POINT PAPER

SUBJECT: Erroneous Payment of Living Quarters Allowance to Certain Employees

PURPOSE: To provide clarification of the intended coverage of Acting Under Secretary of Defense, Personnel and Readiness memorandum dated January 3, 2013

BACKGROUND:

- The Department has historically considered the requirement of substantially continuous employment (SCE) for purposes of eligibility for Living Quarters Allowance (LQA) as stated in the Department of State Standardized Regulations (DSSR) to have been met by employment with one or more employers as long as all the basic eligibility criteria in the DSSR were met **and** there was no break in service between employers. This interpretation has been incorrect, and has been clarified by Office of Personnel Management (OPM) appeals decisions.

- Pursuant to the OPM decisions, the proper interpretation of SCE for LQA eligibility requires that an employee remain with the same employer (as described by the DSSR) that recruited the individual from the U.S. with no intervening employment prior to DoD civilian appointment overseas. As a result, employees hired locally in an overseas location after having left their initial employer, and who had an intervening employer, have generally not been eligible for LQA, and it has been granted inappropriately.

- The LQA audits required by the January 3, 2013 memorandum, "Erroneous Payment of Living Quarters Allowance to Certain Employees" have identified different scenarios in which employees are receiving LQA inappropriately.

DISCUSSION:

- The Components/Agencies have suggested that there is ambiguity regarding which employees are covered by the one year extension of LQA provided for in the January 3, 2013, memorandum.

- The memorandum states: "This authorization applies only to employees who, before being recruited from outside of the United States by DoD, had been in substantially continuous employment by more than one employer. In addition, these employees must meet all other LQA eligibility criteria contained in Department of State Standardized Regulations (DSSR) 031.12b."

- The intent of the January 3, 2013, memorandum is to provide up to one year of additional LQA coverage to employees who meet all DSSR and DoDI 1400.25, volume 1250 eligibility criteria, but who have been inappropriately receiving LQA as a result of the misinterpretation of the SCE rule described above, i.e., more than one employer. The memorandum was intended to cover employees in the following representative scenarios:

    - Military members who separated in a location outside the U.S., had intervening employment as other than a federal civilian employee (to include NAF employment), and were subsequently hired (or re-hired) for federal civilian employment with DoD. Based upon the clarified definition of SCE, these employees had intervening employment, and thus were not eligible for LQA. Such employees are eligible for the one year extension of LQA.

    - Employees recruited from the U.S. for federal civilian employment and properly provided LQA, who left that employment for a position with other than a federal civilian employer, and subsequently returned to federal civilian employment with DoD. Based upon the clarified definition of SCE, these employees had intervening employment and were not eligible for LQA upon appointment to the subsequent period of federal civilian employment with DoD. Such employees are eligible for the one year extension of LQA.

    - Military members who separated from service in a location outside the U.S., were employed in a federal civilian position and properly provided LQA, left for employment with a contractor(s), and subsequently returned to a federal civilian position with DoD. In this case, it does not matter that such employees properly received LQA during their initial civilian employment. Based upon the clarified definition of SCE, these employees had intervening employment and were not eligible for LQA upon appointment to the subsequent period of federal civilian employment with DoD. Such employees are eligible for the one year extension of LQA.

- Non-appropriated fund employees subsequently hired for a federal civilian position with DoD. Under the terms of the DSSR **and** DoDI 1400.25, volume 1250, employees who move from ***any*** NAF position to an appropriated fund position in DoD are **only** eligible to receive LQA upon appointment to the appropriated fund position if they received LQA in their NAF positions for at least one year. These employees are **NOT** covered by the January 3, 2013, memorandum. Employees who received LQA inappropriately under such circumstances are **NOT** eligible for the one year extension of LQA.

- Employees who were granted and have been receiving LQA inappropriately for reasons other than those described above, such as the result of an administrative error, are likewise **NOT** covered by the January 3, 2013, memorandum. Employees who received LQA inappropriately under such circumstances are **NOT** eligible for the one year extension of LQA.

Recommendation: That Components/Agencies use the foregoing information as they complete the requested audits, determine eligibility for an additional one year of LQA coverage and prepare to notify affected employees.

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