



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00396

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

His Fiscal Year (FY) 2021 aviation bonus (AvB) with start date of 1 Dec 21 and end date of 1 Jan 24 be amended to reflect an end date of 30 Dec 23.

APPLICANT'S CONTENTIONS

The incorrect AvB End Date of 1 Jan 24 was added after both he and his commander signed the agreement. The agreement length he selected and was eligible for was a Tier 1A Air Guard Reserve (AGR) with a Duty Air Force Specialty Code (DAFSC) T11K3D, *T-38 Instructor Pilot*, for 25 months. On the top of page two of his bonus agreement, Tier 1A agreements of greater than two years are clearly defined as "25 months or two full calendar years plus 30 days." His agreement began on 1 Dec 21, the day his AGR orders started. As such, two full calendar years from that date would be 30 Nov 23, and when you add the "plus 30 days" his correct AvB End Date would reflect 30 Dec 23. Due to no fault of his own, a different guideline was used to determine an incorrect end date of 1 Jan 24. Not only is this incorrect date contrary to the very specific guidance included on the agreement, but the date was determined and added after he and his commander were required to sign it.

If the meaning of 25 months was two full calendar years plus 32 additional days, the guidance should have said that. It does not. It clearly says two calendar years plus 30 days. Overall, the terms of the agreement are ambiguous and result in members who are otherwise eligible with the spirit and intent of the agreement to lose out financially. This error has significant implications for eligibility for subsequent AvB Agreements. He worked with his Wing Talent Management Consultant (WTMC) to try and correct the error and submitted two myFSS tickets during May and June of 2023 (Case Numbers **Work-Product** and **Work-Product**), but it has still not been corrected.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force Reserve (AFR) lieutenant colonel (O-5).

According to the documents provided by the applicant:

On 22 Nov 21, the applicant signed an "Aviation Bonus (AvB) Program Agreement" for FY21. On 23 Dec 21, ARPC/DPAAB approved the agreement with an agreement length of 25 months, an annual payment amount of \$35,000 and a start and end date that reflect 1 Dec 21 through 1 Jan 24. According to the guidance for a Tier 1A bonus listed on the agreement it states:

AFBCMR Docket Number BC-2024-00396

Work-Product

Work-Product

\$35,000 per year (Prorated at \$2,916.66 per month) for the agreements greater than two years up to a maximum of four years (for the purposes of this program, "greater than two years" equates to a minimum of 25 months or two full calendar years plus 30 days).

\$25,000 per year (prorated at \$2,083.33 per month) for agreements two years or less (for the purposes of this program, "two years or less" equates to less than 25 months or two full calendar years plus 29 days or less; all agreements must be a minimum of twelve months).

On 29 Nov 21, Special Order **Work-Product** was published and ordered the applicant to extended active duty in accordance with 10 USC 12310 effective 1 Dec 21 and gave him a date of separation (DOS) of 31 Dec 24.

On 27 Nov 23, Case Management System (CMS) case number **Work-Product** was opened to process an extension for the applicant associated with an amendment, dated 8 Nov 23, to Special Order **Work-Product**. The amendment extended the applicant's active-duty assignment and gave him a new DOS of 28 Feb 26.

On 4 Jan 24, CMS case number **Work-Product** was processed and paid the applicant his final installment for his FY21 AvB contract.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

APPLICABLE AUTHORITY/GUIDANCE

FY21 AvB Guidance Agreement Types:

Tier 1: Active Guard Reserve (AGR)

- Minimum one-year to a maximum four-year agreement (prorated by month to align with AGR tour length), not to exceed expiration date of AGR orders or 25 Years of Aviation Service (YAS).
- Payments are made annually in arrears.

Tier 1A: Active Guard Reserve (AGR) - 11X Pilots and 18X/11U/12U RPA Pilots:

- \$35,000 per year (prorated at \$2,916.66 per month) for agreements greater than two years up to a maximum of four years (for the purposes of this program, "greater than two years" equates to a minimum of 25 months or two full calendar years plus 30 days).
- \$25,000 per year (prorated at \$2,083.33 per month) for agreements two years or less (for the purposes of this program, "two years or less" equates to less than 25 months or two full calendar years plus 29 days or less; all agreements must be a minimum of twelve months).

FY23 AvB Guidance Agreement Types:

Tier 1: Active Guard Reserve (AGR) – Pilots, CSOs and RPA Pilots

- Minimum one-year to a maximum five-year agreement (prorated by month to align with AGR tour length), not to exceed expiration date of AGR orders or 25 YAS.

Tier 1A: Active Guard Reserve (AGR) – Pilots

- **\$50,000 per year** (prorated at \$4,166.66 per month) for agreements greater than two years up to a maximum of five years (**for the purposes of this program, “greater than two years” equates to a minimum of 25 months or two full calendar years plus 30 days**).
- \$25,000 per year (prorated at \$2,083.33 per month) for agreements two years or less (for the purposes of this program, “two years or less” equates to less than 25 months or two full calendar years plus 29 days or less; all agreements must be a minimum of twelve months).

Renegotiation of Agreement: Where AFR and a member have an AvB agreement in effect (“original agreement”), the parties may renegotiate the terms in accordance with the following parameters:

- The effective start date of the Renegotiated Agreement is the next anniversary date of the original agreement. The original agreement terminates on the day before the effective start date of the Renegotiated Agreement.
- The Renegotiation Agreement must require a term of service by the member that is a minimum of twelve (12) months longer than the term of service required under the original agreement. The member must continue to meet eligibility criteria for an AvB for the additional term of service.
- The annual rate of the AvB bonus under the Renegotiation Agreement must be the same as the annual rate under the original agreement. The annual rate and the total amount payable under the Renegotiation Agreement are fixed and both amounts must be indicated in the contract at the time of signature by the parties.

FY24 AvB Guidance Agreement Types:

Tier 1: Active Guard Reserve (AGR) – 11X Pilots, 12X CSOs and 18X RPA Pilots

- Minimum one-year to a maximum five-year agreement (prorated by month to align with AGR tour length), not to exceed expiration date of AGR orders or 25 YAS.

Tier 1A: AGR – 11X Pilots

- **\$50,000 per year** (prorated at \$4,166.66 per month) for agreements greater than two years up to a maximum of five years (**for the purposes of this program, “greater than two years” equates to a minimum of 30 months**).
- \$30,000 per year (prorated at \$2,500 per month) for agreements two years or less (for the purposes of this program, “two years or less” equates to less than 30 months; all agreements must be a minimum of twelve months).

AIR FORCE EVALUATION

ARPC/DPAT, recommends partially granting the application. The applicant applied for the FY21 AvB program via myFSS on 30 Nov 21 requesting a desired agreement length of 25 months for a Tier 1A AGR incentive with orders effective 1 Dec 21 through 31 Dec 24.

On the second page of the FY21 agreement, Tier 1A AGR pilots receive \$35K per year (prorated at \$2,916.66 per month) for the agreements greater than two years up to a maximum of four years (for the purposes of this program, “greater than two years” equates to a minimum of 25 months or

two full calendar years plus 30 days)." It is standard practice that the member and supervisor both sign the agreement before Headquarters Air Reserve Personnel Center (HQ ARPC) representatives review and approve the incentive submission. The Experienced Aviator Retention Incentive (EARI) supervisor verifies the member is in an AvB eligible position and meets eligibility requirements as stated in the agreement. In FY21, HQ ARPC/DPATI established the precedent of approving bonuses with matching dates. For example, in the applicant's situation, 25 months requested, the dates were approved for 1 Dec 21 through 1 Jan 24. In late 2023, Defense Finance and Accounting Service (DFAS) advised ARPC the dates should be subtracted by one day to accurately reflect full years and months completed. From lessons learned, the applicant's approved contract should have an end date of 31 Dec 23 to reflect a full 25 months of incentive as originally requested. This date correction would not affect payment amount or eligibility to receive their annual installment.

After further review of the AvB package submission by ARPC, the applicant was notified via myFSS on 23 Dec 21 with a signed and approved copy of the AvB agreement with approval dates of 1 Dec 21 through 1 Jan 24. Since then, the applicant has been receiving the AvB installments on the anniversary date of agreement via CMS submitted by HQ ARPC.

In FY23, AvB program guidance, the Tier 1A incentive significantly increased from \$35K to \$50K annual incentive which is the applicant's motivation for correcting the original AvB contract. If the original contract were to have been approved correctly with an end date of 31 Dec 2023, then next available date the member would be eligible for a renegotiation would be 1 Jan 2024. If the applicant would have specifically requested a contract for 24 months and 30 days, the correct date should have been approved for 30 Dec 2023. This would have made the applicant eligible for a subsequent FY23 bonus on 31 Dec 23 for \$50K bonus incentive.

Based on the guidance from DFAS for agreements to reflect whole months and the precedent established with approval dates for Reserve aviators, ARPC recommends correcting the contract to reflect an end date of 31 Dec 23.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 7 Jun 24 for comment (Exhibit D), and the applicant replied on 7 Jul 24. In his response, the applicant provided a memorandum signed by himself and his commander. In the memorandum the applicant reiterates his EARI Supervisor (also his commander) and he made use of all the information available to them at the time to make the best decision. The FY21 AvB Agreement clearly and specifically defines the terms (e.g. what constitutes greater than two years). The AvB End Date of 1 Jan 24 was added after his commander and he signed the agreement, preventing them from knowing the exact terms of the agreement. However, his expectation was the AvB End Date would be in accordance with the methodology specified on the AvB Program Agreement, which states under Tier 1A "greater than two years equates to...two full calendar years plus 30 days." Additionally, the agreement states in the following paragraph of Tier 1A that "two years or less equates to less than... two full calendar years plus 29 days." As such, the verbiage clearly shows the durations described in the agreement are specific and precise to the day. Since his contract was for greater than two years, his end date should reflect 30 Dec 23 (two years plus 30 days). Finally, nowhere on the agreement did it explain how the end date on the contract would affect future contract eligibility.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of ARPC/DPAT and finds a preponderance of the evidence substantiates the applicant's contentions in part. Specifically, the Board notes the end date for his FY21 AvB should reflect an end date of 31 Dec 23 versus 1 Jan 24. However, for the remainder of the applicant's request, the evidence presented did not demonstrate an error or injustice, and the Board therefore finds no basis to recommend granting that portion of the applicant's request. In this regard, the Board agrees with ARPC/DPAT that based on the guidance from DFAS the contract should reflect whole months and with a 25-month agreement length and a start date of 1 Dec 21, the appropriate end date would be 31 Dec 23. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the applicant's Fiscal Year 2021 Tier 1A Aviation Bonus (AvB) Agreement at the annual rate of \$35,000 be amended to reflect an "AvB End Date" of 31 December 2023 versus 1 January 2024.

However, regarding the remainder of the applicant's request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-00396 in Executive Session on 12 Nov 24:

Work-Product Panel Chair
Work-Product Panel Member
Work-Product Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 31 Jan 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, ARPC/DPATI, dated 22 May 24.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 7 Jun 24.
- Exhibit E: Applicant's response, dated 7 Jul 24.

Work-Product

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

1/15/2025

Work-Product

AFBCMP Docket Number BC-2024-00396

Work-Product