DEFENSE INFORMATION SYSTEMS AGENCY
P. O. BOX 4502
ARLINGTON, VIRGINIA 22204-4502

16 DEC 2009

IN REPLY REFER TO: Civilian Personnel Division (MPS1)

MEMORANDUM FOR DISTRIBUTION

SUBJECT: "Accrual of Annual Leave Pending the Transfer to Ft. Meade"

REFERENCE: (a) MPS1 Memorandum, "Use or Lose Annual Leave (Annual Leave Maximum Accumulations)" dated 14 July 2009

1. On 26 October 2009, we embarked on the first phase of the move to Ft. Meade by delivering the first of the Transfer of Function letters to employees who are scheduled to begin the transition to Ft. Meade in October 2010 and by reassigning an Advance Party to Ft. Meade in preparation for DISA's presence at that location. As a result of these actions, MPS1 has received a number of questions regarding how this first move of DISA employees to Ft. Meade will impact the accumulation, use, and payout of annual leave, including the accumulation and payout of BRAC restored leave.

2. Reference (a) (enclosed) provides that employees who belong to a DISA organization scheduled to move to Ft. Meade by 15 September 2011 as a result of BRAC are exempt from the normal use-or-lose provisions and will after the end of the leave year, have annual leave in excess of 240 hours automatically restored to a new leave account as a result of the BRAC exemption. Reference (a) also indicates that once the employee has transferred to Ft. Meade, the exemption ends and the employee will receive a lump sum payment for any leave accumulated in that BRAC leave account. Once the provisions of the BRAC restored leave procedures no longer apply to an employee, normal use-or-lose procedures will apply.

3. Therefore, employees who have been advised of an impending move from the National Capital Region (NCR) to Ft. Meade before the end of a leave year must make appropriate plans to either use the excess leave in their accounts, or follow the procedures in reference (a) to prevent loss of annual leave.

4. The enclosed FAQ provided by Civilian Personnel Management Service (CPMS) had been distributed to DISA employees and supervisors annually since 2006 and provides answers to most of the questions generated in response to the recent TOF and Advance Party Reassignment notifications. Also enclosed is a chart addressing DISA employee BRAC/Annual Leave scenarios.

DISA, Memo MPS1, "Accrual of Annual Leave Pending the Transfer to Ft. Meade"

Please review this information carefully and if you still have questions about BRAC restored leave, you may contact Mrs. Angela LaBacz, Employee Relations Officer (MPS12) at angela.mcdaniel@disa.mil; or you may contact your assigned Human Resources Field Advisor for assistance (list and contact information found at https://www.us.army.mil/suite/doc/13214003).

Enclosures a/s

BILLIE W. KEELER
Chief, Civilian Personnel
Division

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Break-Down of BRAC-Impacted Employment Situations and Impact on Leave

DISA-Specific Scenarios	Leave lost?	Lump Sum Payment?	Explanation:
Any employee whose Transfer of Function to Ft. Meade will occur on or about October 2010, as described in the MPS Transfer of Function notification. ----------OR---------- Any employee whose effective transfer date occurs from 3 January 2010 (the first day of the leave year) to 1 January 2011 (the last day of the leave year).	Possibly	Yes	• All leave in the employee's BRAC leave account will be paid in a lump sum after the effective date of the transfer of function or reassignment. • Any annual leave in excess of 240 hours will remain in the employees annual leave account. After the effective date of the employee's transfer, the excess leave will NO LONGER be subject to the BRAC waiver. • The employee must schedule any use-or-lose leave no later than 20 November 2010 in order to preserve the opportunity for leave restoration. (See the use-or-lose procedures provided in DISAI 220-15-55, Chapter 630, Section B, Annual Leave.) • If, on the last day of the leave year (1 January 2011), the employee still has an annual leave balance in excess of 240 hours, any annual leave in excess of 240 will be lost if the employee does not follow normal use-or-lose procedures. The leave will NOT be automatically restore under 5 USC 6304(d)(3)(A), because the employee is NOT BRAC impacted on the last day o the leave year.
Any employee whose Transfer of Function to Ft. Meade will occur on or about January 2011 or February 2011, as described in the MPS Transfer of Function notification. ----------OR---------- Any employee who is scheduled to move from the NCR to Ft. Meade from 2 January 2011 (the first day of the leave year) to 15 September 2011 (the date by which the BRAC Transfer of Functions to Ft. Meade must be complete).	Possibly		• All leave in the employee's BRAC leave account will be paid in a lump sum after the effective date of the transfer of function or reassignment. • NO annual leave accrued during the 2011 leave year will be restored through the BRAC Restored Leave waiver because BRAC coverage will end on 15 September 2011 and NO DISA employee will be BRAC-impacted on the last day of leave year 2011 (31 December 2011). • All employees must schedule leave in excess of the 240 hours (use-or-lose leave) no later thai 19 November 2011 in order to preserve the opportunity for leave restoration. (See the use-or-lose procedures provided in DISAI 220-15-55, Chapter 630, Section B, Annual Leave.) • If, on the last day of the leave year (31 December 2011), the employee still has an annual leave balance in excess of 240 hours, any annual leave in excess of 240 will be lost if the employee does not follow normal use-or-lose procedures. Annual leave in excess of 240 hours in an employees annual leave account on 31 December will NOT be automatically restored because NO DISA employee will be BRAC impacted as of 15 September 2011.
For employees reassigned to Ft. Meade as a part of the 2009 Advance Party.		Yes	• All leave in the employee's BRAC leave account will be paid in a lump sum after the effective date of the reassignment. • Any employee who had leave in excess of 240 hours in his annual leave account when transferred to Ft. Meade in 2009 will be contacted by MPS1 in the near future.

Break-Down of BRAC-Impacted Employment Situations and Impact on Leave

General Scenarios:	**Leave lost?**	**Lump Sum Payment?**	**Explanation**: See reverse for DISA specific examples.
Employee currently works for a BRAC-impacted organization, and is employed by that organization on the last day of the leave year.	No.	No	• After the end of the leave year, any leave in an employees annual leave account which is in excess of 240 hours will be lost from the employee's annual leave account. • The "lost" leave will then be automatically restored to a special BRAC leave account. The employee has to do nothing for this restoration to take place. • The leave can be used under the same procedures as annual leave. • So long as the employee remains in a BRAC impacted organization, there is no time limit on using this Restored BRAC Leave.
The employee worked for a BRAC-impacted organization at the beginning of the leave year; prior to the end of the leave year the employee transfers to NON-BRAC impacted agency. The individual is not employed by a BRAC impacted organization on the last day of the leave year.	Possibly.	Yes	• All leave in the employee's BRAC leave account will be paid in a lump sum after the effective date of the transfer of function or reassignment. • Any leave in the annual leave account will transfer with the employee to the new position. • Because the employee is NOT BRAC impacted on the last day of the leave year, any annual leave in excess of 240 will be subject to normal use-or-lose procedures if not used by the end of the leave year. • The new agency/organization may elect to restore the leave under regular leave restoration procedures if the employee meets the criteria for that type of restored leave.
The employee worked for a BRAC-impacted organization at the beginning of the leave year; prior to the end of the leave year the employee transfers to another BRAC impacted agency. The individual is employed by a BRAC impacted organization on the last day of the leave year.	No	No	• After the end of the leave year, any leave in an employees annual leave account which is in excess of 240 hours will be lost from the employee's annual leave account. • The "lost" leave will then be automatically restored to a special BRAC leave account. The employee has to do nothing for this restoration to take place. • The leave can be used under the same procedures as annual leave. • So long as the employee remains in a BRAC impacted organization, there is no time limit on using this Restored BRAC Leave.
Employee works for a BRAC effected organization. The employee retires or leaves federal service. (It does not matter when during the leave year he retires or resigns).	No.	Yes.	• All annual leave (including that in excess of 240 and BRAC restored leave) will be paid in a lump sum.

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IN REPLY REFER TO Civilian Personnel Division (MPS 1)

14 JUL2009

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Use or Lose Annual Leave (Annual Leave Maximum Accumulations)

References: (a) 5 U.S.e. § 6304
(b) 5 CFR (Code of Federal Regulations), Part 630, Absence and Leave
(c) DISAI 220-15-55, Chapter 630, Section B

1. Employees and supervisors are encouraged to examine annual leave balances regularly and determine whether employees have accrued leave that must be used or forfeited before the end of the leave year. It's important to pay attention to leave balances so that employees are not taken by surprise at the end of the year with lost leave. The following provides early and important information so that employees and supervisors alike can avoid lost-leave situations.

2. By references (a) through (c), most general schedule and wage grade employees may carry up to 240 hours of annual leave from one leave year to the next. Any leave over that amount is considered "use or lose" leave.

3. In order to avoid forfeiture of annual leave that exceeds the 240-hour limitation, employees are required to schedule, in writing, any use or lose annual leave no later than 22 November 2009 and use such leave before2 January 2010.

4. Exceptions exist to the 240-hour leave limitation:

a. Enclosure (1) details the exceptions to leave forfeiture.

b. Additionally, employees of activities affected by the Base Realignment and Closure Commission (BRAC) may be excepted from the 240-hour leave limitation. For DISA, these activities include: DISA organizations in the National Capital Region (NCR) and DISA employees at Ft. Monmouth, New Jersey.

c. Enclosures (2) and (3) detail the exception for those affected by BRAe.

5. Lastly, employees may donate a portion of their use or lose leave to a recipient in the DISA Leave Transfer Program by filling out OPM Form 630A, Leave Donor Application. Additional information about use or lose leave is provided on enclosure (1).

6. You may contact your assigned Human Resources Field Advisor for assistance (list and contact information found at https://www.us.army.mil/suite/doc/13214003); or you may contact Ms. Angela LaBacz, Employee Relations Officer (MPSI2) at angela.mcdaniel@disa.mil.

BILLIE W. KEELER
Chief, Civilian Personnel
Division

3 Enclosures:
1 Use or Use Leave Additional Information
2 Additional Information Regarding
Leave Restored Because of BRAC
3 Civilian Personnel Management
Service Guidance on Restored Leave
and BRAC, 30 JUN 2006

DISA Memo, MPS 1, Use or Lose Annual Leave (Annual Leave Maximum Accumulations)

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Commander, DISA USTRANSCOM (TC)
Commander, DISA CONUS (RN)

ADDITIONAL INFORMATION REGARDING LEAVE RESTORED BECAUSE OF BRAC

1. BRAC-effected employees are excepted from the "use-or-lose" process requirements identified in reference (a), (i.e. scheduling and using excess leave prior to the end of the leave year, etc.). If you are BRAC-effected, you do not have to schedule and use your leave before the end of the leave year (2 January 2010).

2. Defense Finance and Accounting Service (DFAS) has identified all BRAC-effected employees in their accounting/payroll system by geographic area. If you work in a BRAC-effected facility/activity, DFAS/payroll will automatically identify any leave, which would normally be "use or lose leave", as BRAC-restored leave and will establish a specific BRAC leave account for you.

3. There are currently no plans to send out specific notices to individuals notifying them of a BRAC leave account. The account will be identified on your Leave and Earnings Statement (LES) once DFAS/payroll determines that you had excess leave after the end of the leave year (2 January 2010 for the current leave year) and you are eligible for leave restoration under BRAC regulations. **You do not have to take any personal action in order to have your leave restored for BRAC purposes.**

4. When your leave is restored for BRAC purposes, your LES will specifically list the total of your BRAC leave balance in the leave balances block where all other leave is listed. The BRAC leave will be distinct from all other leave.

5. If, by 06 February 2009 (two pay periods after the beginning of the new leave year) you do not have a BRAC leave designation on your LES and you believe you are entitled to restored BRAC leave, please send an e-mail to: Angela LaBacz at angela.mcdaniel@disa.mil. Indicate that you expected to have restored BRAC leave and that it has not appeared on your LES; indicate the amount of leave you expected; and request an examination of your leave accounts for BRAC purposes. In order to expedite your request for someone to look into your BRAC leave issue, please type "Expected BRAC Leave" in the Subject Line.

6. A full-time employee with 416 hours or less is required to use the leave by the end of the leave year in progress two years after the date the employee is no longer BRAC-impacted. That period is extended by one leave year for each additional 208 hours of excess annual leave. (CPMS has interpreted this to mean that if DISA is somehow exempted from BRAC and is thus no longer impacted by BRAC, then employees with a BRAC leave balance will have two years to use the accrued leave.)

7. For purposes of using the leave, the code for BRAC leave in ATTAPS is "LO".

8. Conditions for lump-sum payment of unused BRAC-restored leave are covered in the following FAQ from DoD CPMS:

QUESTIONS & ANSWERS

ANNUAL LEAVE RESTORATION

AT

BASE REALIGNMENT AND CLOSURE (BRAC) CLOSING OR REALIGNMENT INSTALLATIONS OR ACTIVITIES

The Department of Defense (DoD) announced that the recommendations of the BRAC Commission went into effect on November 9, 2005. Employees assigned to DoD activities designated by the BRAC Commission for closure are entitled to have forfeited annual leave restored under section 6304(d)(3) of title 5, United States Code (U.S.C.). Employees assigned to DoD activities designated by the BRAC Commission for realignment are also entitled to have forfeited annual leave restored under 5 U.S.C. 6304(d)(3), provided that the realignment meets the definition of realignment in 10 U.S.C. 2687(e)(3) and meets the requirements of 10 U.S.C. 2687(a)(2).

Legislation

Q1. What are the pertinent parts of 5 U.S.C. 6304(d)?

A1. "5 U.S.C. 6304(d)(1) Annual leave which is lost by operation of this section because of ...(B) exigencies of the public business when the annual leave was scheduled in advance ... shall be restored to the employee.

(2) Annual leave restored under paragraph (1) of this subsection ... which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management.

(3) (A) For the purpose of this subsection, the closure of, and any realignment with respect to, an installation of the Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) during any period, and the closure of any other installation during the period beginning on October 1, 1992, and ending on December 31, 1997, shall be deemed to create an exigency of the public business and any leave that is lost by an employee of such installation by operation of this section (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with paragraph (2).

(B) For the purpose of subparagraph (a), the term realignment means a base realignment (as defined in subsection (e)(3) of section 2687 of title 10) that meets the requirements of subsection (a)(2) of such section."

Q2. Can you provide information on the references used in 5 U.S.C. 6304(d)(3)?

A2. The pertinent parts of 10 U.S.C. 2687 covering base closures and realignments are:

"(a) Notwithstanding any provision of law, no action may be taken to effect or implement—

(1) the closure of any military installation at which at least 300 civilian personnel are authorized to be employed;

(2) any realignment with respect to any military installation referred to in paragraph (1) involving a reduction by more than 1,000, or by more than 50 percent, in the number of civilian personnel authorized to be employed at such military installation at the time the Secretary of Defense or the Secretary of the military department concerned notifies the Congress under subsection (b) of the Secretary's plan to close or realign such installation...

(e) In this section...

(3) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions, but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes."

Q3. What is the definition of "military installation" that should be used in applying these regulations?

A3. The definition used should be in accordance with 10 U.S.C. 2687(e)(1), which states "The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects."

Q4. Does the closure and realignment action have to be under BRAC before 5 U.S.C. 6304(d)(3) can be applied?

A4. Yes, with the exception of closure actions that occurred between October 1, 1992, and December 31, 1997.

Intent

Q5. What does 5 U.S.C. 6304(d)(3) actually do?

A5. Section 6304(d)(3) allows automatic restoration of annual leave earned by employees assigned to installations or activities subject to BRAC. Under the normal procedures, in order to have forfeited leave restored, there must be written documentation that shows the employee scheduled use of the leave before the start of the third biweekly pay period prior to the end of the leave year. There must also be a determination by a management official that an exigency of the public business prevented the employee from using the scheduled leave.

The provisions of 5 U.S.C. 6304(d)(3) allow forfeited leave to be restored without having to consider whether it was scheduled in advance, and they stipulate that a closure or realignment under BRAC shall be deemed to create an exigency of the public business.

Coverage

Q6. Are all employees who work for an installation or activity scheduled for BRAC closure covered under 5 U.S.C. 6304(d)(3)?

A6. Yes, with the possible exception of those locations listed in the BRAC recommendations that are subject to a contingency that must be met before closure can be accomplished. In those cases, the issue of coverage under 5 U.S.C. 6304(d)(3) should be addressed to the Civilian Personnel Management Service.

Q7. Are all employees who work for an installation or activity scheduled for BRAC realignment covered under 5 U.S.C. 6304(d)(3)?

A7. No. The fact that an employee works on an installation or activity scheduled for BRAC realignment does not itself mean that the employee is covered under 5 U.S.C. 6304(d)(3). For an employee to be covered, the realignment must meet the definition of realignment in 10 U.S.C. 2687(e)(3) and meet the requirements of 10 U.S.C. 2687(a)(2).

Q8. We have employees working in an activity scheduled for BRAC closure but the installation where their activity is located is not scheduled for BRAC closure or realignment. Are employees in this activity covered?

A8. Yes. Employees working in the activity scheduled for BRAC closure are covered under 5 U.S.C. 6304(d)(3).

Q9. What about employees from a closing or realigning activity that is not relocating outside the commuting area. Are these employees covered under 5 U.S.C. 6304(d)(3)?

A9. Yes. The fact that the relocation may occur in the commuting area does not affect the determination of entitlement under 5 U.S.C. 6304(d)(3).

Q10. Does a commander have to decide, based on workload, which employees in the activity scheduled for BRAC closure or realignment are covered under 5 U.S.C. 6304(d)(3)?

A10. No.

Q11. We have SES members working in an activity scheduled for closure or realignment. Now that they are subject to forfeiture rules, would the provisions of 5 U.S.C. 6304(d)(3) apply to them?

A11. Yes.

Q12. Can non-U.S. citizen employees be covered under 5 U.S.C. 6304(d)(3)?

A12. Yes, as long as the non-U.S. citizen is covered under Subchapter I, Chapter 63 of title 5, U.S.C.

Q13. When an employee is in a non-BRAC position and is temporarily promoted or reassigned to a position in an activity that is eligible for BRAC restored leave, does that employee become eligible for BRAC restored leave?

A13. No, the permanent position of an employee gives the entitlement to BRAC restored leave, so an employee temporarily promoted or reassigned to a BRAC activity would not be eligible for BRAC restored leave.

Leave Restoration and Payment

Q14. Is BRAC restored leave placed in a special leave account?

A14. Yes. Leave in excess of the statutory maximum (normally 240 hours) is restored and is placed in a separate leave account.

Q15. What happens to active restored accounts (accounts on which the time limit for use is running) when employees become subject to 5 U.S.C. 6304(d)(3)? Is there any way to stop the clock from running on the active restored accounts?

A15. Yes. The time limits established under 5 CFR 630.306(a) and (b) are canceled for the period during which an employee is subject to 5 U.S.C. 6304(d)(3). Once the employee's coverage under 5 U.S.C. 6304(d)(3) ends, a new time limit is established for all the leave that had been restored to the employee prior to coverage under 5 U.S.C. 6304(d)(3).

Q16. What happens to leave restored under 5 U.S.C. 6304(d)(3) when an employee transfers from an installation or activity closed or realigned under BRAC to a non-BRAC installation?

A16. 5 U.S.C. 5551(c) requires the Department of Defense to pay a lump-sum payment to an employee for any unused annual leave that was restored under 5 U.S.C. 6304(d)(3) when the employee (1) transfers to a position in any other department or agency of the Federal Government or (2) moves to a position within DOD not located at an installation undergoing closure or realignment.

Q17. Is an employee covered under 5 U.S.C. 6304(d)(3) eligible for a lump-sum payment if he moves to another BRAC activity?

A17. No, because he is moving to another BRAC activity (and as long as the new activity meets the criteria in 10 U.S.C. 2687), the employee continues to be covered by the unlimited annual leave carryover provision.

Q18. When an employee in a position eligible for BRAC restored leave is temporarily promoted or reassigned to a non-BRAC position, what should happen to his/her BRAC restored leave?

A18. The permanent position of an employee gives the entitlement to BRAC restored leave, so until an employee is permanently moved to a non-BRAC position, the BRAC restored leave would stay in the employee's leave account (i.e., not be paid out).

Q19. If an employee covered by 5 U.S.C. 6304(d)(3) receives an offer from a non-BRAC activity prior to the end of the leave year, is that leave (current year) included in the lump-sum payment for annual leave restored under 5 U.S.C. 6304(d)(3)?

A19. No. Leave earned during the current leave year cannot be included in the lump-sum payment because it has not been restored under 5 U.S.C. 6304(d)(3).

Q20. What happens if an employee separates and needs to be paid out for BRAC restored leave before the process has been automated on 03/18/06?

A20. The Human Resource Office will need to authorize the restoration of the forfeited hours in DCPS and then authorize the payroll office (via a faxed SF-50 with the appropriate remark) to make a lump-sum payment for any restored leave.