



UNDER SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

APR 11 2011

PERSONNEL AND
READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
COMMANDERS OF THE COMBATANT COMMANDS
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF
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DIRECTOR, OPERATIONAL TEST AND EVALUATION
DIRECTOR, COST ASSESSMENT AND PROGRAM
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INSPECTOR GENERAL OF THE DEPARTMENT OF
DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Increased Annual Pay Limitations

Eligible Department of Defense (DoD) employees are authorized an increase to the calendar year 2011 premium pay limitations, as defined by the provisions of section 5547 of title 5, United States Code (U.S.C.), if they perform work in direct support of, or directly related to, a military operation, including a contingency operation or an operation in response to an emergency declared by the President. Eligible employees are those assigned to an overseas area of responsibility of the Commander of the U.S. Central Command (CENTCOM) or an overseas location that has been moved from the U.S. CENTCOM area of responsibility to the area of responsibility of the Commander of the U.S. Africa Command (Appendix A of the attached document). Employees covered by the National Security Personnel System (NSPS) are also authorized this increase. In addition, by agreement with the Under Secretary of Defense for Intelligence (USD(I)), this increase is administratively extended to employees covered by the Defense Civilian Intelligence Personnel System (DCIPS) who meet the criteria above.

Effective January 1, 2011, section 1103 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383, January 7, 2011), extends to calendar year 2011 the authority provided in section 1101(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417, October 14, 2008), as amended by section 1106 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84, October 28, 2009), for waiver of the premium pay cap provisions under

section 5547 of title 5, United States Code, or similar provisions. This change authorizes the Secretary of Defense to continue to waive, in calendar year 2011, the annual premium pay limitations for employees up to the annual rate of salary payable to the vice President pursuant to section 104 of title 3, United States Code, which is \$230,700 for calendar year 2011

In addition, subsection 1101(b) continues to apply and provides that the aggregate limitation on pay under section 5307 of title 5, U.S.C. will not apply to an employee in calendar year 2011 if the employee is granted a waiver under subsection 1101(a) of the normally applicable premium pay limitations. Subsection 1101(c) also continues to apply and provides that any payments made under the subsection 1101(a) waiver authority resulting in additional premium pay of a type normally creditable as basic pay will not be considered basic pay for any purpose (e.g., retirement). Further, such additional premium pay may not be used in computing lump-sum payments for accumulated and accrued annual leave under section 5551 of title 5, U.S.C.

For 2011 this waiver applies to non-NSPS employees, NSPS employees, and, by agreement with the USD(I), to DCIPS employees. The attached guidance, initially distributed for the increased limitation for CY 2010, remains in effect, and has been updated to reflect the changes applicable in CY 2011.

Questions may be addressed to Mr. Seth Shulman, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), at seth.shulman@osd.mil or 703-571-9289.



Clifford L. Stanley

Attachment:
As stated

**2011 Annual Limitation of Premium Pay and Aggregate Waiver Provisions
United States Central Command Area of Responsibility for Employees
Covered by 5 U.S.C. §§ 5547 and 5307; 5 C.F.R. §§ 9901.362 and 9901.313;
and 10 U.S.C. §§ 1601-1614**

Premium Pay Waiver

Section 1101(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4615), as amended by section 1106(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2487), is further amended by striking “calendar years 2009 and 2010” and inserting “calendar years 2009 through 2011”. It authorizes, effective January 1, 2011, the Secretary of Defense to waive the annual premium pay limitation resulting from 5 U.S.C. § 5547 or a similar limitation otherwise established for employees up to the annual rate of the salary payable to the Vice President pursuant to 3 U.S.C. § 104, which is \$230,700 for calendar year 2011. This waiver authority applies to DoD employees who (1) perform work while in an overseas location that is in the area of responsibility of the Commander of the United States Central Command (US CENTCOM) or an overseas location that was formerly in the area of responsibility of the US CENTCOM Commander but has been moved to the area of responsibility of the Commander of the United States Africa Command (US AFRICOM); (2) are subject to the provisions of 5 U.S.C. § 5547 or a similar limitation otherwise established; (3) are assigned to an overseas location in the US CENTCOM or the US AFRICOM areas of responsibility specified at Appendix A for at least 42 consecutive calendar days; and (4) perform work in direct support of, or directly related to the response to a national emergency declared by the President or a military operation, including a contingency operation as defined in 10 U.S.C. § 101(a)(3).

By agreement with the Under Secretary of Defense for Intelligence (USD(I)), the annual premium pay cap for employees under the Defense Civilian Intelligence Personnel System (DCIPS) is waived up to the annual rate of the salary payable to the Vice President pursuant to 3 U.S.C. § 104, which is \$230,700 for calendar year 2011. This waiver authority applies to DoD employees covered by DCIPS who meet the four specified criteria described in the paragraph above. In addition, pursuant to 5 C.F.R. § 9901.362(a), for employees covered by the National Security Personnel System (NSPS) the annual premium pay cap is waived for NSPS employees who meet the four specified criteria described in the first paragraph above.

For all covered employees, the increased annual premium pay limitation was effective on January 1, 2011, and applies to premium payments payable to an eligible employee during the 2011 calendar year.

Employees may be paid premium pay only to the extent that the payment does not cause the total of his or her basic pay and premium pay payable in the 2011 calendar year to

exceed \$230,700. Premium payments earned before an employee is assigned to the US CENTCOM or the US AFRICOM areas of responsibility specified at Appendix A are not covered by the increased premium pay cap but will be counted toward the \$230,700 limitation if paid during the 2011 calendar year.

Employees assigned to Iraq and/or Afghanistan for at least 42 days are deemed to meet the eligibility requirements for the increased premium pay cap. Determinations about whether employees in other US CENTCOM or US AFRICOM overseas areas of responsibility (Appendix A) perform work that meets the fourth eligibility criterion described in the first paragraph above, i.e., whether the employee is performing work in direct support of, or directly related to the response to a national emergency declared by the President or a military operation, including a contingency operation as defined in 10 U.S.C. 101(a)(13), must be made on a case-by-case basis.

Secretaries of the Military Departments and the Heads of Defense Agencies and DoD Field Activities with independent appointing authority on behalf of themselves and their serviced populations are hereby delegated the authority to determine when employees, other than employees assigned to Iraq and/or Afghanistan, meet the eligibility criteria. This authority may be further delegated, in writing, to managerial and supervisory levels deemed appropriate.

For employees who were serving in the area on January 1, 2011, the 42 consecutive days may include days served in 2010. The 42 consecutive days also may include days served in 2012, although the higher annual pay limitation addressed in this policy will apply only to premium pay payable in 2011.

Aggregate Pay

Pursuant to Section 1101(b) of the Duncan Hunter NDAA for Fiscal Year 2009, amended as noted above, the calendar year 2011 aggregate pay limitation for total annual compensation (\$199,700) does not apply to employees covered by 5 U.S.C. § 5307, or similar limitation (such as 5 CFR § 9901.313), for whom the annual premium pay cap is waived under this policy. These employees are limited to base pay and premium pay payable in 2011 not to exceed \$230,700 but all other compensation that normally would be subject to the aggregate pay cap in 5 U.S.C. § 5307, or similar limitation (such as 5 CFR § 9901.313), will be paid as it is earned. By agreement with the USD(I), this aggregate pay limitation waiver also applies in the same manner to employees covered by DCIPS.

Additional Guidance

When an eligible employee (including an employee covered by NSPS or DCIPS) no longer performs work in support of a declared emergency or a covered military operation or when the employee is reassigned to a position outside the covered geographic area of responsibility, the employee will be subject to the biweekly limitation for that position and location as established by 5 U.S.C. § 5547, 5 CFR § 9901.362, or under 10 U.S.C. §§ 1601-1603, as applicable.

The higher annual limitation on premium pay established under section 1101 of Public Law No. 110-417, as amended by 1106(a) of Public Law No. 111-84, and, for NSPS and DCIPS employees by this policy, will apply during calendar year 2011 to an employee's annual basic pay plus premium pay even after the employee has stopped performing work covered by section 1101 of Public Law No. 110-417, as amended by 1106(a) of Public Law No. 111-84 and this policy. After an employee stops performing covered work, the employee's earnings again will be subject to the biweekly premium pay limitation under 5 U.S.C. § 5547, 10 U.S.C. §§ 1601-1603, or 5 CFR § 9901.362(a)(I), as applicable. Employees still could receive premium payments up to the biweekly premium pay limitation each pay period until the \$230,700 annual premium pay limitation under section 1101(a) of Public Law No. 110-417, or this policy, as applicable, is reached.

If an employee's premium pay limitation is increased to \$230,700 and, at the end of calendar year 2011, the employee did not meet the eligibility criteria, the employee must reimburse the Department for premium payments made in excess of the applicable limitation. The debt collection process for continuing employees is outlined in DoD 7000.14-R, Department of Defense Financial Management Regulation (DoDFMR), Volume 8, and the debt collection process for debtors no longer in government service is found in DoDFMR, Volume 5.

To the extent that a waiver results in payment of additional premium pay of a type that is normally credited as basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under 5 U.S.C. § 5551.

Time and attendance and electronic personnel and payroll procedures established in 2009 remain essentially the same. Those procedures will be modified, however, to support waiver of the aggregate limitation on pay employees covered by NSPS. Timekeepers should continue to provide the Defense Finance and Accounting Service (DFAS) with the necessary data on employees who are projected to work in a covered overseas location for a period of at least 42 consecutive days.

Authorized management officials should ensure personnel records are established in the Defense Civilian Personnel Data System (or equivalent) and DFAS is provided the required data even if the employee has left the overseas location prior to the issuance date of this policy. Authorized management officials also must update personnel records when an employee departs the area prior to meeting the 42 day eligibility criterion.

DEFINITION OF TERMS

Aggregate Pay Limitation. The maximum amount of an employee's total calendar year payable income as specified in 5 U.S.C. § 5307, 5 CFR §9901.313(b), or similar pursuant to 10 U.S.C. §§ 1601-1603, as applicable.

Annual Premium Pay Limitation. The maximum amount of basic pay and premium pay payable in a calendar year to an employee as specified in 5 U.S.C. §5547(a), 5 CFR § 9901.362(a), or similar pursuant 10 U.S.C. §§ 1601-1603, as applicable.

Area of Responsibility. The geographic area associated with a combatant command within which a combatant commander has authority to plan and conduct operations.

Contingency Operation. As defined in 10 U.S.C. § 101(a)(13), a military operation that is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing force; or results in the call or order to, or retention on, active duty of members of the uniformed services under 10 U.S.C. §§ 331-335, 688, 12301(a), 12302, 12304, 12305, 12406, or any other provision of law during a war or during a national emergency declared by the President or Congress.

Declared Emergency. A condition declared by the President or the Congress by virtue of powers previously vested in them that authorize certain emergency actions to be undertaken in the national interest. Action to be taken may include partial, full, or total mobilization of national resources.

Military Operations. Operations that encompass the use of military capabilities across the range of military operations. These military actions can be applied to complement any combination of the other instruments of national power and occur before, during, and after war.

Premium Pay. Premium pay subject to the annual premium pay limitation is the dollar value of earned hours of compensatory time off and additional pay authorized for overtime, night, Sunday, or holiday work; or for standby duty, administratively uncontrollable overtime work, or availability duty. It excludes overtime pay paid to employees under the Fair Labor Standards Act and compensatory time off earned in lieu of such overtime pay.

COUNTRIES IN CENTCOM OVERSEAS AREA OF RESPONSIBILITY

- 1. Afghanistan**
- 2. Bahrain**
- 3. Egypt**
- 4. Iran**
- 5. Iraq**
- 6. Jordan**
- 7. Kazakhstan**
- 8. Kuwait**
- 9. Kyrgyzstan**
- 10. Lebanon**
- 11. Oman**
- 12. Pakistan**
- 13. Qatar**
- 14. Saudi Arabia**
- 15. Syria**
- 16. Tajikistan**
- 17. Turkmenistan**
- 18. United Arab Emirates**
- 19. Uzbekistan**
- 20. Yemen**

COUNTRIES IN AFRICOM OVERSEAS AREA OF RESPONSIBILITY
(Formerly in US CENTCOM Overseas Area of Responsibility)

- 1. Djibouti**
- 2. Eritrea**
- 3. Ethiopia**
- 4. Kenya**
- 5. Seychelles**
- 6. Somalia**
- 7. Sudan**

03/03/2011
CPM 2011-03

The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

From: John Berry
Director

Subject: Recent Pay-Related Legislative Changes

This is to inform you of several changes in Federal employee pay administration resulting from the enactment of the Ike Skelton National Defense Authorization Act for FY 2011 (Public Law 111-383, January 7, 2011) (hereafter referred to as "the Act"). All of the sections identified below are effective on the date of enactment of the Act (January 7, 2011), unless otherwise stated.

Sections 601 and 611 – Reservist Income Replacement Program and Relationship to Reservist Differential Program

Sections 601 and 611 amend the Reserve Income Replacement Program authority under 37 U.S.C. 910. The Reserve Income Replacement Program is administered by the Department of Defense and provides income replacement payments for certain reserve component members experiencing extended and frequent mobilization for active duty service.

Subsection 601(a) amends 37 U.S.C. 910(b) to clarify that a civilian employee of the Federal Government who is also a member of a reserve component is not entitled to a payment under section 910(b) for any period for which the employee is entitled to (1) a reservist differential payment under 5 U.S.C. 5538, or (2) a comparable benefit under an administratively established program for civilian employees absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services.

Subsection 611(7) amends 37 U.S.C. 910(g) to extend the expiration date for the Reserve Income Replacement Program from December 31, 2010 to December 31, 2011.

Section 1103 – 1-year Extension of Authority to Waive Pay Limitations for Certain Federal Civilian Employees Working Overseas

Effective January 1, 2011, section 1103 extends to calendar year 2011 the authority provided in section 1101(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year

2009 (Public Law 110-417, October 14, 2008), as amended by section 1106 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84, October 28, 2009), for the head of an agency to waive the premium pay cap provisions under 5 U.S.C. 5547.

As in calendar years 2009 and 2010, this waiver authority in 2011 applies to certain civilian employees who perform work while in an overseas location that (1) is in the area of responsibility of the United States Central Command (CENTCOM) or (2) was formerly in the CENTCOM area of responsibility but has been moved to the area of responsibility of the Commander of the United States Africa Command (AFRICOM). The overseas work must meet one of two additional qualifying conditions: (1) performance of work in direct support of or directly related to a military operation (including a contingency operation as defined in 10 U.S.C. 101(a)(13)), or (2) performance of work in direct support of or directly related to an operation in response to an emergency declared by the President.

The annual limitation on basic pay and premium pay allowed under the waiver authority remains at **\$230,700** in **calendar year 2011** (the annual rate of salary payable to the Vice President under 3 U.S.C. 104). Subsection 1101(b) continues to provide the aggregate limitation on pay under 5 U.S.C. 5307 will not apply to an employee in calendar year 2011 if the employee is granted a waiver under subsection 1101(a) of the normally applicable premium pay limitations.

Subsection 1101(c) also continues to apply and provides that any payments made under the subsection 1101(a) waiver authority resulting in additional premium pay of a type normally creditable as basic pay will not be considered basic pay for any purpose (e.g., retirement). Also, such additional premium pay may not be used in computing lump-sum payments for accumulated and accrued annual leave under 5 U.S.C. 5551.

Subsection 1101(d) continues to provide the Director of U.S. Office of Personnel Management (OPM) with the discretion to issue regulations for this waiver authority. OPM does not currently plan to issue regulations. However, each agency should establish policies for using this waiver authority if it has covered employees. To ensure agencies apply this discretionary authority consistently, we have developed a summary of key elements agencies should include in their policies implementing the waiver authority. (See Attachment.)

Section 1105 – Rate of Overtime Pay for Department of the Navy Employees Performing Work to Support the Nuclear Aircraft Carrier Forward Deployed in Japan

Subsection 1105(a) amends 5 U.S.C. 5542(a) by adding a new paragraph (6)(A) to provide the overtime hourly rate of pay for a qualifying employee of the Department of the Navy is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay. This provision applies only to an employee who (1) is assigned to temporary duty to perform work aboard, or dockside in direct support of, the nuclear aircraft carrier that is forward deployed in Japan and (2) would be nonexempt under the Fair Labor Standards Act but for the application of the foreign area exemption in 29

U.S.C. 213(f).

This authority will expire on September 30, 2014.

Not later than September 30, 2013, the Secretary of the Navy is required to submit to the Secretary of Defense and the Director of OPM a report that describes the use of this new authority, to include associated costs and an evaluation of the extent to which the exercise of the authority helped the Navy meet its mission, and provides a recommendation on whether an extension of the authority is needed.

Not later than March 31, 2014, OPM is required to submit a report to Congress that evaluates the use of this temporary authority and analyzes the possibility of extending the expiration date of the authority and of expanding the authority to cover other employees.

Additional Information

For additional information, agency Chief Human Capital Officers and/or Human Resources Directors should contact their assigned OPM Human Capital Officer. Employees should contact their agency human resources office for assistance.

Attachment

cc: Chief Human Capital Officers

Human Resources Directors

Attachment

Summary of Key Necessary Elements in Agency Policies Implementing Section 1101 of Public Law 110-417, as Amended, for Calendar Year 2011

- Section 1103 of Public Law 111-383, January 7, 2011, extends to calendar year 2011 the previous authority of section 1101 of Public Law 110-417, October 14, 2008, as amended by section 1106 of Public Law 110-84, October 28, 2009.
- The premium pay cap waiver authority under section 1101 of Public Law 110-417, as amended, may be applied in calendar years 2009 through 2011 to an employee who meets all of the following conditions for coverage eligibility:
 1. The employee is covered by 5 U.S.C. 5547 (dealing with limitations on premium pay) or a limitation on premium pay similar to one set forth in section 5547 of title 5, United States Code (as determined by the head of the Executive agency in or under which such employees are employed).
 2. The employee is assigned to work in an overseas location that (1) is in the area of responsibility of the Commander of the U.S. Central Command

(CENTCOM) or (2) was formerly in the CENTCOM area of responsibility but has been moved to the area of responsibility of the Commander of the United States Africa Command (AFRICOM) and remains in that location for at least 42 consecutive calendar days (unless an authorized agency official grants a waiver of the 42-day requirement in very limited circumstances). (If the employee meets the 42-day requirement, the section 1106 limitation may be applied to days before that requirement was satisfied, as long as the employee was performing work in a covered and approved category on those days. Although section 1106 applies only to payments payable in calendar year 2011, the 42-day period may overlap a calendar year—i.e., begins in 2010 and ends in 2011, or begins in 2011 and ends in 2012.)

3. The employee performs work in direct support of, or directly related to, (1) a military operation (including a contingency operation, as defined in 10 U.S.C. 101(a)(13)) or (2) an operation in response to an emergency declared by the President. (“Military operation” is a Department of Defense (DOD) term of art, defined in the DOD Dictionary of Military and Associated Terms.) Prior to authorizing any premium pay cap waiver under section 1106 on the basis of a military operation, an agency must confirm any DOD operation in countries in which such a waiver is being considered meets the DOD definition. (Note: The State Department and DOD have determined all their employees serving in Iraq and Afghanistan are performing work in direct support of, or directly related to, a military operation. In other locations, they will make determinations on a case-by-case basis.)
 4. The employee is in a category of employees for whom coverage under section 1106 has been approved by an authorized agency official. (Note: Section 1106 establishes a discretionary authority that agencies may exercise, not an entitlement.)
- Employees who are granted a waiver under section 1101 in calendar year 2011 will be covered by a higher annual premium pay cap in lieu of the normal biweekly and annual premium pay caps under 5 U.S.C. 5547. The employee will be entitled to premium payments identified in 5 U.S.C. 5547(a), or similar limitation, to the extent it does not cause the employee’s combined payable amount of basic pay and premium pay for calendar year 2011 to exceed the annual rate of salary payable to the Vice President under 3 U.S.C. 104, which **remains at the 2010 level of \$230,700**. (Like the section 5547 limitation, the section 1101 limitation is applied to premium payments that are “payable” during the calendar year—i.e., earned in a pay period for which the pay date falls in the calendar year.)
 - The higher annual limitation on premium pay established under section 1101(a) continues to apply during calendar year 2011 to an employee’s annual aggregate basic pay plus premium pay even after the employee has stopped performing work covered by section 1101. After an employee stops performing covered work, the employee’s earnings will again be subject to the biweekly premium pay limitation under 5 U.S.C. 5547, or similar limitation, and the employee could receive payments up to the biweekly premium pay limitation each pay period until the section 1101(a) annual limitation is reached.

- Under section 1101(b), the aggregate limitation on pay under 5 U.S.C. 5307 will not apply in a calendar year to any employee who is granted a waiver under section 1101(a) (i.e., premium pay cap waiver) in that calendar year (2011). When the aggregate limitation on pay under 5 U.S.C. 5307 is applied, payments (other than basic pay) in excess of the aggregate limitation must be deferred and are generally paid as a lump-sum payment at the beginning of the following calendar year. However, if section 1101(b) applies to an employee in calendar year 2011, the employee is entitled to receive applicable payments immediately without deferral.
- Section 1101(c) continues to apply. Under section 1101(c), any additional pay that results from application of the higher premium pay cap under section 1101(a), may not be considered basic pay for retirement or any other purpose, nor may it be used in computing a lump-sum payment for accumulated and accrued annual leave under 5 U.S.C. 5551. Under 5 U.S.C. 5547 and 5 CFR 550.107, various types of premium pay creditable for retirement and other purposes are always subject to a biweekly cap, even in emergencies that would normally trigger the annual premium pay limit. Thus, in applying section 1101(a), an agency should consider any premium pay that is basic pay for retirement or other purposes as being paid before any other premium payment and apply the biweekly cap to determine the amount of basic pay for retirement and other purposes. In other words, section 1101(a) would allow these types of premium payments to exceed the normally applicable biweekly limit, but any excess beyond the biweekly limit would be attributable to section 1101(a) and therefore would not be treated as basic pay for retirement or other purposes.

COUNTRIES IN CENTCOM OVERSEAS AREA OF RESPONSIBILITY

1. Afghanistan
2. Bahrain
3. Egypt
4. Iran
5. Iraq
6. Jordan
7. Kazakhstan
8. Kuwait
9. Kyrgyzstan
10. Lebanon

11. Oman
12. Pakistan
13. Qatar
14. Saudi Arabia
15. Syria
16. Tajikistan
17. Turkmenistan
18. United Arab Emirates (U.A.E)
19. Uzbekistan
20. Yemen

COUNTRIES IN AFRICOM OVERSEAS AREA OF RESPONSIBILITY
(formerly in CENTCOM overseas area of responsibility)

1. Djibouti
2. Ethiopia
3. Eritrea
4. Kenya
5. Seychelles
6. Somalia
7. Sudan

Section 1101 of Public Law 110-417, October 14, 2008, as amended by section 1106 of Public Law 111-84, October 28, 2009, and as further amended by section 1103 of Public Law 111-383, January 7, 2011

**SEC. 1101. AUTHORITY TO WAIVE ANNUAL LIMITATION ON PREMIUM PAY
AND AGGREGATE LIMITATION ON PAY FOR FEDERAL CIVILIAN
EMPLOYEES WORKING OVERSEAS.**

(a) **WAIVER AUTHORITY.**- During the calendar years 2009 through 2011, and notwithstanding section 5547 of title 5, United States Code, the head of an executive agency may waive, the premium pay limitations established in that section up to the annual rate of the salary payable to the Vice President under section 104 of title 3, United States Code, for an employee who performs work while in an overseas location that is in the area of responsibility of the Commander of the United States Central Command, or an overseas location that was formerly in the area of responsibility of the Commander of the United States Central Command but has been moved to the area of responsibility of the Commander of the United States Africa Command, in direct support of or directly related to—

- (1) a military operation, including a contingency operation; or
- (2) an operation in response to an emergency declared by the President.

(b) **APPLICABILITY OF AGGREGATE LIMITATION ON PAY.**—

(1) **IN GENERAL.**—Section 5307 of title 5, United States Code, shall not apply to any employee in any calendar year in which that employee is granted a waiver under subsection (a).

(2) **OTHER LIMITATIONS.**—In the case of any employees who (disregarding subparagraph (A)) would otherwise be subject to a limitation on premium pay similar to one set forth in section 5547 of title 5, United States Code (as determined by the head of the Executive agency in or under which such employees are employed)—

(A) the agency head may waive that otherwise applicable limitation, to the same extent and in the same manner as would be allowable under subsection (a) if those employees were instead subject to such section 5547; and

(B) if a waiver under subparagraph (A) is granted with respect to such employees, then, neither section 5307 of title 5, United States Code, nor any other similar limitation (as determined by the agency head) shall apply with respect to such employees for purposes of any calendar year for which such waiver is so granted.

(c) **ADDITIONAL PAY NOT CONSIDERED BASIC PAY.**— To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

(d) **REGULATIONS.** — The Director of the Office of Personnel Management may issue regulations to ensure appropriate consistency among heads of executive agencies in the exercise of the authority granted by this section.