APPEAL A TRANSFER OF FUNCTION
2. TRANSFER OF FUNCTION ISSUES IN A GRIEVANCE

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 1. OVERVIEW OF TRANSFER OF FUNCTION

1. TRANSFER OF FUNCTION REGULATIONS. OPM's transfer of function regulations are derived from the Veterans' Preference Act of 1944, as the law is codified in Section 3503 of title 5, United States Code.

- o OPM implements the law through regulations published in Subpart C of Part 351 of title 5, Code of Federal Regulations (i.e., 5 CFR Part 351, Subpart C).

2. PURPOSE OF THE TRANSFER OF FUNCTION REGULATIONS (see 4-A-9). The transfer of function regulations provide that nontemporary employees have the right to move with their work if the alternative in the losing organization (i.e., the losing "Competitive Area") is separation or downgrading by reduction in force.

- o "COMPETITIVE AREA" is a reduction in force term that the agency establishes on the basis of organization and geography (see 4-A-2-2).

- o An employee has no right to transfer with the function unless the alternative in the losing competitive area is separation or downgrading by reduction in force.

- o The losing competitive area may use adverse action procedures to separate any employee who chooses not to transfer with his or her function (see 4-A-9-2).

- o An agency may not conduct a reduction in force solely to place employees who chose not to transfer with the function to a different local commuting area (see 4-A-9-3).

- o An employee has no right to transfer with a terminated function, or with a function that will cease within 60 days of transfer to a different competitive area (see 4-A-11).

3. SUMMARY OF WHEN A TRANSFER OF FUNCTION TAKES PLACE BECAUSE OF AN ORGANIZATIONAL CHANGE (see 4-A-2-1-a). A "TRANSFER OF FUNCTION" takes place when a function ceases in one competitive area and moves to one or more other competitive areas that do not perform the function at the time of transfer.

- o The gaining competitive area may be in the same or a different agency.

o The movement of work within a competitive area is a "REORGANIZATION."

4. SUMMARY OF WHEN A TRANSFER OF FUNCTION TAKES PLACE BECAUSE OF THE RELOCATION OF AN ORGANIZATION (see 4-A-2-1-b). A "TRANSFER OF FUNCTION" also takes place when the entire competitive area moves to another local commuting area without any organizational change.

5. IDENTIFICATION OF EMPLOYEES WITH A TRANSFERRING FUNCTION. The losing competitive area is responsible for identifying employees with a transferring function (see 4-A-4-1).

(a) Two procedures are used to identify employees with a transferring function:

(1) "IDENTIFICATION METHOD ONE"; and

(2) "IDENTIFICATION METHOD TWO."

(b) IDENTIFICATION METHOD ONE (see 4-A-7). Under Identification Method One, the losing competitive area identifies an employee with a transferring function if:

(1) The employee performs the function during at least half of the employee's work time; or

(2) Regardless of the amount of time that the employee performs the function, the function includes the employee's grade-controlling duties (i.e., the transferring function by itself supports the employee's grade).

(c) IDENTIFICATION METHOD TWO (see 4-A-8). The losing competitive area uses Identification Method Two only to identify positions and employees not covered by Identification Method One.

o With Identification Method Two, only the number of employees needed to perform the function in the losing competitive area are identified for transfer.

o To determine which employees are identified for transfer under Identification Method Two, the losing competitive area uses retention registers that lists employees in the order of their respective reduction in force retention standing.

o Identification Method Two provides that the employee(s) with the lowest retention are identified for transfer with the function except in a closure situation, when the employees with the highest retention standing are identified for transfer.

(c) At its discretion, the losing and the gaining competitive areas can agree that volunteers may transfer with the function, provided that no employee who is identified for transfer is later separated or downgraded because of this decision (see 4-A-13).

6. USE OF RIF IN TRANSFER OF FUNCTION (see 4-A-9). If the transfer of function results in a surplus of employees in the gaining competitive area, all employees who elected to transfer with the function compete under the reduction in force regulations for positions on equal terms with other employees in the gaining competitive area.

7. USE OF TRANSFER OF FUNCTION CANVASS LETTERS (see 4-A-12). When a transfer of function will result in the employee moving to a different local commuting area, the losing competitive area may choose to use a TRANSFER OF FUNCTION CANVASS LETTER to determine which employees wish to be considered for positions at the new location.

o A transfer of function canvass letter does not guarantee an employee a position at the new location, but simply asks the employee to state an interest in transferring with the function.

o If the employee chooses not to transfer with the function, the losing competitive area may separate the employee through adverse action procedures at the time the function actually transfer to the gaining competitive area.

o An employee who chooses not to transfer with the function has no right to be in reduction in force competition for other positions in the losing competitive area.

o An employee who initially chooses to transfer with the function may later reconsider and decline to transfer; however, an employee who declines to transfer with the function may not later change the declination to an acceptance of the offer to transfer.

8. TRANSFER OF FUNCTION APPEALS (see 4-A-14). An employee may not file an appeal to the Merit Systems Protection based solely on a transfer of function issue.

o An employee who is subsequently reached for a reduction in force or adverse action may raise transfer of function as an issue in that appeal.

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 2. TRANSFER OF FUNCTION DEFINITIONS

1. DEFINITION OF TRANSFER OF FUNCTION (see 4-B-2-1 for additional information). "TRANSFER OF FUNCTION" is defined as the: (5 CFR 351.203)

(a) Transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, except when the function involved is the same class of activity as functions already being performed in the other competitive area(s); or,

(b) The movement of the competitive area in which the function is performed to another local commuting area.

2. DEFINITION OF COMPETITIVE AREA. "COMPETITIVE AREA" is a reduction in force term that is defined as the organizational and geographic boundaries within which an employee competes for positions under OPM's reduction in force regulations. (5 CFR 351.402(b))

o Section 3-A-8 of Restructuring Information Handbook Module 3 (Reduction in Force) contains additional information on competitive areas.

3. DEFINITION OF FUNCTION. "FUNCTION" is defined to include all or a clearly identifiable segment of an agency's mission (including all integral parts of that mission), regardless of how it is performed. (5 CFR 351.203)

4. EXPLANATION OF FUNCTION. In the definition of "FUNCTION" covered in paragraph 4-A-2-2 above, the following terms have a specific meaning:

(a) "AGENCY" may be any organizational entity (e.g., a department, a bureau, a division, a field installation, a branch, etc.).

(b) "PARTS" means that any agency activity may be a function.

(c) "SEGMENT" means an activity and generally, but not always, excludes an individual job or task.

5. DEFINITION OF COMPETING EMPLOYEE. "COMPETING EMPLOYEE" is defined to include an employee in reduction in force tenure Group I, Group II, or Group III. (5 CFR 351.203)

- o "Competing Employee" includes employees in both the competitive and the excepted services.

- o Competing employees in both the competitive and the excepted services have the same transfer of function rights.

- o Additional information on the definition of competing employee is found in Restructuring Information Handbook Module 3 (Reduction in Force), Section 3-A-11.

6. OTHER DEFINITIONS. "THE GUIDE TO PROCESSING PERSONNEL ACTIONS" (formerly FPM Supplement 296-33), contains definitions of other actions related to a transfer of function:

- (a) A "CHANGE IN DUTY STATION" occurs when the employee's office is moved to a new geographic location and no other change occurs.

- (b) A "MASS TRANSFER" is the movement of an employee with his or her position to a different agency when an organization change (such as a transfer of function) takes place, and there is no change in the employee's position, grade, or pay.

- (c) A "REALIGNMENT" is the movement of an employee and his or her position when an organization change (such as reorganization or transfer of function) occurs, the employee stays in the same agency, and there is no change in the employee's position, grade, or pay.

- o The Guide also contains instructions that agencies follow in documenting transfer of function actions on personnel records.

7. DEFINITION OF REORGANIZATION. "REORGANIZATION" is defined as the planned elimination, addition, or redistribution of functions or duties in an organization. (5 CFR 351.203)

- o Section 3-A-6 of Restructuring Information Handbook Module 3 (Reduction in Force) contains additional information on reorganization.

- o Transfer of function is a form of reorganization in which employees, under certain conditions, have the right to transfer with their function when it moves to a gaining competitive area before the agency can use reduction in force procedures to either separate them or downgrade them in the losing competitive area.

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 3. APPLICABILITY OF THE TRANSFER OF FUNCTION REGULATIONS

1. THE TWO SITUATIONS WHEN THE TRANSFER OF FUNCTION REGULATIONS APPLY (see 4-B-3-1 for additional information). The transfer of function regulations are applicable to two situations: (5 CFR 351.203)

(a) When an agency moves a function from one competitive area to another, and the gaining competitive area is not carrying out the same class of activity at the time of transfer; or

(b) When an agency moves the entire competitive area from one local commuting area to another and no other organizational change takes place.

o Section 4-A-2 includes definitions relating to transfer of function.

2. AUTHORITY FOR A TRANSFER OF FUNCTION. The transfer of function regulations are applicable whether or not the movement of work is authorized by: (5 CFR 351.301)

(a) A statute;

(b) An Executive Order

(c) A formal reorganization plan; or

(d) Other authority.

3. IN A TRANSFER OF FUNCTION A FUNCTION MUST CONTINUE IN AN IDENTIFIABLE FORM (see 4-B-3-3 for additional information). In a transfer of function, the function must:

(a) Cease in the losing competitive area(s) at the time of transfer; (5 CFR 351.301(b)), and

(b) Must be performed in an identifiable form in a different competitive area (or areas) where the function was not being performed at the time of transfer. (5 CFR 351.301(b))

o "IDENTIFIABLE FORM" means that the transfer of function regulations are only applicable when the transferred function will be performed by competing employees in the gaining competitive area.

o A transfer of function does not take place when the function of competing employees will not be performed by competing employees in the gaining competitive area (e.g., a function is not performed in an identifiable form if the function transfers to a gaining competitive area and is outsourced for performance by contract employees, by a different competitive area, or by members of the Armed Forces, rather than by competing employees in the gaining competitive area).

4. THE MOVEMENT OF A FUNCTION WITHIN A COMPETITIVE AREA IS NOT A TRANSFER OF FUNCTION (for additional information, see-4-B-3-4). The movement of a function within a competitive area does not meet either of the two transfer of function conditions found in 4-A-2-1. (5 CFR 351.203)

o The movement of a function within a competitive area is a reorganization.

o The definition of "REORGANIZATION" is found in 4-A-2-7. (5 CFR 351.203)

5. THE TRANSFER OF A FUNCTION FOR LIQUIDATION IS NOT COVERED BY THE TRANSFER OF FUNCTION REGULATIONS. The transfer of function regulations do not apply to a competing employee who is not identified with a function that is specifically authorized at the time of transfer to continue in operation for more than 60 days in the gaining competitive area. (5 CFR 351.302(b))

o The transfer of function regulations do not apply to the transfer of a function which is solely associated with the completion of a terminated program.

o For additional information on the transfer of a function slated for liquidation or termination, refer to Section 4-A-10.

6. A TRANSFER OF FUNCTION MAY BE INTRA- OR INTERAGENCY (see 4-B-3-6 for additional information). A transfer of function may be intra- or interagency. (5 CFR 351.301(a))

o OPM's transfer of function regulations are applicable without regard to whether a transfer is intra- or interagency. (5 CFR 351.301(a))

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 4. DETERMINING WHETHER THE TRANSFER OF FUNCTION
REGULATIONS ARE APPLICABLE.

1. MANAGEMENT'S RIGHT TO MAKE TRANSFER OF FUNCTION DECISIONS.
The agency has the sole right, and responsibility, to properly
determine whether the transfer of function regulations are
applicable to the movement of work. (5 CFR 351.201(a)(1))

2. MANAGEMENT RIGHT TO TAKE OTHER ACTIONS. A transfer of
function does not suspend management's right to take other
personnel actions before, at the same time, or after the transfer
of function.

3. BASIS FOR TRANSFER OF FUNCTION DECISIONS (see 4-B-4-3 for
additional information). The losing and the gaining competitive
areas must refer to relevant documents in determining whether the
transfer of function regulations are applicable.

o The reference point for a transfer of function determination
is the organizational manual and delegations of authority for the
losing and gaining competitive areas, supplemented if necessary
by references to enabling legislation that serves as the basis
for the performance of the function.

o These documents evidence whether the work that is being
transferred meets the definition of a function.

o If the work meets the definition of a function, these
documents then serve as the basis for a decision on whether the
transfer of function regulations are applicable.

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 5. APPLICATION OF THE TRANSFER OF FUNCTION REGULATIONS
IN ANY SITUATION

1. THE SAME TRANSFER OF FUNCTION PROVISIONS COVER ALL MOVEMENT OF WORK (see 4-B-5-1 for additional information). Section 4-A-3 covers the general conditions under which the transfer of function regulations are applicable to the movement of work. (5 CFR 351.203)

(a) The same transfer of function provisions in Section 4-A-3 are applicable to the movement of work in any situation, including: (5 CFR 351.203)

(1) The transfer of a function that supports a different transferring function;

(2) The consolidation of a function from more than one competitive area or locations into a single competitive area;

(3) The fragmentation of a function from one competitive area to two or more other competitive areas;

(4) A phased transfer of function in which portions of the function transfer to a different competitive area over a period of time;

(5) A phased transfer of function in which employees performing the transferring function move to a different duty site over a period of time;

(6) The closure of an activity under the jurisdiction of one agency (or subagency), with a different agency (or subagency) assuming responsibility for a successor activity at the same duty site;

(7) The transfer of one of several functions performed by a manager or supervisor; or

(8) Other situations.

(b) A single potential transfer of function may involve any or all of the seven special situations covered in paragraph 4-A-5-1-(a) above.

(c) By isolating each transferring function as the work is documented by the losing competitive area and then determining if the same class of activity is performed by the gaining competitive area at the time of transfer, the losing and the gaining competitive areas may determine whether the transfer of function regulations are applicable to any situation.

o Paragraph 4-A-4-3 explains that the losing and the gaining competitive areas must refer to relevant documents (e.g., organizational manuals and delegations of authority) to determine whether the transferring work meets the definition of a function and, if so, whether the transfer of function provisions are applicable.

2. IMPORTANCE OF COOPERATION BETWEEN THE LOSING AND THE GAINING COMPETITIVE AREAS. The competitive areas that are losing and gaining a function must cooperate in meeting their responsibility to determine: (5 CFR 351.204)

(a) Whether the transfer of function provisions are applicable to the movement of work from one competitive area to another;

(b) Based on the transfer of function determination in 4-2-a above, which competitive area is responsible for personnel actions if competing employees are subsequently separated or downgraded; and

(c) If competing employees are separated or downgraded following the transfer of the function, what specific personnel procedures are used (e.g., reduction in force, adverse action, etc.) to carry out the action.

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 6. IDENTIFICATION OF EMPLOYEES AND POSITIONS WITH A
TRANSFERRING FUNCTION-GENERAL

1. RESPONSIBILITY OF THE LOSING COMPETITIVE AREA TO IDENTIFY POSITIONS AND EMPLOYEES. The competitive area losing the function is responsible for identifying both positions and competing employees with the transferring function. (5 CFR 351.302(a))

2. THE TWO PROCEDURES AGENCIES USE TO IDENTIFY POSITIONS AND EMPLOYEES FOR TRANSFER. The transfer of function regulations provide for two procedures that the losing competitive area must use in identifying both positions and employees for transfer: (5 CFR 351.(a)(1))

(a) IDENTIFICATION METHOD ONE; (5 CFR 351.303(a)(1)), and

(b) IDENTIFICATION METHOD TWO. (5 CFR 351.303(a)(2))

o Section 4-A-7 covers Identification Method One.

o Section 4-A-8 covers Identification Method Two.

3. THE TWO IDENTIFICATION PROCEDURES ARE MANDATORY. The losing competitive area may only use Identification Method One or Identification Method Two to identify employees for transfer with a function. (5 CFR 351.303(a))

o The losing competitive area may not substitute a different procedure that would change the right of an employee identified under Identification Method One or Identification Method Two to transfer with a function.

o The losing competitive area may allow employees not identified under Method One or Method Two to volunteer for transfer provided that no employee with a right to transfer is separated or downgraded because of this decision (see Section 4-A-13 for additional information for volunteers to transfer). (5 CFR 351.303(e)(1))

o Identification Method One generally applies to line positions (e.g., positions in an engineering development function), while Identification Method Two generally applies to support positions (e.g., positions in a typing pool that service the engineering development function as well as other functions).

4. USE OF IDENTIFICATION METHOD ONE VERSUS USE OF IDENTIFICATION METHOD TWO. The losing competitive area must use IDENTIFICATION METHOD ONE to identify each employee for transfer when this procedure is applicable. (5 CFR 351.303(b))

o The losing competitive area uses IDENTIFICATION METHOD TWO only to identify positions not covered by Identification Method One. (5 CFR 351.303(b))

5. USING THE POSITION DESCRIPTION TO IDENTIFY EMPLOYEES FOR TRANSFER (see 4-B-6-5 for additional information). The losing competitive area identifies each competing employee with a transferring function on the basis of the employee's official position description. (5 CFR 351.303(a))

6. SUPPLEMENTING THE POSITION DESCRIPTION TO IDENTIFY EMPLOYEES FOR TRANSFER (see 4-B-6-6 for additional information). In determining what percentage of time an employee performs a function, the losing competitive area may supplement the official position description by the use of material such as official work reports, organizational time logs, and similarly appropriate items. (5 CFR 351.303(c)(3))

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 7. IDENTIFICATION OF EMPLOYEES AND POSITIONS WITH A
TRANSFERRING FUNCTION-IDENTIFICATION METHOD ONE

1. IDENTIFICATION METHOD ONE (see 4-B-7-1 for additional information). Under Identification Method One, the losing competitive area identifies a competing employee with a transferring function if:

(a) The employee performs the function during at least half of the employee's work time; (5 CFR 351.303(c)(1)), or

(b) Regardless of the amount of time that the employee performs the function, the function includes the employee's grade-controlling duties. (5 CFR 351.303(c)(2))

2. GRADE-CONTROLLING DUTIES MUST SUPPORT ENTIRE GRADE OF POSITION. The losing competitive area identifies a competing employee with a transferring function based on grade-controlling duties only if the employee's work on the transferring function would, by itself, support the employee's present grade.

3. IDENTIFICATION METHOD TWO-TRANSFER OF POSITIONS WHEN BOTH METHOD ONE AND METHOD TWO APPLY TO THE SAME RETENTION REGISTER. In some situations, the agency may find that some employees are identified for transfer under Identification Method One, and other employees on the same position are properly identified for transfer under Identification Method Two. (5 CFR 351.303(b))

o Refer to paragraph 4-A-8-5 for additional information.

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 8. IDENTIFICATION OF EMPLOYEES AND POSITIONS WITH A
TRANSFERRING FUNCTION-IDENTIFICATION METHOD TWO

1. IDENTIFICATION METHOD TWO-GENERAL (see 4-A-8-1 for additional information). An agency uses Identification Method Two to identify a competing employee with a transferring function if: (5 CFR 351.303(d))

(a) The employee performs the function during less than half of the employee's work time; and,

(b) The employee's duties on the function are not grade-controlling.

2. IDENTIFICATION METHOD TWO-NUMBER OF EMPLOYEES WITH A RIGHT TO TRANSFER. Under Identification Method Two, the losing competitive area must first identify the number of positions it needed to perform the transferring function. (5 CFR 351.303(d))

o The number of employees with the right to transfer with the function under Identification Method Two is the number of positions that the losing competitive area needed to perform the transferring function. (5 CFR 351.303(d))

o Identification Method Two does not provide a transfer of function right based upon less than one position (e.g., the losing competitive area needed less than one position to perform the transferring function), or for a fraction of a position (e.g., if the losing competitive area needed 2.5 positions to perform the transferring function, two positions are identified). (5 CFR 351.303(d))

3. IDENTIFICATION METHOD TWO-DEVELOPING RETENTION REGISTERS (see 4-B-8-3 for additional information). After determining the number of positions it needed to perform the transferring function (see 4-A-8-2 above), the losing competitive area must then establish retention registers that include only the names of all competing employees who perform the function, and are not covered by Identification Method One. (5 CFR 351.303(d))

(a) An employee who did not perform the transferring function is not listed on a retention register that the agency establishes for employees covered by Identification Method Two. (5 CFR 351.303(d))

o This means that the agency does not automatically use the same retention registers that would be used for reduction in force competition.

(b) "RETENTION REGISTER" is a reduction in force term that is used interchangeably with the term "COMPETITIVE LEVEL." (5 CFR 351.404(a))

o Retention Register is defined in paragraph 3-A-4-1-(o) of Restructuring Information Handbook Module 3 (Reduction in Force), and, along with Competitive Level, is further explained in paragraph 3-A-9-1.

4. IDENTIFICATION METHOD TWO-USING RETENTION REGISTERS TO IDENTIFY EMPLOYEES FOR TRANSFER WITH THE FUNCTION. To determine which competing employees are identified for transfer under Identification Method Two, the losing competitive area uses the retention registers it established under paragraph 4-A-8-7 above and identifies employees in the inverse order of their retention standing, except as provided in paragraph 4-A-8-5-(b) below. (5 CFR 351.303(d))

(a) Under this basic procedure, the agency identifies the employee with the lowest standing on the retention register for transfer with the function under Identification Method Two. (5 CFR 351.303(d))

(b) If for any retention register the agency's use of the basic procedure covered in paragraph 4-A-8-4-(a) above would result in the separation or demotion by reduction in force of an employee with higher retention standing than the employee who is transferred under Identification Method Two, the agency identifies competing employees on that register for transfer in the actual order of their retention standing. (5 CFR 351.303(d))

o Under this alternative procedure, the agency identifies the employee with the highest standing, rather than the employee with the lowest standing, on the retention register for transfer with the function under Identification Method Two. (5 CFR 351.303(d))

o This may occur in a "sunset" or similar situation when the losing agency is being abolished, a continuing function will transfer to a continuing competitive area, and employees who do not transfer are faced with separation or downgrading by reduction in force in the losing competitive area.

o In a transfer of function held concurrent with a reduction in force in the losing competitive area, the agency may find that under Identification Method Two, on some retention registers it identifies employees for transfer in the inverse order of their retention standing, and on other registers, the agency identifies employees in the actual order of their retention standing. (5 CFR 351.303(d))

o Regardless of the order of retention standing, under Identification Method Two the losing competitive area identifies for transfer only the number of positions it needed to perform the transferring function.

5. IDENTIFICATION METHOD TWO-TRANSFER OF POSITIONS WHEN BOTH METHOD ONE AND METHOD TWO APPLY TO THE SAME RETENTION REGISTER. In some situations, the agency may find in developing a retention register under Identification Method Two, that some employees on the retention register are actually identified for transfer under Identification Method One, and other employees on the same retention register are identified for transfer under Identification Method Two. (5 CFR 351.303(b))

o This situation can develop when some employees working in support of a transferring line function spend at least half of their work time on the transferring function, while other employees working in support of the same line function spend less than half of their work time on the transferring function, and the balance of their work time supporting other line functions.

(a) In this situation, the losing competitive area first identifies all employees with transfer of function rights under Identification Method One, without regard to the total number of employees that the losing competitive area needed to perform the transferring function. (5 CFR 351.303(b))

(b) The losing competitive area then refers to the total number of positions it needed to perform the transferring function.

(c) If the losing competitive area finds that the total number of positions needed to perform the transferring function is:

(1) The same or less than the number of employees identified for transfer under Identification Method One, then all of the Method One employees are identified for transfer; (5 CFR 351.303(b)), or

(2) Greater than the number of employees identified for transfer under Identification Method One, then the losing competitive area uses Identification Method Two to identify the remaining employees for transfer until the total number of employees identified under Identification Methods One and Method Two equals the total number of positions needed to perform the transferring function. (5 CFR 351.303(d))

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 9. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-
EMPLOYEES OF THE LOSING COMPETITIVE AREA

1. RIGHT OF AN EMPLOYEE TO TRANSFER WITH THE FUNCTION (see 4-B-9-1 for additional information). Regardless of an employee's personal preference, a competing employee who is identified for transfer under Identification Method One or Identification Method Two has no right to transfer with a function unless the alternative is separation or downgrading of the employee by reduction in force in the competitive area losing the function. (5 CFR 351.302(c))

o This means that a competing employee who is identified with a transferring function has the right to transfer with the function to the gaining competitive area if, after the transfer of function, the employee will be separated or downgraded in the losing competitive area. (5 CFR 351.302(c))

2. SEPARATION OF AN EMPLOYEE WHO REFUSES TO TRANSFER WITH THE FUNCTION (see 4-B-9-2 for additional information). The losing competitive area uses adverse action procedures under authority of 5 CFR Part 752 if it chooses to separate an employee who declines to transfer with his or her function. (5 CFR 351.302(d))

(a) In lieu of using adverse procedures to separate the employee who refuses to transfer with the function, the agency may instead:

(1) Reassign the employee to another continuing position under the agency's general authority to reassign employees; (5 CFR 335.102), or

(2) Allow the employee to compete for positions in a concurrent reduction in force in the losing competitive area (see paragraph 4-A-9-3 below for additional information; (5 CFR 351.302(e))

3. USE OF REDUCTION IN FORCE PROCEDURES IN THE LOSING COMPETITIVE AREA (see 4-B-9-3 for additional information). The losing competitive area may not conduct a reduction in force solely for the benefit of employees who decline to transfer with their function. (5 CFR 351.302(e))

o At its option, the losing competitive area may include employees who decline to transfer with their as part of a concurrent reduction in force conducted for other reasons. (5 CFR 351.302(e))

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 10. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-
EMPLOYEES OF THE GAINING COMPETITIVE AREA

1. NO IMPACT OF THE TRANSFER OF FUNCTION ON EMPLOYEES OF THE GAINING COMPETITIVE AREA WITHOUT OTHER ORGANIZATIONAL CHANGES. The transfer of function provisions do not affect employees of the gaining competitive area if the transfer does not require a reduction in force, or other personnel actions, in that organization.

2. TRANSFERRING EMPLOYEES COMPETE FOR POSITIONS ON THE BASIS OF THEIR POSITIONS OF RECORD. The losing competitive area transfers each employee identified for transfer with the function to the gaining competitive area on the basis of the position that the employee held prior to the transfer.

o If the gaining competitive area conducts a reduction in force at the same time of the transfer of function, the transferred employee competes for retention on the basis of the position that the employee held prior to the transfer. (5 CFR 351.404(a))

o If the gaining competitive area does not conduct a reduction in force at the same time of the transfer of function, the gaining competitive area must still take an appropriate personnel action (e.g., reassignment) to move the incoming employee from the position that the employee held prior to the transfer to a new position at the same grade.

3. RIGHTS OF TRANSFERRED EMPLOYEES IN THE GAINING COMPETITIVE AREA (see 4-B-10-3 for additional information). Competing employees identified for transfer with the function by the losing competitive area have a right to:

(a) Transfer to the gaining competitive area before being separated or downgraded by reduction in force; (5 CFR 351.302(a)), and

(b) Compete on equal terms with employees in the gaining competitive area in any reduction in force that takes place concurrent with, or after, the transfer of function. (5 CFR 351.302(a))

o Employees identified for transfer with the function compete for retention on registers comprised of both themselves and employees working in the gaining competitive area at the time of transfer. (5 CFR 351.302(a))

o A transferred employee who is reached for a reduction in force action in gaining competitive area has no retention rights in the losing competitive area. (5 CFR 351.302(e))

4. ACTUAL RELOCATION OF TRANSFERRING EMPLOYEES NOT NECESSARY BEFORE A REDUCTION IN FORCE. The gaining competitive area may determine the retention rights of transferring employees in a reduction in force conducted at the same time as the transfer of function without an actual relocation of employees from the losing competitive area.

o To assist in a reduction in force following the transfer of function, the losing competitive area may act as agent for the gaining competitive area in providing information to transferring employees and, if applicable, in processing lump sum annual leave payments and severance pay.

5. EMPLOYEES SEPARATED BY RIF ARE COVERED BY THE GAINING REEMPLOYMENT PRIORITY LIST. Each transferred employee who is separated by reduction in force is placed on the reemployment priority list of the gaining competitive area. (5 CFR 330.203(g))

o A transferred employee who is separated by reduction in force may not be placed on the reemployment priority list of the losing competitive area. (5 CFR 330.206(a))

o Restructuring Information Handbook Module 6 covers the Reemployment Priority List.

6. STATUS OF COMPETITIVE SERVICE POSITIONS. When the position of an employee who is in the competitive service and has competitive status is moved to a new organization as part of a reorganization or transfer of function, the position remains in the competitive service during the employee's incumbency. (5 CFR 212.401)

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 11. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-
TRANSFER OF POSITIONS FOR LIQUIDATION.

1. THE LIQUIDATION PROVISION DOES NOT PROVIDE AN EMPLOYEE WITH RIF RIGHTS IN THE GAINING ORGANIZATION. A competing employee who is identified with a function specifically authorized at the time of transfer to continue in the gaining competitive area for no more than 60 days is not a competing employee for other positions in the gaining competitive area. (5 CFR 351.302(b))

o The employee has the right to transfer to the gaining competitive area solely for the purpose of separation by reduction in force. (5 CFR 351.302(b))

o An employee whose position is transferred solely for liquidation is placed on the Reemployment Priority List of the gaining rather than the losing competitive area. (5 CFR 330.203(a))

o Restructuring Information Handbook Module 6 covers the Reemployment Priority List.

2. THE TRANSFER OF A FUNCTION FOR TERMINATION IS NOT COVERED BY THE TRANSFER OF FUNCTION REGULATIONS (see 4-B-11-2 for additional information). The transfer of function regulations do not apply to the transfer of a function which is terminated in the losing competitive area, and is subsequently transferred to another competitive area for final completion. (5 CFR 351.302(b))

o A competing employee who the agency identifies with a terminated program is a competing employee in the losing competitive area for reduction in force competition.

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES), SECTION 12. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-TRANSFER OF FUNCTION CANVASS LETTERS.

1. PURPOSE OF A TRANSFER OF FUNCTION CANVASS LETTER (see 4-B-12-1 for additional information). The losing competitive area may use a canvass letter to ask each competing employee identified with a transferring function whether the employee will actually transfer with the function to a new geographic location. (5 CFR 351.302(g))

o Refer to paragraph 4-B-12-1 for two sample transfer of function canvass letters.

o The losing competitive area is not required to offer a specific position in the transfer of function canvass letter (see paragraphs 4-A-12-5 and 4-A-12-6 below).

o The transfer of function canvass letter is an initial offer for an employee to transfer with the function to a different local commuting area (see paragraphs 4-A-12-5 and 4-A-12-6 below).

2. TRANSFER OF FUNCTION CANVASS LETTERS ARE OPTIONAL. The losing competitive area, at its option, may decide: (5 CFR 351.302(g))

(a) Whether to issue a transfer of function canvass letter to employees;

(b) The format of the transfer of function canvass letter;

(c) How long before the transfer of function to issue the canvass letter to employees; and

(d) How long before an employee who receives the transfer of function canvass letter must respond to the agency's request for a decision on whether or not the employee will relocate.

3. TRANSFER OF FUNCTION CANVASS LETTERS ARE ONLY USED WHEN A GEOGRAPHIC MOVE WILL TAKE PLACE. The losing competitive area may issue a canvass letter if the transfer of function is based upon either the movement of:

(a) A function from one competitive area to another competitive area that is located in a different local commuting area; (5 CFR 351.302(g)), or

(b) The entire competitive area to a different local commuting area. (5 CFR 351.302(g))

o The losing competitive area may not issue a canvass letter to an employee who is identified with a function that is not moving to a different local commuting area. (5 CFR 351.302(g))

4. CONTENT OF TRANSFER OF FUNCTION CANVASS LETTERS-GENERAL. The losing competitive area should use the canvass letter to provide an employee identified for transfer with sufficient information to decide whether the employee wishes to transfer with the function to a gaining competitive area that is located in a different local commuting area. (5 CFR 351.302(g))

o In the canvass letter, the losing competitive area should explain to the employee what would result from the employee's decision to accepting or decline this initial offer to transfer with the function to a different local commuting area.

o The losing competitive area should allow a reasonable period of time for the employee with to make a decision on whether or not to accept the offer to transfer with the function to a different local commuting area.

5. CONTENT OF TRANSFER OF FUNCTION CANVASS LETTERS-ACCEPTANCE OF THE OFFER TO TRANSFER. By accepting the initial offer in the canvass letter to transfer with the function, the employee simply indicates a willingness to transfer to the gaining competitive area. (5 CFR 351.302(g))

(a) An employee who accepts the offer to transfer will be in competition for positions in the gaining competitive area (see Section 4-A-9). (5 CFR 351.302(g))

(b) An employee who initially accepts the offer to transfer with the function is not bound by that decision and may later change the acceptance offer without penalty. (5 CFR 351.302(g))

(c) An employee who initially accepts the offer to transfer with the function to a different local commuting area, but later declines the offer, is not entitled to an extension in active duty status regardless of whether the agency chooses to separate the employee from:

(1) The losing competitive area for failure to transfer with the function; or

(2) The gaining competitive area for abandonment of position.

6. CONTENT OF TRANSFER OF FUNCTION CANVASS LETTERS-DECLINATION OF THE OFFER TO TRANSFER. If the employee declines the initial offer to transfer in the canvass letter, the losing competitive area has the right to propose the employee's separation under adverse action procedures (see paragraph 4-A-9-2). (5 CFR 351.302(d))

(a) By electing not to transfer with the function in the canvass letter, the employee becomes eligible for placement assistance in the employee's agency under the Career Transition Assistance Plan (CTAP).

o The Career Transition Assistance Plan is authorized in Subpart 5 CFR 330-F of OPM's regulations.

o An employee who is separated after declining an offer to transfer with the function to a different local commuting area is entitled to reemployment priority in other Federal agencies under the Interagency Career Transition Assistance Plan (ICTAP), which is authorized in Subpart 5 CFR 330-G of OPM's regulations.

(b) By electing not to transfer with the function in the canvass letter, the losing competitive area will not release the employee from duty any sooner than employees who elect in the canvass letters to transfer with the function. (5 CFR 351.302(f))

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 13. IMPLEMENTING THE TRANSFER OF FUNCTION REGULATIONS-
VOLUNTEERS FOR TRANSFER

1. USE OF VOLUNTEERS FOR TRANSFER-GENERAL (see 4-B-13-1 for additional information). The losing competitive area may permit other employees of the agency to volunteer for transfer with the function in place of competing employees identified under Identification Method One or Identification Method Two. (5 CFR 351.303(e)(1))

o The gaining competitive area should agree to the transfer of volunteers since these employees have no right to transfer with the function.

2. USE OF VOLUNTEERS IS OPTIONAL. At its option, the losing competitive area may permit other employees to volunteer for transfer with the function only if no competing employee who is identified under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred to the gaining competitive area in place of the employee identified with the function. (5 CFR 351.303(e)(1))

3. TEMPORARY EMPLOYEES MAY VOLUNTEER FOR TRANSFER WITH THE FUNCTION. The losing competitive area may permit noncompeting employees in temporary positions to volunteer for transfer with the function to the gaining competitive area.

(a) The losing competitive area may allow employees to volunteer for transfer with the function only if no competing employee who is identified under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred to the gaining competitive area in place of the employee identified with the function. (5 CFR 351.303(e)(1))

(b) The gaining competitive area must agree to the transfer of volunteers who are temporary employees since these employees have no right to transfer with the function. (5 CFR 351.303(e)(1))

(c) If the total number of employees who volunteer for transfer exceeds the number of employees required to perform the function in the gaining competitive area, the losing competitive area, at its option, may give preference to the volunteers with the highest retention standing. (5 CFR 351.303(e)(2))

MODULE 4 (TRANSFER OF FUNCTION), UNIT A (REQUIRED PROCEDURES),
SECTION 14. EMPLOYEES' RIGHT TO RAISE TRANSFER OF FUNCTION
ISSUES IN AN APPEAL OR GRIEVANCE

1. NO BASIC RIGHT TO APPEAL A TRANSFER OF FUNCTION. APPEAL OR GRIEVANCE RIGHTS (see 4-B-14-1 for additional information). An employee may raise a transfer of function issue as part of an appeal to the Merit Systems Protection Board of a subsequent reduction in force or adverse action that the employee believes resulted from the transfer of function. (5 CFR 351.901)

o An employee has no right to appeal a transfer of function to the Board except as an issue in another appeal under the Board's jurisdiction (e.g., reduction in force, adverse action, etc). (5 CFR 1201.3(a))

o Section 3-A-33 of Restructuring Information Handbook Module 3 (Reduction in Force) covers reduction in force appeals to the Merit Systems Protection Board.

2. TRANSFER OF FUNCTION ISSUES IN A GRIEVANCE. An employee in a bargaining unit covered by a negotiated grievance procedure that does not exclude reduction in force must use the negotiated grievance procedure and may not appeal the reduction in force action to the Merit Systems Protection Board. (5 CFR 351 1201.3(c)(1))

o Section 3-A-34 of Restructuring Information Handbook Module 3 (Reduction in Force) covers reduction in force grievances.