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MANAGEMENT

ASSISTANT SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

DEC 02 2013

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Civilian Expeditionary Workforce Program Office Business Rules

Sustainment of deployed civilian support remains a Department priority. I commend the progress made toward meeting Combatant Command requirements, and sincerely appreciate the efforts of all those involved in the day-to-day operations of civilian deployment.

While the Civilian Expeditionary Workforce Program Office (CEWPO) will step back from its operational role as a civilian "force provider" at the end of Fiscal Year (FY) 2014, it will continue to provide civilian deployment policy under the direction of the Deputy Assistant Secretary of Defense for Civilian Personnel Policy.

The attached business rules ensure that individuals who deploy in support of joint requirements are fully prepared to meet the Department's critical mission needs. They are also designed to guide the Department of Defense (DoD) Components in the development of local business rules. These business rules support the DoD Components' continued responsibility to plan, program, and budget for civilian deployment requirements, as outlined in DoDD 1404.10, "Civilian Expeditionary Workforce."

My point of contact for this matter is Ms. Julie Blanks, whom you may reach at (571) 372-2026 (DSN 312-372-2026), or Julie.A.Blanks.civ@mail.mil.

A handwritten signature in black ink, appearing to read "F.E. Vollrath", is positioned above the printed name.

F.E. Vollrath

Attachment:  
As stated

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## CEWPO Civilian Deployment Business Rules

### **1. Civilian Deployment and Emergency Essential (E-E) Designation**

- a. An agile civilian workforce with expeditionary experience and capabilities prepares the Department to support contingency and other critical operations.
- b. To address complex contingency challenges, certain positions will be designated to support the success of combat operations or the availability of combat-essential systems, and pursuant to Reference (a), which implements the criteria for designation found in 10 U.S.C. 1580. DoD Components may designate as E-E any employee of the DoD, whether permanent or temporary, whose position duties meet all of the following criteria:
  - (1) It is the duty of the employee to provide immediate and continuing support for combat operations or to support maintenance and repair of combat essential systems of the armed forces;
  - (2) It is necessary for the employee to perform duties in a combat zone after the evacuation of nonessential personnel, including any dependents of members of the armed forces, from the zone in connection with a war, a national emergency declared by Congress or the President, or commencement of combat operations of the armed forces in the zone; and,
  - (3) It is impractical to convert the employee's position to a position authorized to be filled by a member of the armed forces because of a necessity for that duty to be performed without interruption.
- c. Combat Zone is defined as any area which the President of the United States by Executive Order designates, for purposes of this section or corresponding provisions of prior income tax laws, as an area in which Armed Forces of the United States are or have (after June 24, 1950) engaged in combat.
- d. DoD civilian employees serving in positions designated as E-E may be required to deploy in performance of their assigned duties.
- e. Individuals who deploy in positions that have been designated E-E, while in support of joint requirements through the Civilian Expeditionary Workforce Program Office (CEWPO), are part of the Civilian Expeditionary Workforce (CEW).

### **2. Authorization for Deployment**

- a. In accordance with Reference (a), DoD civilian employees who are part of the DoD CEW, and who are selected and approved to fill a valid requirement for deployment, shall be released from their parent organization for deployment unless there is a significant negative impact on the organization's ability to meet mission

requirements. Additionally, in order to be eligible for deployment, employees must meet the employee capabilities criteria outlined in reference (a).

- b. In order to assist in centralized civilian sourcing and management, justification for disapproving the release of an employee will be transmitted through the organization's Component headquarters to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD(CPP)) via the CEWPO within 20 days of initial denial. Provision of the justification is for tracking purposes only.

### **3. Employment Status and Position Return Rights**

- a. Typically, DoD civilian employees remain in their permanent positions of record and grade level when they deploy to a position in support of contingency and/or emergency operations. Return rights of civilian employees who deploy in support of contingency and/or emergency operations are set out in Reference (a), paragraph 4.i.(1).
- b. In accordance with References (b) and (c), DoD nonappropriated fund (NAF) employees who apply for and are appointed to an appropriated fund position for deployment may either: (1) request leave without pay (LWOP) from the NAF position for the duration of the deployment and serve in the appropriated fund position without portability of benefits, or (2) resign from the NAF position and move to the appropriated fund position under the portability of benefits provision. The servicing human resources offices should coordinate to advise the affected employee of the impact of each option, to include effect on benefits, pay, entitlements in both employment systems, and whether the NAF employee is a local hire with NAF employment contingent on a Status of Forces Agreement (SOFA). Components will grant the employee, via written agreement, the right of return to a NAF position held prior to acceptance of the deploying position, or to a NAF position of similar grade or pay band level, responsibility and commuting area within the same organization.
  - (1) If the employee remains on the NAF rolls in LWOP status and is appointed to an appropriated fund position, all normal NAF LWOP provisions will apply. Creditable service, annual leave and sick leave will not transfer to the appropriated fund position. The employee will not accrue annual or sick leave while on LWOP. If the employee is participating in the NAF Health Benefit Plan or Group Life Insurance Plan, it will be incumbent upon the employee to continue coverage and pay premiums. Depending upon the respective NAF retirement plan, contributions and creditable service in the retirement plan may be affected. Contributions to the 401(k) Savings Plan are not authorized during periods of LWOP due to the IRS requirement that all 401(k) Savings Plan contributions must be made as a tax deferral from wages.
  - (2) If the employee resigns from the NAF position and is appointed to the appropriated fund position without a break in service of more than three days,

the employee will be eligible for Portability of Benefits. Annual leave, sick leave, and credit for NAF service toward annual leave accrual will transfer.

- c. Reference (d) requires Components to establish accountability procedures for employees serving on temporary duty (TDY) or temporary change of station (TCS) assignments to theaters of operations. In accordance with Reference (e), personnel actions will be recorded in the Defense Civilian Personnel Data System (DCPDS) or equivalent data system, for deployment tracking purposes. For DCPDS, appropriate nature of action codes (NOAC) that enable reporting and documentation of the deployment will be used as follows:

- (1) NOAC 0921 Reassignment Not to Exceed (NTE) is used for employees on temporary duty to locations of contingency operations, effective the date the employee departs the permanent duty station.
- (2) NOAC 0922 Termination of Reassignment NTE is used upon employee's return from locations of contingency operations, effective the date the employee returns to the permanent duty station.
- (3) NOAC 0923 Extension of Reassignment NTE is used to extend assignment beyond original NTE date.

#### **4. Deployment Length**

- a. Generally, deployment lengths (to include tour extensions and curtailments) are determined by the theater supervisor in accordance with guidance from the supported Combatant Command, parent Component policy and practice, civilian personnel management provisions, and based on mission requirements (Reference (a)).
- b. Requests to extend or renew the deployment of a DoD civilian employee, regardless of the length of the initial deployment period, may be approved via concurrence between the employee's permanent command and deployment supervisory channel. However, DoDD 1404.10, paragraph 4.b.(2) prohibits individual deployment tours exceeding two years. Requests for extensions should be made at least 90 days prior to the end of the initial tour.
- c. DASD(CPP) approval is not needed if the extension request is being denied; however, the denial justification should be provided for information to the DASD(CPP) through the CEWPO. Provision of the justification is for tracking purposes only.
- d. Components will be sensitive to the potential for health implications when considering requests to extend deployments beyond a continuous period of 12 months. DoD civilians who deploy for multiple tours for more than 12 months total, must be medically re-evaluated for deployment, in accordance with Combatant Command guidance (Reference (f)).

## 5. Requirement of Pre- and Post-Deployment Health Assessments

- a. In accordance with References (f), (g), and (h), all DoD civilians entering theater for 30 days or more will be medically cleared for deployment prior to departure from their home station (or designated deployment processing center). Medical clearances must comply with Reference (g) and (h), and respective Combatant Command reporting instructions (Reference (f)). Individuals who fail to comply with these requirements are not deployable. Upon return from deployment, DoD civilians must in-process through their servicing Medical Treatment Facility (MTF) or designated deployment center within five days to complete post-deployment health requirements.
- b. In accordance with Reference (h), all DoD civilian employees must complete pre-and post-deployment health assessments (DHAs) consistent with requirements for military personnel to effectively identify and evaluate deployment-related health concerns. DoD MTFs may be used for administration of DHAs when appropriate; however, DHA compliance, tracking, and monitoring are the responsibility of the employee's organization of record. DoD MTFs unable to support pre- or post-deployment health assessments will provide appropriate referrals at no cost to the employee. All DHAs will be submitted to the Defense Medical Surveillance System (DMSS) and will be administered at the following intervals:
  - Pre-deployment Health Assessment (DD2795): 120 days prior to deployment departure date;
  - Post-deployment Health Assessment (DD2796): Within 30 days of return from deployment;
  - Post-deployment Health Reassessment (DD2900): 90-180 days after return from deployment.
- c. DOD civilians who wish to deploy, but have a deployment limiting medical condition as defined in Reference (g), must submit medical documentation required for waiver to the Combatant Commander (or designee) to determine if the condition can be reasonably accommodated in theater, consistent with reference (g) and the Rehabilitation Act of 1973, as amended.
- d. Post-deployment assessments and subsequent medical requirements must be completed within 30 days after return to home station (Reference (h)), and are the responsibility of the employee's organization of record. Post-deployment health reassessments must be completed within 90-180 days after deployment to ensure timely identification and evaluation of deployment-related health concerns.
- e. If a deployed civilian must be medically evacuated, equipment and personal gear will be returned to the civilian employee by the supported organization.

## **6. Care for Injuries/Illnesses During Deployment and Post-Deployment**

- a. DoD civilian employees who become ill, contract diseases, or who are injured or wounded while deployed in support of U.S. military forces engaged in hostilities and contingency operations are eligible for medical evacuation and health care treatment and services in MTFs at no cost to the civilian employee and at the same level and scope provided to military personnel. Civilians cannot be required to take personal leave while undergoing therapy and/or rehabilitation due to a combat, combat support, duty-related or non-duty-related injury incurred during deployment (Reference (a), paragraph 4.g.(3)(d)).
- b. Civilian employees who were treated in theater for deployment-related injuries or illnesses continue to be eligible for treatment in an MTF or civilian medical treatment facility for the deployment-related injuries or illnesses in accordance with Reference (a) paragraph 4.g.(3)(d) and (e).
- c. DoD Components must ensure employees returning from deployment are tracked for all post-deployment preventive medical care, which is to be provided free of charge. The use of DoD MTFs is encouraged for this care. If the DOD MTF cannot support the post-deployment care, then referrals will be made at no cost to the employee (Reference (a)).

## **7. Premium Pay for Training Activities**

- a. The payment of premium pay for time spent in training activities is governed by implementing regulations published in the Code of Federal Regulations (reference (i)). Nonexempt employees, those covered by the Fair Labor Standards Act (FLSA), are subject to additional exceptions, addressed in 5 CFR 551.423 (reference (i)).
- b. Training related tasks that frequently cause concern among students include required study, reading, or online activities that must take place outside the classroom environment, after regular duty hours. For most employees, these tasks clearly fail to meet the requirements for an exception which would provide authorization for premium pay. For employees participating in residential training, such as civilian deployment training (e.g. Camp Atterbury), the lodging and meals are typically provided on a military base without additional cost for the employee or employing activity. When the food and lodging costs are not readily identifiable, the determination that the reduction of time spent at the course would reduce the total costs would be difficult to support. Absent clear documentation of a cost reduction, cost savings does not provide a basis to justify the payment of premium pay.
- c. DoD Components must determine whether an employee is entitled to receive overtime pay for regularly scheduled training hours under conditions specified above.

## 8. Compensatory Time Off for Travel

a. In accordance with Reference (j), compensatory time off for travel is earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable. There is no limitation on the amount of compensatory time off for travel an employee may earn. Members of the Senior Executive Service are not eligible for compensatory time off except for religious observances.

- 1) Official travel shall be scheduled to occur during an employee's normal work schedule, consistent with mission requirements. Only in cases where this is not practical will employees earn compensatory time off for travel.
- 2) To be eligible, travel must be officially authorized and travel must be for work purposes. Compensatory time cannot be earned when employees travel for Rest and Recuperation or when in a leave status.

9. **Carryover and Restored Leave:** Pursuant to Reference (k), the maximum carryover ceiling on annual leave for most employees is 240 hours, 360 hours (overseas), and 720 hours (Senior Executive Service, Senior Level, and Scientific and Professional employees). In accordance with direction from the Office of Personnel Management, civilians GS-15 and below, or equivalent, who are temporarily stationed for 12 consecutive months or more in a combat zone can carryover up to 360 hours of annual leave indefinitely (individuals who deploy on a temporary duty (TDY) assignment are not eligible for the higher annual leave ceiling). Service of an emergency essential employee in a combat zone is an exigency of the public business for that employee. Any leave an employee loses by reason of such service (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with Reference (l).

10. **Performance Appraisals:** Consistent with DOD and Component performance management policy, and as appropriate for the deployment assignment, performance plans shall be established (or modified) to include a basis for considering deployment assignments as part of the performance evaluation. Responsibility for administration and execution of performance management belongs to the employee's permanent organization of record with input from the theater supervisor.

11. **Five-Year Limit Rule and Civilian Deployment:** The five-year overseas limitation does not include time in a deployment status or any type of TDY if the employee deployed from the U.S., including Alaska, Hawaii, Puerto Rico, Guam, and the U.S. Virgin Islands. However, if the employee deployed from a permanent position in a foreign area, the time deployed is included in the calculation of the five-year overseas limitation (Reference (m)).

## **12. Accountability**

- a. DoD civilians who are deployed in support of a declared war or a contingency operation may be subject to Uniform Code of Military Justice (UCMJ) jurisdiction while deployed, in accordance with DODI 5525.11, "Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members."
- b. DoD Components should provide individuals selected for deployments with the name and contact information of an ombudsman who can provide reach back support to the deployed individual (Reference (a)).

## REFERENCES

- (a) DoD Directive 1404.10, "Civilian Expeditionary Workforce," January 23, 2009
- (b) DoD Instruction 1400.25, Volume 1406, December 1996
- (c) DoD Instruction 1400.25, Volume 1408, July 2009, and Volume 1412, July 2012
- (d) DoD Instruction 1400.32, "DoD Civilian Work Force Contingency and Emergency Planning Guidelines and Procedures," April 24, 1995
- (e) Undersecretary of Defense for Personnel and Readiness Memorandum, "Documentation of Civilian Employees Officially Assigned to Military Contingency Operations Overseas," June 23, 2006
- (f) United States Central Command Individual Protection and Individual Unit Deployment Policy, Modification 11, December 2011
- (g) DoD Instruction 6490.07, "Deployment-Limiting Medical Conditions for Service Members and DoD Civilian Employees," February 2010
- (h) DoD Instruction 6490.03, "Deployment Health," August 2006
- (i) Sections 410.402, 551.423, Title 5, Code of Federal Regulations
- (j) 5 United States Code 5542(b)(2), 5544(a)(3) and Sections 550.112, 551.401, 551.422, Title 5, Code of Federal Regulations
- (k) 5 United States Code 6304
- (l) DoD Instruction 1400.25, Volume 1250, "DoD Civilian Personnel Management System: Overseas Allowances and Differentials," February 2012
- (m) DoD Instruction 1400.25, Volume 1230, "DoD Civilian Personnel Management System: Employment In Foreign Areas and Employee Return Rights," July 2012