



DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY, PACIFIC
FORT SHAFTER, HAWAII 96858-5100



REPLY TO
ATTENTION OF :

APPE-CP

14 November 2001

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: UPDATE #1 to Civilian Personnel Management Options During Noble Eagle

1. Reference memorandum, HQ USARPAC, APPE-CP, 5 October 2001, subject: Civilian Personnel Management Options During Noble Eagle – Memo 02-02.
2. This memorandum transmits changes and additions to Noble Eagle, Civilian Personnel Management Options for Appropriated & Nonappropriated Fund Employment, which was an enclosure to the referenced memorandum. Note that the changed or added pages are identified as UPDATE #1, 14 November 2001. Changes are identified by double asterisks (e.g., **changed information**). Substitute changed pages for the originals and add the new pages to the document. This is the method we will use to provide more information, new information, or corrections and clarifications.
3. The following documents are enclosed:
 - a. Substitute new page 3 (Table of Contents) for the original.
 - b. Substitute new page 5 (Special Emergency Staffing Authorities from OPM and HQDA) for the original. The third sentence under "Temporary Emergency Need Appointments" is changed to clarify the requirement for qualification standards.
 - c. Page 14 is added: Notification of Anthrax Immunization Requirements. Add this page to the document, as well as those listed below.
 - d. Page 15 is added: Family Member Employees in Japan Whose Sponsors Deploy.
 - e. Page 16 is added: Military Leave for Civilian Employees.
 - f. Page 17 is added: Restoration of Annual Leave for Employees Involved in the National Emergency.
 - g. Pages 18 and 19 are added: Rights and Benefits of Reservists Called to Active Duty.

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h. Page 20 is added: Uniformed Services Employment and Reemployment Rights Act (USERRA).

4. As significant changes and additions occur, we will provide new updates to the Noble Eagle document.

5. Point of contact is Debra Matthews, G1/DCSPER, Civilian Personnel Division, DSN (315) 438-8679 and FAX (315) 438-0552.

Encl


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Special Emergency Staffing Authorities from OPM and HQDA

The special procedures described below relax some of the current rules we must follow to fill jobs. These flexibilities should allow managers to fill positions with much greater speed. They also provide an important incentive to retired civil service employees to return to the Federal Government. **And don't forget:** Because these temporary authorities relax the rules and allow us to get someone on board fast, you can hire a temporary while your permanent recruitment action is being processed.

HIRING OPTIONS

Temporary Emergency Need Appointments: As the name indicates, these appointments may be made very quickly and without using normal placement procedures. The appointments may be made for up to one year. Qualifications of the employee are what management says they are ******(i.e., managers may use OPM standards or develop their own).****** No advertising of the vacancy is required. And the appointments are exempt from the DOD Priority Placement Program and other displaced employee programs. Before *any* appointment may be made, a position must be established and properly classified. This authority expires on 30 September 2002.

Thirty-Day Critical Need Appointments: This is another quick method of filling positions on a temporary basis. These appointments may be made initially for 30 days and, if necessary, extended for another 30 days. Again, the appointments are not subject to displaced employee program rules, and no advertising is necessary. *

REHIRING RETIRED CIVIL SERVICE EMPLOYEES

Special Rules for Hiring Reemployed Annuitants: When retired civil service employees are rehired, they lose a portion of their salary based on the requirements of dual compensation laws. The CG, USARPAC, has the authority to waive the dual compensation law in order to make temporary appointments. He has not redelegated this authority to MSC Commanders at this time. CPACs will help you prepare any requests for waivers and will forward them to HQ USARPAC, G1/DCSPER for processing. This authority runs out on 30 September 2002.

Waiver of Requirement to Repay Buyouts: Employees who resign or retire as a part of a buy-out program must repay the money they received if they return to work within 5 years of the resignation or retirement. The Office of Personnel Management (OPM) has waived this penalty for these temporary emergency appointments. This authority runs out on 30 September 2002.

Notification of Anthrax Immunization Requirements

General:

a. Based on recent legislation, the Department of Defense (DOD) is requiring that all emergency-essential civilian employees be notified that they may be required to take anthrax immunizations as a condition of employment. Individuals being considered for emergency-essential positions must also be notified of this possible requirement.

b. This information must be included in job vacancy announcements and should also be added to job descriptions for emergency-essential positions. Before notifying members of a bargaining unit, management officials must meet collective bargaining obligations.

c. A DOD-suggested notification form is shown below and should be appended to the DD Form 2365, DOD Civilian Employee Overseas Emergency-Essential Position Agreement, and placed in the employee's official personnel folder.

Notice of Requirement to Participate in the Anthrax Vaccine Immunization Program

This is to notify you that your position has been designated as emergency-essential. You may be required, as a condition of employment, to take a series of anthrax vaccine immunizations, including annual boosters. This may also include other immunizations that may in the future be required for this position, or for a position you may fill as an emergency essential alternate.

Failure to take the immunizations may lead to your removal from this position or separation from the federal service.

Acknowledgment:

I have read and fully understand the potential impact of the above statement.

Name _____ Date _____

Family Member Employees in Japan Whose Sponsors Deploy

Departure of Sponsor: Military or civilian sponsors may be deployed or reassigned in connection with the War on Terror. When this happens, what is the impact on their family members who are employed at the foreign post?

- If the separation is caused by TDY, there should be no immediate impact.
- If the sponsor leaves the area permanently, the family member employee's situation depends on the type of personnel appointing authority under which he or she was hired:
 - Civil service family members who are on the special excepted service "family member appointment" may remain employed no longer than 2 months after the departure of the sponsor. MACOM commanders may approve up to a one-year extension of the family member appointment if it is in management's best interest.
 - Other civil service family members may continue their employment.
 - Nonappropriated fund (NAF) family members may continue their employment.
- Permanent departure of the sponsor affects certain forms of logistical support for the remaining spouse who is still employed at the foreign installation:
 - If the sponsor was receiving either cost-free Government housing and utilities or a living quarters allowance (LQA), this benefit for the employed spouse is lost.
 - Activity commanders have authority to grant cost-free housing and utilities or LQA to remaining employed spouses for a period of up to one year after the sponsor leaves. This is a safety net provision covering situations such as permanent departure of the sponsoring spouse, death of the sponsor, divorce, and similar traumatic events. MACOM commanders have authority to extend this timeframe; however, the one year is designed to provide the spouse with sufficient time to make arrangements to handle the additional expense or find a position in the United States or elsewhere.
- If the sponsor was serving under a transportation agreement providing eventual return to the United States at Government expense, the remaining employed spouse may secure delayed travel on the sponsor's travel orders (usually up to 2 years) or negotiate a transportation agreement in his or her own right. Spouse employees should contact their transportation representative for assistance with delayed travel requests and the CPAC concerning transportation agreements.

Military Leave for Civilian Employees
(Applies to Appropriated Fund and Nonappropriated Fund Employment)

15-Day Entitlement: Most employees who are members of the National Guard or the Reserves are entitled to 15 days (120 hours) of military leave each fiscal year for active duty, active duty training, or inactive duty training. For part-time employees, the number of days/hours is prorated (i.e., divide 40 into the number of regularly scheduled hours in a workweek).

Eligibility: The following employees are eligible for military leave:

- Federal civil service employees on appointments not limited to one year or less.
- Nonappropriated fund (NAF) employees who are on regular or limited term appointments. Employees on flexible appointments do not receive military leave.

Pay: While on active duty during periods of military leave, employees receive both their military and civilian pay.

Use of Military Leave:

- Military leave is charged in hourly increments and leave will be charged only for hours that the employee would normally have worked in his or her civilian job.
- An employee may use accrued annual leave (or sick leave, if appropriate) instead of, or in combination with, military leave. An employee may also use compensatory time which is unused and on the books.

22-Day Entitlement: Employees who are members of the National Guard or the Reserves may be entitled to an additional 22 days of military leave each calendar year when on active duty for the purpose of assisting civil authorities in protection of life or property or the prevention of injury. A good example of this kind of duty is that of a National Guard member called up to provide security services at an airport.

Eligibility: Same as above.

Pay: The employee's civil service pay must be reduced by any amount of military pay received during a period of military leave.

Use of Military Leave: Same as above.

Restoration of Annual Leave for Employees Involved in the National Emergency

The Office of Personnel Management (OPM) has published an interim regulation on the restoration of lost annual leave, which will benefit managers and employees who are assigned duties in support of the current national emergency (Noble Eagle/Enduring Freedom). Below are the normal rules concerning restoration of annual leave; changes brought about by OPM's regulation are shown in **bold type**.

a. Federal civil service and nonappropriated fund (NAF) civilian employees may carry over into the next leave year 30 days of annual leave (45 days for certain foreign-area employees). Any accrued leave above those limits is called "use-or-lose" leave. Employees lose this accrued leave when the new leave year begins in January.

b. Use-or-lose leave may be restored under certain circumstances, one of which is that the employee was unable to use this leave due to an "exigency of the public business." This means that an employee's services were so critical that management could not allow the use of the leave. In these cases, the leave may be restored in a separate leave account provided that—

(1) An exigency of the public business was properly declared. **(This is no longer a requirement under OPM's new regulations regarding employees who are assigned to duties in support of the current national emergency. An exigency of the public business is automatically in place for these employees only.)**

(2) The leave was scheduled and approved before the third pay period prior to the end of the leave year. **(OPM's new regulation eliminates this requirement for employees who are assigned duties in support of the current national emergency.)**

(3) The employee's scheduled and approved leave was canceled because managers had no other way to get the job done. **(This is no longer required under the OPM regulation.)**

c. Use-or-use leave restored in a separate leave account normally must be scheduled and used within 2 years of the end of the exigency. **(OPM's new regulation provides that management will extend this 2-year period when an employee supporting the national emergency has more than 416 hours of leave in the restored leave account—specifically, one additional year for each additional 208 hours of excess annual leave or any portion thereof. Part-time employees receive the same benefit on a prorated basis.)**

Rights and Benefits of Reservists Called to Active Duty

Employees who are members of the Uniformed Services and who are called to active duty (or volunteer for active duty) are entitled to the following rights and benefits. These rights and benefits are guaranteed under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Pay. Employees performing active military duty will receive compensation from the Armed Forces in accordance with the terms and conditions of their military enlistment or commission. They will not receive any compensation from their civilian employing agency unless they elect to use military leave or annual leave.

Military leave. See section on military leave.

Leave without pay (LWOP). The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) generally requires an agency to place an employee entering the military on LWOP unless the employee chooses to be placed on military leave or annual leave or the employee requests to be separated. A request for personnel action (RPA) is required for LWOP or separation.

Lump-sum leave payments. Employees may choose to have their annual leave remain to their credit until they return to their civilian position, or receive a lump-sum payment for all accrued and accumulated annual leave.

Health benefits. Employees may keep their Federal Employee Health Benefits coverage for up to 18 months. During the first 365 days they are responsible for paying the "regular" employee amount of the premium. Premiums may be paid on a current basis or employees may incur a debt to the Government and repay the premium when they return to active Federal service. During the remainder of the 18 months, employees are responsible for the full premium (employee share plus Government share). Coverage terminates at the end of 18 months. Employees get a free 31-day extension of coverage and have the right to convert to a non-group policy.

Life insurance. Employees put in a non-pay status while on military duty can keep their Federal Employees' Group Life Insurance coverage for up to 12 months. Coverage is free. Coverage terminates at the end of 12 months. Employees get a free 31-day extension of coverage and have the right to convert to a non-group policy.

Retirement. Employees placed on LWOP continue to be covered by the retirement law. Employees who choose to separate generally receive retirement credit for the period of separation when they exercise restoration rights to their civilian positions.

UPDATE #1, 14 November 2001

Return to civilian duty. An employee who enters activity military duty (voluntarily or involuntarily) from any position, including a temporary position, has full job protection provided he or she applies for reemployment within USERRA prescribed time limits. However, the period of active duty military service does not extend the period of a temporary civilian appointment beyond the ending date initially established when the employee was hired.

Uniformed Services Employment and Reemployment Rights Act (USERRA)

Basic Provisions/Requirements/Employee Rights

Service members returning from a period of service in the uniformed services must be reemployed by the pre-service employer if they meet five eligibility criteria:

- The person must have held a civilian job;
- The person must have given notice to the employer that he or she was leaving the job for service in the uniformed services unless giving notice is precluded by military necessity or otherwise impossible or unreasonable;
- The period of service must not have exceeded five years;
- The person must not have been released from service under dishonorable or other punitive conditions; and
- The person must have reported back to the civilian job in a timely manner or have submitted a timely application for reemployment.

USERRA establishes a 5-year cumulative total on military service with a single employer, with certain exceptions allowed for call-ups during emergencies, for reserve drills and annually scheduled active duty for training, etc. USERRA also allows an employee to complete an initial period of active duty that exceeds 5 years, e.g., enlistees in the Navy's nuclear power program who are required to serve 6 years. Under USERRA, restoration rights are based on the duration of military service rather than the type of military duty performed, e.g., active duty for training, inactive duty, etc. Time limits for returning to work under USERRA, with the exception of fitness-for-service examinations, depend upon the duration of a person's military service. The applicable time limits are as follows:

- Less than 31 days service: By the beginning of the first regularly scheduled work period after the end of the calendar day of duty plus time required to return home safely and an eight hour rest period. If this is impossible or unreasonable, then as soon as possible.
- 31 to 180 days: Application for reemployment must be submitted no later than 14 days after completion of a person's service. If this is impossible or unreasonable through no fault of the person, then as soon as possible.
- 181 days or more: Application for reemployment must be submitted no later than 90 days after completion of a person's military service.
- Service-connected injury or illness: Reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing.