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Living Quarters Allowance for Certain Civilian Employees Background/Q&As

Background

Two claims decisions were issued to EUCOM employees in 2008 and 2011 in which the Office of Personnel Management (OPM) made it clear that Living Quarters Allowance (LQA) is not payable when an individual is hired overseas after working for more than one employer. LQA has been paid within EUCOM AOR to employees who worked for more than one employer locally before being hired. As a result of these decisions, in late 2011, EUCOM halted the practice of making LQA available to individuals who met those criteria.

In a May 9, 2012, memorandum to the USD P&R, EUCOM requested a one-year continuation of LQA payment to affected employees. LQA payments that have been made and received erroneously are subject to repayment; thus, EUCOM further requested a blanket waiver of indebtedness for the affected employees.

DoD has directed components to conduct a 100% LQA audit in the EUCOM AOR and in all overseas locations to identify and notify employees found to have worked overseas for more than one employer prior to being hired. The department has waived the provisions of section 031.12b of the DSSR to authorize LQA for up to one year in these unusual circumstances, and supports employees' request for a waiver of indebtedness under prescribed provisions.

Questions and Answers

Q1. What is LQA?

A1. LQA is provided to reimburse employees for suitable, adequate living quarters at posts where the U.S. Government does not provide quarters. LQA may be used to pay for rent, utilities, taxes, and related fees (see DSSR 131.2 for a complete listing).

Q2. What's the average LQA payment?

A2. The average LQA payment (for all locations) is approximately \$50K.

Q3. How many people are affected? What will the impact be to employees in EUCOM and other commands?

A3. The actual number of employees recruited locally in the EUCOM AOR that worked for more than one employer previously is unknown at this time. EUCOM has stated in its request that as many as 2,000 personnel may be affected.

The department has directed the military departments, defense agencies, and field activities to conduct an audit of the pay accounts of all locally hired overseas employees in the EUCOM AOR as well as other overseas locations who are currently receiving LQA. The

audit must be completed in 90 days, i.e., no later than April 3, 2013. Until the audit is complete, it would be inappropriate to speculate further on the impact.

Q4. Who are the affected employees?

A4. Employees who were recruited outside of the United States after employment with more than one employer before being employed by the Federal Government and were authorized LQA based on a misinterpretation of Department of State Standardized Regulations Section 031.12.

Q5. What should employees do?

A5. We are acutely aware of concerns our employees may be facing and encourage them to let the process work. Affected employees will receive formal notification from their components and DFAS no later than 5 business days after completion of the audit.

Q6. What is the Living Quarters Allowance (LQA) One Year Authorization for EUCOM AOR?

A6. DoD is authorizing LQA, for up to one year, for certain employees in the EUCOM AOR who otherwise are not eligible to receive LQA. Those employees were hired locally after working for more than one employer overseas, and were erroneously receiving LQA, through no fault of their own.

Life decisions were made by these individuals on the basis of LQA being part of their employment package; some of these employees may not have accepted DoD jobs without LQA authorization. One year LQA authorization allows them time to plan a future without LQA.

Q7. When was this problem uncovered?

A7. In July 2011, OPM rendered a decision that clarified LQA is permitted for locally-hired candidates if they worked for only one employer (e.g., a U.S. firm contracting with the US Government overseas) before being hired by the Federal Government.

Upon review of the OPM decision, components in the EUCOM AOR recognized they had been incorrectly interpreting the Department of State Standardized Regulation that authorizes LQA for personnel recruited outside of the United States. EUCOM proposed this one year LQA authorization to allow affected employees time to plan a future without LQA.

Q8. When/how did the Department become aware of this issue?

A8. In May 2012, EUCOM sent a memo to the Under Secretary of Defense for Personnel and Readiness, identifying the potential impact and requesting a one-time limited exception authorizing the continuation of LQA for affected employees and assistance with approval to waive any indebtedness incurred by those employees.

Q9. Why did it take the Department so long to rule to EUCOM's request?

A9. Before responding, the department diligently researched options, in consultation with the Department of State. Interagency coordination was required as there was no precedent for the proposed solution.

Q10. What happens now?

A10. Employers have 90 days to complete an audit of locally hired LQA recipients. After completion of the audit, those found to have been hired after working overseas for more than one employer will be notified they may only receive LQA for one more year. The one year window begins when employees are notified they are ineligible for LQA.

Q11. When will employees be informed if they have been receiving LQA erroneously?

A11. The military departments, defense agencies, and field activities have 90 days to complete the audit. Affected employees will receive formal notification no later than 5 business days after completion of the audit.

Q12. What happens to LQA already paid to these employees?

A12. A number of personnel potentially received erroneous LQA payments, through no fault of their own, that they were not entitled to receive. Affected employees will be provided a formal notification of their debt for the erroneous LQA received; each employee may seek a waiver of indebtedness through established procedures.

Q13. How much will it cost the Department to authorize LQA payments for up to one year? What's the amount of the indebtedness to the government?

A13. We have directed components to conduct audits of the pay accounts of all locally hired overseas employees who are currently receiving LQA, which will identify the numbers of employees paid LQA erroneously. At this time it is inappropriate to speculate on results of those audits.

Q14. What provisions allow the Department to extend such an authorization?

A14. In accordance with the Department of State Standardized Regulations (DSSR), Section 031.12 allows the head of agency to authorize LQA in unusual circumstances.

Q15. Does this situation exist in other areas of the world?

A15. We are requiring DoD activities in other areas of the world (outside of the U.S.) to conduct similar audits and report the results of those audits. An LQA authorization, for up to one year, for similarly situated employees has also been authorized in those other areas.

Q16. What happens to employees who may be found ineligible for LQA during the course of the audit for reasons other than having had substantially continuous employment with more than one employer?

A16. The audit covers employees who were hired locally overseas who have been receiving LQA; those recruited from the U.S. are not included in the audit. The one-year authorization of LQA does not apply to locally hired employees who receive LQA if they are found to be ineligible due to reasons other than for "more than one employer." Employees in other circumstances should contact their chain of command for individual-specific information.

Q17. How long has the misinterpretation of LQA eligibility under these unusual circumstances been going on? Why is this just being uncovered and addressed? What is OSD's role in monitoring the implementation of LQA?

A17. The misinterpretation was brought to the department's attention as a result of an appeal filed by an employee who was correctly denied LQA as a result of not meeting the criteria for its receipt. The department has responsibility for establishing and monitoring policy governing LQA and other overseas allowances; however, the components are delegated the authority for their use and responsibility to ensure that their use is in compliance with departmental and government-wide regulations.

Q18. How far back will the required audit go? What about former employees who may have received LQA erroneously under these unusual circumstances?

A18. This audit covers current employees receiving LQA who were hired locally. Former employees are not part of this audit.

Q19. If the erroneous payment of LQA was through no fault of the employees, why can't there be a blanket waiver of the indebtedness incurred by those employees?

A19. Each request to waive indebtedness is considered based upon its own merits, and DoD supports requests in these unusual circumstances, as long as there is no evidence of misrepresentation, fraud, or deception to acquire LQA in the first place.

Q20. Will employees found to have received LQA erroneously be eligible for return to the U.S.? What about placement through PPP?

A20. Yes, affected employees who are eligible for return to the U.S. may register in the Priority Placement Programs (PPP) for consideration to fill stateside job vacancies.

Q21. What is the status of EUCOM's request for a higher priority in the PPP?

A21. That request is under review.

Q22. How does the "substantially continuous employment" eligibility requirement affect military members or civilian employees who separate while in an overseas location?

A22. Military members who separate overseas are considered to be "continuously employed" for up to one year if they do not use their transportation agreement to return to the U.S. Therefore, they are eligible for LQA during this one year period. Conversely, civilian employees who separate from Federal service overseas generally are no longer considered to be "continuously employed," and are not eligible for LQA.

Q23. How will this eligibility clarification and decision affect the overseas rotation of civilian employees?

A23. We do not anticipate difficulty filling vacancies via local applicants without LQA or stateside applicants with LQA.

Q24. What about people who have already gotten caught up in this and have had to make some payments -- any chance that they will be reimbursed?

A24: All current employees receiving LQA will be part of the audit; they will be notified of their eligibility and options following the audit completion.