Recruitment, Placement, and Rotation Limitations on Overseas Employment

References: Refer to Enclosure 1.

1. PURPOSE: This Instruction establishes consistent Agency-wide authority and responsibility in the administration of the policy for DLA employees accepting assignments overseas in areas outside the continental United States (OCONUS).

2. APPLICATION: This Instruction applies to Headquarters DLA and DLA Primary Level Field Activities (PLFAs).

3. POLICY:

   a. It is DLA policy to comply with and implement statutory and Department of Defense (DOD) guidance that establishes procedures and assigns responsibilities necessary to support an Agency-wide Recruitment, Placement, and Rotation Limitations on Overseas Employment program that limits civilian employment in overseas areas to 5 years.

   b. Categories of employees exempted from this policy are:

      (1) Employees that require frequent contact with officials of the host nation and a detailed current knowledge of the culture, mores, laws, customs, or Government processes of the host nation which cannot be acquired outside the host nation.

      NOTE: A position shall not be exempted from the requirement for this reason unless the position description clearly specifies that the aforementioned duties and special knowledge are required.

      (2) Employees who are also family members accompanying military or civilian personnel of a DOD component who are duty stationed in the area.

      (3) Employees who have been continually employed in a foreign area since April 1, 1966.

      (4) Employees employed in GS-06, or below or non-supervisory wage grade positions who were employed prior to August 24, 1988, may continue to be exempted as long as they remain continuously employed at those levels.
(5) Employees in non-foreign OCONUS areas.

c. Return Rights:

(1) Career and Career-Conditional employees of DLA in the competitive service employed in and recruited from the United States or a non-foreign area who accept assignments with DLA outside the United States or in Alaska will be granted statutory return rights under the provisions of Public Law 86-585 (10 United States Code (U.S.C.) 1586), Attachment 1 and DOD 1400.25-M.

(2) Employees granted return rights to a non-foreign OCONUS area from a foreign area will be required to sign a return rights agreement and must exercise those return rights at the conclusion of their tour or at the end of 5 years overseas, unless an extension is approved.

(3) Per Office of the Secretary of Defense Memorandum dated March 22, 2005, granting of return rights for DOD employees who accept appointments to temporary organizations, such as the Iraq Reconstruction Management Office, is strongly encouraged throughout the DOD. As such, Title 5, U.S.C., Section 3161 (g) states “that an employee serving under a career or career conditional appointment or the equivalent in an agency who transfers or converts to an appointment in a temporary organization with the consent of the head of agency is entitled to be returned to the employee’s former position or a position of like seniority, status, and pay.”

(4) In cases where a DLA employee goes to another DOD component overseas, it is at the discretion of the PLFA Commander/DLA Executive Board concerned whether or not to grant return rights to the employee.

(5) Employees in Continental United States (CONUS) assigned to DLA positions in the non-foreign areas of Alaska, Guam, Puerto Rico, and the Virgin Islands will be granted return rights; however, these employees will not be required to exercise those return rights at the conclusion of 5 years overseas. If the return rights are not exercised in 5 years, the return rights will be terminated, unless an extension is approved.

(6) Employees in CONUS assigned to DLA positions in Hawaii will not be granted return rights in accordance with the provisions of DOD 1400.25-M.

d. DLA is committed to retaining the unique talent and perspective gained from overseas employment.

e. The DLA Human Resources Services will pursue an aggressive placement strategy for employees returning from overseas assignments, where practicable.

4. RESPONSIBILITIES:

a. Headquarters DLA

(1) The Director of DLA Human Resources (J1) will establish policy for this program, provide program guidance, and periodically evaluate program compliance and effectiveness.
(2) J1 Director will act as the approving authority for actions requiring Headquarters DLA approval.

b. Commanders/Directors of PLFAs will:

(1) Grant return rights under the appropriate authorities cited in this instruction to their employees who are selected to serve with DLA overseas activities or with other DOD component activities in specified foreign areas.

(2) Serve as approval authority on actions under this instruction that require PLFA approval.

(3) Effect return placement of employees under procedures outlined in this instruction.

c. Directors of DLA Human Resources Services at New Cumberland and Columbus will:

(1) Ensure the establishment and maintenance of appropriate records required by this instruction.

(2) Implement this instruction for their respective serviced activities.

5. PROCEDURES: Refer to Enclosure 2.

6. EFFECTIVE DATE: This Instruction is effective immediately.

Director, DLA Enterprise Support
March 22, 2010

Deputy Director, Human Resources
August 19, 2011

2 Enclosures
Enclosure 1 – References
Enclosure 2 – Procedures
Enclosure 1
References

1. DLA Instruction Recruitment, Placement, and Rotation Limitations on Overseas Employment, dated September 15, 2004, superseded.

2. Title 10 U.S.C.


6. Title 5, U.S.C.

Enclosure 2
Procedures

1. Grant of Return Rights

   a. DLA career and career-conditional employees in the competitive service, employed in the United States or in a non-foreign overseas area who accept an assignment outside the United States or in Alaska shall be granted statutory return rights under the provisions of 10 U.S.C. 1586. An employee serving in Alaska with return rights to a position in CONUS will not be granted return rights to Alaska upon acceptance of a position in a foreign overseas area. The original return rights to CONUS would apply. An employee is granted return rights by the PLFA or DLA Executive Board to the position which he/she was assigned immediately prior to the overseas assignment.

   b. Career and career-conditional employees of DLA in the competitive service employed in the United States or in a non-foreign area who accept positions in Japan, Korea, Panama, Johnston Island, Finland, Israel, Kuwait, Bahrain Island, Malaysia, Russia, United Arab Emirates, Africa, South America, Turkey, and Saudi Arabia with another DOD component or any Joint Command must be granted return rights to their DLA position in accordance with DOD policy stated in DOD 1400.25-M.

   c. Any DLA employee who is appointed under the authority of either of these two preceding sections to a position covered by those sections is entitled, upon termination of that appointment, to be reinstated to his/her former position or in one of like grade/band and pay in the DLA activity he/she left.

2. Duration of Return Rights. For DLA employees being assigned to DLA or DOD component activities in overseas areas, the initial grant of return rights will cover the period of the prescribed tour of duty for the overseas area to which assigned. Retention of the employee by the losing overseas activity beyond the prescribed tour of duty, as long as the employee has an approved extension, does not require approval of the DLA activity to which the employee has return rights. Advance written notification to the activity to which the employee has return rights by the losing component of their intention to retain the employee for an additional, specified period (with the employee’s concurrence) beyond the prescribed tour is all that is required. The overseas activity for sufficient management reasons may grant one short-term extension (up to 6 months) beyond the end of tour or approved extension without the employee’s loss of return rights.

3. Return Rights/Return Placement and Documentation

   a. Upon the employee’s acceptance of an assignment with a DLA or DOD activity overseas, the releasing activity will prepare the appropriate return rights documentation. If return rights are not applicable, the gaining activity will administer a return placement agreement or other such appropriate documentation. The employee and the Customer Account Manager (may be further delegated) of the servicing DLA Human Resources Services will sign the original and all copies. The original will be filed in the employee’s Official Personnel File. A copy will be given to the employee and a copy will be placed in an activity’s individual return
rights/placement folder established when the employee departs the activity. The releasing DLA Human Resources Services is responsible for retaining this and other pertinent information on the employee who was granted return rights to the activity. Failure to sign a return rights agreement, whether by employee or administrative oversight, will not exempt a covered employee from the 5 year limitation.

b. DLA Human Resources Services will initiate a placement plan for overseas returnees. Placement efforts will continue within DLA CONUS activities, as outlined above, and in accordance with the DOD Priority Placement Program (PPP) Operations Manual and DLA Instruction on DOD Stability of Civilian Employment.

4. Approval Authority for Extension of Overseas Tours

   a. Requests for extensions of the initial tour, up to 5 years may be granted by the PLFA Commander/DLA Executive Board concerned. Approvals for such requests must be on an individual case basis for all positions concerned.

   b. The decision to grant extensions beyond 5 years must be made on the basis of mission requirements/impact as well as the employee's performance. In addition, the affected employee must be able to maintain professional competency while remaining in the overseas area environment. The employee must also be counseled on any related loss of return rights, if applicable. Requests for extensions beyond 5 years not exceeding 7 years will be approved by the PLFA Commander/DLA Executive Board. Request for extensions beyond 7 years will be submitted by the PLFA Commander/DLA Executive Board through the appropriate servicing DLA Human Resources Services to the J1 Director for approval.

   c. Requests for overseas tour extensions beyond 5 years will be submitted not later than 12 months prior to the Date Estimated Return from Overseas (DEROS) date unless in a 12 month tour area.

   d. All requests for overseas tour extensions shall include:

      (1) Name, title, series, and grade/band of employee.

      (2) Date of arrival in overseas area.

      (3) Organization and location to which assigned overseas.

      (4) Title, series, grade/band, and location of position to which employee has return rights.

      (5) Date return rights expire.

      (6) Period of extension desired.

      (7) A statement that the employee’s performance indicates a high level of competence; he/she is current in the competencies required to perform in his/her job; and has successfully adapted to the overseas work and cultural environment.
(8) Justification for extension of overseas tour.

(9) The PLFA/DLA DLA Executive Board will indicate in the extension package if recruitment action for subject position has been, or will be initiated.

(10) The PLFA/DLA Executive Board will indicate in the extension package if placement efforts have been, or will be initiated.

e. When the employee has return rights to another DOD component, and the employing DLA activity wishes to retain the employee beyond 5 years, the DLA activity will request approval for any desired extension from the DOD activity to which the employee has return rights. If the DOD activity disapproves the request, the DLA activity may still retain the employee beyond the 5 year limit by assuming return placement responsibility for the employee. In such a case, the employee will sign a return placement agreement that he/she will accept return placement to a DLA position in the United States when the period of overseas service authorized by the extension is complete.

f. DLA Employees’ Return Rights will automatically be extended when the employee is extended within DLA. It is required that those return rights (after the initial 5 years) be back to a position with the same grade/equivalency, in the same geographic location as the position the employee left.

5. Exercise of Return Rights (Foreign and Non-Foreign)

a. Employees duty stationed in foreign areas with return rights must exercise them within 5 years unless an extension is granted.

b. Return rights of employees’ duty stationed in Alaska, and all United States territories and possessions remain valid for the prescribed tour and any extensions granted. If the return rights are not exercised in 5 years, plus any extensions, the return rights will be terminated and these employees may remain indefinitely in those locations unless reassigned or rotated under the provisions of a management rotation policy.

c. In order to exercise his/her return rights, an employee must satisfactorily complete the prescribed tour of duty overseas and any additional period of time granted by the extension of his/her return rights, unless released from the period of service requirements for acceptable reasons as listed in the Joint Travel Regulations, Volume 2, Chapter 5. The employee must notify his/her former activity of his intention to exercise his return rights, by sending written notification, furnished through his/her servicing DLA Human Resources Services. This notification should be furnished 90 days in advance of the DEROS to the former activity.

d. Placement of an employee exercising return rights will be accomplished in accordance with the provisions of 10 U.S.C. 1586.

e. When the exercise of return rights results in displacement of an employee, the displaced employee will be placed in a vacant continuing position for which they are qualified without loss of grade/band in the same geographical area. If the displaced employee cannot be reassigned to
a position (other than the position from which displaced) which meets the above criteria, he/she will be placed using reduction-in-force (RIF) procedures. The overseas returnee will not compete in a RIF caused by his/her own return from overseas.

f. Employees with return rights to a position in CONUS who are also entitled to a return placement through the DOD PPP must exercise return rights if they are within 30 days of DEROS and have not been placed by PPP.

NOTE: In accordance with DLA policy, placement efforts under the provisions of paragraph 3.b. (this enclosure) may also be applied to employees with return rights to another DOD component, if applicable.

6. Recruitment Actions for Vacated Positions (Obligated Positions)

a. A position in the Unites States which is vacated by an employee to accept an assignment overseas shall be treated as an “obligated” position during the time the employee remains overseas and retains his/her return rights. Job opportunity announcements published for subsequent filling of the vacated position should include the statement “Occupancy of this position subject to the return of former incumbent.” The position vacated thus becomes an obligated position. The vacancy announcement should also state that if the former incumbent fails to return to the position, occupancy of the position may become permanent.

b. The employee filling the encumbered position should be told at the time of his/her placement in the position of his/her rights should the overseas employee returns. The term obligated position should also be placed in the remarks section of the Standard Form 50, Notification of Personnel, effecting the placement action of the employee who fills the vacated position. To the extent possible, managers and supervisors exercising authority over positions which have become obligated should alert the servicing DLA Human Resources Services to those situations when requesting subsequent related staffing actions in order to assist personnel to maintain an awareness of those situations.

7. Employees Not Eligible for Return Rights

a. Personnel that are hired in the United States in the categories listed below are not eligible to be granted return rights:

   (1) New employees appointed from civil service registers.
   (2) Former federal employees appointed by reinstatement.
   (3) Employees recruited from non-DOD Federal agencies.
   (4) Employees being assigned to DLA positions in Hawaii.
   (5) Employees appointed into an Excepted Service position.
b. Employees in categories shown in 7.a. (1) through (5) (this enclosure) are required to sign a return placement agreement as a condition of employment for overseas assignment with DLA. The agreement specifies that they will register in the DOD PPP and accept return placement in the United States under its provisions, or accept return placement through placement efforts within DLA.

c. Placement efforts will be in accordance with 3.a. (this enclosure).

d. Returning from Overseas Through the DOD PPP.

(1) Under the conditions stated in DOD 1400.25-M, DLA employees may return to the United States through registration in the DOD PPP. The DOD PPP is the primary method of registration and referral of DOD personnel for placement consideration at DOD activities within the United States for employees who have satisfactorily completed a tour of duty in a foreign area, territory, possession, or in the State of Alaska or Hawaii.

(2) Placement efforts will continue in accordance with 3.b. (this enclosure).

8. Refusal to Exercise Return Rights or to Accept Return Placement. If an overseas employee refuses to exercise his/her return rights when required, refuses to register for placement in the DOD PPP when appropriate, refuses a placement offer under that program, or refuses a placement offer from his/her CONUS DLA activity, adverse action may be initiated to separate the employee from Federal service for failure to comply with the voluntarily agreed to terms of the overseas agreement.

9. Management-Initiated Return of an Overseas Employee

a. Basic authority for agencies to reassign employees is contained in Title 5, CFR 335.102. CFR 335.102 gives agencies the authority to reassign career and career-conditional employees. Using this authority, management may return overseas employees to their former positions or to positions of equal grade/band. Some, but not all conditions under which management initiated returns may be accomplished are:

(1) When, through no fault of the employee, his/her skills were not matched properly with job requirements at the time the employee was recruited for the overseas duty.

(2) When the presence of the employee or the employee’s family is not in the best interest of the United States Government overseas, and his/her return can be reasonably interpreted as promoting the efficiency of the service.

(3) When it is determined that the employee is in urgent need of updating his knowledge in a specific field, which can be accomplished only by an assignment in the United States.

b. When an employee has successfully completed a tour in Alaska or any United States territory or possession and is not required to return from overseas by DOD or DLA’s 5 year policy, but the activity concerned has a rotation policy to move overseas employees periodically from these locations for sufficient management reasons.
c. Return placement under this authority should be to the DLA PLFA or DLA Executive Board to which the employee has return rights following coordination with that activity. This authority cannot be used to return a former non-DLA DOD employee to that component unless the approval of that component is secured prior to the return.

d. Any time remaining to be served under the employee’s transportation agreement will be waived if this authority is invoked, and the employee and his dependents, and household goods will be returned to the United States at Government expense.

e. An overseas employee who fails to accept management-directed return placement may be separated from the Federal service under adverse action procedures.

10. Effects of Transfer, Job Abolishment, or Lower Grade/Band Return Rights

a. When an overseas area employee transfers to another DOD component, the return rights previously granted shall be forfeited, unless the transfer is to a position in Japan, Korea, Panama, Johnston Island, Finland, Israel, Kuwait, Bahrain Island, Malaysia, Russia, United Arab Emirates, Africa, South America, Turkey, and Saudi Arabia or the DLA activity in the United States agrees to continue the return rights. Non-forfeited return rights will continue for the duration of the 5 year period, but may be extended.

b. Employees whose positions to which they have return rights have been or are scheduled to be abolished and whose return rights would initiate a RIF, or whose exercise of return rights would result in a reduction from current (overseas) grade/band level, are entitled to return placement assistance to the United States through the provisions of the DOD PPP. Such employees are entitled to placement assistance until they are placed, decline a valid offer, renew their transportation agreement, exercise their return rights, or are directed to return, whichever occurs first.

11. Records Establishment and Maintenance

a. The releasing DLA PLFA or DLA Executive Board will establish and maintain an individual return rights folder for each employee assigned overseas with return rights. The folder will contain:

(1) Copy of the Standard Form (SF)-50 assigning the employee overseas.

(2) Copy of the signed return rights or return placement agreement.

(3) Copy of job description for the position for which the employee has return rights.

(4) Copy of the employee’s resume.

(5) Copy of employee’s signed DD Form 1617, Transportation Agreement-Overseas Employee.

(6) Any documents which affect the employee’s return rights such as, actions affecting the position’s classification, abolishment, transfer of function, letters requesting and approving or
disapproving extensions of return rights, letters from the employee concerning intent to exercise or not exercise return rights.

(7) Any documents determined to be of assistance in assuring the employee’s return rights are properly honored.

b. DLA Human Resources will report progress on overseas recruitment and return placement to the DLA Executive Board on a semi-annual basis.