

# Executive Summary for Administrative Officers – Overseas Employment

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## Issue

The Department of Health and Human Services (DHHS) has issued instruction that consolidates its policies for the appointment and assignment of employees outside of the United States and its territories. It establishes that the assignment of employees will be processed in accordance with 42 U.S.C. § 2421, for the purposes of advancing the status of the health sciences in the U.S. and § 207(g) of the Public Health Service (PHS) Act (42 U.S.C. 209(g), which provides the authority for Title 42 appointments. It provides guidance for determining benefits for employees and their family members stationed overseas. It also expands the maximum time limits for assignments, incorporates information about rest and recuperation, advances of pay, living quarter's allowances, locality pay, post differentials, and expands and clarifies home leave.

## Background and References

The Office of Human Resources (OHR) reviewed HHS Instruction 301-1, Overseas Employment dated March 21, 2014, in an effort to summarize the major points of the Instruction. This summary is designed to orient administrative staff within the various NIH Institutes and Centers (ICs) on the information they need to know in their role in working with overseas appointments. HHS Instruction 301-1, Overseas Employment dated March 21, 2014 supersedes the Office of Global Health Affairs (OGA) memorandum "Departmental Policy on Personnel Assignments outside the United States (U.S)," dated July 20, 2007, as well as the earlier memorandum from the Assistant Secretary for Management and Budget "Update on Procedures Related to HHS International Assignments," dated June 20, 2003 and HHS Instruction 301-1, Overseas Employment, dated November 3, 2010.

## Discussion

### Key Points

- Eligibility for overseas employment is as follows:
  - ❖ This Instruction covers all employees stationed overseas who are in the competitive service, the Senior Executive Service, and the excepted service.
  - ❖ This Instruction **does not cover** Commissioned Corps Officers, contractors, individuals serving under personal services agreements (22 U.S.C. § 2669 (c); 42 U.S.C. 2421 (b)(8), those paid under a local compensation plan (22 U.S.C. § 3968), and locally employed staff abroad [22 U.S.C. 2669(c) & (n)].

*For information and instructions for processing assignments for members of the Commissioned Corps, please see CC 23.5.2- Transfer and Reassignment of Commissioned Officers, the Joint Federal Travel Regulations (JFTR), and the HHS Travel Policy Manual.*

- Generally, positions in overseas areas are subject to civil service competitive or excepted service appointments and transfer requirements and procedures; however, there are exceptions to both Title 5 and Title 42 (refer to section 301-1-40).
- The same laws, regulations and policies contained in HHS Instructions apply to overseas positions unless otherwise specified. Provisions specifically related to overseas assignments and appointments are:
  - ❖ Differentials and Allowances as specified in the Department of State Standardized Regulations (DSSR)
  - ❖ Leave between Tours of Duty (Appointments or Assignments/Transfers)
  - ❖ Temporary closure of a duty station
- The HHS Travel Policy Manual covers payment of travel and transportation expenses to and from overseas duty stations (locations). These provisions are summarized on the reverse-side of Form HHS355A and include:
  - ❖ Payment of Travel and Transportation Expenses of New Appointee or Transferee to Overseas Duty Station
  - ❖ Payment of Return Travel and Transportation Expenses
  - ❖ Return to Place of Residence to Take Home Leave
  - ❖ Education Travel
  - ❖ Home Leave
  - ❖ Rest and Recuperation (R&R)
  - ❖ Advances of Pay
  - ❖ Locality Pay
  - ❖ Post Hardship Differential
  - ❖ Post (Cost of Living) Allowance
  - ❖ Danger Pay Allowance
  - ❖ Separate Maintenance Allowance (SMA)
  - ❖ Education Allowance
  - ❖ Service Need Differential
- Appointment requirements include (see section 301-1-130 for detailed descriptions of the following items):
  - ❖ Signed Employment Agreement (see Form HHS-355A)
  - ❖ Medical and Security Clearance
  - ❖ Completion of Department of State Security Overseas Seminar (MQ911)
  - ❖ Official or diplomatic U.S. passport
  - ❖ Completion of Travel Order (Form HHS-1)
  - ❖ Completion of Foreign Allowances Application, Grant and Report (SF 1190)
  - ❖ An official overseas cable notification must be sent to the Embassy indicating the actual arrival date in country

- The following examples may constitute curtailment of tour of duty for reasons beyond the employee's control:
  1. Serious illness of the employee or a member of the employee's immediate family for which adequate medical treatment is not available in the overseas area; or
  2. Illness or death in the employee's family that is not in the overseas area of assignment and imposes upon the employee the care of a minor child, a parent, or other family member; or
  3. Inability of the employee's immediate family to adjust to overseas living environment, causing disruption to the family; or
  4. When the employee or a family member is determined to be un-welcome to remain in the foreign country by the host government for reasons beyond the employee's control; or
  5. When curtailment is required due to safety, security, or is otherwise in the U.S. national interest.

## Additional Considerations

- Prior to making an assignment to a duty station located in a foreign country, the assignment must be coordinated with HHS/OGA.
- Prior to appointment, section 301-1-70 Overseas Tour of Duty should be consulted for guidance on a tour of duty flexibilities and limitations.
- Employees may be entitled to a Living Quarters Allowance (LQA) as outlined in section 301-1-100. The allowance entitlement varies depending whether the employee was recruited and appointed from the United States versus being recruited and appointed from Outside the Continental United States (OCONUS).
- The place of actual residence, for travel and transportation allowances in connection with curtailment or between tours of duty, is ordinarily the place where the employee was residing at the time of appointment or transfer. If an employee is hired from outside CONUS or its territories or possessions or in Puerto Rico, at the time of appointment, the employee must designate on the Form HHS-355A his/her legal residence. An alternate place of residence may not be made by the employee for personal reasons. The responsibility for making that determination is primarily an administrative one. Should a question arise within the Department concerning an overseas employee's legal residence, the question may be submitted by the approving official to the Office of the General Counsel for advice.

## Next Steps

### Recommendations

- The HHS Instruction gives the most comprehensive guidance pertaining to overseas appointments and it is recommended that the HHS Instruction be reviewed in its entirety prior to appointing an overseas employee. This executive summary is intended to highlight the major points of the Instruction. The Instruction itself can be found on the HHS.gov “Personnel Instructions” webpage:  
<http://www.hhs.gov/asa/ohr/manual/toc.html#112>

Please contact the Office of Human Resources’ Compensation and Policy Division at (301) 496-0377 for questions regarding these types of situations.