



PERSONNEL AND  
READINESS

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

JAN 13 2015

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
DEPUTY CHIEF MANAGEMENT OFFICER  
CHIEF, NATIONAL GUARD BUREAU  
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
DIRECTOR OF COST ASSESSMENT AND PROGRAM  
EVALUATION  
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE  
DIRECTOR OF OPERATIONAL TEST AND EVALUATION  
CHIEF INFORMATION OFFICER OF THE DEPARTMENT OF  
DEFENSE  
ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE  
AFFAIRS  
ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC  
AFFAIRS  
DIRECTOR OF NET ASSESSMENT  
DIRECTOR, STRATEGIC CAPABILITIES OFFICE  
DIRECTORS OF DEFENSE AGENCIES  
DIRECTORS OF DOD FIELD ACTIVITIES

SUBJECT: New Living Quarters Allowance Guidance

This memorandum supersedes the September 19, 2013, Deputy Assistant Secretary of Defense Civilian Personnel Policy (DASD(CPP)) Advisory entitled, "Request for Policy Advisory on Application of the Definition of United States Hire within Department of Defense Instruction 1400.25, Volume 1250" (Attachment 1). This memorandum establishes new Department of Defense (DoD) guidance on determinations of living quarters allowance (LQA) eligibility in specified circumstances, consistent with section 031.11 of the Department of State Standardized Regulations (DSSR), and Volume 1250, as applied and interpreted in recent Office of Personnel Management compensation claim decisions. Effective immediately, initial grants of LQA in the DoD will be determined in accordance with the new eligibility criteria set forth below.

1. Section 031.11 of the DSSR permits LQA to be granted to employees who were "recruited by the employing government agency in the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the possessions of the United States [hereinafter "United States"]," also known as "U.S. hires." Applicants who customarily resided permanently in the United States from the time they applied for employment

until and including the date they accepted a formal offer of employment are considered to be U.S. hires for purposes of determining LQA eligibility. U.S. hires include:

- a. Employees on temporary duty (TDY) orders (or the private sector equivalent) of a clearly short duration, up to 90 days, for any portion of the recruitment process who otherwise occupy a position at a United States duty station, reside permanently in the United States, and are expected to return to their United States duty station at the conclusion of the TDY assignment.
  - b. Applicants who, during any portion of the recruitment process, leave their usual, customary dwelling place in the United States for travel, visits, vacations, or other trips of a clearly short duration, normally not more than 30 days. There must be clear evidence the applicant has not terminated his/her U.S. residency or established residency outside of the U.S.
2. The following applicants are **not** eligible for LQA as U.S. hires under section 031.11 of the DSSR:
- a. Applicants, including deployed or mobilized military reservists, who apply while in the United States and then transition to a foreign area (including a combat zone) during the recruitment process.
  - b. Applicants, including deployed or mobilized military reservists, who apply while in a foreign area (including a combat zone) and then transition back to the United States during the recruitment process.
  - c. Applicants, including deployed or mobilized military reservists, who apply while in a foreign area (including a combat zone) and do not transition from the foreign area (including a combat zone) during the recruitment process.
3. Applicants described in sections 2.a. and 2.b. of the preceding paragraph, who do not qualify as U.S. hires under section 031.11 of the DSSR, may nonetheless be granted LQA under section 031.15 of the DSSR on or after April 3, 2016, if:
- a. Immediately prior to appointment or assignment to the position for which recruited they, were deployed or employed in a combat zone supporting contingency operations by (i) the United States Government, including its Armed Forces; (ii) a single United States firm, organization, or interest not immediately preceded by any prior such employment overseas; or (iii) an international organization in which the United States Government participates; and
  - b. Immediately prior to meeting one of the above circumstances, were customarily resident in the United States, or had met one of the above conditions and returned to the United States during recruitment.



4. Applicants described in section 2.c. of paragraph 2, who do not qualify as U.S. hires under section 031.11 of the DSSR may nonetheless be granted LQA under section 031.12 if they meet the following requirements:

- a. The employee's actual residence to which LQA applies is fairly attributable to employment by the United States; and
- b. Prior to appointment the employee was recruited in locations set forth in section 031.12.b resulting in substantially continuous employment by specified employers under conditions that provided household return transportation; or
- c. As a condition of employment by a Government agency was required by such agency to move to another area, in cases specifically authorized by Heads of DoD Components.

It is important to note that eligibility criteria established in this memorandum may not be applied retroactively.

Components must curtail LQA for employees granted LQA under the September 19, 2013, policy advisory who **do not** meet the eligibility requirements outlined in this memorandum.

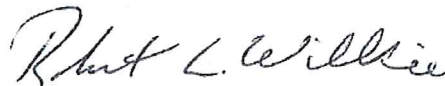
In order to identify affected employees, DoD Components are directed to screen all relevant records and report to the DASD(CPP), in writing, the name of each current DoD employee who: (1) is presently receiving LQA in accordance with an eligibility determination made pursuant to the September 19, 2013, policy advisory; and (2) is not eligible to continue receiving LQA under the DSSR criteria set forth in this memorandum [hereinafter "affected employees"] (see reporting template at Attachment 2). This review and notification must be completed within 45 days of this signed memorandum.

Each Component must notify each affected employee, in writing, no later than five business days after completion of the review, that he/she is: (a) no longer eligible for LQA under applicable DSSR criteria pursuant to the guidance set forth in this memorandum; and (b) that such affected employee is not indebted to the U.S. or the employing Component for LQA granted pursuant to the September 19, 2013, policy advisory (unless such grant of LQA involved misrepresentation, fraud, or deception by the employee).

The Department is concerned about the immediate financial impact the loss of LQA is expected to have on affected employees' morale and retention, and has considered that affected employees who have been receiving LQA may have made life choices based upon their continued receipt of the allowance. Therefore, in accordance with the special quarters allowance grant approved by the Department of State, I hereby authorize LQA for up to one year for affected employees. This authorization of LQA will commence on the date the affected employees are notified that they have been found ineligible for LQA under the provisions outlined in this memorandum. Affected employees will be ineligible for this one-year LQA

authorization if evidence of misrepresentation, fraud, or deception by the employee to acquire LQA is discovered.

If you have questions or would like additional information, my point of contact is Mr. Jeff Nelson, Director, Employment and Compensation, Defense Civilian Personnel Advisory Service, whom you may reach at (571) 372-1540 or by email at [jeffrey.l.nelson68.civ@mail.mil](mailto:jeffrey.l.nelson68.civ@mail.mil).

A handwritten signature in cursive script that reads "Robert L. Wilkie".

Robert L. Wilkie

Attachments:  
As stated

READINESS AND FORCE  
MANAGEMENTOFFICE OF THE ASSISTANT SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

SEP 19 2013

MEMORANDUM FOR ASSISTANT G-1 FOR CIVILIAN PERSONNEL, OFFICE OF THE  
DEPUTY CHIEF OF STAFF, G-1, DEPARTMENT OF THE  
ARMYSUBJECT: Request for Policy Advisory on Application of the Definition of United States Hire  
Within Department of Defense Instruction 1400.25, Volume 1250

This responds to your August 22, 2013, memorandum requesting an advisory opinion on the application of the "U.S. hire" definition found in the Department of Defense Instruction (DoDI) 1400.25, Volume 1250, in making living quarters allowance (LQA) eligibility determinations.

Temporary absences from the U.S. for reasons such as vacations, temporary duty assignments (including the private industry equivalent) or deployments by Reservists and National Guard members do not alter a person's "U.S. hire" status, as contained in the Glossary in DoDI 1400.25-Volume 1250. The phrase "physically resided permanently in the United States" does not preclude one who temporarily left the U.S. for the reasons listed above from being eligible to receive LQA. The attached information paper contains additional details and examples, and may be helpful in making LQA eligibility determinations.

If you have questions or would like additional information, my point of contact for this action is Mr. Seth Shulman, whom you may reach by telephone at (571) 372-1617 or by email at [seth.shulman@cpms.osd.mil](mailto:seth.shulman@cpms.osd.mil).

A handwritten signature in blue ink that reads "Paige Hinkle-Bowles".

Paige Hinkle-Bowles  
Deputy Assistant Secretary  
Civilian Personnel PolicyAttachment:  
As stated



## INFORMATION PAPER

**SUBJECT: Definition of U.S. Hire Within Department of Defense Instruction (DoDI) 1400.25, Volume 1250, DoD Civilian Personnel Management System: “Overseas Allowances and Differentials”**

**PURPOSE:** To provide clarification on the “U.S. hire” definition within the DoDI 1400.25-Volume 1250 in making living quarters allowance (LQA) eligibility determinations.

### **BACKGROUND:**

- The Glossary in DoDI 1400.25, Volume 1250 contains the following:
  - “U.S. hire”. A person who *physically* (emphasis added) 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.”

### **DISCUSSION:**

- The “U.S. hire” definition was revised in February 2012, by adding “physically” before “resided permanently” in order to provide clarity regarding LQA eligibility. Specifically, the “U.S. hire” definition limits eligibility to those who actually occupy a residence in the U.S. as opposed to those who occupy a residence outside of the U.S. yet maintain ties to the U.S. such as home ownership, driver’s licenses, or voter registration
- An individual may still be considered a “U.S. hire” even though he/she may have left the United States for a short period of time.
  - Someone from Fort Bliss might cross over to Juarez, Mexico, for a few days of leave. Departing the U.S. in this scenario does not affect his/her status as someone who permanently physically resides in the U.S. Such individuals have not established a different residence, nor do they intend to reside outside of the U.S. If an electronic application pursuant to a vacancy announcement is submitted while in Juarez, Mexico under this scenario, the applicant still meets the definition of someone who “physically resides” permanently in the U.S.
  - A Temporary Duty (TDY) assignment (or the private industry equivalent) would not affect one’s status as permanently physically residing in the U.S. TDY is by nature a temporary event and, as such, is not the determining factor for LQA eligibility if an application for a vacancy is submitted while TDY outside of the U.S. The determining factor is whether one permanently physically resides in the U.S. but for the TDY event.
  - Reservists or National Guard members deployed overseas benefit from the provisions afforded by the Uniformed Service Employment and Reemployment Rights Act (USERRA) when determining whether they are recruited from the United States.

USERRA allows for employment benefits that would accrue as if a deployment had not occurred. Personnel physically residing in the U.S. before being deployed overseas should be considered for LQA eligibility as if they were not deployed.

- Employees denied LQA have filed eligibility claims in an effort to obtain this allowance, seeking to portray themselves as being “recruited by the employing government agency in the United States” in accordance with the Department of State Standardized Regulations (DSSR) 031.11. One of the basis for such claims was an attempt to establish a connection to the U.S. even though they had not been physically present in the U.S. for long periods of time. Agency denials of LQA due to an employee not meeting the “recruited...in the United States” test have been upheld by the Office of Personnel Management (OPM), into such circumstances.
- Given the ability to submit vacancy applications from anywhere in the world via the internet, it is reasonable to base LQA eligibility determinations on one’s permanent physical residence rather than one’s clearly temporary absence from that location for vacations, TDY (or private industry equivalent), or USERRA-protected deployments.

### Living Quarters Allowance (LQA) Reporting Template

Employee Name	Component/ Agency	Current Foreign Area Assignment Duty Location	Prior U.S. Duty Location	Overseas Hire Date	Confirmation employee was granted LQA per Sept. 2013 policy advisory?	Reason for eligibility under Sept. 2013 policy advisory?	Reason determined ineligible under the new LQA guidance?
<i>ex. John Smith</i>	<i>Navy</i>	<i>Rota, Spain</i>	<i>Arlington, VA</i>	<i>15-Mar-14</i>	<i>Yes</i>	<i>Reservist who was mobilized overseas during the entire recruitment</i>	<i>Employee was mobilize for 120 days, over the 90 day limit</i>