



DEPUTY SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-1010

JUL 30 2013

MEMORANDUM FOR COMMANDER, UNITED STATES EUROPEAN COMMAND
COMMANDER, UNITED STATES AFRICA COMMAND
COMMANDER, UNITED STATES PACIFIC COMMAND

SUBJECT: Erroneous Payment of Living Quarters Allowance to Certain Civilian Employees

This responds to your correspondence regarding the erroneous payment of Living Quarters Allowance (LQA) to certain employees of U.S. European Command, U.S. Africa Command, and U.S. Pacific Command. You requested I review all provisions relating to eligibility for LQA and related decisions of the Acting Under Secretary of Defense for Personnel and Readiness (USD (P&R)), and temporarily grant LQA for all current employees identified as receiving LQA inappropriately until their established date of estimated return from overseas (DEROS). Please be assured that this matter has the full attention of my office, and we have made every effort to resolve it quickly and appropriately.

The Department cannot grant a blanket waiver for the indebtedness that resulted from the erroneous payments of LQA because each request for waiver must be considered on its own merits. However, it has been determined that it is in the best interest of the Department to support employee requests for waivers of indebtedness occurring as a result of the erroneous payments, as long as there is no evidence of misrepresentation, fraud, or deception by the employee to acquire LQA initially. As we have discussed, in order to be considered for a waiver of indebtedness, affected employees must follow the waiver application process, which requires the employee to sign a waiver application form (DD Form 2789). An employee's signature on a waiver application does not constitute an admission of liability for the debt. Rather, it acknowledges that he or she does not intend to dispute the validity or the amount of the debt during the waiver process.

In response to your concerns, specific actions are in place which will allow for the expeditious submission and processing of waiver requests. A Defense Finance and Accounting Service (DFAS) team will visit Europe and Korea/Japan over the next 2 months to assist affected employees with preparing their waiver requests. The team will be supported by DoD, Army, Navy, or Air Force civilian human resources offices. The DFAS team began visits to designated sites in Europe on July 22, 2013, and will continue to the Pacific theatre beginning in early September. DFAS has delayed the collection of the debt due to allow for the processing of waiver of indebtedness requests. Affected employees must understand that if they do not complete a waiver application, to include signing the DD Form 2789, DFAS will begin to recoup the indebtedness approximately 6 months after the employee has been notified of the debt amount. If an employee applies for a waiver, no action will be taken with respect to recouping the potential overpayment until a final determination is made by the Defense Office of Hearings and Appeals (DOHA). Only DOHA has the authority to adjudicate requests for waivers of



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indebtedness. This office is standing by to process requests as expeditiously as possible, as they are received.

The Department is sensitive to the potential negative financial impacts cessation of LQA will have on affected employees. Law and regulation prevent the Department from retroactively authorizing LQA for employees who were erroneously paid this incentive, especially because these employees do not meet the eligibility criteria found in the Department of State Standardized Regulations. Further, the Department does not have legal authority to "grandfather" individuals under these circumstances because the affected employees were not eligible to receive the incentive when the initial erroneous determination was made.

However, due to the unusual circumstances by which the affected employees were paid LQA, the Acting USD (P&R) granted all affected employees eligibility to receive LQA for up to a 1-year period to plan a future without LQA. We cannot continue LQA for all affected employees until their established DEROS, as that would require the Department to authorize payments identified as erroneous beyond the 1-year period of transition determined to be reasonable in this situation. When the 1-year period of temporary eligibility for LQA ends, the pay of affected employees will no longer include this incentive.

In an effort to further mitigate the effects of LQA cessation, the Department has developed special Priority Placement Program (PPP) procedures to facilitate the timely rotation of those affected overseas employees who choose to return Stateside in the absence of LQA. Most notably, we have authorized a temporary exception to standard PPP clearance requirements that will allow DoD Components to reassign employees directly to stateside vacancies that would otherwise not be filled due to a hiring freeze. Operational guidance regarding these PPP flexibilities was distributed on June 27, 2013. In addition, an affected employee generally will be eligible for a paid move back to the United States if returned Stateside as a result of a directed reassignment by his or her DoD Component, if placed through the Department's PPP, or if he or she is a retired military member whose final authorization for return travel has not expired. Because each employee's circumstances are different, employees should seek specific advice from their servicing human resources office.

Looking forward, we want to ensure our LQA regulations are unambiguous. To that end, by December 31, 2013, the Acting USD (P&R)'s staff will conduct a comprehensive review of overseas benefits and allowances regulations to ensure the guidance is clear, and will engage the DoD Components and Combatant Commands in that effort. Further, DoD Components with the responsibility to train servicing human resources specialists on making benefits and pay determinations must ensure they are doing so correctly through audits or similar oversight means.

I appreciate and share your concerns about the impact cessation of this incentive will have on morale, and potentially on retention, of affected employees. I appreciate your strong leadership in communicating to your employees that we are doing all we can for them in these regrettable circumstances.

Questions on these matters may be directed to Ms. Paige Hinkle-Bowles, Deputy Assistant Secretary of Defense for Civilian Personnel Policy, at Paige.Hinkle-Bowles@osd.mil or (703) 614-9487 or DSN 224-9487.

Colt B. Carter