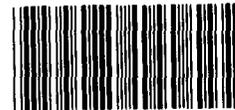


GAO

Testimony



143654

For Release
on Delivery
Expected at
10:00 a.m. EDT
Thursday
April 18, 1991

ADVANCE NOTICE

Public and Private Sector
Policy and Practice

Statement of
Franklin Frazier, Director of
Education and Employment Issues
Human Resources Division

and

Bernard L. Ungar, Director of
Federal Human Resource Management Issues
General Government Division

Before the
Subcommittee on Human Resources
House Committee on Post Office
and Civil Service



SUMMARY OF TESTIMONY BY FRANKLIN FRAZIER AND BERNARD L. UNGAR
ON ADVANCE NOTICE AND PUBLIC AND PRIVATE SECTOR
POLICY AND PRACTICE

Plant closings and mass layoffs result in the dislocation of over a million workers annually. They occur as a normal consequence of economic adjustment to changing technologies and world markets. In addition, large numbers of federal workers are facing layoffs as a result of changing budget priorities, most notably reductions in defense spending. Dislocated workers often lack the basic skills needed to compete in the labor market. As a result, many remain unemployed for long periods and have difficulty finding new jobs without incurring significant wage reductions. Others lack job search skills needed to locate potential job openings.

PRIVATE SECTOR REQUIREMENTS To help overcome these problems, the federal government provides dislocated workers with reemployment assistance. To ensure that assistance is provided to workers when it will do the most good--before or at the time of layoff--the Congress enacted legislation that requires states to set up rapid response teams. These teams help organize local assistance efforts and encourage establishment of labor-management committees to help implement the assistance. The Congress also enacted legislation that requires larger firms to provide at least 60 days advance notice, allowing exceptions for unforeseen business circumstances, of an impending closure or mass layoff that would affect 50 or more workers. This advanced notice is intended to give rapid response teams and labor management committees the time needed to identify local organizations capable of providing services, identify available resources, and develop assistance strategies tailored to the needs of individual workers.

AGENCY NOTICE OFTEN EXCEEDS MINIMUM REQUIREMENTS Office of Personnel Management regulations require at least 30 days advance notice of a reduction-in-force. While most civil organizations have adopted similar policies, three of the four Defense components we contacted required a minimum of 60 days notice. Fifteen of the 16 Defense installations we contacted gave 60 days or more notice to their workers.

FEDERAL AGENCIES NEED TO MAKE FULL USE OF AVAILABLE ASSISTANCE Officials we spoke with generally were aware of state assistance programs, but few used them. To make full use of available assistance, GAO suggests that, in addition to considering a statutory notice period, the Subcommittee should require federal agencies to notify state dislocated worker units of impending RIFs, encourage the establishment of labor-management committees to help implement assistance, and allow exceptions to the minimum notice period for unforeseen circumstances.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our work related to advance notice of business closures and mass layoffs in the private sector as well as for federal reductions-in-force (RIF), largely Department of Defense related. We believe the lessons learned in the private and public sectors may be helpful to you and the Subcommittee as you consider H.R. 1341, the "Federal Employee Reduction-in-Force Notification Act".

Currently the Office of Personnel Management's governmentwide regulations require a minimum notice period of 30 days. H.R. 1341 would, for the first time, establish a statutory 60-day notice requirement for federal employees affected by RIF.

We obtained information on federal notice policies and recent RIF experiences from the Office of Personnel Management (OPM), the Department of Defense (DOD) and 20 other federal agencies. In addition, we interviewed officials at 16 DOD installations scheduled for RIFs in 1990 and early 1991--8 of which had RIFs. We also interviewed federal agency and union officials to obtain their views on the advantages and disadvantages of varying lengths of advance notice.

Our discussion of private sector experience is based on GAO's work related to the issue of advance notice and dislocated worker assistance. Over the past 5 years we have issued 7 reports, and together with the Office of Technology Assessment, sponsored a conference for business, labor, academic researchers and government representatives to discuss the problem of worker dislocation and readjustment assistance strategies.¹ We are currently studying the implementation of the Worker Adjustment and

¹See Attachment I for references to GAO work related to dislocated worker assistance and advance notice in the public and private sectors.

Retraining Notification (WARN) Act that requires private sector firms to give 60 days advance notice.

In summary:

- Advance notice to workers and community leaders helps in getting reemployment assistance to dislocated workers when it will do the most good--before or at the time of layoff. To ensure that employers provide advance notice of impending closures or mass layoffs, the Congress enacted legislation that requires employers in the private sector to provide at least 60 days notice to affected workers, the local community and the state dislocated worker unit.

- Most federal civilian organizations have adopted OPM regulations that require a minimum of 30 days notice of a RIF. Based on our work and the research of others, 30 days would make the task of planning and implementing an effective reemployment assistance program prior to or at the time of layoff extremely difficult. However, all 16 Defense installations we contacted gave more than 30 days notice, and fifteen gave 60 days or more notice.

- In considering a statutory notice period, we recommend the Subcommittee include additional provisions similar to those for the private sector, such as (1) requiring that federal agencies notify state dislocated worker units when the number of workers affected by possible RIFs exceed some minimum number, (2) encouraging the establishment of labor-management committees to help implement assistance programs, and (3) allowing exceptions to the minimum notice period for unforeseen circumstances.

PRIVATE SECTOR REQUIREMENTS AND PRACTICES

In 1988, two pieces of legislation were enacted to improve the assistance to dislocated workers. Under the Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) that amended the Job Training Partnership Act, the federal government provides reemployment assistance to workers dislocated as a result of plant closings and mass layoffs in the private sector. To ensure that this assistance is provided quickly--before or at the time of layoff--EDWAA requires that states establish rapid response teams to help organize local assistance efforts and encourages states to support labor-management committees to help implement this assistance.

To ensure that the rapid response teams and labor-management committees have sufficient time to provide assistance to workers before or at the time of layoff, the Congress also enacted the Worker Adjustment and Retraining Notification Act (WARN). WARN requires that firms with 100 or more employees provide at least 60 days advance notice of an impending closure or mass layoff affecting 50 or more workers to the state dislocated worker unit, local officials in the affected communities, and the individual workers affected or their representatives. Firms may provide less than 60 days notice if the closure or layoff results from unforeseen business circumstances.

GAO is currently conducting a study looking at the implementation of WARN; however, it is too early in our work to reach any conclusions concerning the appropriateness of the 60 day notice period. During 1990, about 2,700 WARN notices were filed with state dislocated worker units.

The Need For Assistance

Assistance is provided to dislocated workers to facilitate their reemployment. A substantial proportion of dislocated workers in the private sector--an estimated 20 to 30 percent--lack basic skills and, as a result, often remain unemployed for long periods and have difficulty finding new jobs without incurring significant wage reductions. Other dislocated workers, while they may have good job skills and proven work histories, often lack the skills being sought in the job market as well as the skills needed to locate and successfully compete for new jobs. In addition, worker confidence is often shaken as a result of job loss.

Assistance that helps dislocated workers assess their situation realistically, and determine their individual needs with regard to skill training and job search assistance, can improve their reemployment prospects. Industry groups, academic researchers and government studies have found that such assistance resulted in dislocated workers getting new jobs quicker and earning more than they would have without such assistance.

To help implement this assistance, EDWAA encourages the establishment of labor-management committees. Building on the lessons learned from the Canadian Industrial Adjustment Service, these committees can play a vital role in:

- facilitating the development of assistance strategies tailored to the needs of individual workers,
- identifying local organizations capable of providing needed services, and
- providing support and encouragement to workers as they cope with job loss and look for new employment.

Early Intervention Key To Success

Getting reemployment assistance to workers affected by a closing or mass layoff before workers have actually been separated from their jobs has been found to reduce the adverse consequences of being dislocated and maximize the beneficial effect of reemployment assistance. The proportion of dislocated workers participating in reemployment assistance programs was higher when they started before workers were actually laid off. For example, the Philadelphia Area Labor Management Committee found that when worker assistance workshops were given before layoffs, the employee participation rate was between 70 and 80 percent. However, when assistance was first offered after layoff, less than 20 percent participated.

Similarly, when a battery plant in Indiana closed, 55 percent of the workers enrolled in an assistance program available at the time of layoff. In contrast, despite an energetic outreach program, only 29 percent of the workers dislocated in a steel plant closing in Midland, Pennsylvania, participated in an assistance program begun after the plant closed.

Early intervention can also increase the efficiency and effectiveness of the assistance provided. The chances of rapid reemployment increase when worker morale is high. When reemployment assistance is in place before or at the time of layoff, workers are helped before the stress of unemployment leads to behavior patterns that work against the job search effort. Once the negative behavior patterns related to unemployment begin, the task of assisting workers becomes more difficult.

Having assistance available at the time of the layoff also allows workers to take advantage of training while they still have unemployment insurance benefits and other income support available. Even though one of the major barriers to reemployment

is the lack of up-to-date skills, dislocated workers are often hesitant to enroll in skill training because they need to maintain income to support their families.

Advance Notice Needed

To make early intervention possible, workers and community leaders need advance notice of impending closures or mass layoffs so they can plan assistance strategies and develop the resources and support mechanisms necessary to implement them. Despite efforts to respond to closings or mass layoffs quickly, it takes time to put an effective assistance program together. The National Association of Manufacturers, in its guide for employers facing a plant closing, states that advance notice is needed because it "...allows the time needed to implement a plan to enhance the dislocated workers' opportunity for reemployment."

How much time is needed to plan and implement assistance for dislocated workers has been the subject of much discussion. Studies by the academic community, business organizations, and government agencies suggest that, depending upon the circumstances surrounding the closure or layoff, from 30 to 180 days was necessary to establish and implement a comprehensive worker assistance program. This time is needed to:

- plan an overall assistance strategy that is tailored to the needs of the workers affected,
- identify appropriate service providers in the local community, and
- identify available resources at the local, state and federal levels.

Our analysis of four demonstration projects where states helped establish labor-management committees to assist dislocated workers showed that quick action by state officials can make early intervention possible. The shorter the period of advance notice, the more difficulty states had in making assistance available at the time of layoff. At these four sites advance notice ranged from 3 weeks to 6 months. Even with experienced state officials working with workers and management, getting an assistance program set up generally took 7 weeks or more. Based on our work and research by others, 30 days advance notice would make the task of planning and implementing an effective reemployment assistance program extremely difficult.

Several other factors can complicate the process, increasing the amount of time needed to set up effective reemployment assistance:

- the level of commitment of company leadership and resources,
- the extent of cooperation between union and management,
- the availability of public funds, and
- prior experience in planning or operating assistance projects.

FEDERAL WORKER LAYOFFS AND NOTICE REQUIREMENTS

For calendar year 1990, OPM data showed that federal agencies, primarily DOD, received 86 authorizations to provide early retirement to avoid or lessen the impact of RIFs. Of the 201,436 employees in the affected organizations, agencies projected that 20,692 would be separated by early retirement, transfer, normal attrition and by RIF procedures. The actual number of RIFs were substantially lower than originally estimated. DOD officials told us that much of their downsizing planned for 1990 was suspended

because of Operation Desert Shield and Operation Desert Storm. In addition, about 1,300 employees took early retirement and about 2,000 separated for other voluntary purposes.

During fiscal year 1990, OPM reported that 1,578 employees were separated as a result of RIFs. Sixty-seven percent of these were DOD employees. Fifty-five percent were in white-collar occupations, almost equally distributed among professional, administrative, technical, and clerical groups. These workers, similar to dislocated workers in the private sector, can vary considerably in their skills, their reemployment options, and their ability to quickly become reemployed.

In contrast to the statutory 60-day notice requirement for private sector firms under WARN, the notice period for federal workers affected by RIFs is governed by federal regulations. OPM's regulations currently require agencies to give employees a minimum of 30 days written notice before taking a RIF action. This can be done by either providing 30 days specific notice before the RIF effective date or 30 days general notice with specific notice to affected employees at least 10 days before the RIF effective date. General notice does not identify the particular employees affected, while specific notice provides information to the individual employees affected. Agencies may not give more than 90 days notice without meeting certain OPM requirements.

Within DOD, where most of the 1990 RIF activity occurred, 3 of the 4 major components we contacted require a minimum of 60 days specific notice. Navy requires at least 30 days specific notice, and the 4 Navy installations we contacted gave more than 30 days specific notice.

Of the 21 civil organizations we contacted, 16 mirror OPM's regulations. Of the five other agencies, one requires 60 days specific notice, two require 30 days specific notice, and two

require either 60 days specific notice or 60 days general notice followed by 10 days specific notice. (See Attachment II.)

According to OPM, over 750,000 non-Postal federal employees are covered by 852 union agreements addressing notice periods. Postal Service agreements cover about 575,000 other workers. We reviewed 36 of these agreements and found no consistency on the minimum or maximum number of days involved in the notification periods, either within a union or across agency or union lines. Most agreements we reviewed simply refer to the OPM and/or agency policies. Twelve agreements required minimum notice periods ranging from 45 to 60 days. However, we could not determine whether these requirements referred to general or specific notice.

All of the 16 DOD installations scheduled for RIFs during 1990 that we contacted, gave their workers more than 30 days notice even though only 8 actually had RIFs. The notice periods ranged from 44 to 90 days with 15 installations giving 60 days or more notice. Officials at Mare Island Naval Shipyard, the installation that gave 44 days notice, told us they gave as much notice as they could, given the time they had available to identify the affected employees. (See Attachment III.)

Management And Union Views On Length Of Notice

We queried officials at the DOD and other major federal organizations for their views relating to the length of advance notice. Officials at about half of the organizations did not comment on what number of days' notice is most appropriate. The other half who did express a view were almost evenly split between preferring 30 versus 60 days. Union officials generally said that the longer the notice period the better.

Officials told us that longer notice periods benefit employees by allowing more time for the reality of the RIF to sink in.

Employees would have more time to seek help, be counseled, search out new employment, and make good employment decisions. Longer time periods can also benefit management by allowing it to bring personnel records up to date, limit the number of resulting grievances and appeals, and better manage the RIF process generally.

Similar to the debate that preceded the passage of the WARN Act, officials voiced concern about the potential negative consequences of advance notice. Officials said longer time periods may foster a false sense of hope among both employees and management that a "miracle" will occur, that specific RIF actions will not be needed, and that the entire RIF will prove to be unnecessary. They were also concerned that longer notification periods may result in longer periods of low morale, less productivity, more tardiness, increased absenteeism, and sabotage to facilities.

Longer notice, while allowing employees more time to find other employment, also means that agencies themselves must have sufficient advance notice of the RIF to identify the specific employees to be affected. Longer time periods may also require management to update records because of staffing changes that occur during the notice period.

Shorter notice was seen by these officials as positive if an activity's funds are reduced suddenly. Shorter notice also allows management to complete the RIF quickly and get on with the installation's mission. On the other hand, installation officials said shorter notice makes it more difficult to develop plans to deal with the impact of the RIF and to complete related paperwork for such things as severance pay calculations.

A DOD official also explained that Navy had difficulty funding operations during DOD's previous 60-day required notice period and as a result DOD revised its policy to allow a minimum of 30 days

notice. This same DOD official along with other non-DOD officials we talked to said that the short notice periods can save jobs. That is, when there is an unforeseen reduction in annual appropriations, longer notice may require more RIFs than would shorter notice.

Assistance Available To Federal Workers

The primary means of assisting dislocated federal workers was through priority placement programs operated by DOD and OPM. The DOD program² matches the skills of dislocated employees with vacant positions at other DOD activities at which the employee is willing to work. While registration does not guarantee continued employment, the agency is required to make a job offer to the employee when an installation has a vacancy that matches the employee's skills and acceptable grade. Generally, the employee can remain in the program for the duration of the notice period and for 12 months after separation. During 1990, 3,159 of the 12,445 registrants were placed through this program.

OPM's placement program³ gives separated employees the opportunity to register for priority consideration for up to two years for positions in other federal agencies. During fiscal year 1990, there were 724 priority referrals of which 25 registrants were placed in permanent federal positions through OPM efforts.

In recognition of the potential for downsizing in future years, DOD and OPM have entered into an agreement to have OPM serve as an outplacement service for civilian personnel who are registrants in the DOD program. DOD has also established a Transition Support and

²The DOD program is known as the Priority Placement Program (PPP).

³The OPM program is known as the Displaced Employee Program (DEP).

RELATED GAO WORK

Dislocated Workers: Labor-Management Committees Enhance Reemployment Assistance (GAO/HRD-90-3, Nov. 21, 1989).

Plant Closings: Evaluation of Cost Estimate of Proposed Advance Notice Requirement (GAO/HRD-88-71, March 3, 1988).

Plant Closings: Limited Advance Notice and Assistance Provided Dislocated Workers (GAO/HRD-87-105, July 17, 1987).

Plant Closings: Information on Advance Notice and Assistance to Dislocated Workers (GAO/HRD-87-86BR, April 17, 1987).

Dislocated Workers: Exemplary Local Projects Under the Job Training Partnership Act (GAO/HRD-87-70BR, April 8, 1987).

Dislocated Workers: Local Programs and Outcomes Under the Job Training Partnership Act (GAO/HRD-87-41, Mar. 5, 1987).

U.S. Congress. Office of Technology Assessment. Plant Closing: Advance Notice and Rapid Response, September 1986

Dislocated Workers: Extent of Business Closures, Layoffs, and the Public and Private Response (GAO/HRD-86-116BR, July 1, 1986).

Reduction in Force: Information on the Office of Personnel Management's Reduction in Force Rules (GAO/GGD-86-39FS, Jan. 1986).

Reduction in Force Can Sometimes be More Costly to Agencies than Attrition and Furlough (GAO/PEMD-85-6, July 1985).

Programs To Help Displaced Federal Civilian Employees Obtain Employment (FPCD-82-75, Sept. 1982).

Assistance to Displaced Federal Civilian Employees--Avoiding Loss of Needed Trained Personnel (FPCD-80-3, Oct. 1979).

AGENCY POLICIES ON MINIMUM NOTICE PERIODS⁴

<u>Agency</u>	<u>If General and Specific Notice Given</u>	<u>If Only Specific Notice Given</u>
Agriculture	30 days/10 days	30 days
Air Force		60 days
Army		60 days
Commerce	30 days/10 days	30 days
Defense Logistics Agency		60 days
Education	30 days/10 days	30 days
Energy	30 days/10 days	30 days
Environmental Protection Agency		60 days
Equal Employment Opportunity Commission	30 days/10 days	30 days
General Services Administration		30 days
Health and Human Services	30 days/10 days	30 days
Housing and Urban Development	30 days/10 days	30 days
Interior	30 days/10 days	30 days
Justice	30 days/10 days	30 days
Labor	60 days/10 days	60 days

⁴These minimum notice periods do not necessarily apply to employees covered by union agreements. For example, Postal Service union agreements provide for a 60-day notice to employees with less than 6-years service and a no RIF/no layoff policy for other employees.

AGENCY POLICIES ON MINIMUM NOTICE PERIODS

<u>Agency</u>	<u>If General and Specific Notice Given</u>	<u>If Only Specific Notice Given</u>
Merit Systems Protection Board		60 days
National Aeronautics and Space Administration	30 days/10 days	30 days
Navy		30 days
Office of Personnel Management	30 days/10 days	30 days
Postal Service	30 days/10 days	30 days
State	60 days/10 days	60 days
Tennessee Valley Authority	30 days/10 days	30 days
Transportation	30 days/10 days	30 days
Treasury	30 days/10 days	30 days
Veterans Affairs	30 days/10 days	30 days

SPECIFIC NOTICE PERIOD ACTUALLY GIVEN
BY INSTALLATIONS GAO VISITED

<u>AGENCY/INSTALLATION</u>	<u>NUMBER OF DAYS</u>
<u>Army</u>	
Army Materiel Command Headquarters Alexandria, VA	63
Depot Systems Command Chambersburg, PA	63
Fort Belvoir Fort Belvoir, VA	70
General Materiel and Petroleum Activity, Tracy, CA	60
New Cumberland Army Depot New Cumberland, PA	60
Sacramento Army Depot Sacramento, CA	63
Systems Integration and Management Activity Chambersburg, PA	63
Tank-Automotive Command Warren, MI	63
<u>Navy</u>	
Mare Island Naval Shipyard Vallejo, CA	44
Navy Comptroller Standard Systems Activity Pensacola, FL	60

SPECIFIC NOTICE PERIOD ACTUALLY GIVEN

<u>AGENCY/INSTALLATION</u>	<u>NUMBER OF DAYS</u>
Pearl Harbor Naval Shipyard Pearl Harbor, HI	66
Portsmouth Naval Shipyard Portsmouth, NH	63
<u>Air Force</u>	
McClellan AFB Sacramento, CA	65
Aerospace Guidance and Meteorology Center Newark AFB, OH	63
Tinker AFB Oklahoma City, OK	60
<u>Defense Logistics Agency</u>	
Defense Subsistence Region Alameda, CA	90