

GAO

Report to the Chairman, Committee on
Veterans' Affairs, House of
Representatives

February 1996

VETERANS' PREFERENCE

Data on Employment of Veterans





United States
General Accounting Office
Washington, D.C. 20548

General Government Division

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February 1, 1996

The Honorable Bob Stump
Chairman, Committee on Veterans'
Affairs
House of Representatives

Dear Mr. Chairman:

Under federal law, agencies are to give preferential hiring consideration to eligible veterans as a measure of national gratitude for their military service. Agencies are also to give preference to veterans in retaining their jobs during a reduction-in-force (RIF).

This report responds to your request for information on the veterans' preference practices of executive branch agencies. As agreed with your office, we are providing information on

- whether statistics indicate that the Office of Personnel Management (OPM) and other federal agencies have given veterans hiring preference;
- how OPM has implemented its veterans' preference oversight responsibilities;
- whether the Merit Systems Protection Board's (MSPB) authority over veterans' preference appeals was weakened by the Civil Service Reform Act of 1978 (P.L. 95-454); and
- how RIFs have affected women and minorities when veterans' preference was applied.

Results in Brief

Veterans represented a generally increasing share of the new hires made by OPM in recent years. In fiscal year 1994, for example, over 18 percent of OPM's new hires had veterans' preference, up from 6.6 percent in fiscal year 1990. The increased representation of veterans among new hires at OPM was generally reflected governmentwide. Among all agencies, the percentage of new hires with veterans' preference increased from 12 percent in fiscal year 1990 to 14.8 percent in fiscal year 1994. OPM's policies encourage the employment and career enhancement of veterans. OPM's guidance explains the various ways veterans can be hired and details the responsibilities of OPM's veterans program coordinator.

In terms of OPM's oversight of agencies' implementation of veterans' preference regulations, our prior work found that veterans' preference procedures were being properly applied in virtually all of the hiring

instances we examined.¹ We did not examine whether agencies were correctly applying veterans' preference during RIFs.

With regard to MSPB's authority over veterans' preference appeals, we believe the current legal framework to protect veterans' rights was not weakened by the Civil Service Reform Act. While the act extended appeal rights to other competitive service employees, veterans' rights to appeal RIFs and adverse personnel actions were not affected.

In our prior work on how women and minorities were affected during a RIF at three Department of Defense (DOD) installations, we found that women and minorities were disproportionately separated, in part because they ranked lower than white males in one of three retention factors, including veterans' preference.²

Background

To help reward veterans for their military service, the Veterans' Preference Act of 1944, as amended, requires that eligible veterans be given enhanced consideration for federal jobs. This is done by adding either 5 or 10 points to the passing examination scores of honorably discharged veterans meeting certain military service requirements. The basic preference to which applicants are entitled is the 5-point preference. The 10-point preference is given to disabled veterans and Purple Heart recipients, as well as to the eligible spouses, unmarried widows and widowers, and mothers of disabled or deceased veterans.

Candidates are listed on civil service registers in order of their examination ratings augmented by their preference points, except that disabled veterans who have compensable service-connected disabilities of 10 percent or more automatically rise to the top of civil service registers for nonprofessional, nonscientific positions below GS-9. Federal agencies have discretionary authority to give noncompetitive appointments to any veteran who has a service-connected disability of 30 percent or more.

Federal law also gives eligible veterans certain protections that help them retain their jobs during a RIF. These protections are discussed in greater detail in a later section of this report.

¹Federal Hiring: Does Veterans' Preference Need Updating? (GAO/GGD-92-52, Mar. 20, 1992).

²Federal Personnel: The EEO Implications of Reductions-In-Force (GAO/T-GGD-94-87, Feb. 1, 1994).

Scope and Methodology

Data on OPM's veterans' preference employment statistics were provided by OPM's Personnel Programs and Systems Division. Governmentwide data on veteran employment was obtained from OPM's Central Personnel Data File. The file includes information on federal workers in most agencies, the major exclusions being Members of Congress and employees of Congress, the Judicial Branch, and the Postal Service. The time period covered by both sets of data was fiscal years 1990 through 1994. We did not verify the accuracy of the OPM data.

To obtain information on OPM's oversight of veterans' preference regulations, we used our prior work that examined whether OPM and other executive agencies were giving veterans the preference to which they were entitled.³ In producing this report, we reviewed 1,136 randomly selected certificates (lists of eligible candidates) and 1,862 federal job applications submitted by persons on those certificates. We determined whether the applicants received appropriate preference points and certificate rankings and whether they were hired. The applications included 342 from veterans and 1,520 from nonveterans. OPM and other executive agencies prepared the certificates between July 1990 and June 1991. To obtain information on OPM's current role in monitoring agencies' implementation of veterans' preference hiring procedures, we interviewed OPM's Associate Director for Employment.

To obtain information on MSPB's authority over veterans' preference appeals, we analyzed applicable laws, regulations, and other pertinent documents. We also interviewed an official from MSPB's Office of Policy and Evaluation.

To determine how RIFs affect women and minorities when veterans' preference is applied, we used our earlier work that focused on RIFs at DOD, the only federal agency to have significant RIFs in fiscal year 1991.⁴ For that analysis, we selected for review one location each from the Army, Navy, and Air Force.

We performed our review from July 1995 through September 1995 in accordance with generally accepted government auditing standards. We obtained comments on a draft of our report from OPM and MSPB. These comments and our evaluation are discussed in the Agency Comments section.

³GAO/GGD-92-52.

⁴GAO/T-GGD-94-87.

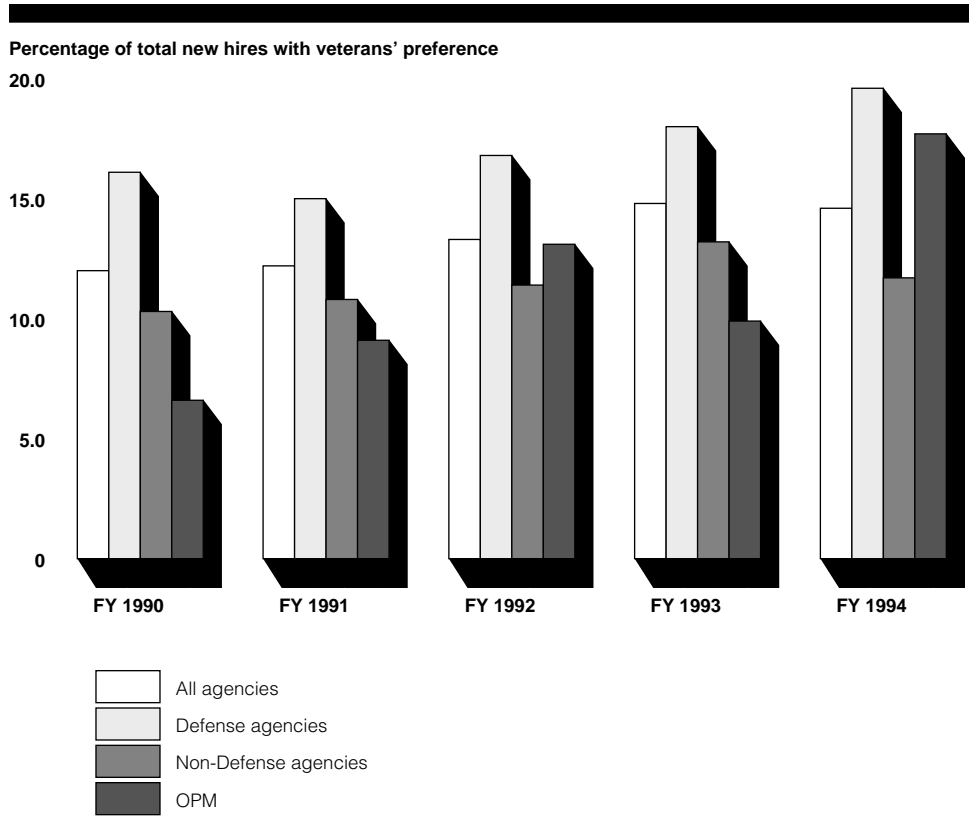
Employment Statistics Show Veterans Comprise an Increasing Share of New Hires at OPM and Governmentwide, but a Smaller Share of the Federal Workforce as a Whole

The percentage of new hires with veterans' preference at OPM has generally increased in recent years, even as the agency has scaled back its hiring because of downsizing. As shown in figure 1, in fiscal year 1994, 18.4 percent of OPM's new hires had veterans' preference, compared with 6.6 percent in fiscal year 1990.

The proportional increase in veteran hires at OPM was generally reflected governmentwide. Among all agencies, the percentage of new hires with veterans' preference (including dependents of veterans with veterans' preference) increased overall from 12 percent in fiscal year 1990 to 14.8 percent in fiscal year 1994 (see fig. 1). According to an official from OPM's Employment Service, one reason for this increase could be that, as the demand for new employees has diminished, agencies have not needed to go as far down on employment registers as they have in the past. Because candidates at the top of registers are more likely to have veterans' preference, a larger proportion of these new hires would be veterans. Another factor suggested by OPM is the popularity of the Veterans Readjustment Appointment (VRA) authority, which allows agencies to directly hire veterans.⁵ In comparing OPM's performance in hiring preference eligibles with that of other agencies, the comparatively large percentage of employees claiming preference hired by OPM in fiscal year 1994 is noteworthy because OPM has generally lagged behind other agencies in previous years.

⁵VRA is a special authority by which agencies, at their discretion, can appoint an eligible veteran without competition. VRA employees are initially hired for a 2-year period, after which they are eligible for a permanent appointment.

Figure 1: Agencies Are Hiring Proportionately More Candidates With Veterans' Preference



Note: Data includes dependents of veterans with veterans' preference.

Source: OPM's Central Personnel Data File.

Defense agencies, led by the Army and Navy, hired a higher percentage of veterans with preference than did non-Defense agencies in fiscal years 1990 through 1994. In fiscal year 1994, for example, 20 percent of the Army's new hires and 21.4 percent of the Navy's new hires had veterans' preference. Among non-Defense agencies, the Department of Veterans Affairs had the largest proportion of veterans in its new hires. In fiscal year 1994, nearly 18 percent of its new hires had veterans' preference.

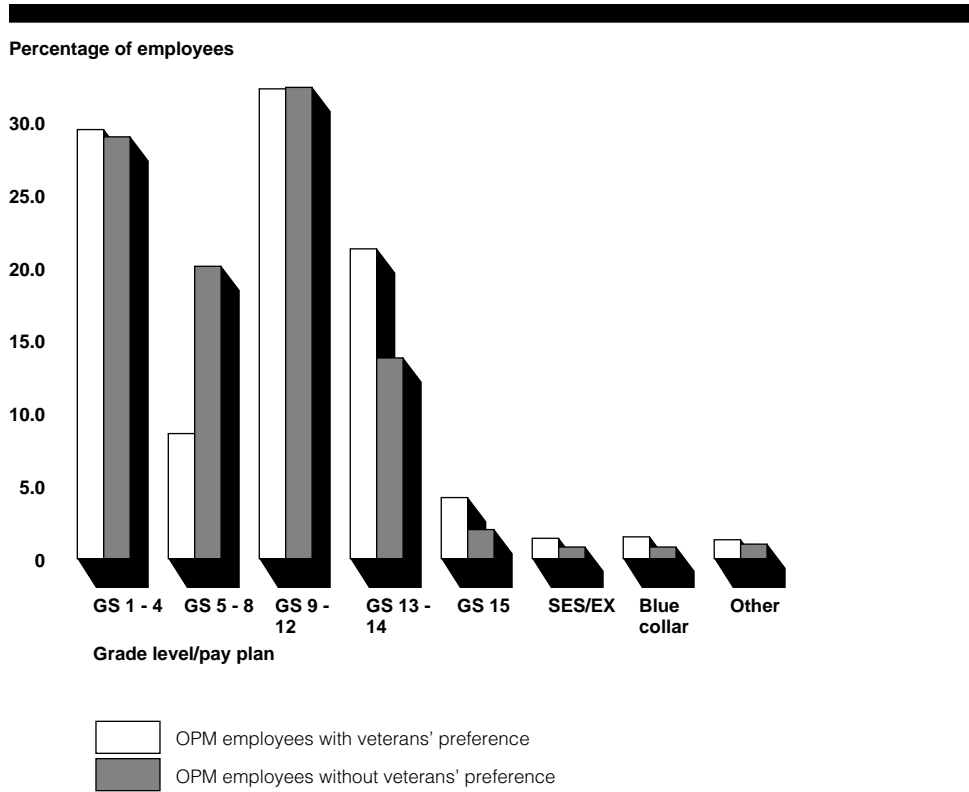
The Proportion of Veterans in the OPM Workforce Has Increased Slightly but Remains Lower Than in Other Agencies

Over the last several years, OPM has substantially reduced the size of its workforce, going from 7,023 employees at the end of fiscal year 1992 to 5,618 employees at the end of fiscal year 1994. During this period, veterans with preference, as a share of all OPM employees, slightly increased their representation. At the end of fiscal year 1992, employees with veterans' preference made up 17 percent of OPM's workforce compared with about 18 percent at the end of fiscal year 1994. While veterans with preference now comprise a larger share of OPM's workforce than in previous years, their representation is still lower than in many other agencies. Governmentwide, 27 percent of the workforce had veterans' preference at the end of fiscal year 1994.

Veterans and Nonveterans Were Equally Distributed Across Lower and Middle Grade Levels at OPM

As shown in figure 2, no pattern existed with regard to the distribution of veterans and nonveterans across grade levels (GS and GS-equivalent) and pay plan (general schedule or wage grade) at OPM. Both groups were almost equally concentrated at grade levels 1 to 4 and 9 to 12. At the same time, there were proportionately more veterans at the higher grade levels—GS-13 to Senior Executive Service (SES)—compared with nonveterans, and a larger percentage of veterans than nonveterans were blue collar employees.

Figure 2: Distribution of OPM Employees Across Grade Levels and Pay Plans by Veterans' Preference Status, Fiscal Year 1994

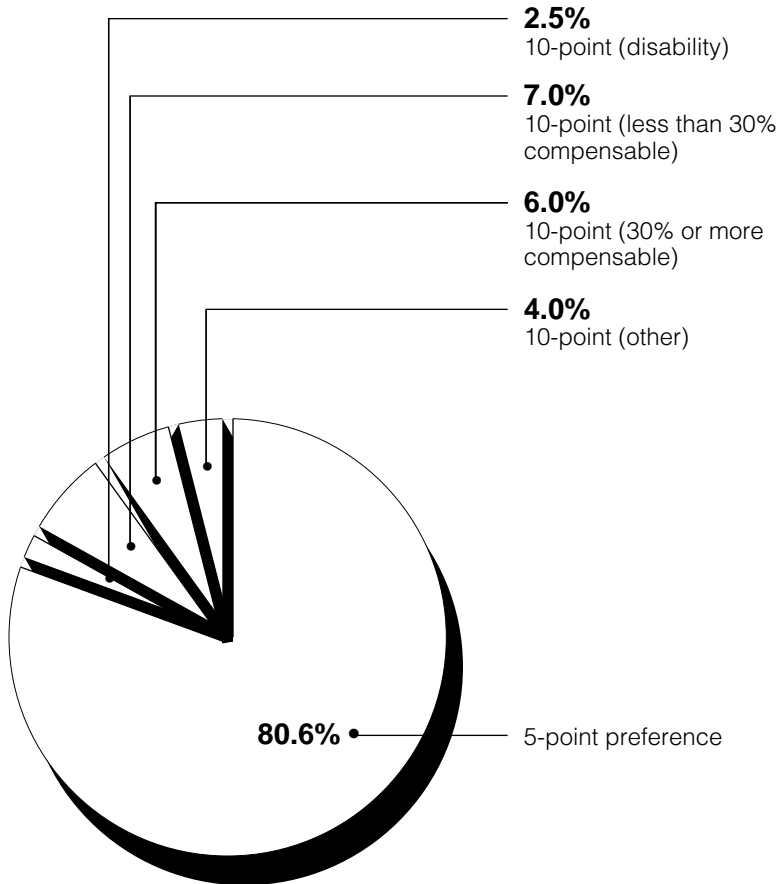


Note: Percentages are based on 1,035 employees with veterans' preference and 4,583 employees without veterans' preference.

Source: OPM.

With regard to the type of preference claimed by veterans at OPM, as shown in figure 3, of the 1,035 OPM employees that had veterans' preference at the end of fiscal year 1994, the vast majority claimed a 5-point preference. This is the basic veterans' preference to which eligible employees are entitled.

Figure 3: Types of Veterans' Preference Claimed by OPM Employees, Fiscal Year 1994



Note 1: Percentages are based on 1,035 OPM employees with veterans' preference. Numbers may not add due to rounding.

Note 2: 10-point (other) preference is that granted to the widow/widower or mother of a deceased veteran or to the spouse or mother of a disabled veteran.

Source: OPM.

OPM's Policies Encourage the Hiring and Career Development of Veterans

OPM's policies on its internal employment of veterans are described in its Recruitment and Special Programs Handbook. The chapter on employment programs for veterans, for example, lists the various mechanisms and legal authorities through which veterans may be hired. OPM also has a veterans program coordinator who is responsible for

recruiting, placing, counseling, and helping to develop veterans' careers at OPM. Because of the sporadic need for the program coordinator's services, the position is a collateral responsibility of an employee in OPM's Employment Service.

To help veterans find employment at OPM, the agency publishes a pamphlet that describes its general career positions, including how candidates can qualify for either the VRA authority or the 30-percent-disabled veterans program. It also lists the forms applicants would need to complete in order to be considered for the various veterans programs.

The Proportion of Veterans in the Federal Workforce Is Declining

As noted earlier, preference-eligible veterans comprised 27 percent of the federal workforce as of September 30, 1994. This continued a downward trend in veteran employment that had been ongoing for a number of years. According to OPM data, preference-eligible veterans made up about 39 percent of the federal workforce at the end of fiscal year 1983, and 34 percent of the workforce at the end of fiscal year 1987.

A likely reason for the decline is that preference-eligible veterans are leaving the workforce in greater numbers than they are entering it, as a result of the aging of the veteran workforce and the shrinking of the pool of preference eligibles. For example, while veterans with preference accounted for 14.8 percent of all hires in fiscal year 1994, they accounted for nearly 49 percent of all retirements.

Throughout the 1980s, much of the decline in the number of veterans in the federal workforce could be attributed largely to the shrinking pool of preference eligibles. While Operation Desert Storm added to this pool, it is not known how many of these veterans are interested in applying for federal employment. Thus, whether the downward trend in veteran employment will be reversed in future years is unclear.

How OPM Has Implemented Its Veterans' Preference Oversight Responsibilities

To ensure that eligible veterans receive the preference due them, federal law requires that applicants for many federal positions be hired according to specific scoring, ranking, and selection procedures. These procedures are to be carried out either by OPM or by agencies when OPM delegates hiring authority to them.

According to OPM, as part of its oversight of veterans' preference, its various offices

- routinely review returned certificates to determine whether agencies properly gave veterans preference in hiring,
- periodically audit agency-delegated examining units to assess whether they are applying veterans' preference properly,
- decide whether to allow agencies to pass over disabled veterans or to object to the qualifications of a disabled veteran for medical reasons,
- address issues on veterans' reemployment rights, and
- respond to agency and employee inquiries on RIF policies and procedures.

OPM's Office of Merit Systems Oversight and Effectiveness has oversight responsibility for veteran employment programs and authorized demonstration projects that test alternative veterans' preference hiring procedures. According to OPM, the oversight—done in response to specific complaints—is performed by OPM's service centers located in various cities across the country. OPM maintains that very few violations are found because hiring officials are good at seeing that veterans get the points and other preference to which they are entitled.

While we did not assess OPM's oversight practices for this assignment, in our March 1992 review of veterans' preference hiring procedures at OPM and other executive agencies, we found that veterans received the preference points to which they were entitled in nearly all cases. Of the 1,862 applications we examined, veterans' preference points were properly awarded in all but 6 instances. Moreover, veterans were properly placed on all but 1 of the 1,136 hiring certificates we reviewed. However, we also found that, at the time of our review, agency managers had returned a greater percentage of certificates without making a selection when a veteran appeared at the top (71 percent) than when a nonveteran did (51 percent).⁶ As a result, we recommended, and OPM implemented, a tracking system to identify and correct problems related to veterans' preference and the nonuse of certificates.

OPM does not believe that there is a problem with agencies' implementation of veterans' hiring procedures at this time. OPM meets quarterly with representatives of veterans service organizations to discuss veteran employment issues. According to an official from OPM's Employment Service, the lack of complaints from veterans at these meetings indicates to OPM that agencies are properly following veterans' preference hiring procedures.

⁶GAO/GGD-92-52, pp. 27-28.

The Civil Service Reform Act Authorized MSPB to Hear Certain Veterans' Preference Appeals

Based on our review of pertinent laws and regulations and interviews with an official from MSPB's Office of Policy and Evaluation, we believe that the Civil Service Reform Act did not weaken MSPB's authority to protect veterans' employment rights. Veterans are still entitled to appeal certain personnel actions to MSPB, and in some cases they are afforded special rights of redress that nonveterans lack.

Sections 12 and 14 of the Veterans Preference Act of 1944 gave veterans certain procedural and appeal protections for RIF actions, as well as for adverse personnel actions such as removals, suspensions of more than 14 days, reductions in grade or pay, and furloughs of 30 days or less. Under the act, veterans were to appeal their cases to the U.S. Civil Service Commission. Later, these protections were extended to nonveteran competitive service employees by executive order.

The Civil Service Reform Act of 1978 created MSPB, which was established to hear appeals previously taken to the Civil Service Commission. The act also granted all competitive service employees, not just veterans, a statutory right to appeal adverse personnel actions to MSPB. Thus, while the act created some new appeal rights that did not previously exist, it did not change the existing actions that could be appealed or the kinds of employees who could file those cases.

Moreover, in some instances, preference-eligible veterans have appeal rights not granted to others. For example, at certain agencies, such as the Postal Service, the Postal Rate Commission, the Panama Canal Commission, and the Tennessee Valley Authority, preference-eligible veterans can appeal RIFs and adverse actions to MSPB while other employees of these agencies generally cannot. And, while both veterans and nonveterans may appeal RIF procedures,⁷ under RIF regulations, employees with veterans' preference have significantly greater retention rights. As a result, they have greater substantive rights in their appeals to MSPB.

While MSPB has authority over certain types of appeals by preference-eligible veterans, the extent to which veterans actually appeal cases to MSPB is unclear. MSPB does not keep data on whether appellants were preference eligible.

⁷RIF procedures that can be appealed include, for example, agency failure to make a reasonable offer of assignment, failure to properly apply veterans' preference, and improper determination of an employee's tenure group or length of service.

The Effect on Women and Minorities When Veterans' Preference Is Applied During a RIF

Federal law gives eligible veterans certain protections that help them retain their jobs during a RIF. As set forth in 5 U.S.C 3501-3504, whether an employee is retained depends on the following factors (listed in order of priority): (1)tenure (i.e. career, career conditional, or temporary); (2)veterans' preference; and (3)seniority (adjusted for performance ratings). Using these factors, agencies are to rank each employee where jobs are to be eliminated and record this ranking in a retention register. Within each tenure group, disabled veterans are listed first, followed by veterans. Nonveterans are ranked last. Employees are separated starting at the bottom of a retention register. As positions are abolished, incumbents of those positions may have assignment rights to other positions depending on their retention status and qualifications.

According to OPM, while agencies may consider the impact RIFs may have on women and minorities, employees in these categories are not afforded the statutory protections given to veterans during a RIF. Thus, unless the women and minorities are veterans, they may be separated at a rate that is unintentionally disproportionate to their numbers.

In our February 1994 testimony on the demographic impacts of RIFs that occurred at three locations in 1991—Alameda Naval Aviation Depot, Kelly Air Force Base, and Watervliet Army Arsenal—we found that, at all three sites, minorities were separated at a rate disproportionate to their numbers, and that women were separated disproportionate to their numbers at Watervliet and Alameda.⁸ In some cases, these disproportionate separations occurred because women and minorities ranked lower than white males in one of the three retention factors, including veterans' preference. In other cases, the disproportionate separations occurred because minorities occupied a large proportion of the positions abolished and the employees had no assignment rights to other positions.

For example, at Alameda, although 73 of 147 (50 percent) of wage grade 10 (WG-10) machinists were minorities, 9 of 13 (69 percent) of those separated were minorities. Similarly, at Watervliet, although only 15 of the 182 (8 percent) WG-8 machine tool operators were women, 13 of 56 (23 percent) of those separated were women. Overall, minorities at Alameda had slightly lower career tenure status (87 percent compared to 88 percent for nonminorities); 39 percent had veterans' preference status compared to 46 percent of nonminorities; and 42 percent had above

⁸GAO/T-GGD-94-87, p. 2.

average performance-adjusted seniority compared to 52 percent of nonminorities.

A variation among the groups in even one of the three retention factors could markedly affect separation rates. For example, the 13 women at Watervliet Army Arsenal generally were separated because they lacked veterans' preference. On the other hand, tenure was the most significant factor affecting the separations of the nine minority employees at Alameda.

Agency Comments and Our Evaluation

We requested comments on a draft of this report from the Chairman of MSPB and the Director of OPM. On October 6, 1995, MSPB's Deputy Director of Policy and Evaluation provided us with oral comments. MSPB agreed with our findings but suggested some minor changes to help clarify our discussion of RIF procedures and who is eligible to appeal them. On October 11, 1995, we received oral comments from the Associate Director, Employment Service, OPM. OPM agreed with our findings but suggested that we attach several additional oversight activities to those already cited in our report in order to make our discussion of OPM's oversight of veterans' preference more complete. We found both agencies' comments to be reasonable and have incorporated them in our report where appropriate.

Copies of this report are being sent to the Ranking Minority Member of the House Committee on Veterans' Affairs, as well as the Chairmen and Ranking Minority Members of the Subcommittee on Civil Service, House Committee on Government Reform and Oversight; the Subcommittee on Post Office and Civil Service, Senate Committee on Governmental Affairs; and the Senate Committee on Veterans' Affairs. Upon request, copies will

be made available to others interested in veterans' preference and employment issues. The major contributors to this report are listed in the appendix. Please call me on (202) 512-3511 if you have any questions concerning this report.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Timothy P. Bowling". The signature is fluid and cursive, with the first name "Timothy" and last name "Bowling" clearly distinguishable.

Timothy P. Bowling
Associate Director
Federal Management and
Workforce Issues

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Abbreviations

DOD	Department of Defense
MSPB	Merit Systems Protection Board
OPM	Office of Personnel Management
RIF	reduction-in-force
SES	Senior Executive Service
VRA	Veterans Readjustment Appointment

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