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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-158547

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Dear Mr. Mosher:

This is in response to your request of March 20, 1972, that we provide you with a report on our review of the release of Mr. Ralph Hagedorn as a result of a reduction in force (RIF) in October 1971 by the National Aeronautics and Space Administration (NASA) at the Lewis Research Center in Cleveland, Ohio.

The Veterans' Preference Act of 1944, as amended (5 U.S.C. 3502), requires that the Civil Service Commission issue regulations concerning retention rights of employees involved in a RIF by considering tenure of employment,¹ veterans' preference, and length of service. The regulations issued by the Civil Service Commission (5 CFR 351) require that an employee's retention standing be established by giving due effect to these factors and that the descending order of priority for these factors be tenure, veterans' preference, and length of service.

Mr. Hagedorn had career tenure, no veterans' preference, and almost 27-1/2 years of Federal service.

The procedures established by the Civil Service Commission for conducting a RIF are as follows:

1. Establish competitive levels for all positions.
2. Conduct first-round competition within each competitive level where a position is abolished.
3. Conduct second-round competition, known as bumping, in which employees released in the first round may compete for positions in other competitive levels.
4. Conduct third-round competition, known as retreating, in which an employee may have rights to available

¹Tenure of employment refers to whether an employee has career, probational, career-conditional, indefinite, or other status.

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positions identical to, or substantially the same as, positions from or through which he has been promoted.

We reviewed the consideration which Lewis officials gave to Mr. Hagedorn's case during each step of the RIF. The results of our review follow.

ESTABLISHMENT OF COMPETITIVE LEVELS

Civil Service Commission regulations require that before an agency begins a RIF it establish competitive levels for all positions. A competitive level is a group of jobs in the same grade within each competitive geographical or organizational area so similar that each person occupying one of those jobs can satisfactorily perform every other job in that same competitive level without a significant amount of training and without unduly interrupting the work program.

The competitive levels established by Lewis were based on the official description for each position. These descriptions generally were prepared by the supervisors or by incumbents of the positions and were reviewed by a designated official in the personnel office. Most descriptions show general and specific duties and responsibilities and the special knowledge or skills required for the positions.

Before Mr. Hagedorn's position was abolished, Lewis officials reviewed his position description and placed his position in a separate competitive level. Although there were other Mechanical Engineering Technician positions at Lewis in the same grade as Mr. Hagedorn's position, officials concluded that Mr. Hagedorn's position differed in at least one significant area from these positions and therefore could not be placed in the same competitive level.

We compared Mr. Hagedorn's position description with the position descriptions of the other Mechanical Engineering Technicians. Mr. Hagedorn's position description showed that he had been a nonprofessional technician specialist in the Advanced Systems Division and had worked on control systems used in air-breathing propulsion systems; the position descriptions of the other employees showed that they had worked in other divisions and had performed such duties as developing designs for new equipment and working on design of equipment for research facilities. Therefore it appears that the other position descriptions differed in at least one significant area.

FIRST-ROUND COMPETITION

After the agency has selected the positions to be abolished in a competitive level, the first-round competition occurs when those employees within that competitive level compete only among themselves for the remaining positions within their competitive level.

The lowest ranking employees in tenure, veterans' preference, and length of service are generally the first to be selected for release from a competitive level. Because Mr. Hagedorn's position was the only position in his competitive level, he was selected for release.

SECOND-ROUND COMPETITION

The second-round competition involves those employees released during the first-round competition. Each such employee competes for positions in other competitive levels and is entitled to be assigned to the highest paying occupied position in another competitive level at a rate of pay not in excess of the rate of that of his abolished position, provided that he is personally qualified for the position and that the position is held by an employee of lesser retention standing based on tenure and veterans' preference. This is known as bumping.

Under Civil Service Commission regulations, an employee's length of service does not have to be considered during second-round competition. The Commission's regulations provide that an employee having tenure and veterans' preference can displace another having the same tenure and veterans' preference, if the former has greater length of service and if the agency chooses to consider length of service in second-round competition.

In the fiscal year 1972 RIF, in which Mr. Hagedorn was involved, NASA chose not to consider length of service during second-round competition. Thus the second-round competition was based only on tenure and veterans' preference. Considering only these two factors, there were no other Mechanical Engineering Technician positions at Mr. Hagedorn's grade level occupied by employees having retention standings lower than Mr. Hagedorn's.

Had NASA chosen to also consider length of service in determining retention standing, there would have been eight

other Mechanical Engineering Technician positions for which Mr. Hagedorn would have been entitled to be considered because the incumbents had less service than Mr. Hagedorn. But, because length of service was not used by NASA during second-round competition, Mr. Hagedorn was not considered for any of these eight positions.

Lewis officials considered Mr. Hagedorn for 62 other General Schedule positions (having grades the same as, or lower than, that of his former position) held by employees having retention standings lower than Mr. Hagedorn's. Lewis officials decided that Mr. Hagedorn was not qualified to fill any of these positions.

At the time of the RIF, there were 29 prevailing rate (Wage Grade) positions at Lewis occupied by employees having retention standings lower than Mr. Hagedorn's. These positions were held by trainees or employees in formally designated developmental programs.

Under the Civil Service Commission regulations, Mr. Hagedorn would be able to bump one of the participants in these programs, provided that he had the capacity, adaptability, and any special skills required for satisfactory performance of the duties and responsibilities of the position without undue interruption of the program. The developmental programs last for 3 years and entail classroom work as well as on-the-job training. The latest enrollee had participated in the program for more than 1 year at the time of the RIF. A Lewis official said that Mr. Hagedorn was not qualified to bump into the program because he lacked the classroom training gained by the participants of the program.

THIRD-ROUND COMPETITION

Civil Service Commission regulations provide for third-round competition, called retreating, in which tenure, veterans' preference, and length of service are considered. In retreating an employee may have rights to available positions which are either identical to or substantially the same as positions from or through which he has been promoted. In such instances the employee may displace an employee having less retention standing based on tenure, veterans' preference, and length of service.

Mr. Hagedorn's Federal employment history showed that from 1944 to 1958 he had held positions as a draftsman and as a mechanic before he was transferred to his position as a

Mechanical Engineering Technician. We inquired into the consideration he was given for retreating to these positions.

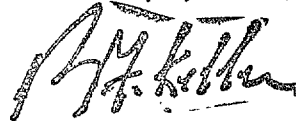
Lewis officials said that during Mr. Hagedorn's service as a draftsman he had specialized in turbine blade design. They concluded that he was not entitled to retreat to any of the current draftsman positions at Lewis because none were the same, or substantially the same, as the draftsman positions he had previously held. These officials concluded also that he was not entitled to retreat to any of the mechanic positions at Lewis because none were the same, or substantially the same, as the mechanic positions he had previously held.

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On the basis of the foregoing information, it appears that the procedures used by the Lewis Research Center in releasing Mr. Hagedorn complied with the Veterans' Preference Act of 1944, as amended, and with applicable Civil Service Commission regulations.

We trust that the information furnished will serve the purpose of your inquiry.

Sincerely yours,



Deputy Comptroller General
of the United States

The Honorable Charles A. Mosher
House of Representatives