



DEPARTMENT OF THE ARMY
UNITED STATES ARMY JAPAN
UNIT 45005
APO AP 96343-5005

15 DEC 2023

APAJ-PEF (690)

COMMAND POLICY 23-20

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Foreign National Displaced Employee Policy and Procedure

1. REFERENCES.

- a. Department of Defense Instruction (DODI) 1400.25, Volume 1231, Employment of Foreign Nationals, 31 July 2009.
- b. U.S. Pacific Command (USPACOM) Instruction 0201.1, Personnel Administration for U.S. Forces Foreign National (FN) Civilian Employees in U.S. Pacific Command (USPACOM) Foreign Areas, 24 August 2005.
- c. United States Forces Japan (USFJ) Instruction, 36-502, 9 August 2017.
- d. Master Labor Contract (MLC), DA-92-577-FEC-28000, 1 October 1957.
- e. Mariners Contract (MC), DA-92-557-29000, 20 January 1972.
- f. Indirect Hire Agreement (IHA), DA-92-557-FEC-29000, 25 January 1972.

2. RECORDS MANAGEMENT. All records created as a result of this policy will be managed in accordance with AR 25-400-2, Army Records Management Program and the USARPAC Records Management Program Policy Memorandum #23-01.

3. PURPOSE. To establish the Foreign National (FN) displaced employee policy. This policy will provide permanent FNs with stability in employment by placing incumbents into a permanent position commensurate with their qualifications, knowledge, skills and abilities (KSAs).

4. APPLICABILITY. This policy applies to all United States Army Japan (USARJ) staff directorates, subordinate commands, assigned, attached units, other units, and activities for which the Army is their Executive Agent, to include all Army activities within the USARJ area of responsibility employing FN employees. For the purpose of this policy, FN employees become displaced when:

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a. Priority 1 (Priority Placement). An encumbered position is identified for abolishment as a result of management actions, such as transformation, realignments, reconfiguration of organizational structures, mission changes, elimination and transfers outside the commuting area, funding restrictions, manpower study determinations, or other similar actions.

b. Priority 2 (Directed Placement). The employee fails to meet minimum job requirements, such as unsatisfactory performance, disqualification from the position, failure to meet conditions of employment, or need to be placed to a different position/location for other reasons as determined by the Contracting Officer Representative (COR) or the Contracting Officer Representative for Appeals (CORA).

5. POLICY. Effective immediately, an FN employee who is displaced as stated in paragraph 3 above will be provided a placement opportunity to vacant FN positions in their order of priority in paragraph 3 above and in accordance with the procedures set below:

a. Vacant permanent positions will be used to place FN employees displaced under paragraph 3 above, who is determined to be qualified in the order of their priority. No position will be announced unless it is validated that there is no qualified candidate available out of the displaced employees.

b. Commanders and supervisors will comply with this policy, cooperate and accept placement unless there is a mission related reason that prevents placement of the subject displaced employee. Justifications for non-acceptance of a displaced employee must address specifically the mission related reason. Activity specific or activity unique knowledge required by an organization that may be learned through training and experience is not a valid reason for passing over a displaced employee. Management actions with intent to avoid placement such as changing the duties, grade, location of the vacant position, or delaying recruit actions are considered a violation of this policy.

6. RESPONSIBILITIES.

a. The G1, Civilian Personnel Management Division, Foreign Labor Office has the overall responsibility in overseeing the displaced employee program to include providing policy guidance to the servicing Japanese Employment Services Office (JESO) and periodic evaluation of the program for policy and contract compliance. The Civilian Personnel Director will --

(1) Ensures that a periodic evaluation of this program is initiated to certify policy and contract compliance.

(2) Provide overall direction in accordance with this policy to include ordering an investigation on non-compliance and taking appropriate corrective actions.

(3) Make adjustments to the policy as necessary based on trends and changes to the negotiated contracts and agreement.

b. The servicing JESOs are responsible for day-to-day management and administration of the placement program to include providing expert advice to Commanders, Directors, and Supervisors on placement program policies and assistance to displaced employees. Servicing JESO will --

(1) Manage registration of displaced employees into the program and maintain the list of displaced employees.

(2) Review all vacant positions and determine if there is a qualified match from the list of displaced employee. If there is more than one qualified displaced employee under the same priority, both employees will be referred in the order of their length of service.

(3) Clear selections with the displaced list of employees prior to making an offer.

(4) Review and make initial determination on non-acceptance based on this policy. For disputes, procedures in paragraph 7e will apply.

(5) Maintain updated copies of displaced employee's resume and related documents, as necessary.

(6) Ensure that background checks, physical requirements, and other job requirements are met prior extending an offer to displaced employees.

(7) When required by the contract, ensure that employee's consent is obtained.

c. Commanders, Directors and Supervisors will --

(1) Cooperate and comply with this policy to ensure that displaced employees are considered based on their qualifications and KSAs.

(2) Prepare a justification for non-acceptance of placement of a qualified displaced employee and a specific mission related reason as to why placement may not be accepted stating the impact to the specific mission if placement is accepted.

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(3) Not deny placement for non-mission related reasons.

7. DEFINITIONS.

a. Displaced Employee. A permanent FN employee who is affected by one or more of the actions stated in paragraph 3 of this policy.

b. Commuting Area. The area within which an employee can be reasonably expected to commute daily between their permanent residence and duty station. The normal commuting distance is approximately 2 hours from the employee's residence and official duty station.

c. Creditable Length of Service. Creditable length of unbroken employment as defined in the contracts and agreements.

d. Priority. Priority will be given to displaced employees in the following order:

(1) Priority 1. Incumbents of positions identified for displacement actions as defined in paragraph 3a.

(2) Priority 2. Incumbents of positions identified for displacement for reasons identified in paragraph 3b.

e. Valid Offer. An offer of a permanent position that is same or equivalent to the former position held prior for which the displaced employee qualifies. An offer is also considered valid when the displaced employee voluntarily requests consideration for positions lower than the former position for which the employee qualifies. Positions of a higher grade or equivalent to a higher grade will not be offered to displaced employees.

f. Qualified Employee. A displaced permanent employee who possesses the KSAs and qualifications to successfully perform the duties of the position.

8. PROCEDURES. The displaced employee policy will be maintained at the component level to ensure consistency of application and compliance throughout the United States Army in Japan.

a. Priority List. Displaced employees (both priority 1 and 2) will be pooled in one consolidated list called the Displaced Employee Placement Register (DEPR). Eligible employees will be placed in the order of their priority and their length of creditable service in accordance with the negotiated contracts and agreement.

b. Registration for Displaced Employee Placement Program.

(1) Priority 1. Displaced employees under paragraph 3a of this policy are required to immediately schedule a counseling with JESO to register for placement under this program. Employing activity management are responsible for ensuring that the subject employees are provided time to receive counseling and register to this program immediately upon issuance of a notice of an action under paragraph 3a above.

(a) Limitations. Priority 1 employee who occupies a one-of-a-kind position will be advised that a similar position does not exist; therefore, other types of positions must be considered for placement. JESO will provide counseling and will assist in determining positions that match the employee's qualifications and KSAs.

(b) Highest Grade. Priority 1 employee may register up to the grade equivalent to the current permanent position. An eligible employee may compete for a higher graded position without losing eligibility for the displaced employee program. However, eligibility ceases on the effective date of placement to a position.

(c) Saved Pay Eligibility. When a Priority 1 employee is offered a lower grade or a different BWT permanent position for which the employee qualifies, saved pay provisions will apply.

(d) Period of Placement. Period of placement and funding availability will vary based on the nature of the management action, where the action is generated, whether internal or external, or whether the change in mission or transfer of mission is to within or outside the commuting area, thus, placement should immediately begin and not be delayed.

(2) Priority 2. Placement of employees under paragraph 3b are directive in nature as required by the negotiated labor contracts and agreement, thus, the COR is the sole authority in determining suitability for the type of position and duties, contacts, etc. depending on the nature of displacement and the negotiated action. Upon receipt of a determination from the COR, the subject employee will be screened by JESO for qualification against available vacant positions based on the nature of displacement and employment records history. Upon identifying positions that are appropriate for the placement and determination that the subject employee qualifies for a vacant available position, the activity that owns the vacancy is informed of the placement. Upon coordination of the reporting date, management is provided with the employee information and the employee reports for work on the effective date.

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c. Loss of Eligibility. Eligibility for DEPR ceases when one of the following actions occurs:

(1) The employee is placed into a position voluntarily or by management/COR-directed action within the United States Armed Forces, Japan.

(2) The employee declines a valid offer as defined in paragraph 6e above.

(3) The employee resigns, is separated, or is terminated.

(4) The employee voluntarily requests to be removed from DEPR in writing.
(Priority 1 only)

(5) The employee chose RIF benefits. (Priority 1 only)

(6) The employee becomes unavailable to report for work due to a physical condition. Employee may register back when approved for work by a medical authority and may be subject to a fitness for duty evaluation.

(7) The employee's performance and/or conduct become less than satisfactory. When there is a pending disciplinary action, the employee remains ineligible until a corrective action is taken and the losing organization assures that the employee has demonstrated a satisfactory performance.

d. Recruitment Requests and Referral. JESO will review all recruitment requests to determine if placement of a displaced employee may be made. Positions that have entry level grade will be matched at the full performance grade level. Eligible employees must be qualified to be placed into a prospective vacant position. If there is more than one qualified eligible displaced employee under the same priority, the employee will be referred in the order of their length of service.

e. Justification for Non-acceptance. Justification for non-acceptance of a displaced employee will be submitted to the servicing JESO for determination. Placement acceptance disputes will be sent through the servicing JESO to the COR for final determination.

f. Position Requirements. If the position requires completion of background or physical check, the employee will be given a chance to obtain or complete the requirements. If the employee is unable to obtain/maintain the requirements, the employee will be placed back on to the DEPR to be matched against other vacancies.

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g. Qualification. Employees must be qualified to be placed into a prospective vacant position. Please see paragraph 4b above.

h. Limited Term Employment (LTE). LTE offers will not be made to displaced eligible employees.

i. Detail. Displaced employees may be "detailed" not to exceed 1 year to a position for which they have the qualifications and KSAs to fulfill a temporary need.

9. The point of contact for this policy and guidance is the USARJ, ACS, G-1, CPMD, Foreign Labor Office at 262-8055.


DAVID B. WOMACK
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Commanding

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