



DEPARTMENT OF DEFENSE
Defense Contract Management Agency

INSTRUCTION

Return Rights

Human Capital Directorate
OPR: DCMA-HCP

DCMA-INST 626
May 15, 2014

1. PURPOSE. This Instruction:

a. Reissues and updates DCMA Instruction (DCMA-INST) 626, "Return Rights," (Reference (a)).

b. Establishes policies, assigns roles and responsibilities, and outlines procedures and practices for employing U.S. citizens in foreign areas, rotating DoD civilian employees from foreign areas, and granting return rights of DoD civilian employees in foreign and non-foreign areas in accordance with (IAW) DoD Instruction (DoDI) 1400.25, Volume 1230, "DoD Civilian Personnel Management System: Employment in Foreign Areas and Employee Return Rights" (Reference (b)) and section 1586 of Title 10, United States Code (U.S.C.), "Rotation of Career and Career-Conditional Employees Assigned To Duty Outside of the United States" (Reference (c)).

c. Is established in compliance with DoD Directive (DoDD) 5105.64, "Defense Contract Management Agency (DCMA)" (Reference (d)).

2. APPLICABILITY. This Instruction applies to DCMA Headquarters, Operations, Special Programs, International (DCMAI), Contract Management Offices (CMO), and their subordinate offices. This Instruction also applies to personnel on excepted appointments.

3. MANAGERS' INTERNAL CONTROL PROGRAM. In accordance with DCMA-INST 710, "Managers' Internal Control Program" (Reference (e)), this Instruction is subject to evaluation and testing. The process flows are located on the Policy Resource page of this Instruction.

4. RELEASABILITY – UNLIMITED. This Instruction is approved for public release.

5. PLAS CODE. 223B – Personnel Management

6. POLICY RESOURCE PAGE. <https://home.dcma.mil/policy/626r>

7. EFFECTIVE DATE. By order of the Director, DCMA, this Instruction is effective May 15, 2014, and all applicable activities shall be fully compliant within 60 days from this date.

A handwritten signature in cursive script, reading "Kathleen A. Butera".

Kathleen A. Butera
Executive Director
Human Capital

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REFERENCES

- (a) DCMA-INST 626 (IPC-1), "Return Rights," November 30, 2012 (hereby canceled)
- (b) DoD Instruction 1400.25, Volume 1230, "DoD Civilian Personnel Management System: Employment in Foreign Areas and Employee Return Rights," July 26, 2012
- (c) Section 1586 of Title 10, United States Code, "Rotation of Career and Career-Conditional Employees Assigned to Duty Outside the United States"
- (d) DoD Directive 5105.64, "Defense Contract Management Agency (DCMA)," January 10, 2013
- (e) DCMA-INST 710, "Managers' Internal Control Program," September 12, 2011
- (f) Subpart B, Part 591, 591.205 of Title 5, United States Code, "Cost-of-Living Allowance and Post Differential-Non-foreign Areas
- (g) DoD Directive 1404.10, "Civilian Expeditionary Workforce," January 23, 2009
- (h) Joint Travel Regulations (JTR), Volume 2, "Department of Defense Civilian Personnel"
- (i) DoD Instruction 1315.19, Subject: "Authorizing Special Needs Family Members Travel Overseas at Government Expense," December 20, 2005
- (j) DCMA-INST 633, "Pay Setting," February 4, 2013
- (k) DoD Instruction 1400.25, Volume 531, Subject: "DoD Civilian Personnel Management System: Pay Under the General Schedule," July 18, 2006
- (l) DoD Instruction 1400.25, Volume 536, Subject: "DoD Civilian Personnel Management System: Grade and Pay Retention," June 28, 2006

CHAPTER 1

POLICY

1.1. OVERVIEW. It is DCMA policy that:

1.1.1. DCMA career and career-conditional employees in the competitive service employed in the contiguous United States (CONUS) or in a non-foreign area (those areas listed in part 591, subpart B, 591.205 of Title 5, U.S.C. (Reference (f)) who accept an assignment to a foreign or non-foreign area shall be granted statutory return rights to the position held prior to their assignment to duty in the foreign or non-foreign area. This applies to positions within the same DoD Component or to a different DoD Component. If the position no longer exists, placement shall be made IAW the provisions of section 1586 of Title 10, U.S.C. 6 (Reference (c)). The DoD 5-year limitation on employment in in foreign areas applies in this situation.

1.1.2. Current DCMA Contingency Contract Administration Services (CCAS) career and career-conditional employees in the competitive service who deploy in support of operations shall be granted the right to return to the position they held prior to their deployment, or to a position of similar grade, level, and responsibility within the CMO. The right to return to the position held prior or a similar position will be granted for the full period of deployment, IAW DoDD 1404.10, "Civilian Expeditionary Workforce" (Reference (g)). The DoD 5-year limitation on employment in foreign areas **does not apply** to deployments in support of contingency operations.

1.1.3. DCMA career and career-conditional employees in the competitive service who deploy in support of operations on temporary duty (TDY) or temporary change of station (TCS) have return rights as outlined in DoDI 1400.25, Volume 1230 (Reference (b)).

1.1.4. DCMA career and career-conditional employees in the competitive service who are employed in the U.S. or in a foreign or non-foreign area and accept any assignment in a foreign area or in a non-foreign area (those areas listed in part 591, subpart B, 591.205 of Title 5, U.S.C. (Reference (f))) different from the one in which they are currently employed, shall be granted statutory return rights IAW with section 1586 of Title 10, U.S.C. (Reference (c)) for a period of 5 years if continuously employed in a foreign or non-foreign area. Return rights for DCMA employees accepting any DoD assignments in a foreign or non-foreign area will remain in effect for up to 5 years. Return rights granted for an initial tour length of 1, 2, or 3 years may be approved and extended up to 5 years. This applies to DCMA employees (1) who move to a position within DCMA or within a different DoD Component, and (2) upon initial movement and any subsequent moves within the 5-year period. The DoD 5-year limitation on employment in foreign areas applies in this situation.

1.1.5. Civilian employment in the competitive service in foreign areas shall be limited to 5 continuous years unless interrupted by at least 2 years of physical presence in the U.S. or a non-foreign area.

1.1.6. The DCMA Director may approve on a case-by-case basis a shorter period of physical presence in the U.S. or non-foreign area other than the 2 years required in this Instruction; however, requirements of Chapter 5 of the Joint Travel Regulation (JTR), Volume 2, "Department of Defense Civilian Personnel" (Reference (h)) must also be addressed.

1.1.7. DCMA through Human Capital (HC) and the Army Servicing Team (AST) will document overseas tours, return rights, and obligated position information using the Defense Civilian Personnel Data System (DCPDS) for each employee who accepts a foreign assignment.

1.1.8. Temporary Quarters Subsistence Expense (TQSE) and miscellaneous expenses allowance (MEA) will be paid by the losing activity for a Priority Placement Program (PPP) transfer from a non-foreign assignment. When an employee returns from a foreign assignment under PPP, the gaining activity pays TQSE and MEA.

1.1.8.1. Under all other circumstances, for employees returning to CONUS from an outside the continental U.S. (OCONUS) assignment, and whose gaining activity is DCMA, TQSE and miscellaneous expenses will be paid at the discretion of the DCMA gaining activity.

1.1.8.2. In such instances as stated in paragraph 1.1.8.1., the DCMA gaining activity may authorize TQSE for up to but not exceed 60 consecutive days only for the time temporary lodging occupancy is necessary.

1.1.9. There will be a signed "Return Rights Agreement" that will include details of the obligated position to which the departing employee has return rights prior to the employee's departure for the foreign or non-foreign assignment.

1.1.10. The DoD 5-year limitation on employment in foreign areas does not apply to Local National or Locally Hired U.S. Civilians who are tied to their sponsor's date of estimated return from overseas (DEROS). These employees are not eligible for statutory return rights.

CHAPTER 2

ROLES AND RESPONSIBILITIES

2.1. HUMAN CAPITAL (HC) DIRECTORATE. Executive Director, HC shall:

2.1.1. Ensure return rights policies are set forth in DCMA.

2.1.2. Support the implementation of DCMA's Return Rights Instruction, by advising DCMA Headquarters, Components, and their subordinate offices as well as Army Servicing Team (AST) and DCMA employees.

2.1.3. Ensure personnel involved in the development, administration, and evaluation of programs, plans, procedures, and methods for return rights actions are fully trained and competent in this area.

2.1.4. Implement the Return Rights Instruction to comply with law and regulations in order to meet the organization's needs in an expeditious manner and publish, evaluate, and improve this Instruction based on regulatory changes and the needs of the Agency.

2.1.5. Furnish information and support to assist employees in fulfilling requirements of this Instruction.

2.1.6. Consider comments and suggestions from employees and supervisors regarding the provisions of this Instruction.

2.1.7. Assess long and short range staffing needs in coordination with management.

2.2. ARMY SERVICING TEAM (AST). IAW the Memorandum of Agreement between DCMA and the Civilian Human Resources Agency (CHRA), the Director, AST shall:

2.2.1. Perform review of employee assignment documentation, determine accuracy, and prepare and forward completed Return Rights Agreement (RRA) forms (located on the Policy Resource page for this Instruction) to HC for approval. Provide a copy of completed RRA to the employee and ensure the employee is fully informed of the duration and requirements for exercising return rights.

2.2.2. Coordinate with supporting overseas activity Human Resource Office (HRO) to keep each other informed regarding any action that affects an employee's return rights. At minimum notifications shall be made promptly when:

2.2.2.1. The position to which an employee has return rights is changed, moved, or abolished.

2.2.2.2. Any extension of return rights is approved or disapproved.

2.2.2.3. An employee's overseas tour is extended or not extended.

2.2.2.4. The employee moves to another foreign location for assignment.

2.2.2.5. The employee moves to a different contiguous U.S. activity, other than that from which recruited for the overseas assignment.

2.2.2.6. The employee exercises or forfeits return rights IAW this Instruction.

2.2.3. Maintain required records related to the employee's RRA in their electronic Official Personnel File (eOPF).

2.2.4. Ensure the employee's Standard Form-50 (SF-50), Notification of Personnel Action, is annotated to include the statement "Statutory Return Rights granted under 10 U.S.C. 1586 for initial tour of (number) months, plus approved extensions."

2.2.5. Document overseas tour, return rights, and obligated position information, as applicable, in the DCPDS for each employee who accepts an assignment in a foreign or non-foreign area.

2.2.6. Provide managers and employees with comprehensive and technically sound guidance regarding return rights agreements and related matters.

2.3. SUPERVISORS AND MANAGERS. Supervisors and Managers shall:

2.3.1. Actively support this Instruction and comply with provisions contained herein.

2.3.2. Keep subordinates fully informed of the provisions of this Instruction.

2.3.3. Counsel employees concerning return rights and the opportunity for self-improvement and career development.

2.3.4. Ensure the Request for Personnel Action (RPA) is prepared and submitted by the gaining activity to AST a minimum of 60 days prior to the completion of the employee's tour OCONUS.

2.3.5. When filling a position behind an employee who has statutory return rights, ensure the recruitment RPA and Recruitment Information Package (RIP) clearly documents that the recruitment action is against an **obligated** position.

2.4. EMPLOYEES. Employees shall:

2.4.1. Continue to stay informed on the provisions of this Instruction and follow the procedures accordingly.

2.4.2. Ensure that official personnel records and any other supporting documentation accurately reflect appropriate experience, education, training, and awards.

2.4.3. Notify the local HRO and AST of **any** changes in assignment.

2.4.4. Notify the local HRO, AST, and the previous CONUS supervisor in writing of the intent to exercise return rights up to 6 months before, but no later than 30 days following completion of the overseas tour or any approved extensions or curtailment of tour.

CHAPTER 3

PROCESS AND PROCEDURES

3.1. GRANTING RETURN RIGHTS. The following procedures will be used in granting return rights.

3.1.1. Once the AST prepares the appropriate return rights/placement agreement and forwards the agreement to the Human Capital Return Rights Agreements Inbox (link is located on the Resource page for this Instruction) for approval, the Human Capital Policy, Human Resource (HR) Specialist will review and sign the documentation authorizing the granting of statutory return rights and return the signed document to the AST for final processing. (Sample agreement is located on the Resource page for this Instruction.)

3.1.2. Once the AST HR Specialist receives the documentation granting statutory return rights, they are expected to provide the employee with a copy of the document authorizing him or her statutory return rights and ensuring the employee is fully informed of the duration and requirements for exercising those return rights. The AST HR Specialist is also expected to ensure that the employee signs the document and places a copy of the signed document into the employee's eOPF. The AST HR Specialist is also expected to provide a copy of the finalized return rights document to the employee's losing supervisor.

3.1.3. The AST will ensure the SF-50 is annotated to include the statement "Statutory return rights granted under 10 U.S.C. 1586 for initial tour of (number) months, plus approved extensions."

3.1.4. AST will obligate the employee's position in the DCPDS for assignment and accountability purposes.

3.1.5. Workforce management users will document in the Fourth Estate Manpower Tracking System (FMTS) the obligated position details to include: position information, date position is obligated, date end of position obligation (which should be no later than 5 years from the date of obligation), and the employee name vice the position.

3.1.6. The employing DoD Component shall require an employee covered by the 5-year limitation stated in this Instruction to sign an overseas employment agreement to return from the foreign area within 5 years as a condition of employment upon appointment or placement in the competitive service in a foreign area position.

3.1.7. The gaining and supporting HRO have been directed to provide full and accurate information to selectees on the foreign service assignment for which the employee is being considered. The HRO will also comply with the provisions of DoDI 1315.19, "Authorizing Special Needs Family Members Travel Overseas at Government Expense" (Reference (i)).

3.2. ELIGIBILITY REQUIREMENT FOR STATUTORY RETURN RIGHTS.

3.2.1. Any DoD Career or Career-Conditional Employee within the competitive service or an excepted service employee assigned to an Agency employed within the U.S. or in a non-foreign area who accepts an assignment in a foreign or non-foreign area different from the one they are currently assigned, is eligible for statutory return rights.

3.2.2. Return Rights will only be authorized by DCMA if the employee's performance is rated at the fully successful level or higher.

3.2.3. By statute, locally hired employees who do not **already** have statutory return rights are ineligible for return rights.

3.3. INELIGIBILITY FOR RETURN RIGHTS.

3.3.1. Once DCMA personnel are selected for an overseas position, they become ineligible for return rights when one of the following events occur, regardless of whether it occurs prior to or following permanent change of station (PCS) :

3.3.1.1. Submission of a resignation.

3.3.1.2. Receiving a notice of involuntary separation for any reason, including a general notice of reduction in force.

3.3.1.3. A formal notification in writing of closing of the activity where employed in CONUS.

3.3.1.4. Receipt of a functional transfer offer to which the employee has not replied within specific time limits.

3.3.1.5. Declining a functional transfer offer.

3.3.1.6. Receipt of an unresolved written notice of proposed adverse action based on performance or conduct.

3.3.2. Interns while enrolled/participating in a formal Intern Program, will not be considered for permanent overseas assignment. Interns who are not in a career/career-conditional status are ineligible for statutory return rights.

3.4. EXTENSION OF RETURN RIGHTS.

3.4.1. Overseas employees who wish to have their return rights extended beyond 5 years must submit a request in writing through their chain of command to DCMAI. The DCMAI point of contact will coordinate in writing with the respective DCMA CONUS activity to obtain their recommendation.

3.4.2. The completed request will be submitted through the Executive Director, HC to the Director DCMA for final approval/disapproval.

3.4.3. Requests should be submitted in writing at least 90 days prior to the overseas tour expiration date.

3.4.4. Request for extension should include a copy of foreign/non-foreign management's justification for requesting the employee's continued presence in the overseas area based on mission critical needs of the overseas command.

3.5. EXERCISING STATUTORY RETURN RIGHTS.

3.5.1. Application will be made through the returning employee's overseas servicing HRO to DCMA's AST HR Servicing Specialist. Managers/supervisors must notify overseas employees in writing of any action that may affect their return rights.

3.5.2. An employee with return rights has a statutory right to return to the position held in the U.S. and immediately prior to assignment to a foreign or non-foreign area which has been obligated if that position continues to exist. If the position does not exist, the employee shall be placed in a position IAW the procedures specified in section 1586 of Title 10, U.S.C. (Reference (c)).

3.5.3. An employee must have satisfactorily completed his or her overseas tour, or have an approved curtailment from the overseas assignment for reasons acceptable to the overseas commander. Acceptable reasons for release from tour of duty can be found in the JTR, Volume 2, C5574 Part B (Reference (h)).

3.5.4. Overseas returnees must notify their previous CONUS supervisor in writing of their intent to exercise return rights up to 6 months before, but no later than 30 days following completion of the overseas tour or any approved extensions or curtailment of tour.

3.6. PAY SETTING. IAW DCMA-INST 633, "Pay Setting" (Reference (j)), when calculating the pay setting for returning employees from OCONUS, the following process will be utilized:

3.6.1. DoDI 1400.25, Volume 531, Pay Under the General Schedule (Reference (k)).

3.6.2. DoDI 1400.45, Volume 536, Grade and Pay Retention (Reference (l)).

3.6.3. After comparison between the two methods in paragraphs 3.6.1. and 3.6.2., the one most advantageous to the employee will be the method used to set the employee pay.

3.7. RECORDS MAINTENANCE. AST shall document overseas tour, return rights, and obligated position information as applicable in the DCPDS for each DCMA employee who accepts an assignment in a foreign or non-foreign area. Copies will be provided to and/or retained by the employee, manager/supervisor, HC, and the employee's eOPF.

GLOSSARY

DEFINITIONS

Area of Consideration. The intended applicant pool in organizational and/or geographical terms and specifics on any restrictions regarding who may compete for a position.

Competitive Position. A position within the competitive service.

Competitive Service. As defined by section 2102 of title 5, U.S.C.:

(1) All civilian positions in the executive branch of the Federal Government not specifically excepted from civil service laws by or pursuant to statute, by the President, or by the Office of Personnel Management, and not in the Senior Executive Service; and

(2) All positions in the legislative and judicial branches of the Federal Government and in the government of the District of Columbia specifically made subject to the civil service laws by statute.

Component (DCMA). An organization within DCMA whose leader reports directly to the Director, DCMA.

Component Head (DCMA). The leader of a DCMA organization that reports directly to the Director, DCMA.

Foreign Area. Areas outside the contiguous United States that are not identified as non-foreign areas in part 591, subpart B, 591.205 of Title 5, U.S.C. (Reference (f)).

Non-foreign Area. Those areas listed in part 591, subpart B, 591.205 of Title 5, U.S.C. (Reference (f)).

Return Rights. Statutory return rights is the statutory right that DoD career/career-conditional employees receive by law when accepting a position to a foreign or non-foreign area from a position within CONUS.

GLOSSARY

ACRONYMS

AST	Army Servicing Team
CMO	contract management office
CONUS	contiguous United States
DCPDS	Defense Civilian Personnel Data System
DCMAI	DCMA International
DCMA-INST	DCMA Instruction
DoDD	DoD Directive
DoDI	DoD Instruction
eOPF	Electronic Official Personnel Folder
HC	Human Capital
HR	human resources
HRO	Human Resource Office
IAW	in accordance with
JTR	Joint Travel Regulation
OCONUS	outside the contiguous United States
PLAS	Performance Labor Accounting System
PPP	Priority Placement Program
RPA	Request for Personnel Action
RRA	Return Rights Agreement
SF	standard form
TDY	temporary duty
TQSE	Temporary Quarters Subsistence Expense
U.S.C.	United States Code