



Department of Defense DIRECTIVE

NUMBER 1404.10

April 10, 1992

Certified Current as of December 1, 2003

ASD(FM&P)

SUBJECT: Emergency-Essential (E-E) DoD U.S. Citizen Civilian Employees

- References:
- (a) DoD Directive 1404.10, "Retention of Emergency-Essential (E-E) DoD Civilian Employees Overseas," April 6, 1990 (hereby canceled)
 - (b) [DoD Instruction 1000.1](#), "Identity Cards Required by the Geneva Conventions," January 30, 1974
 - (c) DoD Instruction 1444.2, "Consolidation of Automated Civilian Personnel Records," September 16, 1987
 - (d) [DoD Directive 1200.7](#), "Screening the Ready Reserve," April 6, 1984
 - (e) through (k), see enclosure 1

1. REISSUANCE AND PURPOSE

This Directive:

- 1.1. Reissues reference (a).
- 1.2. Updates policy to ensure the continued performance of employees in civilian positions that:
 - 1.2.1. Have been designated as "E-E" before crisis situations.
 - 1.2.2. Have not been designated previously as "E-E," but for which continued performance is deemed essential to support combat-essential systems.
- 1.3. Updates responsibilities and procedures.

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense; the Military Departments, including the Coast Guard when it is operating as a Military Service in the Navy; the Chairman of the Joint Chiefs of Staff and the Joint Staff; the Unified and Specified Commands; the Inspector General of the Department of Defense; the Defense Agencies; and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

3. DEFINITIONS

Terms used in the Directive are defined in enclosure 2.

4. POLICY

It is DoD policy to:

4.1. Limit the number of E-E civilian positions to those positions specifically required to ensure the success of combat operations or the availability of combat-essential systems.

4.2. If reasonably practicable and consistent with the requirement to accomplish the military mission, plan to convert overseas U.S. citizen civilian positions to military occupancy subsequent to an evacuation of noncombatants if continued performance of the duties would be required. For some positions that contain highly specialized duties and that must continue to be performed during crisis situations, military replacements may not be readily available for continued performance of the functions. Those positions, and positions which have not been designated previously as "E-E," but which are deemed critical to accomplishment of the military mission due to the military crisis, shall be designated as "E-E" and subject to this Directive.

4.3. Retain U.S. citizen E-E civilian employees in place who occupy overseas E-E positions, or deploy U.S.-based employees overseas who occupy positions that have been identified as critical to accomplishment of the military mission and whose positions either have been or will be designated as "E-E."

4.4. Provide for the evacuation of the dependents of overseas E-E employees with the same priority accorded to the family members of military personnel.

4.5. Issue E-E employees, or employees occupying positions determined to be E-E, the DD Form 489, "Geneva Convention Identity Card for Civilians Who Accompany the Armed Forces," or DD Form 1934, "Geneva Convention Identity Card for Medical and Religious Personnel Who Serve In or Accompany the Armed Forces," as appropriate (DoD Instruction 1000.1, reference (b)).

4.6. Advise applicants for E-E positions that individuals selected to fill these positions are required to sign written agreements (DD Form 2365, "DoD Civilian Employee Overseas Emergency-Essential Position Agreement," enclosure 3). The agreements document that incumbents of E-E positions accept certain conditions of employment arising out of crisis situations wherein they shall be sent on temporary duty, shall relocate to duty stations in overseas areas, or continue to work in overseas areas after the evacuation of other U.S. citizen employees who are not in E-E positions. All individuals selected for E-E positions must be exempted from recall to the military Reserves or recall to active duty for retired military.

4.7. Encourage incumbents of positions that become E-E to sign DD Form 2365. As soon as reasonably practicable and consistent with the needs of the military mission, those employees who decline to sign the agreement should be detailed or reassigned to non-E-E positions. If that is not possible, no further tour extension should be approved.

4.8. Attempt to fill E-E positions with employees who volunteer to occupy such positions and sign the E-E agreement or direct the involuntary assignment of civilian employees to E-E positions as may be necessary to meet the exigencies of the circumstances and when unforeseen contingencies prevent prior identification of those positions as being "E-E."

5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense (Force Management and Personnel) shall:

5.1.1. Manage and control the overall program, in accordance with this Directive.

5.1.2. Maintain the automated extracts of DoD Component records that contain the overseas E-E agreement flag. Those data are used primarily as an information tool to support civilian work force mobilization plans and to monitor U.S. civilian employees occupying E-E positions. Those data are updated quarterly by the Defense Manpower Data Center (DMDC) from DoD Component input. Specific procedures for submission of data may be found in enclosures 4 and 5. (See DoD Instruction 1444.2, reference (c).)

5.1.3. Act as an advocate to ensure that allowances, differentials, and payments to E-E employees and their dependents are paid commensurate with the situation.

5.2. The Heads of the DoD Components shall:

5.2.1. Develop or modify personnel systems and procedures, including automated personnel management information systems, to implement the policies in section 4., above, and the procedures in section 6., below.

5.2.2. Ensure that civilian positions are designated "E-E only" when civilians are required for direct support to combat operations, or to combat systems support functions that must be continued and that could not otherwise be immediately met by using deployed military possessing the skills in the number and in the functions expected to be needed to meet combat operations or systems support requirements in a crisis situation.

5.2.3. Ensure that employees are identified to perform the duties of E-E positions, including the identification of alternates to cover vacant E-E positions or those in which the incumbents are unable to perform the duties or have not signed the E-E position agreement. Limit to the degree possible situations when civilian employees must be directed to perform in E-E positions on an involuntary or unexpected basis.

5.2.4. Provide assurances to civilian employees who agree to remain in their "E-E" designated positions or who agree to serve as alternates, in crisis situations, as shown in paragraph 6.8., below.

5.2.5. Ensure that an annual analysis of the impact of losses on operations is conducted, as required in paragraph 6.6., below, and establish appropriate contingency procedures to keep E-E positions filled during a crisis situation.

6. PROCEDURES

6.1. Identify E-E Positions. Include civilian positions overseas or in the United States that would be transferred overseas in a crisis situation. The specific crisis situation duties and responsibilities and physical requirements of each E-E position must be identified and documented to ensure that E-E employees know what is expected of them. Documentation can be:

6.1.1. Annotation of E-E duties in existing peacetime position descriptions.

6.1.2. Brief statements of crisis situation duties attached to position descriptions if materially different than peacetime duties.

6.1.3. Separate E-E position descriptions.

6.2. Record E-E Position Designation. A statement shall be included in the position description of each E-E identified position. Example:

"This position is emergency-essential (E-E). In the event of a crisis situation, the incumbent, or designated alternate, must continue to perform the E-E duties until relieved by proper authority. The incumbent or the designated alternate, may be required to take part in readiness exercises. This position cannot be vacated during a national emergency or mobilization without seriously impairing the capability of the organization to function effectively; therefore, the position is designated "key," which requires the incumbent, or designated alternate, to be screened from military recall status."

6.3. Pre-Identification of E-E Employees to Perform the Duties of E-E Positions

6.3.1. E-E employees are required to sign an agreement to perform the duties of the E-E position during a crisis situation until relieved by proper authority. For an E-E employee who occupies an overseas E-E position, this agreement takes precedence over any existing transportation agreement. A sample agreement to be signed by an E-E employee is in enclosure 3. A person with military recall status (i.e., Ready Reserve, Standby Reserve, or military retiree) is subject to mobilization. Therefore, if individuals with a military recall status are selected for E-E positions, their non-availability for military mobilization shall be reported promptly to the cognizant military personnel center so that they may be removed from a military recall status. The reporting procedures specified for Ready Reservists in DoD Directive 1200.7, paragraph 5.3. (reference (d)), are also appropriate for reporting the non-availability of Standby Reservists and retired military members.

6.3.2. The incumbent of a newly designated E-E position may elect not to sign the agreement to perform as an E-E employee during a crisis. In that case, an E-E alternate civilian employee shall be identified, as outlined in paragraph 6.5., below, and the incumbent shall be reassigned expeditiously, without loss of grade or pay, to a non-E-E position. That also pertains if an employee is willing to sign an agreement, but will not agree to change his or her recall status to the Reserves or retired military. If the E-E position is overseas and the employee has not been reassigned out of the position by the end of the tour, the employee may not be extended or given a new tour, unless it is for a non-E-E position. That includes extensions for a new tour following renewal agreements, and extensions beyond 5 years under DoD 1400.25-M, Chapter 301, subparagraph 4-2.a.(4) (reference (e)). There may be unforeseen circumstances requiring the assignment of civilian employees to E-E positions on an involuntary or unexpected basis.

6.4. Staffing Vacant E-E Positions. All vacant E-E positions shall be filled only by qualified persons who sign the E-E position agreement referred to in paragraph 4.6., above. Qualifications shall include physical and medical standards established in-theater by the employing activity following the criteria in the "Uniform Guidelines on Employee Selection Procedures" (FPM Supplements 335-1 and 339-31, reference (f)). Any staffing system (manual or automated) used to identify candidates for E-E positions must incorporate a means to alert candidates to the E-E requirements of the vacant positions. At a minimum, they must know that selection for an E-E vacant position is contingent on signing an agreement to continue to perform the duties of the position subsequent to the onset of a crisis situation until relieved by proper authority, that they are required to be made exempt from military Reserved and/or retired recall, and that if they are accompanied by their dependents overseas, the dependents shall be evacuated from the crisis zone with the same priority as family members of military personnel. E-E civilian employees shall be advised that they are responsible for ensuring that an adequate family care plan is in place at all times.

6.5. Designation of E-E Positions in Crisis Situations

6.5.1. Due to unforeseen circumstances or the exigencies of a particular military crisis, it may become necessary to identify positions as "E-E" that have not previously been so identified. Those positions may be located in the overseas area or they may be positions to which an employee in the United States would be sent on temporary duty or a reassignment to the overseas location of the military crisis.

6.5.2. Employees in positions located overseas that are identified as "E-E" after the outbreak of a military crisis shall be asked to execute an E-E agreement. If

the employee declines, the employee shall continue to perform the functions of the position if no other qualified employee or military member is reasonably available. The employee shall be entitled to the benefits and protections of an E-E employee, but shall be relocated out of the position as soon as reasonably practicable, given the exigencies of the military situation.

6.5.3. An employee in the United States shall be requested to execute an agreement. If the employee declines, the employing activity shall seek another employee to volunteer to fill the position. If a volunteering employee is available, the employee declining to sign the agreement shall be detailed or transferred to a non-E-E position if one is available. If no volunteering employee is available, or if the employee declining to sign the agreement possesses special skills and expertise, which in management's view renders it necessary to send that employee on the assignment without signing the agreement, the employee may be directed on involuntary temporary duty or reassignment to the location where that employee's skills are required.

6.6. Contingency Provisions

6.6.1. Identify alternates who agree to perform the duties of E-E positions when:

6.6.1.1. The incumbents of newly designated E-E positions elect not to sign an agreement.

6.6.1.2. The E-E positions are vacant.

6.6.1.3. The incumbents of the E-E positions must be evacuated because of illness or other compelling reasons; are casualties; or are, otherwise, unable to perform the duties of the positions.

6.6.2. Provide for proper action, including separation for the efficiency of the Federal service under the procedures in the FPM, Chapter 752 (reference (f)), or other courses of action that may be considered appropriate, as provided by reference (f), for failure of E-E employees as well as any other employees involuntarily assigned to E-E positions to:

6.6.2.1. Remain in overseas E-E positions subsequent to the onset of a crisis situation or an evacuation of noncombatants.

6.6.2.2. Relocate temporary duty or permanent change of station in E-E positions to overseas duty stations and continue to perform assigned duties.

6.7. Survey E-E Positions. Survey those positions within the E-E definition (see enclosure 2, definition E2.1.5.), and assess the impact of unprogrammed and/or premature loss of personnel occupying those positions. Analysis should focus on consequences; that is, how such loss might affect the capability and efficiency of deployed combat forces, combat-essential systems, or other aspects of national security. That survey should approximate the format in enclosure 6 and should be updated annually.

6.8. Determine Need For Danger Pay Allowance. Establish operating procedures to develop and submit requests to the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) seeking implementation of Title II, Section 2311(a) of Pub. L. No. 96-465 (reference (g)), providing a danger pay allowance on the basis of wartime conditions that threaten physical harm or imminent danger to the health or well-being of E-E employees.

6.9. Provide E-E Employees Ensurances of Benefits and/or Entitlements

6.9.1. E-E employees' dependents shall be evacuated from the crisis location with the same priority and afforded the same services and assistance as family members of military personnel. (See DoD Directive 3025.14, reference (h).)

6.9.2. E-E employees shall receive the danger pay allowance as established by the Department of State for the foreign area in which they are stationed unless otherwise prohibited by law.

6.9.3. E-E employees shall be issued Geneva Convention Identity Cards, DD Form 489 or DD Form 1934, as appropriate. (See DoD Instruction 1000.1, reference (b).)

6.9.4. E-E employees shall be afforded a separate maintenance allowance when dependents are evacuated due to dangerous living conditions.

6.9.5. E-E employees in a missing status shall have pay and allowances continued.

6.9.6. E-E employees who require treatment for disease or injury sustained overseas during hostilities may be provided care at no cost to the employee under the DoD Military Health Services System. The scope of care provided shall be equivalent to that received by active duty military personnel. If feasible, the Military Department providing treatment shall seek reimbursement from third-party payers.

6.9.7. E-E employees shall be released from their agreement and permitted to leave the crisis area after the initial evacuation of noncombatants only when it is determined by appropriate management authority that they are no longer required or able to perform their assigned duties. In making that determination, the appropriate authority shall take into consideration any rotation policy and procedures established for military members during the specific contingency.

6.9.8. E-E employees shall be provided protective equipment, work-related training, law of war training, and training in the Uniform Code of Military Justice (Chapter 47 of 10 U.S.C., reference (i)), commensurate with the anticipated threat and theater policy. It is not a violation of the law of war for an E-E employee to wear a uniform or to carry a weapon for personal defense while accompanying a military force. Capture of an E-E employee by an opposing force while wearing a uniform or carrying a weapon does not deprive a civilian employee accompanying a military force of any Geneva Convention protections. Civilian employees may be issued a weapon for personal defense on request by the employee, if approved by the DoD Component commander, theater commander, or other authorized official.

6.10. Administrative Control. Establish appropriate administrative controls on E-E employee information including safeguards so that such data is released only to authorized personnel.

7. INFORMATION REQUIREMENTS

7.1. The Heads of the DoD Components shall:

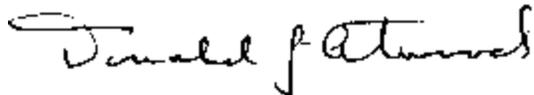
7.1.1. Collect data on USDH E-E civilian employees. See enclosures 4 and 5 for reporting instructions, and DoD Instruction 1444.2 (reference (c)).

7.1.2. Submit data in automated format to the ASD(FM&P), in accordance with reference (c). The Report Control Symbol is DD-FM&P(Q)1458.

7.2. The Director, Defense Intelligence Agency and the Director, National Security Agency are required to collect the data, but not report them, as prescribed in subparagraph 7.1.2., above. Those data shall be held internal to the Agency, and information shall be made available on request to the ASD(FM&P). information collection shall be accomplished, in accordance with DoD Directive 7750.5 (reference (j)).

8. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward one copy of implementing documents to the Assistant Secretary of Defense (Force Management and Personnel) within 120 days.



Donald J. Atwood
Deputy Secretary of Defense

Enclosures - 6

- E1. References, continued
- E2. Definitions
- E3. DD Form 2365, "DoD Civilian Employee Overseas Emergency-Essential Position Agreement"
- E4. Automation Instructions
- E5. Coding Description
- E6. Loss Impact Analysis Format

E1. ENCLOSURE 1

REFERENCES, continued

- (e) [DoD 1400.25-M](#), "Department of Defense Civilian Personnel Manual (CPM)," July 1978 (Chapter 301, August 1988)
- (f) Federal Personnel Manual (FPM) Chapters 735 and 752; and FPM Supplements 335-1 and 339-31
- (g) Title II, Section 2311(a) of Public Law 96-465, "Foreign Service Act of 1980," October 17, 1980
- (h) [DoD Directive 3025.14](#), "Protection and Evacuation of U.S. Citizens and Designated Aliens in Danger Areas Abroad (Short Title: Noncombatant Evacuation Operations)," November 5, 1990
- (i) Chapter 47 of title 10, United States Code
- (j) DoD Directive 7750.5, "Management and Control of Information Requirements," August 7, 1986
- (k) Joint Pub 1-02, "Department of Defense Dictionary of Military and Associated Terms," December 1, 1989

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Civilian Employee. A direct-hire U.S. employee who is appointed, either temporarily or permanently, to a position with the Department of Defense.

E2.1.2. Crisis Situation. Civil insurrection, civil war, terrorism, wartime, or other hostile conditions that threaten physical harm or imminent danger to the health or well-being of the E-E civilian employee.

E2.1.3. Emergency-Essential (E-E) Alternate Civilian Employee. A civilian employee, as defined in definition E2.1.1., above, whose position is not E-E, who agrees to perform the duties of another E-E civilian position in the absence of an E-E civilian employee during a crisis situation.

E2.1.4. Emergency-Essential (E-E) Civilian Employee. A civilian employee, as defined in definition E2.1.1., above, who occupies an E-E civilian position and who is expected to sign a "DoD Civilian Employee Overseas Emergency-Essential Position Agreement."

E2.1.5. Emergency-Essential (E-E) Civilian Position. A civilian position located overseas or that would be transferred overseas during a crisis situation or which requires the incumbent to deploy or to perform temporary duty assignments overseas during a crisis in support of a military operation. That position is required to ensure the success of combat operations or to support combat-essential systems subsequent to mobilization, an evacuation order, or some other type of military crisis. That position cannot be converted to a military position because it requires uninterrupted performance to provide immediate and continuing support for combat operations and/or support maintenance and repair of combat-essential systems.

E2.1.6. Mobilization

E2.1.6.1. The act of assembling and organizing national resources to support national objectives in time of war or other national defense emergencies.

E2.1.6.2. The process by which the Armed Forces or part of them are brought to a state of readiness for war or other national defense emergency. This includes assembling and organizing personnel, supplies, and material for active Military Service. (See Joint Pub 1-02, reference (k).)

E2.1.7. Overseas. All locations outside the continental United States (CONUS), Alaska, and Hawaii

E3. ENCLOSURE 3

DD FORM 2365, "DoD CIVILIAN EMPLOYEE OVERSEAS
EMERGENCY-ESSENTIAL POSITION AGREEMENT"

DOD CIVILIAN EMPLOYEE OVERSEAS EMERGENCY - ESSENTIAL POSITION AGREEMENT			
PRIVACY ACT STATEMENT			
AUTHORITY:	Legal authority for the personal information, including Social Security number, required on this form is 5 USC 301.		
PRINCIPAL PURPOSE:	To establish emergency procedures to ensure that qualified personnel are identified to fill emergency-essential DoD civilian position overseas.		
ROUTINE USE:	To fill vacant emergency-essential DoD civilian position overseas.		
DISCLOSURE:	Voluntary. If information is not furnished, the employee will be reassigned as soon as possible without the loss of pay or grade to a non-emergency-essential position.		
SECTION A - EMPLOYEE IDENTIFICATION			
1. TYPED NAME (Last, First, Middle Initial) SMITH, JOHN J.	2. SOCIAL SECURITY NUMBER 198-22-6353		
SECTION B - POSITION IDENTIFICATION			
1. ORGANIZATION NAME Rocket Branch, Army Logistics Command	2. POSITION NUMBER 2563-EE		
3. POSITION TITLE Equipment Specialist	4. PAY PLAN GS	5. SERIES 1670	6. GRADE 12
SECTION C - SUPERVISOR'S STATEMENT			
1. The position identified above is emergency-essential. In the event of a crisis or war, performance of the duties of this position is essential to the support of assigned (Enter DoD Component) <u>Dept of the Army missions.</u>			
2. Performance of the duties of this position during a crisis situation or wartime will require that you (X one)			
<input checked="" type="checkbox"/> a. Relocate (TDY or PCS) to a duty station in an overseas area.			
<input type="checkbox"/> b. Continue to work in an overseas area after the evacuation of others who are not in civilian emergency-essential positions.			
3. The incumbent of / designated alternate for (Line through one) this position may also be required to participate in emergency plans exercises.			
4. As the incumbent of / designated alternate for (Line through one) this position, request you complete the agreement in SECTION D below.			
5. SUPERVISOR			
a. TYPED NAME (Last, First, Middle Initial) JONES, GEORGE G.	b. SIGNATURE <i>George G. Jones</i>		
c. TITLE Chief, Rocket Branch	d. DATE SIGNED Feb 28, 1992		
SECTION D - EMPLOYEE'S AGREEMENT			
1. I agree:			
a. To perform the duties and requirements of the position identified above in the event of crisis situation or wartime.			
b. To participate in emergency plans exercises when required.			
2. I understand that:			
a. Failure to perform the duties of this position in an emergency may result in <u>appropriate action</u> - defined as separation for the efficiency of the Federal Service under the procedures contained in Federal Personnel Manual 752.			
b. Provisions have been made to evacuate my dependents from the hostile or potentially hostile zone with the same priority as other DoD sponsored dependents (DoD Directive 5100.51).			
c. Steps will be taken to authorize danger pay allowance for my post if it meets the criteria established by the Department of State (Title 5, United States Code, Section 5928 (Public Law 96-465, Section 2311) "Foreign Service Act of 1980").			
d. I will be given a Geneva Convention Identity Card, DD Form 489 or DD Form 1934, as appropriate, to identify me as a non combatant. (DoD Instruction 1000.1)			
3. EMPLOYEE			
a. SIGNATURE <i>John J. Smith</i>	b. DATE SIGNED Mar 1, 1992		

E4. ENCLOSURE 4
AUTOMATION INSTRUCTIONS

E4.1.1. Data on E-E civilian employees and E-E alternate civilian employees is reportable as part of the existing requirement for consolidation of automated civilian personnel records (DoD Instruction 1444.2, reference (c)).

E4.1.2. The record field used for collection of these data shall be called "overseas E-E agreement flag." (See enclosure 5.)

E4.1.3. Overseas E-E agreement flag shall be data element number 53 and should be submitted in position 159 of the automated tape submission sent to the DMDC quarterly, in accordance with reference (c).

E4.1.4. Data should be submitted in both master and transaction automated files each quarter.

E4.1.5. Updated overseas E-E agreement flag data should remain associated with all active individual employee records.

E5. ENCLOSURE 5

CODING DESCRIPTION

Reference DoD Instruction 1444.2 (reference (c))

TITLE: Overseas E-E Agreement Flag

Data element number 53 Overseas E-E agreement flag

Submission position 159 (a one-position numeric field)

CODING

DESCRIPTION

- | | |
|---|--|
| 1 | The employee is in an E-E position and has signed the E-E position agreement (DD Form 2365) to remain overseas or to deploy from CONUS, Alaska, or Hawaii. |
| 2 | The employee is in an E-E position and has not signed the E-E position agreement (DD Form 2365). |
| 3 | The employee is not in an E-E position, but has agreed to serve as an alternate to perform the duties of an E-E position and has signed the E-E position agreement (DD Form 2365). |
| 0 | The employee does not occupy an E-E position, nor is the employee a designated alternate to perform the duties of an E-E position. |

E6. ENCLOSURE 6

LOSS IMPACT ANALYSIS FORMAT

<u>Country</u>	<u>DoD Organization</u>	<u>Function</u>	<u>Number</u>	<u>Grade</u>	<u>Conversion Potential</u>	<u>Loss Impact Analysis</u>
Spain	United States Air Force, Europe	Computer System	2	GS-00	Low	100% loss of computer system failure repair capability
Federal Republic of Germany	United States Air Force, Europe	Communications Specialist	4	GS-00	Medium	50% loss on tactical communication support
Italy	United States Navy, Europe	Electronic Technical	2	GS-00	High	10% of aircraft electrical repair capability