

LINDA LINGLE
GOVERNOR



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DEPARTMENT OF DEFENSE
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HIHRO-M

9 July 2004

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: 22-Day Military Law Enforcement Leave (LEL) for Mobilized Federal Civilians

1. Section 1113 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136) was amended to allow members of the Reserves or National Guard, who are called or ordered to active duty in support of a contingency operation as defined in 10 USC 101(a)(13), the use of the 22 days (176 hours) of Law Enforcement Leave (LEL) they accrue each *calendar* year. The amendment was effective 24 November 2003 and applies to leave taken on or after that date.

2. The 22-Day LEL is in addition to the 120 hours of regular military leave that a technician, serving under a permanent or indefinite appointment, accrues each *fiscal* year. Unlike regular military leave, when using the 22-Day LEL, you are entitled to the greater of your civilian or military pay, but not both. The gross amount of your military pay (less any travel, transportation, or per diem allowances) received for any day(s), not to exceed 22-days per calendar year, must be deducted from your civilian compensation received for this excused period. However, if the military pay is greater than the civilian pay, you will be able to keep that portion of the military pay that exceeds the civilian pay.

3. The following guidelines are provided when electing to use the 22-Day LEL:

a. The 22-Day LEL is available for use at the beginning of each calendar year. There is no pro-ration for a partial year and no carry over of unused LEL to the following calendar year. Exception: Technicians who were serving on active duty in support of a contingency operation between 24 November 2003 and 31 December 2003 are entitled to use the 22-days of LEL from calendar year 2003 to cover that period. Any civilian pay for this period due to corrected time and attendance records will be reflected on the technician's IRS Form W-2 for 2004.

b. The 22-Day LEL should be taken in whole workdays and in continuous pay periods. The leave is charged based on technician's work schedule (5/8, 5-4/9, etc). The Comptroller General has stated that, when LEL is elected, it must be taken before other forms of leave such as annual or regular military leave. There is no charged against the 22-Day LEL for weekends, holidays, and regular days off; the technician will retain the military pay received for these days.

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c. Technicians on uncommon tours of duty accrue the 22-Day LEL based proportionally on the number of hours in their regularly scheduled biweekly pay period. The Defense Civilian Pay System (DCPS) provides the following table:

Hours in the regularly scheduled biweekly pay period	Ratio of hours in the regularly scheduled pay period to an 80-hour pay period (the number of hours in the pay period/80)	Hours of contingency operations/law enforcement leave accrued each calendar year (Rounded to nearest hour)	Pay period of contingency operations/law enforcement leave accrued each calendar year
40	.5 (40/80)	.5 X 176 = 88 hours	2.2 40-hour pay periods
96	1.2 (96/80)	1.2 X 176 = 211 hours	2.2 96-hour pay periods
106	1.325 (106/80)	1.325 X 176 = 233 hours	2.2 106-hour pay periods
112	1.4 (112/80)	1.4 X 176 = 246 hours	2.2 112-hour pay periods
120	1.5 (120/80)	1.5 X 176 = 264 hours	2.2 120-hour pay periods
144	1.8 (144/80)	1.8 X 176 = 317 hours	2.2 144-hour pay periods

d. If you elect to use the 22-Day LEL, you must provide the following documents to your Customer Service Representative (CSR)--**USPFO/Payroll (733-4333) or 154 WG/FM (448-7486)**--

- (1) Copy of the active duty orders reflecting the contingency operation.
- (2) Military Leave and Earnings Statement (LES) covering the same pay periods that the 22-Day LEL is being used for.
- (3) If you are just activated and military LES is not yet available, provide the CSR with an estimate of your military entitlements. When the military LES is available, it must be forwarded to the CSR for verification.

If all information is not received by the CSR, then the 22-Day LEL will not be input into the pay system until all documentation is received. All monthly military compensation will be included in the calculation of military pay. This includes but is not limited to basic pay, basic allowance for housing, basic allowance for subsistence, family separation allowance, imminent danger pay, hardship duty pay, sea duty pay, flight pay, hazardous duty incentive pay, and monthly medical pays. It is your responsibility to ensure that documentation on any military pay entitlements, which are paid retroactively for the period of leave requested, be provided to the CSR as soon as possible. The above documents in combination with civilian payroll records will become the basis for pay comparisons.

e. Once the CSR receives all your documentation, they will review and complete an "Offset Worksheet for Contingency Operations/Law Enforcement Military Leave" to determine the amount of your indebtedness. The information will then be forwarded to the applicable payroll office--Denver DFAS (Army) or Pensacola DFAS (Air).

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(1) If military pay is more than civilian pay, you will be able to keep your military pay and you will be indebted for the amount of the civilian pay. Repayment will be made to the applicable DFAS payroll office by cash collection or payroll withholding.

(2) If civilian pay is more than military pay, you will be able to keep the difference. The amount of the military pay will be collected from your civilian pay. Repayment will be made to the applicable DFAS payroll office by cash collection or payroll withholding.

4. Be advised that the 22-Day LEL is also authorized for use when technicians are order to active duty (State or Federal) for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life and property or the prevention of injury. Duty maybe required due to fires, tornadoes, hurricanes, floods, droughts and riots.

FOR THE ADJUTANT GENERAL:



KEITH H. TANOUYE
LTC, AG, HIARNG
Human Resources Officer

DISTRIBUTION:

A

CF:

USPFO/Payroll
154 WG/FM