

NEW MEXICO ARMY AND AIR NATIONAL GUARD
OFFICE OF MILITARY AFFAIRS
OFFICE OF THE ADJUTANT GENERAL
SANTA FE, NEW MEXICO 87502-4277

AGONM Technician Personnel
Regulation Number 351
Change 2

28 June 1994

TECHNICIAN PERSONNEL (ARMY & AIR)
REDUCTION IN FORCE

AGONM TPR 351 is changed as follows:

Pen and Ink Change -

Page 6 - Paragraph c., fifth line and eighth line - Delete or military rating.

Paragraph should read as follows:

c. Factors that may affect a technician's retention standing and must be taken into consideration are probation/trial periods (projected dates of completion should be used), appeals, and new ratings if an appeal is processed before the effective date of a reduction in force. This means that an officially approved performance appraisal currently on file will be the one used once reduction in force has been granted. Once authority for a reduction in force has been received, receipt of a new performance appraisal will not affect the technician's retention standing in the current reduction in force. However, if a decision on an appealed performance appraisal is issued prior to the effective date of reduction in force personnel actions, the new appraisal will be used. Therefore, rating cycles should be considered in conducting a reduction in force. (Authority: NGB TPR 300/351 dated 22 November 1993)

Page 7 - Paragraph (3)., first line - Add an s to pecial (typographical error).

Paragraph should read as follows:

(3) To allow for completion of a special project or assignment for 90 days or less, depending on funding and manpower restrictions. (This exception is justified only in unusual cases where projects or assignments were already started at the time of a reduction in force, and a higher standing technician could not take over the duties.)

FOR THE ADJUTANT GENERAL:



RUDY F. GONZALES, GM-13

Support Personnel Management Officer

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NEW MEXICO ARMY AND AIR NATIONAL GUARD
OFFICE OF MILITARY AFFAIRS
OFFICE OF THE ADJUTANT GENERAL
SANTA FE, NEW MEXICO 87502-4277

AGONM Technician Personnel
Regulation Number 351
Change 1

24 March 1993

TECHNICIAN PERSONNEL (ARMY & AIR)
REDUCTION IN FORCE

AGONM TPR 351 is changed as follows:

Remove Cover Page, page 5, 6, 11, 12, 13 and 14. Insert Cover page, page 5, 6, 11, 12 and 13. This change reflects change 11 to NGB TPR 300 (351) dated 15 Jan 93 which eliminated the use of a Military Appraisal.

FOR THE ADJUTANT GENERAL:



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Support Personnel Management Officer

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STATE OF NEW MEXICO
OFFICE OF MILITARY AFFAIRS
SANTA FE, NEW MEXICO 87501

AGONM Technician Personnel
Regulation Number 351

1 October 1982

TECHNICIAN PERSONNEL (ARMY & AIR)

REDUCTION IN FORCE

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This regulation supersedes AGONM Technician Personnel Regulation 351, dated 1 April 1977.

b. The following actions are not considered reduction in force situations:

- (1) Separation of technicians who fail to accompany a transfer of function.
- (2) Management reassignments of technicians to vacancies at the same grade or representative rate.
- (3) Termination of temporary technicians.
- (4) Downgrades as a result of reclassification.
- (5) Termination of temporary promotions.
- (6) Elimination of problem employees. Actions should be taken in accordance with TPR 430 or through disciplinary/adverse action procedures as appropriate.
- (7) Furloughs of 30 days or less.

2-2. SUPPORT PERSONNEL MANAGEMENT OFFICE (SPMO) RESPONSIBILITIES IN A REDUCTION IN FORCE

a. One of the most important aspects of a reduction in force is proper planning. Such planning, done effectively, can decrease the number of administrative problems and may lessen the adverse impact of a reduction in force by reducing the number of actual separations. Many of the actions involved in such planning can take place simultaneously and may include the following:

- (1) Meeting individually with labor organizations to explain the need for a reduction in force and procedures to be used.
- (2) A total freeze on all vacancies or promotion actions, except for positions that must be filled due to mission necessity.
- (3) Providing briefings to keep the technician workforce informed.
- (4) Assuring that applicable regulations are available for management and technician review.
- (5) Reviewing criteria to determine need for a major reduction in force and to provide retirement counseling.
- (6) Developing an aggressive placement program to include contact with other States, local Federal activities, local government, and private employers.

b. Vacant positions used for placement action are those technician positions that have been identified and are funded for use in the reduction in force. The National Guard Bureau encourages each Adjutant General and his staff to take aggressive placement action during every reduction in force. This means that when a reduction in force becomes necessary, all recruitment action should stop until a review can be made to determine which vacancies will be needed for placement of technicians who might otherwise be separated. However, those positions, which will not be used in the placement program, may continue to be announced and filled. Also, positions that would result in promotions for technicians must be filled through merit placement procedures. In situations where there are large numbers of technicians eligible for the new higher graded positions, areas of consideration may be limited if there is no conflict with merit placement plans and the union contract.

c. Granting grade retention to a technician if his move has a positive effect on another technician, and/or such action will assist management in achieving its objectives. For example, if a technician is to be released from his competitive level, it may be advantageous to grant grade retention to another technician in that competitive level who would not be affected but who requests a move to a lower grade. The technician who requested the move to a lower grade is allowed to seek another position more suited to him without a significant loss in benefits, and any adverse impact on technicians in other competitive levels may be lessened or completely avoided. However, if the technician is in another competitive level, and his move to a lower grade would have no effect on other technicians, it would not be appropriate to grant grade retention.

2-3. USE OF FURLONGHS

a. The use of furloughs in lieu of separations will only be used when a reduction in force is temporary and there is a definite indication that affected technicians will be recalled within 6 months. This regulation only applies to furloughs that exceed 30 calendar days (if consecutive) or 22 workdays (if discontinuous) during the period of 6 months starting from the first day that the furlough is to be effected. Furloughs of 30 days or less are covered by nondisciplinary adverse action procedures. Technicians who are placed on furlough rather than being separated are to report back to duty on the date specified unless recalled earlier. When it becomes possible to recall some technicians earlier than anticipated, they must be recalled in the order of their retention standing beginning with the highest standing technician.

b. If the situation changes so that furloughed technicians cannot be recalled to duty or extended, a new reduction in force notice must be issued at least 60 days before separation.

c. If a furloughed technician refuses or does not respond to a call to return to duty, he will be terminated on the specified date of return for duty without a new notice. The technician's original notice will provide him with this information and will serve as a 30-day notice of separation.

CHAPTER 3. COMPETITIVE AREAS AND LEVELS (REQUIREMENT 1)

There are two major elements used in a reduction in force that must be established before any action is taken: the designation of competitive areas and identification of competitive levels.

3-1. COMPETITIVE AREAS.

A competitive area is the area within which technicians compete during a reduction in force and is described geographically, organizationally, or a combination of both. The competitive area must be large enough to permit adequate competition among technicians and limited enough to be administratively manageable. In order to reduce confusion at the time of a reduction in force, competitive areas should be designated prior to a reduction in force whenever possible. However, due to the many factors relating to conversion, reorganization, etc, within the Army and Air National Guard, predetermination of competitive areas may not always be possible. Therefore, competitive areas must be reviewed again at the time the SPMO receives notification of an action requiring a reduction in force. Support Personnel Management Office will brief the recognized labor organization regarding the competitive areas and the procedures that will be followed as soon as a reduction in force is indicated.

3-2. COMPETITIVE LEVELS.

The other important element in a reduction in force is the assignment of positions to competitive levels. Whenever possible, these should be established and recorded prior to a reduction in force, with only a minor review necessary at the time of a reduction in force. A competitive level consists of all positions within a competitive area, which are in the same grade, same service (excepted or competitive); and are so alike in qualification requirements, duties, and responsibilities that the incumbents can be moved from one position to another without undue interruption to the work program. Although establishing competitive levels is the responsibility of the SPMO, management participation may be required for certain specialized positions. When designating competitive levels, the following factors will be taken into consideration.

a. Only those qualifications and military requirements established for the position may be considered. However, the military readiness of the organization must be taken into consideration when setting up competitive levels, and the criteria used should not interrupt or affect the military mission of the organization.

b. Separate competitive levels are required within the same series and grade and within the same trade or occupation when differences exist that are significant in recruitment, training, or areas of assignment; for example, an electronics mechanic (radar) and an electronics mechanic (power equipment).

c. Positions may not be assigned to competitive levels on the basis of the sex of the incumbents, unless the jobs involve combat units where a woman could not be assigned militarily.

d. A competitive level may consist of only one position when that position is not interchangeable or similar to other positions.

e. Technicians in positions requiring military membership will not be placed in the same competitive level as those not requiring military membership.

f. Supervisory positions will not be placed in the same competitive level as nonsupervisory positions.

CHAPTER 4. ESTABLISHMENT OF RETENTION REGISTERS (REQUIREMENT 2)

a. A retention register will be established before releasing a competing technician from his competitive level. The register will show the competing technicians in descending order starting with the technician with the highest score first. The retention register documents any action being taken and is required in every reduction in force, even when the released technician occupies the only position in the competitive level. In preparing the register, NGB Form 351-1, Retention Register, will be used.

b. When establishing the register, all competing technicians will be listed in descending order by tenure groups I, II, and III. The technician's correct tenure is shown in item 7 of the SF 50. Group I includes technicians under career/permanent appointments who are not serving on probation or trial periods, and Group II includes technicians serving on probation or trial periods. Group III includes all technicians who have been given indefinite appointments in the excepted service. The following criteria will be used to determine retention standing within each tenure group:

(1) Technician performance appraisal score, 0-100 points. However, those technicians with an overall performance appraisal of unacceptable will be placed at the bottom of retention registers after tenure Groups I and II are listed, regardless of the number of points they have. They may only compete with or displace other technicians with unacceptable performance appraisals.

(2) Military appraisal score, 5-25 points.

- (3) Service computation date (for ties).
- (4) Technician service date (further tie breaker).

c. Factors that may affect a technician's retention standing and must be taken into consideration are probation/trial periods (projected dates of completion should be used), appeals, and new ratings if an appeal is processed before the effective date of a reduction in force. This means that an officially approved performance appraisal or military rating currently on file will be the one used once reduction in force authority has been granted. Once authority for a reduction in force has been received, receipt of a new performance appraisal or military rating will not affect the technician's retention standing in the current reduction in force. However, if a decision on an appealed performance appraisal is issued prior to the effective date of reduction in force personnel actions, the new appraisal will be used. Therefore, rating cycles should be considered in conducting a reduction in force.

d. All competing technicians are listed on a retention register for a competitive level based on the positions to which they are officially assigned. This does not include positions to which technicians are temporarily promoted, reassigned, detailed, or serving under saved grade. For reduction in force processing, such technicians must be placed on the retention register according to their properly classified positions. Competition in a reduction in force must also include technicians on annual leave and leave without pay, except for those technicians on military duty. Technicians on military duty with restoration rights do not compete in a reduction in force that occurs in their absence. Even though their former position may be abolished, their restoration rights to another position will not be affected.

CHAPTER 5. ORDER OF RELEASE FROM COMPETITIVE LEVELS (REQUIREMENT 3)

a. When reduction in force requires the release of one or more competing technicians from a competitive level, all technicians in group III are selected for release before any in group I or II, and all in group II before any in group I. In each group, technicians are selected for release in the order of their retention score, beginning with the lowest score.

b. In certain cases, it may be necessary to grant an exception to the normal order of release of technicians. Such exceptions should only be used in unusual situations, and will require justification to show why such action was taken. Also, higher-standing technicians must be informed whenever any lower-standing technician is retained beyond the effective date of the specific notices. The following situations are examples of when such exceptions might be necessary:

(1) To retain a technician who is covered by the 6-month or 1-year retention period following military duty.

(2) To retain a technician who is given a new 60-day notice due to action more severe than specified in the original notice.

(3) To allow for completion of a special project or assignment for 90 days or less, depending on funding and manpower restrictions. (This exception is justified only in unusual cases where projects or assignments were already started at the time of a reduction in force, and a higher standing technician could not take over the duties).

c. A tie occurs when two or more technicians in the same group have the same retention score. When one or more but not all tied technicians must be released from their competitive level, the tie will be broken by determining which technician has the earliest service computation date. If necessary, a further tie breaker will be a technician's service date.

CHAPTER 6. DETERMINING PLACEMENT OFFERS (REQUIREMENT 4)

6-1. PLACEMENT OFFERS

a. Each register containing more than one name lists the technicians by tenure group and then by their retention scores to determine their standing. At this point, all technicians who were released from their competitive levels and have not been assigned to vacant technician positions at the same grade or representative rate will be offered a technician position using the following sequence. First, through competition for occupied positions at the same grade or representative rate, the technician may be offered a position and may displace the technician who currently occupies that position. Next, if there are no technician vacancies at the next lower grade available, technicians then compete across competitive lines for occupied positions at lower grades or representative rates. Although this procedure may often cause a chain reaction within the competitive area, qualified technicians must be given this opportunity, if there are no vacancies at the next lower grade.

b. A technician may not be offered a position with a grade or representative rate higher than his current position. Technicians are only entitled to one offer. This offer will be the occupied position they successfully competed for or a vacant technician position at a lower grade, if available. If a technician rejects the offer or fails to reply to the offer within the specified time limit, he must be separated. All technicians who cannot be placed will also be separated at the expiration of their 60-day specific notice.

6-2. QUALIFICATIONS.

a. When competing for occupied technician positions, technicians must be fully qualified. This means they must meet all technician qualifications for the position in addition to compatible military requirements for excepted positions. Thus, in order to displace another technician through competition, a technician must be as well qualified for the job as if he had already performed successfully in a similar position, and he must be able to keep the work moving without serious interruption.

b. When a technician is being offered a vacant technician position at a lower grade, certain qualifications may be waived when it appears that the technician has the capacity, adaptability, and basic skills required by the position. Qualifications should only be waived for vacant positions at lower grades when a minimum amount of retraining will bring the technician to an acceptable level of performance as soon as possible without delaying the work to be accomplished.

c. Although some qualifications may be waived for vacant positions, technicians placed through reduction in force must be placed in military positions that meet the compatibility criteria and policies established by the National Guard Bureau.

CHAPTER 7. REDUCTION IN FORCE NOTICES (REQUIREMENT 5)

7-1. GENERAL NOTICES

When it cannot be determined what specific personnel actions will take place during a reduction in force, general notices may be issued. A general notice informs a technician that a reduction in force action may be necessary, but that the State has not determined a specific action in his case. A general notice must be supplemented by a specific notice before a technician can be released from his competitive level. The general notice will expire on a given date, unless it is renewed or supplemented by a specific notice.

7-2. SPECIFIC NOTICES

a. Before releasing a technician from his competitive level, he must be given a specific notice that states clearly what action will be taken and the effective dates. The technician must receive the specific notice at least 60 full days before the date of his release. In counting the 60-day minimum notice period, a State may not count a Saturday, Sunday, or legal holiday as the last day of the period, but must postpone the effective date of the action until the next business day. Nor may specific notices be issued or made effective during the period 15 December through 3 January.

b. A specific notice expires when it is followed by the action it specifies. When it becomes necessary to take action more severe than originally specified, a new 60-day notice must be issued. When possible, the technician should remain in a duty and pay status during the notice period. With his consent, he may be placed on annual leave, compensatory time off, leave without pay, or approved sick or military leave. However, in an emergency, when the State lacks work or funds for all or part of the notice period, the technician may be placed in a nonpay status without his consent.

7-3. REQUIRED INFORMATION FOR A SPECIFIC NOTICE

The following is a list of required information to be included in various specific notices of reduction in force. When preparing these notices, select the appropriate items for the required action:

- a. Reason for the reduction in force.
- b. Specific action to take place (separation, furlough, offer of change to lower grade, etc.).
- c. Title, grade, and salary of current position.
- d. Competitive area and competitive level designated.
- e. Service computation date, technician service date, and retention rating.
- f. The position title, grade, salary, and location of any position offer or the reason why no offer can be made. Also, include the military grade requirements.
- g. Reasons for any exceptions to retention order.
- h. Effective date of proposed action (none during 15 December through 3 January).
- i. Where the technician may review retention registers and reduction in force regulations and the SPMO personnel specialist to contact for information.
- j. Appeal rights, how to file them, and any time limits.
- k. A clear explanation of the technician's grade and/or pay retention entitlements.
- l. Severance pay eligibility.

- m. Placement information and eligibility for reemployment priority list.
- n. Discontinued service retirement eligibility.
- o. A request for the technician to acknowledge receipt of the notice and to accept or decline any offer.

CHAPTER 8. OUTPLACEMENT ACTION (REQUIREMENT 6)

8-1. DOD PLACEMENT PROGRAM

The following action will be taken when competitive technicians or excepted technicians who previously held competitive appointments and have career status are affected by reduction in force or a transfer of function:

- a. Interview the affected technicians to determine if they want placement assistance under the DOD priority placement programs.
- b. If the technicians wish assistance and there is an adjacent or nearby DOD installation, request the civilian personnel office of the installation to provide necessary counseling and registration assistance. (The registering DOD installation will maintain necessary records and will be the intermediary for any placement offers received).
- c. If there is no adjacent or nearby DOD installation, contact the DOD placement coordinator in the geographic zone in which the displaced technicians are located. The placement coordinator will make necessary arrangements for counseling and registration. DOD Manual 1400.20-1-M contains a listing of all placement coordinators in each geographic zone.

8-2. REEMPLOYMENT PRIORITY LIST

A reemployment priority list must be maintained for tenure groups I and II technicians separated in a reduction in force. Upon receipt of a specific notice of separation, technicians will be placed on this list, but only if they have not declined an offer that preserves a non-temporary, full-time position in their present grade, step, or equivalent salary. Technicians will remain on this list for 2 years, unless they decline in writing, accept a full-time position, or decline the offer of a full-time position in the Federal Government.

8-3. PRIORITY PLACEMENT

All technicians entitled to grade retention as a result of reduction in force will be afforded priority placement for vacant positions. Such placement action will be in accordance with the procedures listed in Part III-NATIONAL GUARD PLACEMENT PLAN FOR TECHNICIANS UNDER GRADE RETENTION (NGB TPR 335)).

CHAPTER 9. MAINTENANCE OF RECORDS AND FILES (REQUIREMENT 7)

The maintenance and disposition of all reduction in force records and files will be in accordance with AR 340-18-8. These files should contain all records necessary to reconstruct the reduction in force, and show how retention standings and personnel actions were completed. The files should include the authorization for a reduction in force, any manpower documents used, retention registers, copies of general and specific notices, and any other related documents. The entries in the remarks column of each register should show what action was taken for each technician.

FOR THE ADJUTANT GENERAL:


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 COL, GS, NMARNG
 Technician Personnel Officer

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APPENDIX A. APPRAISAL BY MILITARY SUPERVISOR

A-1. USE OF THE MILITARY APPRAISAL

The military appraisal is an important factor used in determining the retention standing of a technician affected by reduction in force. The military appraisal (NGB Form 351-2) is to be completed at the same time as the technician's annual performance appraisal. Military appraisals will only be completed at the time of a reduction in force for those technicians who do not have a current military appraisal in their Employee Performance File. The numeric total of this rating will be combined with the numeric total of the annual performance appraisal to determine the technician's retention rating.

A-2. COMPLETING THE MILITARY APPRAISAL

Military supervisors must complete sections I and II of NGB Form 351-2 in accordance with the following procedures:

a. When the military supervisor is also a technician and is in the same or a similar occupational series and grade as the technician who is being rated, the military supervisor at the next higher level will then rate the technician.

b. A technician whose performance of military duties in any category is above-average must be rated from 4-5 points. In addition, the military supervisor must provide a brief justification of specific accomplishments for each above-average rating. This will be documented in the remarks section of this form.

c. A technician whose performance of military duties in any category is considered average must be rated from 1-3 points. Average ratings do not require justification, although a supervisor may make any appropriate remarks.

d. After the military supervisor has completed his review, the rating will be sent to the unit commander for final review and signature.

e. The military supervisor will then discuss the appraisal with the technician, allow him to review the form, and have the technician sign and date the form in the appropriate block. The technician's signature is not an agreement with the rating, but an acknowledgement that it has been seen and he has been counseled.

f. The completed form will then be sent to the SPMO who will review and distribute the copies, placing one in the technician's Employee Performance File (EPF).

APPENDIX B. TRANSFER OF FUNCTION

a. A transfer of function means the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, or the movement of the competitive area in which the function is performed to another commuting area. Thus, the operation of the function must cease in one competitive area and must be carried on in an identifiable form in another competitive area. In contrast, movements of activities or assignments within a competitive area are not considered a transfer of function.

b. When a transfer of function occurs, it should be announced as early as possible, and the technician must be given at least a 60-day notice. This notice will provide him with information about the transfer and will ask for his decision regarding the move. This notice will also advise the technician that failure to accept the transfer will result in termination from employment and that the 30-day advance notice required by 32 USC 709(e)(6) starts the day after the technician receives the notice. In order to assist technicians in making decisions on whether or not to accompany their function, they should be provided with as much information as possible regarding the new location. This would include information on housing, schools, PCS, severance pay, grade retention, and retirement for those technicians who may be eligi

c. Although technicians who decline to transfer with their function are not entitled to placement rights under reduction in force procedures, attempts should be made to place them in continuing vacant positions whenever possible. Reduction in force procedures will only be used when a discontinued function results in the abolishment of positions, rather than moving positions to a new location.

APPENDIX C. APPEALS AND CORRECTIVE ACTION

C-1. TECHNICIAN APPEAL

A competing technician may appeal to the Adjutant General when he has received a specific notice of a reduction in force, and he believes that the SPMO incorrectly applied the provisions of this TPR. He may submit an appeal once he receives a specific notice, but no later than 30 calendar days before the effective date of the action. The appeal must be in writing and must identify the technician by name, SSAN, grade, position title, job number, and place of employment. The appeal must clearly state the reason the technician believes the action affecting him is inappropriate, and must show that the SPMO failed to comply with the reduction in force procedures in this TPR. Some examples of this would be: insufficient notice; improper tenure grouping; service computation date errors, and failure to permit the technician to review pertinent regulations and the retention register in which he was listed.

C-2. EXTENDING THE TIME LIMIT

The Adjutant General may extend the appeal time limit when the technician indicates that he was not notified of a time limit and otherwise was not aware of it, or that circumstances beyond his control prevented him from appealing within the time limit.

C-3. DECISION ON THE APPEAL

The Adjutant General will issue a written decision and, where applicable, direct the SPMO to take any necessary corrective action. A copy of the decision stating what corrective action will be taken is then forwarded to the technician. The decision of the Adjutant General is final, and there is no further right of appeal.

C-4. CORRECTIVE ACTION

The decision of the Adjutant General may require the SPMO to take corrective action as follows:

- a. Correct the retention register.
- b. Correct the technician's specific notice.
- c. Restore the technician to his former grade or pay level or one of like seniority, status, and pay when the technician was reduced or separated improperly.
- d. Reimburse the technician for all pay lost as a result of any improper reduction in force action.

When a technician's appeal uncovers an error that does not change the outcome of the reduction in force as conducted, the Adjutant General will correct the error without requiring restoration or recall of the technician or technicians involved.