



# Department of Defense

## INSTRUCTION

NUMBER 1400.25, Volume 1412  
July 20, 2012

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USD(P&R)

SUBJECT: DoD Civilian Personnel Management System: Nonappropriated Fund (NAF)  
Overseas Allowances and Differentials, and Employment in Foreign Areas

References: See Enclosure 1

### 1. PURPOSE

a. Instruction. This Instruction is composed of several Volumes, each containing its own purpose. The purpose of the overall Instruction, in accordance with the authority in DoD Directive (DoDD) 5124.02 (Reference (a)), is to establish and implement policy, establish procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the DoD.

b. Volume. In accordance with DoDD 1400.25 (Reference (b)), this Volume:

(1) Establishes policy, assigns responsibilities, and prescribes procedures for:

(a) Employing U.S. citizens and foreign nationals in DoD nonappropriated fund instrumentalities (NAFIs) in foreign areas.

(b) Payment of overseas allowances and differentials to DoD NAF employees in foreign areas.

(2) Incorporates and cancels Chapter 7 of DoD 1401.01-M (Reference (c)).

2. APPLICABILITY. This Volume applies to:

a. OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereinafter referred to collectively as the "DoD Components").

(1) The Army and Air Force Exchange Service will be considered a DoD Component for the purposes of this Volume if delegated authority to oversee internal NAF foreign area employment and overseas allowances and differential policies by the Secretaries of the Army and the Air Force, as applicable.

(2) The United States Marine Corps, the Navy Exchange Service Command, and the Commander, Navy Installations Command, will be considered DoD Components for the purposes of this Volume if delegated authority to oversee internal NAF foreign area employment and overseas allowances and differential policies by the Secretary of the Navy.

b. All NAF employees and positions within the DoD, including those NAF positions authorized to receive funding from appropriated funds (APF).

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoD policy that:

a. To the extent permitted by law and applicable international agreements, DoD policies governing employment practices for NAF personnel in the United States shall apply to U.S. citizens in foreign areas.

b. In accordance with DoDD 1400.6 (Reference (d)), merit factors are the basis for considering individuals for assignment to foreign areas. All programs and personnel practices governing NAF employees shall be administered in accordance with applicable law and in a manner that does not discriminate based on race, sex, color, national origin, age, religion, disability, reprisal, marital status, sexual orientation, genetic information, status as a parent, political affiliation, or labor organization membership.

c. To the extent permitted by law and applicable international agreements, locally available candidates, i.e., military spouses, family members of military and civilian personnel stationed in foreign areas, and U.S. citizens, shall be used to the maximum extent possible when filling vacant NAF positions.

d. Family members shall be given preference in employment when recruiting from an external source for NAF vacancies in foreign areas. These employment preferences are described in Volume 1403 of this Instruction and in paragraph 1.b. of Enclosure 3 to this Volume.

e. In each foreign area where a U.S. forces employment system has been established for the employment of foreign nationals (both of the host nation and citizens of a nation other than the United States or host nation), the established employment system in the respective foreign area shall be used and host nation customs and practices and the provisions of any applicable international, implementing, and subsidiary agreements and arrangements shall be followed.

f. U.S. citizens employed in foreign areas shall be paid under the authorized pay systems described in Volume 1405 of this Instruction.

g. Rates of pay for foreign national employees shall be in accordance with international agreements and the provisions of Volumes 1231 and 1251 of this Instruction.

h. With the exception of Post Allowance, the payment of allowances and differentials to NAF employees in foreign areas shall be made on the same basis as such allowances and differentials are paid to DoD APF employees under Volume 1250 of this Instruction. Procedures for payment of allowances and differentials are contained in Enclosure 3 of this Volume.

i. Overseas allowances and differentials are not automatic salary supplements, nor are they entitlements. They are specifically intended to be recruitment incentives for U.S. citizen employees living in the United States to accept NAF employment in a foreign area. If a person is already living in the foreign area, that inducement is normally unnecessary. Individuals shall not automatically be granted these benefits simply because they meet eligibility requirements.

j. Where an overseas allowance or differential, or family member employment preference, is provided to the spouse of a NAF employee and their children, that allowance or differential or family member employment preference shall also be provided, at an equivalent level wherever permitted by law, to the same-sex domestic partners of NAF employees and their children.

5. RESPONSIBILITIES. See Enclosure 2.

6. PROCEDURES. See Enclosure 3.

7. RELEASABILITY. UNLIMITED. This Volume is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Volume:

a. Is effective July 20, 2012.

b. Must be reissued, cancelled, or certified current within 5 years of its publication in accordance with DoD Instruction (DoDI) 5025.01 (Reference (e)). If not, it will expire effective July 20, 2022 and be removed from the DoD Issuances Website.



Erin C. Conaton  
Under Secretary of Defense for  
Personnel and Readiness

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ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness USD(P&R)," June 23, 2008
- (b) DoD Directive 1400.25, "DoD Civilian Personnel Management System," November 25, 1996
- (c) DoD 1401.01-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 13, 1988
- (d) DoD Directive 1400.6, "DoD Civilian Employees in Overseas Areas," February 15, 1980
- (e) DoD Instruction 5025.01, "DoD Directives Program," October 28, 2007
- (f) DoD Instruction 1315.19, "Authorizing Special Needs Family Members Travel Overseas at Government Expense," December 20, 2005
- (g) Public Law 106-523, "Military Extraterritorial Jurisdiction Act of 2000," November 22, 2000
- (h) DoD Instruction 5525.11, "Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members," March 3, 2005
- (i) Department of Defense Education Activity Regulation 1342.13, "Eligibility Requirements for Education of Elementary and Secondary School-age Dependents in Overseas Areas," September 20, 2006
- (j) Department of State Standardized Regulations, current edition
- (k) Part 551 of title 5, Code of Federal Regulations
- (l) Title 29, United States Code
- (m) Executive Order 11137, "Certain Allowances and Benefits for Civilian Employees of Nonappropriated Fund Instrumentalities of the Armed Forces," January 7, 1964, as amended
- (n) DoD Directive 1400.31, "DoD Civilian Work Force Contingency and Emergency Planning and Execution," April 28, 1995
- (o) DoD Instruction 1400.32, "DoD Civilian Work Force Contingency and Emergency Planning Guidelines and Procedures," April 24, 1995
- (p) DoD Instruction 6490.03, "Deployment Health," August 11, 2006
- (q) DoD Instruction 6490.07, "Deployment-Limiting Medical Conditions for Service Members and DoD Civilian Employees," February 5, 2010
- (r) Joint Travel Regulations, Volume 2, "Department of Defense Civilian Personnel," current edition
- (s) DoD Instruction 1015.15, "Establishment, Management, and Control of Nonappropriated Fund Instrumentalities and Financial Management of Supporting Resources," October 31, 2007
- (t) Health Affairs Policy 08-002, "Policy for Billing for Care Furnished by Military Treatment Facilities to Federal Employees for On-the-Job Injuries and for Occupational Health," March 26, 2008
- (u) DoD 7000.14-R, "Department of Defense Financial Management Regulations (FMRs), Volume 13, Nonappropriated Fund Policies and Procedures," current edition

- (v) Joint Publication 1-02, "Department of Defense Dictionary of Military and Associated Terms," current edition
- (w) Section 2105 of title 5, United States Code

ENCLOSURE 2

RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)). In accordance with Reference (a), the USD(P&R) shall establish policy and oversee the DoD NAF programs, including overseas allowances and differentials and employment in foreign areas.
  
2. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR CIVILIAN PERSONNEL POLICY (DASD(CPP)). The DASD(CPP), under the authority, direction, and control of the Assistant Secretary of Defense (Readiness and Force Management), shall develop and oversee the implementation of NAF personnel policies, including overseas allowances and differentials and employment in foreign areas, ensuring consistent and continuous application throughout the Department of Defense.
  
3. HEADS OF THE DoD COMPONENTS. The Heads of the DoD Components shall:
  - a. Direct compliance with this Volume.
  
  - b. Monitor NAF programs, through personnel management evaluations or other means, to confirm equitable and efficient overseas pay administration and the balancing of fiscal constraints with the need to recruit and retain a high-quality workforce.
  
  - c. Oversee Component payments of overseas allowances and differentials to confirm compliance with this Volume and with Volume 1250 of this Instruction.
  
  - d. Adhere to host nation customs and practices and comply with any applicable international, implementing, and subsidiary agreements and arrangements regarding the employment and pay administration of foreign nationals.
  
  - e. Comply with DoDI 1315.19 (Reference (f)) for authorizing special needs family members travel overseas at U.S. Government expense.
  
  - f. Comply with Public Law 106-523 (Reference (g)) and DoDI 5525.11 (Reference (h)).

ENCLOSURE 3

NAF PERSONNEL POLICY IN FOREIGN AREAS

1. EMPLOYMENT

a. Local Hires. U.S. citizens residing in the host country may be recruited locally by NAFIs in foreign areas in accordance with established status of forces agreements.

b. Family Members in Foreign Areas. Preference is granted consistent with Volume 1403 of this Instruction.

(1) Family members of active duty military members and civilian employees stationed in foreign areas shall be given employment preference for NAF competitive job vacancies, unless prevented by treaties or other country-to-country agreements that give preference to locally hired non-U.S. citizens or restrict employment of certain individuals.

(2) Unmarried dependent children who meet the definition of family member may continue to be eligible for family member preference until their sponsor departs the foreign duty station or the commuting area or completes the current period of service requirement, whichever occurs first. A family member must physically reside with his or her sponsor to receive family member preference.

(3) This preference does not apply to the family members of locally hired Federal civilian employees nor to family members of foreign nationals.

(4) Preference applies to all DoD NAF positions, with the exception of NF-6 (Senior Executive) positions.

(5) The family member preference is separate from other NAF employment preferences such as spouse preference.

c. U.S. Citizens Recruited Outside the Local Foreign Area. Upon determination that foreign nationals or U.S. citizens residing in the host country do not possess the necessary qualifications for a vacant NAF position, civilian personnel may be recruited outside the local labor market.

d. Conditions of Overseas Employment and Other Information. Prospective employees shall be provided with information regarding foreign area customs and practices in the host country, the conditions of employment in the foreign area, and the availability of essential services, including housing, schools and education for family members, and the use of medical facilities.

2. FOREIGN AREA PRIVILEGES. NAF employees shall be afforded the same privileges provided to their counterparts who are APF civilian personnel in the same overseas area, to the extent permitted by country-to-country agreements. These will include, depending on eligibility,

family housing, commissary, exchange, laundry, transportation, postal services, recreation, and religious facilities. The basis for extending the privileges of clubs and messes will be determined by the overseas commanders.

3. EDUCATION OF ELEMENTARY AND SECONDARY SCHOOL-AGE DoD FAMILY MEMBERS

a. The education of DoD family members whose sponsor is stationed in a foreign area is provided in accordance with DoD Education Activity Regulation 1342.13 (Reference (i)). Family members of NAF full-time, local hire employees who are U.S. citizens are also provided space required, tuition-free enrollment on an equal priority basis as provided for family members of APF full-time local hire employees under the provisions of Reference (i).

b. The education allowance is not authorized for payment in the Department of Defense, except that the Education Travel Allowance specified in section 280 of the Department of State Standardized Regulations (Reference (j)) may be authorized under the conditions specified in Volume 1250 of this Instruction.

4. AUTHORIZING SPECIAL NEEDS FAMILY MEMBERS TRAVEL OVERSEAS AT GOVERNMENT EXPENSE. Reference (f), which provides guidance and prescribes procedures for processing overseas assignments for civilians who have family members with special needs, is administratively extended to the NAFIs.

5. MILITARY EXTRATERRITORIAL JURISDICTION ACT OF 2000. NAF employees and potential applicants, with the exception of those who are a national or resident of the host country, who are employed by or accompany the U.S. Military Services and commit criminal sanctions outside the United States are subject to U.S. Federal criminal jurisdiction under the provisions of References (g) and (h).

6. OBSERVANCE OF LOCAL HOLIDAYS IN FOREIGN AREAS

a. Foreign National Employees. The authorization of time off to observe certain local holidays shall be granted consistent with Volume 1261 of this Instruction and subject to country-to-country agreements.

b. NAF Employees Other Than Foreign Nationals. When all or part of an installation is closed in observance of a local holiday and, as a result, NAF employees are prevented from working, they shall be assigned to other work if possible or be relieved from duty without charge to leave or loss of pay consistent with paragraph 3.c. of Volume 1261 of this Instruction.

## 7. SPECIFIC PAY PROCEDURES

### a. Fair Labor Standards Act (FLSA)

(1) Part 551.212 of the Code of Federal Regulations (Reference (k)) provides foreign area exemption criteria authorized in the FLSA (chapter 8 of title 29, United States Code (Reference (l))).

(2) If overtime is authorized for employees in foreign areas, it shall be in accordance with Volume 1405 of this Instruction.

(3) The FLSA minimum wage, overtime, and child labor provisions do not apply to NAF employees hired under a summer and student employment of dependent youths in foreign areas program. Dependent youths, ages 14 through 23, hired in NAF positions under those programs are paid at the rates issued by the Compensation Division of the Defense Civilian Personnel Advisory Service for summer and student employment of dependent youths in foreign areas.

b. Foreign Allowances and Differentials. Part I of Executive Order 11137 (Reference (m)) authorizes the DoD to prescribe regulations providing allowances and differentials in foreign areas to DoD NAF employees. As noted above the signature of this Volume, overseas allowances and differentials are not automatic salary supplements or entitlements. Individuals authorized to grant overseas allowances and differentials shall consider the recruitment need, along with the expense the NAFI or employing activity will incur, prior to approval.

(1) Authorization. DoD Components shall record the authorization of all overseas allowance and differential payments using the Standard Form (SF) 1190, "Foreign Allowances Application, Grant, and Report," and shall input each such authorization into the Defense Civilian Personnel Data System, or equivalent DoD Component system. DoD Components may require supporting documentation for the SF 1190 (e.g., marriage or birth certificates or affidavits). Any such requirements shall be applied consistently.

(2) Allowances and Differentials Other Than Post Allowance. The payment of allowance and differentials to NAF employees in foreign areas shall be made on the same basis as such allowances and differentials paid to DoD APF employees under Volume 1250 of this Instruction. The adoption of Volume 1250 to apply to DoD NAF employees includes eligibility criteria and delegation of authority restrictions.

### (3) Post Allowance

(a) Eligibility. To be eligible for post allowance, a NAF employee must be a U.S. citizen living in a foreign area and employed in a full-time NAF position in the Regular employment category. The employing DoD Component's definition of full-time applies, as long as that definition is not less than 35 hours per week or more than 40 hours per week, and covers all employees in Regular positions who regularly work what the DoD Component defines to be a full-time schedule of hours. Regular part-time employees, employees in the Flexible

employment category, and seasonal (summer or winter) hire employees are not eligible for post allowance.

(b) Application to Locally Hired Employees. The Head of a DoD Component shall have discretion to determine whether to pay post allowance to eligible NAF employees who are recruited outside of the United States; i.e., locally hired employees.

(c) Discretionary Authority. The Head of a DoD Component may prohibit payment of post allowance to all DoD Component locally hired employees, require payment of post allowance to all Component locally hired employees, or limit the payment of post allowance to locally hired employees in specific geographic areas or to specific groups of similarly situated locally hired employees. For example, a DoD Component Head may choose to pay post allowance to locally hired employees at a specific overseas installation, to locally hired employees at all installations within a specific country, or to locally hired employees in certain occupations, such as child-care and youth services positions. The DoD Components shall not grant or deny post allowance payment based on employee performance or achievement levels, or on individual employee situations (such as status as the spouse of a military or civilian employee).

(d) Payment Eligibility. When post allowance is granted to locally hired NAF employees, payments shall be made under the same eligibility criteria and in the same amounts provided for DoD APF employees.

(e) Grandfathering of Post Allowance. Locally hired employees who were receiving post allowance as of May 5, 2009, or at a later date following a DoD Component's decision to use its discretionary authority in subparagraph 7.b.(3)(c) of this enclosure shall continue to receive the allowance as long as they remain eligible under the post allowance eligibility criteria found in Volume 1250 of this Instruction and continue to be employed at the current installation by the current DoD NAF Component. Upon separation from that installation or NAF component, the employee's grandfathered entitlement to post allowance ceases.

8. DEPLOYMENTS. NAF employees may be used to support NAF deployment operations in foreign areas as may be necessary to meet the exigencies of military contingency operations.

a. Preparedness Planning and Training. Procedures for the deployment of NAF employees during contingencies and emergencies shall be in accordance with DoDD 1400.31 (Reference (n)), DoDI 1400.32 (Reference (o)), DoDI 6490.03 (Reference (p)), and DoDI 6490.07 (Reference (q)).

b. Allowances and Differentials. The payment of allowances and differentials to deployed NAF employees shall be provided in the same manner as that to similarly situated APF employees.

c. Civilian Expeditionary Workforce (CEW) Training. The Heads of NAF Components shall emulate the CEW educational and training efforts for NAF positions not designated as CEW but subject to deployment in support of NAF operations.

d. Post-Deployment. As required by Reference (p), returning NAF employees will have a health assessment within 30 days after returning to the permanent duty station. The purpose of the post-deployment health assessment is to identify and document medical conditions that might be connected with the deployment and any need to be put on health surveillance.

9. PAYMENT OF TRAVEL AND TRANSPORTATION. Volume 1405 of this Instruction provides that when it is clearly in the interest of the NAFI, expenses for essential travel and transportation of employees and their dependents shall be allowed in amounts not to exceed those prescribed in Volume 2 of the Joint Travel Regulations (Reference (r)).

10. FOREIGN AREA LIMITATION. The 5-year foreign area limitation does not apply to NAF employees unless implemented by the Head of the DoD Component. If the DoD Component imposes a 5-year foreign area limitation on NAF employees, the limitation shall mirror the 5-year foreign limitation criteria that applies to DoD APF employees.

#### 11. RETURN RIGHTS

a. NAF employees recruited from a NAFI in the United States for assignment in foreign areas may be afforded, within the same DoD Component, return rights to a suitable position in the United States.

b. Absent a DoD Component's signed agreement to provide a NAF employee with return rights to a comparable job in the United States, there shall not be a right to mandatory reemployment.

#### 12. RETURN TRANSPORTION RIGHTS

a. Transportation. NAFIs may authorize payment of transportation costs, including transportation of household goods and effects, for those NAF employees and their dependents entitled to return transportation rights at U.S. Government expense following the sponsor's separation or reassignment to another position outside the foreign area. Such authorizations and payments must be consistent with Volume 1405 of this Instruction, which provides that when it is clearly in the interest of the NAFI, expenses for essential travel and transportation of employees and their dependents shall be allowed in amounts not to exceed those prescribed by Reference (r).

b. Renewal Agreement Travel (RAT). NAFIs may provide RAT to eligible NAF employees and accompanying family members in accordance with Chapter 5, Part K of Reference (r).

13. HOME LEAVE. The provisions of Volume 1260 of this Instruction are administratively extended to NAF employees who have been recruited for foreign area duty.

14. EVACUATIONS

a. NAF Employees With Return Transportation Rights

(1) In the event of an authorized or ordered departure, NAF employees who have return transportation rights, and their dependents, shall have evacuation expenses paid on the same basis as such payments are made to DoD APF employees. Accordingly, the provisions of Reference (j), Reference (r), and Volume 1250 of this Instruction apply.

(2) DoDI 1015.15 (Reference (s)) authorizes the use of APF to pay for NAF personnel expenses incurred in an evacuation. This includes evacuation payments, evacuation transportation to and from safe-haven locations, and per diem and subsistence allowances for employees ordered to evacuate.

b. NAF Employees Without Return Transportation Rights. The Heads of DoD Components have discretionary authority to authorize evacuation transportation at the NAFI's expense for NAF employees and their dependents who do not have transportation rights. Only the cost of transporting employees and their dependents out of the area under the evacuation order may be paid. NAF employees who do not have return transportation rights are not authorized to be paid evacuation pay, including pay advances, per diem, and subsistence payments for themselves and their dependents.

15. CARE AND DISPOSITION OF REMAINS. All benefits authorized for the care, preparation, and disposition of the remains of deceased APF employees and their dependents shall be equally applied to Regular NAF employees who are U.S. citizens and their dependents and shall not exceed the provisions authorized in Chapter 5, Part R of Reference (r).

16. MILITARY TREATMENT FACILITIES (MTF). Access to MTFs shall be in accordance with Health Affairs Policy 08-002 (Reference (t)).

## GLOSSARY

### PART I. ABBREVIATIONS AND ACRONYMS

APF	appropriated fund
CEW	civilian expeditionary workforce
DASD(CPP)	Deputy Assistant Secretary of Defense for Civilian Personnel Policy
DoDD	Department of Defense Directive
DoDI	Department of Defense Instruction
FLSA	Fair Labor Standards Act
MTF	military treatment facilities
NAF	nonappropriated funds
NAFI	nonappropriated funds instrumentalities
RAT	renewal agreement travel
SF	standard form
USD(P&R)	Under Secretary of Defense for Personnel and Readiness

### PART II. DEFINITIONS

These terms and their definitions are for the purposes of this Volume.

APF. Defined in section 010202 of DoD 7000.14-R (Reference (u)).

dependent child (for purposes of employment preference). A child under age 23, including a stepchild, adopted child, foster child, and a child under legal guardianship residing with a military member or a civilian employee.

domestic partner. Defined in Volume 1401 of this Instruction.

family member (for purposes of employment preference).

For a military member whose duty station is in a foreign area, the member's spouse or unmarried dependent child.

For a civilian employee, the employee's spouse, domestic partner, or unmarried dependent child, or an unmarried dependent child of the employee's spouse or domestic partner.

family or family member (for purposes of overseas allowances and differentials). Defined in section 040(m) of Reference (j).

Flexible employee. As described in Volume 1403 of this Instruction, Flexible employees serve in either continuing or temporary positions. The work may be scheduled in advance or on an “as-needed” basis.

host country. Defined in Joint Publication 1-02 (Reference (v)).

NAF. Defined in section 010213 of Reference (u).

NAF employee. Defined in subsection (c) of Section 2105 of title 5, United States Code (Reference (w)).

NAFI. Defined in section 010214 of Reference (u).

Regular employee. As described in Volume 1403 of this Instruction, Regular employees serve in continuing positions and have a regular schedule of not less than 20 hours per week.