



Department of Defense **INSTRUCTION**

NUMBER 1400.25, Volume 1250
February 23, 2012

USD(P&R)

SUBJECT: DoD Civilian Personnel Management System: Overseas Allowances and Differentials

References: See Enclosure 1

1. PURPOSE

a. Instruction. This Instruction is composed of several volumes, each containing its own purpose. The purpose of the overall Instruction, in accordance with the authority in DoD Directive (DoDD) 5124.02 (Reference (a)), is to establish and implement policy, establish procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the Department of Defense.

b. Volume. This Volume:

(1) Reissues Volume 1250 of DoD Instruction (DoDI) 1400.25 (Reference (b)) and establishes DoD policy, delegates authority, assigns responsibilities, and authorizes the payment of allowances and differentials to DoD appropriated fund civilian employees who are U.S. citizens living in foreign areas pursuant to the Department of State Standardized Regulations (Reference (c)) and sections 5522, 5584, and 5922 of title 5, United States Code (Reference (d)).

(2) Extends eligibility for overseas allowances and differentials to same-sex domestic partners of civilian employees and their children, consistent with Presidential Memorandum (Reference (e)).

(3) Incorporates and cancels DoDI 1400.11 (Reference (f)).

2. APPLICABILITY. This Volume applies to:

a. OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (hereinafter referred to collectively as the "DoD Components").

b. Junior Reserve Officers' Training Corps (JROTC) instructors (see section 2 of Enclosure 2 of this Volume).

3. DEFINITIONS. See Glossary.

4. POLICY

a. Delegation of Authority

(1) The following authorities are delegated to the Heads of the DoD Components in accordance with Reference (a). These officials may further delegate these authorities in writing.

(a) The authority of the head of the agency pursuant to section 013 of Reference (c).

(b) The authority of the head of the agency to make determinations on payment of a Separate Maintenance Allowance, including changes of election and waivers of indebtedness for advance payments granted under section 5522 of Reference (d).

(c) The authority pursuant to section 031.12c of Reference (c) to waive the requirements of section 031.12b of Reference (c) in individual cases when unusual circumstances exist.

(d) The authority to waive recovery of an advance payment of living quarters allowance (LQA) pursuant to section 5922(b) of Reference (d) and section 113.4 of Reference (c) that was not subsequently covered by LQA actually accrued to the employee in unusual circumstances when it is shown that the advance rent, excluding any subsistence expense, paid has not been recovered by the employee after all reasonable steps have been taken for such recovery and that recovery from the employee would be against equity and good conscience or against the public interest. In exercising the authority to waive repayment in unusual circumstances, the Head of the DoD Component is expected to satisfy himself or herself that the employee has taken all reasonable steps to dispose of his or her quarters to others, including efforts to sublease or assign even at a financial sacrifice, and that the unpaid balance did not result from any action within the control of the employee. Any waiver granted under this section shall be reported promptly to the Department of State Office of Allowances, citing section 113.4 of Reference (c) and describing the circumstances.

(e) The authority pursuant to sections 122.2 and 123.34 of Reference (c) to approve payment of the temporary quarters subsistence allowance for up to 60 days beyond the usual maximum of 90 days, when an extension of time is necessary due to compelling reasons beyond the control of the employee.

(f) The authority pursuant to section 124.1 of Reference (c) to authorize payment of both temporary quarters subsistence allowance and LQA for up to 5 days.

(2) A representation allowance or official residence expense allowance may be approved only by the Deputy Assistant Secretary of Defense for Civilian Personnel Policy (DASD(CPP)). Requests must be fully justified and submitted through DoD Component channels.

b. Allowances Authorized. The allowances authorized by Reference (c) may be authorized for DoD civilian employees living in foreign areas except the wardrobe portion of the Home Service Transfer Allowance, the wardrobe portion of the Foreign Transfer Allowance, the Education Allowance (except that the Educational Travel Allowance specified in section 280 of Reference (c) may be authorized), and the Difficult to Staff Incentive Differential.

c. Overseas Allowances and Differentials. Overseas allowances and differentials are not automatic salary supplements, nor are they entitlements. They are specifically intended to be recruitment incentives for U.S. citizen civilian employees living in the United States to accept Federal employment in a foreign area. If a person is already living in the foreign area, that inducement is normally unnecessary. Individuals shall not automatically be granted these benefits simply because they meet eligibility requirements.

d. Recruitment Need. Individuals authorized to grant overseas allowances and differentials shall consider the recruitment need, along with the expense the DoD Component will incur, prior to approval.

e. LQA and Temporary Quarters Subsistence Allowance (TQSA). LQA and TQSA are designed to cover substantially all average allowable costs for suitable, adequate quarters, including utilities. They are not intended to reimburse 100 percent of an employee's quarters costs or to provide ostentatious housing or extravagant meals.

f. Evacuation Payments. For evacuations in foreign countries, the Heads of the DoD Components shall use Chapter 600 of Reference (c) to determine evacuation payments to civilian employees and their dependents.

g. Allowances During Non-Pay Status. Allowances granted pursuant to this Volume will be continued under the conditions identified in sections 050 and 132.2b(2) of Reference (c). Allowances shall not be paid for any period in which the employee is absent without leave or suspended for disciplinary reasons.

5. RESPONSIBILITIES

a. DASD(CPP). The DASD(CPP), under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, shall develop, revise, and monitor the implementation of overseas allowance and differential policies and procedures.

b. Heads of the DoD Components. The Heads of the DoD Components shall:

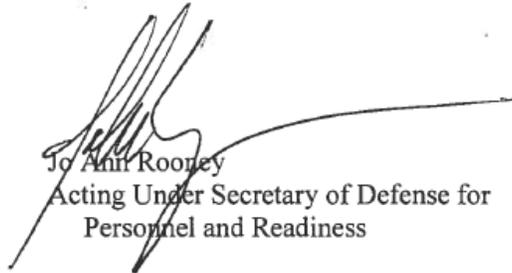
(1) Ensure that allowances and differentials are authorized consistent with this Volume, procedures issued by the DASD(CPP), and Reference (c).

(2) Conduct ongoing quality assurance reviews to verify that foreign allowance and differential payments are proper (i.e., consistent with applicable statutory and regulatory provisions).

6. PROCEDURES. See Enclosure 2.

7. RELEASABILITY. UNLIMITED. This Volume is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Volume is effective upon its publication to the DoD Issuances Website.



Jo Ann Rooney
Acting Under Secretary of Defense for
Personnel and Readiness

Enclosures

1. References
2. Procedures

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- (b) DoD Instruction 1400.25, Volume 1250, “DoD Civilian Personnel Management System: Overseas Allowances and Differentials,” December 1996 (hereby cancelled)
- (c) Department of State Standardized Regulations (Government Civilians, Foreign Areas)¹
- (d) Sections 5522, 5584, and 5922 of title 5, United States Code
- (e) Presidential Memorandum, “Extension of Benefits to Same-Sex Domestic Partners of Federal Employees,” June 2, 2010
- (f) DoD Instruction 1400.11, “Payments to Civilian Employees and Their Dependents During an Evacuation,” February 8, 1980 (hereby cancelled)
- (g) Federal Services Impasses Panel Decision (Case Nos. 92 FSIP 17 and 103), December 18, 1992²
- (h) Comptroller General Decision B-184972, May 5, 1976³
- (i) Sections 901-907 of title 20, United States Code
- (j) DoD Instruction 5100.64, “DoD Foreign Tax Relief Program,” March 20, 2006
- (k) Volume 5 of DoD 7000.14-R, “Department of Defense Financial Management Regulations: Disbursing Policy and Procedures,” current edition
- (l) Volume 8 of DoD 7000.14-R, “Department of Defense Financial Management Regulations: Civilian Pay Policy and Procedures,” current edition
- (m) Joint Travel Regulations, Volume 2, “Department of Defense Civilian Personnel,” current edition

¹ Available on the Internet at http://aoprals.state.gov/content.asp?content_id=231&menu_id=92.

² Available on the Internet at http://www.flra.gov/fsip/finalact/92fs_017.html.

³ Available on the Internet at <http://redbook.gao.gov/17/fl0082548.php>.

ENCLOSURE 2

PROCEDURES

1. AUTHORIZATION. DoD Components shall record the authorization of all overseas allowance and differential payments using the Standard Form (SF) 1190, "Foreign Allowances Application, Grant, and Report," and shall input each such authorization into the Defense Civilian Personnel Data System. DoD Components may require supporting documentation for the SF 1190 (e.g., marriage or birth certificates, or affidavits) but any such requirements shall be applied consistently.

2. LQA

a. Under the provisions of section 031.12b of Reference (c), former military and civilian members shall be considered to have "substantially continuous employment" for up to 1 year from the date of separation or when transportation entitlement is lost, or until the retired or separated member or employee uses any portion of the entitlement for Government transportation back to the United States, whichever occurs first. When an employee is separated for cause and remains in the overseas areas and is reappointed within 1 year of separation, these facts should be identified and considered when determining LQA in connection with the reappointment. In unusual cases, an employee may be considered to have substantially continuous employment even though a portion of the entitlement (e.g., early return of a family member or movement of household goods from non-temporary storage) has been used. Satisfaction of section 031.12b of Reference (c) alone will not make the former military or civilian employee eligible. The employee must also satisfy the requirements of section 031.12a of Reference (c) to establish eligibility. LQA payments during the summer recess period to JROTC instructors employed by Department of Defense Dependents Schools (DoDDS) shall be processed in accordance with Federal Services Impasses Panel Decision (Case Nos. 92 FSIP 17 and 103) (Reference (g)) and paragraph 2.m. of this enclosure. LQA payments to DoDDS JROTC instructors shall not be paid when suitable and fully adequate Government quarters are occupied by the instructor during the summer recess period.

b. When suitable and fully adequate Government quarters are available and offered to the employee but the employee elects not to accept them, the employee shall not be eligible to receive LQA for the rental or purchase of privately owned quarters except when there is a waiting list of eligible personnel available to occupy the same category of quarters offered to the employee, or quarters cannot be assigned on a permanent basis. The employee may be paid TQSA for use of commercial lodging even if adequate Government transit quarters are available.

c. For a waiver of section 031.12b of Reference (c) to be approved:

(1) One of the following situations must have occurred.

(a) The sponsoring spouse or domestic partner dies.

(b) The sponsoring spouse or domestic partner becomes physically or mentally incapable of continued employment with the Government.

(c) The couple is divorced or legally separated, or a domestic partnership has been dissolved. (A legal separation is deemed to exist when either the employee or spouse has initiated legal action to dissolve the marriage or one separates from cohabitation short of applying for a divorce.)

(d) The sponsoring spouse or domestic partner left the post or area permanently.

(e) The spouses or domestic partners could not maintain a common dwelling due to the relocation of either spouse's or domestic partner's work place.

(2) In addition, in the situations described in subparagraphs 2.c.(1)(a) through 2.c.(1)(e) of this enclosure, the employee must have entered the country in which the foreign post is located as the spouse or domestic partner of a sponsor who was eligible for either military or civilian quarters allowance. In the situations portrayed in subparagraphs 2.c.(1)(c) through 2.c.(1)(e) of this enclosure, LQA shall be stopped should the couple remarry, reconciliation occur, or the sponsoring spouse or domestic partner returns to his or her post or commuting area whether or not the sponsoring spouse or domestic partner retains his or her eligibility for a quarters allowance. Waivers granted for the events in subparagraphs 2.c.(1)(a) through 2.c.(1)(e) of this enclosure shall last no longer than 1 year from the date eligibility is established, unless extended by the appropriate DoD Component delegate.

d. Except for the circumstances described in subparagraph 2.c.(1)(b) of this enclosure, a waiver of section 031.12b of Reference (c) shall not be made for a married employee or for a domestic partner employee who accompanied or followed his or her spouse or domestic partner to a foreign area and still resides with that spouse or domestic partner.

e. Section 031.12b of Reference (c) shall be waived for locally-hired U.S. citizen employees who have, immediately prior to appointment, been directly employed by the United States as foreign nationals under third-country citizen contracts or agreements that provided them with LQA or housing at no cost.

f. When approval is granted to waive section 031.12b of Reference (c), the effective date of the LQA approval will be the date eligibility is established by the approving official or the date quarters are occupied, whichever is later.

g. The designated official shall determine whether or not an employee requires LQA under section 031.12c of Reference (c) when the assignment is within or between countries. Section 031.12c of Reference (c) provides that LQA may be given to an employee recruited outside the United States if, as a condition of employment by a Government agency, the employee was required by that agency to move to another area in cases specifically authorized by the head of the agency. A condition of employment, if not fulfilled, results in failure to gain or retain employment. Section 031.12c of Reference (c) shall be applied when an employee is relocated

to another area by a management-generated action. It shall also be applied when management requests that an employee not now eligible for LQA relocate to another area. A management request that an employee relocate is considered a management-generated action. A move through a voluntary reassignment is not considered a management-generated action. To make a determination under section 031.12b of Reference (c), the following tests must be applied.

(1) Will employment be ended if the employee fails to accept relocation?

(2) Is the relocation caused by a management-generated action?

(3) Must management request an employee not now in receipt of LQA to relocate to another area?

h. To grant an allowance under section 031.12c of Reference (c) and its implementing guidance, the answer must be affirmative to the questions in subparagraphs 2.g.(1) through 2.g.(3) of this enclosure. Selecting a person to be relocated is based on regulatory guidance, leaving management little option to recruit a new employee or select an employee receiving LQA. There are also certain common sense considerations. If an employee's new duty station is within the local area of work of the previously established residence, no LQA shall be authorized. If the employee is joining a spouse or domestic partner at a new duty station who is eligible for LQA, the reassigned employee shall not be given the allowance. If the management-generated action would not cause employment to end if the employee fails to accept relocation, the DoD Component may approve LQA if a determination is made that there is no choice but to move the employee for official reasons (e.g., mobility is inherent in the functional area).

i. Gaining activities make the final LQA determination. The losing activity, however, shall request an advance finding from the gaining activity to advise the employee as to LQA benefit as a result of the movement.

j. Nonappropriated fund employees who were eligible for a living quarters and related allowances upon their initial hire, and who are appointed to an appropriated fund position without a break in service, continue to be eligible for allowances in accordance with Comptroller General Decision B-184972 (Reference (h)), provided they had received the allowances for at least 1 year.

k. If an allowance-eligible employee shares quarters with another allowance-eligible individual, the name of the person with whom the employee is sharing quarters shall be entered on the SF 1190. LQA payments shall be reduced by the amount of remuneration an employee receives when the employee lets, sublets, or otherwise contracts for the use of his or her quarters, or any part thereof, in accordance with section 134.2a.(1) of Reference (c).

l. The annual rent payable for personally owned quarters (POQ) is based on the purchase price or appraised value of the property, converted to U.S. dollars at the exchange rate in effect at the time of purchase. Employees who own, or are purchasing a POQ, may not be paid quarters allowances under a rental contract if the POQ is within the employee's local area of work.

m. Subject to sections 901-907 of title 20, United States Code (Reference (i)), payment of LQA to an educator who is eligible pursuant to Reference (c) to receive that allowance, or to occupy rent-free Government quarters in lieu of LQA during the summer recess, shall be governed by subparagraphs 2.m.(1) through 2.m.(4).

(1) If the educator is transferred, payment of the allowance shall be the responsibility of the losing activity up to the effective date of the transfer; thereafter, it shall be the responsibility of the gaining activity.

(2) If it is determined that the educator's services will not be required for the following year, the educator may receive payment of LQA until his or her last day in a duty status. The allowance may be continued up to 14 calendar days or the date of departure, whichever is earlier, for an educator who is required to await authorized transportation if appropriate documentation is provided by the transportation office.

(3) In accordance with section 723.1 of Reference (c) and section 905 of Reference (i), if an educator fails to report for service at the beginning of the next school year as agreed, or fails to complete the full obligation for the next school year for reasons unacceptable to management, the educator shall be obligated to repay LQA received (or value of Government quarters occupied, or cost of storage furnished) up to the effective date of separation during the recess period. If the failure to report or to complete the school year is beyond the educator's control and acceptable to management, collection action may be waived.

(4) Under the provisions of Reference (i), educators are in a non-pay status during winter, spring, and summer recess periods; Federal holidays; and all other non-workdays. Accordingly, LQA shall be continued in the public interest for eligible educators during official recess periods within the school year, not in excess of 30 calendar days, provided the educator is in a pay status immediately before and after the school recess period.

n. DoDI 5100.64 (Reference (j)) requires that the DoD make a concerted effort to secure effective tax relief from foreign taxes where practical. The DoD Utility Tax Avoidance Program (UTAP) provides eligible DoD personnel the ability to avoid paying Value Added Tax (VAT) on their residential consumption of electricity, gas, and water. To be eligible for the UTAP, individuals must receive their utilities from a provider that has a contractual agreement with the tax relief office (TRO) to provide tax-free utilities; must receive electricity, gas, and water in a subscription-style, recurring basis over several months or years; and have a separate metering device and be billed in their own name.

(1) Eligible personnel shall provide a copy of their stationing orders and their rental contract (or bill of sale) along with their SF 1190 to a TRO and pay the required enrollment fee. The TRO will place the order for tax-free service with the utility provider. Utility orders placed by DoD personnel without participation of the TRO do not qualify for tax relief.

(2) The UTAP shall be mandatory for eligible civilians as a condition of receiving the payment of the utilities portion of LQA. Civilian personnel offices are to withhold LQA until proof of application or non-availability is submitted. LQA recipients who meet the requirements

of the UTAP shall be reimbursed for the service charge paid. This charge is reimbursable only through the miscellaneous expense allowance.

3. POST ALLOWANCE

a. Part-time, intermittent, and U.S. family member summer or winter hire employees are not eligible. The post allowance is paid to eligible employees even though they may not be eligible for post differential or other allowances.

b. The annual rate for wage grade employees is determined by multiplying the basic hourly rate by 2087. The basic rate is exclusive of overtime, shift differentials, holiday premium pay, or any other differentials and allowances.

c. Civilian employees who are spouses of military members receiving a cost of living allowance (COLA) at the “with family” rate shall be authorized the “without family” post allowance.

d. In accordance with section 724 of Reference (c) and section 906 of Reference (i), the total annual amount of post allowance payable to DoDDS educators is divided by the number of calendar days in the school year to obtain the daily rate. If a teacher is employed in another position during any recess period between the school years, the allowance during the recess period shall be based on the position held during the recess period.

4. EDUCATION ALLOWANCE. The education allowance is not authorized for payment in the DoD. Education of DoD family members whose sponsor is stationed in a foreign area is provided mainly in DoD-operated overseas schools. When these schools are either unavailable or inappropriate, education of family members must be arranged through DoDDS. Reimbursement for the education travel of student family members, as provided by section 280 of Reference (c), is authorized under the following conditions.

a. Reimbursement is authorized for transportation costs of dormitory student family members of eligible employees between the employee’s overseas duty station and the DoD education activity-approved school.

b. Students may be authorized to travel to a location other than their sponsoring employee’s post of duty as long as the sponsoring employee provides written authorization and pays for the travel expenses that would have been incurred by the student if he or she traveled to the sponsor’s post.

c. Reimbursement shall be limited to what it would have cost the Government for travel from the school to the employee’s post of duty by the authorized mode of transportation. Only those employees who are eligible for LQA may be reimbursed for family member education travel.

5. ADVANCE IN PAY

a. Procedures for obtaining an advance in pay when employees are proceeding to or arriving at a post of assignment in a foreign area are contained in Volumes 5 and 8 of the Department of Defense Financial Management Regulation (References (k) and (l)).

b. Repayment shall be made by payroll deduction over a maximum of 26 pay periods, or partial or lump-sum payments. Payroll deductions shall begin the first pay period after receipt of the advance or following arrival at the foreign post, whichever is later.

6. WAIVER OF CLAIMS. Claims resulting from erroneous disbursements of pay and allowances may be processed in accordance with Reference (k). The foreign post and special incentive differentials meet the definition of pay under section 5584 of Reference (d).

7. RECONCILING. The DoD Components shall establish procedures for processing a reconciliation for LQA purposes, and for when one is warranted. When SF 1190 is submitted to reconcile an employee's account, it must be accompanied by receipts that support the amounts claimed, as required by Reference (c). Officials approving allowance claims may also require receipts for meals claimed under TQSA that they consider extravagant. If an employee fails to submit receipts, allowance payments will be suspended until supporting documentation is submitted. Officials approving allowance claims for payment shall verify that amounts claimed are supported by receipts and will not approve payments that are not supported by documentation.

8. SUSPENSE SYSTEM. The DoD Components shall establish a suspense system to follow up on events that affect allowance payment (e.g., age of dependent children, expiration of the 10-year cost recovery period for personally owned quarters, expiration of lease or rental contracts, early return of dependents, and renewal agreement travel).

9. EVACUATION PAYMENTS. Procedures for making evacuation payments in foreign countries are contained in the Joint Travel Regulations, Volume 2 (Reference (m)).

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

COLA	cost of living allowance
DASD(CPP)	Deputy Assistant Secretary of Defense for Civilian Personnel Policy
DoDD	DoD Directive
DoDDS	DoD Dependents Schools
DoDI	DoD Instruction
JROTC	Junior Reserve Officers' Training Corps
LQA	living quarters allowance
POQ	personally owned quarters
SF	Standard Form
TQSA	temporary quarters subsistence allowance
TRO	tax relief office
UTAP	Utility Tax Avoidance Program
VAT	value added tax

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this Volume.

domestic partner. A person in a domestic partnership with a civilian employee of the same sex, who is identified in Block 16 of the SF 1190 signed by the employee.

domestic partnership. A committed relationship between two adults, of the same sex, in which the partners:

Are each other's sole domestic partner and intend to remain so indefinitely.

Maintain a common residence, and intend to continue to do so (or would maintain a common residence but for an assignment abroad or other employment-related, financial, or similar obstacle).

Are at least 18 years of age and mentally competent to consent to contract.

Share responsibility for a significant measure of each other's financial obligations.

Are not married or joined in a civil union to anyone else.

Are not the domestic partner of anyone else.

Are not related in a way that, if they were of opposite sex, would prohibit legal marriage in the U.S. jurisdiction in which they reside.

Are willing promptly to disclose any dissolution or material change in the status of the domestic partnership.

family. Defined in section 040(m) of Reference (c).

foreign area. Defined in section 040(f) of Reference (c).

local area of work. Defined in section C2400 of Reference (m).

locally-hired. Refers to the country in which the foreign post is located.

management-generated action. If a DoD Component requires an employee to make a geographic or permanent change of station move as a condition of employment (e.g., reduction in force, transfer of function, agency career development program, or agency-directed placement), it will regard such movement as being in the interest of the Government and generated by management. If an employee actively pursues, solicits, or requests a position change resulting in the geographic move of such employee from one permanent duty station, such a move is primarily for the convenience and benefit of the employee and is not considered a management-generated action. The provisions outlined in Reference (m) will be used to determine if the move meets the criteria of a permanent change of station when the old and new permanent duty stations are located within the same city or area.

United States. Any of the 50 States, the District of Columbia, Puerto Rico, and any U.S. territory or possession.

U.S. hire. A person who physically resided permanently in the United States or the Commonwealth of the Northern Mariana Islands from the time he or she applied for employment until and including the date he or she accepted a formal offer of employment.