



THE SECRETARY OF THE NAVY  
WASHINGTON DC 20350-1000

February 8, 2013

MEMORANDUM FOR ASSISTANT SECRETARY OF THE NAVY (MANPOWER  
AND RESERVE AFFAIRS)

SUBJECT: Delegation of Authority of Department of Defense Instruction 1400.25,  
Volume 1230, Employment in Foreign Areas and Employee Return Rights

Department of Defense (DoD) Instruction 1400.25, Volume 1230 dated 26 July 2012, "Employment in Foreign Areas and Employee Return Rights" delegated the authority to establish and implement policy and procedures regarding foreign area employment, tour rotations, employee return rights, and physical presence requirements between tours for civilian employees to the Head of the DoD component.

I hereby redelegate this authority to the Assistant Secretary of the Navy (Manpower and Reserve Affairs).

You may further redelegate this authority in writing.

A handwritten signature in black ink, appearing to read "Ray Mabus", is written over the printed name.

Ray Mabus



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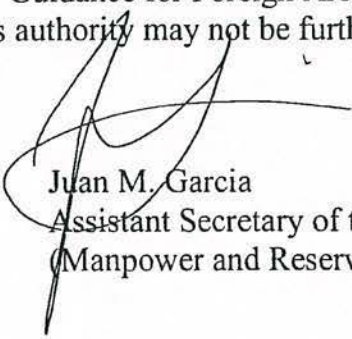
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MEMORANDUM FOR DISTRIBUTION

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Department of Defense (DoD) Instruction 1400.25, Volume 1230 dated 26 July 2012, "Employment in Foreign Areas and Employee Return Rights" delegated the authority to establish and implement policy and procedures regarding foreign area employment, tour rotations, employee return rights, and physical presence requirements between tours for civilian employees to the Head of the DoD component.

I hereby delegate this authority to the individuals identified in, and in accordance with, the Department of the Navy Interim Guidance for Foreign Area Employment – Overseas Tours dated January 2013. This authority may not be further redelegated.

  
Juan M. Garcia  
Assistant Secretary of the Navy  
(Manpower and Reserve Affairs)

Distribution:  
Echelon 1 and 2 Commands

# **Interim Guidance for Foreign Area Employment – Overseas Tours**

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**Department of the Navy  
Office of Civilian Human Resources**

January 2013





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### References

- A. Department of Defense Instruction (DoDI) 1400.25 Vol 1230 dtd 26 Jul 12, subject: DoD Civilian Personnel Management System: Employment in Foreign areas and Employee Return Rights
- B. Office of Civilian Personnel Management Instruction 12301.2 dtd 5 Jul 88, subject: Overseas Employment
- C. Joint Travel Regulations, Volume 2, C5005, subject: PCS Travel Eligibility

### Background

Reference (a) is the DODI governing overseas tour rotations, return rights and physical presence requirements between overseas tours for civilian employees. The below provides the Department of the Navy interim guidance on the subjects as well as delegations needed for renewal tour agreement extensions and physical presence requirement waivers.

### Applicability

This interim guidance applies to all appropriated fund positions and employees located in foreign areas unless specifically excluded by reference (a).

### Initial Tours

Reference (b) provides for local commanders to approve extensions of an initial overseas tour up to a maximum of five years. This memo guidance reaffirms that authority. Local commanders are responsible for ensuring workforce succession plans and robust recruitment efforts that include submitting a Request for Personnel Action (RPAs) no later than 180 days prior to the expiration of an employee's overseas tour. Renewal tour agreement extensions after five continuous years overseas may not exceed two years.

### First tour extension beyond five years

Reference (a) limits civilian employment in appropriated fund positions in foreign areas to a period of five continuous years absent an approved business case for retaining the employee in the overseas location. The business case must include a workforce succession plan for replacing the employee by the end of the renewal agreement tour.

### *Tour extensions in-progress*

Overseas tour extensions for appropriated fund employees beyond five continuous years that were in-process prior to 26 July 2012 may proceed if they were approved on or before 26 October 2012, but approval must now be supplemented by a workforce succession plan to



replace the employee by the end of the renewal agreement tour. This succession plan must include submission of an RPA no later than 180 days prior to the expiration of the renewal tour agreement.

### ***Delegated authority to approve tour extensions***

The Chief of Naval Operations (CNO), Commandant of the Marine Corps (CMC), Department of the Navy Assistant for Administration (DON/AA) and heads of Echelon II commands may approve requests for the first renewal tour agreement beyond five continuous years overseas when sufficient justification is provided by a:

- timeline enumerating the previous recruitment efforts
- written business case describing the need for the extension
- letter from the employee's home command providing return rights for the duration of the extension *or* a letter from the employee forfeiting return rights *or* a letter from the overseas command indicating the employee did not have return rights
- plan to return the employee at the end of the extension
- workforce succession plan for filling the position that includes the submission of an RPA no later than 180 days prior to the expiration of the renewal agreement tour

This authority may be re-delegated to a flag officer or member of the senior executive service.

### **Tour extension through year nine**

The CNO, CMC, DON/AA and heads of Echelon II commands may approve subsequent renewal agreement tours through the end of the ninth continuous year overseas when substantial justification is provided by:

- a timeline enumerating previous recruitment efforts
- an updated written business case detailing the need for the extension
- an explanation of the unanticipated events or circumstances that caused the workforce succession plan not to succeed
- a revised and enhanced workforce succession plan to mitigate the identified gaps in previous approach(es) for filling the position that includes submission of an RPA no later than 180 days prior to the expiration of the renewal agreement tour
- a plan to return the employee at the end of the extension

This authority may be re-delegated no further than heads of Echelon II commands.





### **Tour extensions beyond year nine**

The CNO, CMC and DON/AA may approve subsequent extensions beyond the end of the ninth continuous year overseas when significant justification is provided by

- a timeline enumerating previous recruitment efforts
- an updated written business case describing the mission critical need for the extension
- an explanation of the unanticipated events or circumstances that caused the previous workforce succession plans not to succeed
- a revised and enhanced workforce succession plan addressing the identified gaps of the previous approaches for filling the position that includes submission of an RPA no later than 180 days prior to the expiration of the renewal agreement tour
- a plan to return the employee at the end of the extension

This authority may not be further re-delegated.

### **Physical Presence**

Reference (a) provides that employment overseas shall be limited to five continuous years unless interrupted by at least two years physical presence in the United States or non-foreign area. The requirements of reference (c) must also be addressed.

#### ***Recruitments in progress***

Candidates selected from “certificates of eligibles” issued prior to 26 July 2012 must meet the previous twelve month physical presence requirements. Candidates on “certificates of eligibles” issued on or after 26 July 2012 must meet the two year physical presence requirement unless a waiver is received.

#### ***Delegated authority to waive physical presence in year two***

The CNO, CMC, DON/AA and heads of Echelon II commands in the employee’s chain of command may waive the second year (months 13-24) physical presence requirement should the mission demand a shorter dwell time. This waiver authority may be re-delegated no further than the head of Echelon II commands.

#### ***Delegated authority to waive physical presence in year one***

The CNO, CMC and DON/AA may waive the first year (months 1-12) physical presence requirement for compelling mission reasons. This waiver authority may not be further re-delegated.



### **Annual Reporting Requirements**

The CNO, CMC, DON/AA and heads of Echelon II commands shall sign an annual report enumerating their civilian employees whose overseas tours exceed five continuous years. That accounting will be submitted to the Office of Civilian Human Resources (Code 011) at [DONStaffing@navy.mil](mailto:DONStaffing@navy.mil) with attention to the OCHR Overseas Program Manager. The reporting format can be found at Appendix A. The first report is due 30 September 2013 and each year thereafter.

### **Additional information**

Appendix B provides a series of frequently asked questions to help implement this guidance consistently across the DON. Questions regarding this authority should be directed to the Office of Civilian Human Resources (Code 011) at [DONStaffing@navy.mil](mailto:DONStaffing@navy.mil) with attention to the OCHR Overseas Program Manager.





## Appendix A: Reporting Format



AnnualOverseasRep  
orting.xlsx





## **Appendix B: Frequently Asked Questions**

### **Q. Why the change in policy limiting employees to 5 years?**

A. Limiting overseas tours to no more than 5 years is a long standing DOD and DON policy. Periodically the Department reemphasizes its commitment to that policy.

### **Q. An employee has been overseas for ten years already. Are those years “grandfathered”?**

A. No. If a command needs this employee, it would need to get approval from the Echelon I command for any tour extensions. The only exceptions noted in the DODI 1230 include:

- Nonappropriated Fund employees & educators in the DoD Dependents Schools system
- Employees who are family members accompanying military member/civilian employee stationed in the area
  - Exemption ceases to apply upon the departure of the sponsor from the area
  - Unmarried dependent children may be retained in a position past age of 23 until such time as their sponsor departs the foreign duty station or its commuting area **or** the sponsor completes the current period of service requirement – whichever occurs first
- Employees employed continuously in a foreign area since 1 April 1966 through the present
- Employees employed before 24 August 1988, in positions at GS-6 or below or in nonsupervisory wage grade positions, who remained continuously employed at those levels

### **Q. An employee has been overseas since 1993 in an “Overseas Unique Position” because of frequent contact with local government. Does the command need to request a waiver?**

A. Yes. The DODI 1230 does not include any exceptions for “overseas unique positions”. The activity would need to get approval from the Echelon I command for any further tour extensions.

### **Q. A manager selected an employee who is in the US, but the employee has only been back for 21 months. Can the human resources (HR) office set a start date for after 24 months or does HR need to get a waiver?**

A. In this case HR has 2 options. HR can set an entrance on duty date after physical presence in the US for 24 months or it can seek a waiver from the Echelon II command.





**Q. A manager is trying to hire an Army employee who has not been back in the US for 24 months –does the manager use DON rules or Army rules?**

A. In this case, the manager and human resources should use the DON interim guidance in conjunction with Department of the Army’s memorandum. As the employee has return rights to a Department of Army position, we must be mindful of Army instructions. If we are trying to hire an employee who has not had 2 years physical presence in the US after having had 5 continuous years overseas, then a DON waiver to the physical presence is required as well as asking for approval to extend a tour beyond 5 years.

**Q. A manager is hiring an Intel employee who was in the excepted service for 4 years overseas. Does that time count?**

A. Yes. If the manager would like the employee to work beyond 5 continuous years overseas, the activity must seek extension approval. The excepted service is not exempt from the DODI 1230.

**Q. The human resources office would like to hire a NAF employee who has been overseas for 4 years. Does that time count?**

A. No. Non-appropriated fund employees are exceptions to the DODI 1230.

**Q. An activity wants to hire an employee who was overseas for 4 years and has been back in the US for 13 months. What does the activity need to do?**

A. It is likely that the activity will need 2 approvals. The activity will need approval for a tour extension beyond 5 years as there has been no physical presence for 24 months which resets the clock. And the activity will need a waiver to the 24 months physical presence requirement. If the approval official is the same person, the activity may combine the requests.

**Q. What do overseas commands and activities do with employees who are beyond 5 years and have lost their return rights?**

A. Commands may provide a reassignment opportunity in the US for their employees who have no return rights. Additionally employees without return rights may enroll in the priority placement program.

**Q. If an employee wants to stay overseas and live, why does anyone care? It’s easier for activities not to have to retrain people.**

A. The overseas assignment was never intended to be a permanent placement for DON civilians. The rotation policy assures alignment with current DoD and DON leadership while promoting overseas perspective for a greater percentage of our workforce and providing employment opportunities for military and civilian family members.



**Q. Why did the DoD change the requirement for physical presence from 1 year to 2 years?**

A. The physical presence encourages our workforce to refresh their technical knowledge and gives the home command two years with the employee before any requirement to extend return rights.

**Q. Why do managers have to get the waiver from the employee's chain of command?**

A. The waiver comes from the employee's chain of command because the home command is providing return rights.

**Q. I've gotten a job through PPP. Who pays the transportation cost?**

A. It depends, but a few general guidelines are below:

- If placed within the same component, the registrant's releasing activity pays necessary costs incident to the move
- If placed in a different Component within foreign areas, the gaining activity pays necessary costs incident to the move
  - Gaining activities must pay such costs because of the statutory limitation in 5 U.S.C. 5724(e), relating to transfers between Components
- If placed via PPP, temporary quarter's subsistence expenses & miscellaneous expenses are paid by the gaining activity for an employee returning from assignment in a foreign area.

**Q. What do you mean by workforce planning?**

A. Workforce planning is the business process that ensures your activity has access to the right talent to achieve mission success. The DOD provides a guide to workforce planning at <https://extranet.apps.cpms.osd.mil/Divisions/~media/Documents/Divisions/Strategic%20Human%20Capital%20Planning/7a%20Workforce%20Planning%20Guide.ashx>