

ADMINISTRATIVE REPORT

Defense Office of Hearings and Appeals
Claims Division
P.O. Box 3656
Arlington, VA 22203-1995

Dear Sir or Madam:

Name, file number MSXXXXXXXX, whose mailing address is XXXXXXXXX, requested waiver of a \$XX,XXX.XX indebtedness for the erroneous payment of Living Quarters Allowance (LQA) for the time frame of January 28, 2013 through June 26, 2016. We have reviewed the debt and have determined the amount of indebtedness is \$XX,XXX.XX. This is the amount being considered for waiver.

The claimant accepted an Air Force civilian position as a Training Specialist at Osan Air Base (AB), Korea on January 28, 2013. According to the Air Force, the claimant was employed by more than one employer after arriving overseas and before being hired as an Air Force civilian employee. Consequently, the claimant's initial LQA eligibility determination was erroneous. The claimant was erroneously granted LQA based on the Air Force' misinterpretation of the Department of State Standardized Regulation (DSSR) requirement for "substantially continuous employment" with a single employer prior to hire by the Department of Defense, (See DSSR 031.12b).

Title 5, United States Code, Section 5584, provides authority for waiving claims for erroneous payments of pay and certain allowances made to specified federal employees, if collection of the claim would be against equity and good conscience and not in the best interest of the United States. Generally, these criteria are met by a finding that there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the claimant or any other person having an interest in obtaining a waiver of this claim.

The claimant became aware of the indebtedness on July 11, 2016, when he was told in a meeting with the Chief Pay Officer at Osan AB, Korea. He stated he is requesting waiver because the Air Force Audit Agency determined that he received erroneous LQA payments that were authorized in writing upon hire by the Department of the Air Force. He stated the error occurred through no fault of his own.

To support his claim, he provided an email, Subject: LQA Eligibility for Mr. Graham, dated November 8, 2012, which stated he was authorized LQA and Return Transportation. He provided the Standard Form (SF) 1190, Foreign Allowances Application, Grant and Report, which he signed on March 13, 2013, and was signed by the Approving/Reviewing Official on March 14, 2013, which authorized LQA beginning January 28, 2013 through January 27, 2014. He also provided subsequent SF1190s, which authorized LQA through January 27, 2017. Additionally, the claimant provided an Under Secretary of Defense memorandum, Subject:

“Request for Extension of Living Quarters Allowance,” dated June 27, 2016, which authorized LQA up to one year from the date of the memorandum.

Since the erroneous determination of LQA eligibility was due to the agency misinterpretation of the DSSR Section 031.12, we believe the employee reasonably would not have known that he was receiving the payments in error. We believe the claimant acted, in good faith, when he accepted the payments. Based on the enclosed waiver application and our report, we recommend you waive the claim in the amount of \$52,567.70 for the time frame of January 28, 2013 through June 26, 2016.

Our point of contact is Technician name at DSN 699-2976 or (317) 212-2976 or email Technician email address.civ@mail.mil.

Sincerely,

Signature Authority
Director, DFAS Indianapolis

Enclosures:
As stated