UNDER SECRETARY OF DEFENSE
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WASHINGTON, D.C. 20301-4000

APR 3 2007

PERSONNEL AND
READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
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SUBJECT: Death Benefits for Department of Defense (DoD) Civilian Employees under Public Law (P.L.) 109-234, Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, June 2006

Section 1603 of P.L. 109-234, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, effective June 15, 2006, gives Heads of Agencies the authority to provide to employees on official duty in Iraq or Afghanistan during Fiscal Year (FY) 2006, 2007, and 2008, allowances, benefits, and gratuities comparable to those provided to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act (22 U.S.C. 3973; and 4081 et seq.). This memorandum issues DoD policy regarding those benefits and gratuities that shall be provided in the event of the death of a DoD civilian employee, when the death is the result of injuries sustained in the performance of duty in Iraq or Afghanistan.

The Secretaries of the Military Departments, and heads of Defense Agencies and DoD Field Activities with independent appointing authority for themselves and their serviced organizations shall pay the subject benefits and gratuities to their employees whose death is the result of injuries sustained in the performance of duty in Iraq or Afghanistan during FY 2006, 2007, and 2008, in accordance with the subject Public Law. Components should ensure that their civilian employees assigned to Iraq or Afghanistan

during this period are informed of these new benefits and gratuities, and should also ensure that eligible family members of employees whose death occurs during the covered period are informed of the as well.

This authority is effective only for the period June 15, 2006 through September 30, 2008. Benefits and gratuities also shall be paid retroactively for DoD employees whose deaths occurred as a result of injuries sustained in the performance of duty in Iraq or Afghanistan between June 15, 2006 and the date of this implementing policy, when eligibility criteria are met. Components must review the circumstances of any employee whose death occurred in Iraq or Afghanistan between June 15, 2006, and the date of this implementing policy, to determine retroactive eligibility. The attached guidance provides implementing policy and procedures.

David S. C. Chu

Attachment
As stated

Department of Defense

Death Benefits for Department of Defense (DoD) Civilian Employees Under Public Law (P.L.) 109-234, Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery
June 15, 2006
Guidance and Procedures

A. General Information

1. Section 1603 of P.L. 109-234 authorizes the Secretary of Defense, at his discretion, to provide to employees on official duty in Iraq or Afghanistan during Fiscal Years (FY) 2006, 2007, and 2008, allowances, benefits, and gratuities comparable to those provided to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act (22 U.S.C. 3973; and 4081 et seq).

2. This guidance addresses provisions consistent with 22 U.S.C. 3973 and 4081, applicable in the event of the death of a DoD civilian employee, when the death is the result of injuries sustained in the performance of duty, and the employee is officially assigned to Iraq or Afghanistan by such action as an official temporary duty (TDY), Temporary Change of Station (TCS), Permanent Change of Station PCS), or detail to another Federal Agency. The death must have occurred between June 15, 2006, and September 30, 2008.

3. These benefits shall be provided retroactively in those cases where such deaths occurred between June 15, 2006, and the date of this implementing policy, if eligibility criteria established in this policy are met.

4. This guidance applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense (DoD), the Defense Agencies, the Field Activities, and all other organizational entities within the Department of Defense (hereafter collectively referred to as the "DoD Components").

5. The provisions apply to all DoD U.S. citizen appropriated fund and nonappropriated fund (NAF) employees who are officially assigned by means of Temporary Duty (TDY), Temporary Change of Station (TCS), Permanent Change of Station (PCS), or detail to another Federal agency to Iraq or Afghanistan during the period June 15, 2006, through September 30, 2008.

6. The provisions are in addition to any other allowances, benefits or gratuities, applicable in the event of the death of a DoD civilian employee, such as those provided under the Federal Employees Compensation Act (FECA), P.L. 104-208, the Public Safety Officers' Benefits Program, and DoD Instruction 1341.08, Death Gratuity to Survivors of Certain DoD Personnel Assigned to Intelligence Duties.

7. The provisions are effective retroactively to June 15, 2006.

B. Definitions

The terms "widow", "widower", "child", and "parent" have the same meaning given by 5 U.S.C. 8101. The following additional provisions apply for the purpose of this guidance.

1. "Employee" means a DoD appropriated fund civilian employee whose death would permit the payment of Federal Employee Compensation Act (FECA) death benefits under 5 U.S.C. 8133(f) and 5 U.S.C. 8134(a), or a DoD NAF civilian employee whose death would, accordance with 5 U.S.C. 8171, permit payment of Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) death benefits.

2. "Child" means one who at the time of death of the employee is under 18 years of age or over that age and incapable of self-support, and includes stepchildren, adopted children, and posthumous children, but does not include married children. "Child" includes a student under 23 years of age who has not married; who has not completed four years of education beyond the high school level; and who is regularly pursuing a full-time course of study or training at a school, college, university, or other qualifying institution under the terms of 5 U.S.C. 8101(17). Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than four months and if the student demonstrates a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim duration during which the student is prevented by factors beyond the student's control from pursuing such education. A student whose 23rd birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period.

3. "Eligible Family Member" has the same meaning as "Dependent/Immediate Family" established in the DoD Joint Travel Regulations (JTR), Volume II, Appendix A.

4. "United States" means all the States and the District of Columbia, and all territories and possessions of the United States.

5. "Salary" includes the employee's full annual rate of basic pay, locality pay, and law enforcement availability pay that the employee was receiving for the position held immediately prior to the employee's death. In the case of those covered by the National Security Personnel System, salary includes any local market supplements.

6. "Household Goods" has the meaning established in the DoD JTR, Volume II, Appendix A.

C. Policy

1. Death Gratuity

a. Under authority provided by P.L. 109-234, and consistent with provisions of 22 U.S.C. 3973, a death gratuity shall be paid when a DoD employee dies as a result of injuries sustained in the performance of duty in Iraq or Afghanistan during the period June 15, 2006, through September 30, 2008. The gratuity paid under this policy shall be in an amount equal to one year's salary at the time of death.

b. To ensure consistent treatment for DoD Nonappropriated Fund (NAF) employees called to support a contingency operation, NAF employers will pay this death gratuity for its employees in the same manner as required for DoD civilian service appropriated fund employees.

c. This gratuity payment shall be made only if the survivor entitled to payment is entitled to elect monthly compensation under 5 U.S.C. 8133 for appropriated fund employees, or 5 U.S.C. 8171 for NAF employees, whether or not the survivor elects to waive this compensation, and if the death resulted from traumatic injury sustained in the performance of duty in Iraq or Afghanistan.

d. Consistent with provisions of 22 U.S.C. 3972 and, as a matter of policy for NAF employees, this gratuity payment shall be made as follows, regardless of other beneficiaries designated to receive any other benefits:

(1) First, to the widow or widower, as defined under 5 U.S.C. 8101(6) and (11).

(2) Second, to the child, or children, as defined under 5 U.S.C. 8101(9) and under paragraph B.2., above, in equal shares, if there is no widow or widower.

(3) Third, to the dependent parent, or dependent parents, as defined under 5 U.S.C. 8101(7) in equal shares, if there is no widow, widower, or child.

If there is no survivor as indicated above, this death gratuity shall not be paid.

e. For appropriated fund employees, this death gratuity shall be held to have been a gift and shall be in addition to other benefits, including any gratuities, that may also be payable under other authorities.

2. Travel and Transportation Expenses

a. Under authority provided by P.L. 109-234, and consistent with provisions of 22 U.S.C. 4081(11), and under DoD policy for NAF employees, DoD Components shall pay the expenses incurred as a result of transporting the furniture and household and personal effects, to include Personally Owned Vehicle(s) (POV), to a location within the United States or its territories or possessions, as selected by the eligible family members of a DoD employee, when a DoD employee dies as a result of injuries sustained in the performance of duty in Iraq or Afghanistan during the period June 15, 2006, through September 30, 2008. Transportation of furniture, household, and personal effects is authorized regardless of whether there was a Government-funded move to the duty station to which the employee was permanently assigned immediately prior to death, regardless of whether the employee was permanently stationed within the United States or overseas at the time of death, and regardless of whether the employee received a Government-funded move within the last 12 months.

b. Under authority provided by P.L. 109-234, and consistent with provisions of 22 U.S.C. 4081(12), and as a matter of policy for NAF employees, DoD Components shall pay the expenses incurred in packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects, to include POV, in connection with the transportation authorized in paragraph 2.a., above. Any storage expenses shall not be paid for more than 90 days, except that in extenuating circumstances, the Component Head or designee may extend this period for not more than an additional 90 days.

c. In accordance with time limitations established by P.L. 109-234, travel and transportation payments authorized by paragraphs C.2.a and C.2.b., above, must be made prior to the end of FY 2008; i.e., no later than September 30, 2008. Storage expenses, to include extensions, may be authorized beyond the end of FY 2008, as long as the authorization for storage, including any extension, occurred prior to the end of FY 2008 (but not if the first 90 days ends after September 30, 2008).

c. Items eligible for transportation and storage under this authority are those that were the property of the employee or employee's eligible family member while the employee was assigned to Iraq or Afghanistan, subject to weight restrictions provided under the DoD JTR, Volume II, Chapter 5, Part D (for transportation and storage of household goods) and Chapter 2, Part G (for baggage allowances).

d. This authority is in addition to travel and transportation authorities provided under DoD JTR, Volume II, Chapter 6, Part B, ("Death Cases, Allowable Expenses").

e. Travel expenses of the deceased employee's eligible family members to the selected location shall be paid if travel to the residence immediately preceding death of the deceased employee was at Government expense. While transportation and storage of the furniture, household, and personal effects of the employee and the eligible family members are authorized, no eligible family members' travel expense to the designated location can be paid if the eligible family member(s) did not arrive at the residence prior to death at Government expense.

f. Travel and transportation payments shall be consistent with provisions under the DoD JTR,, Volume II, Chapter 5, Parts B ("Employee Travel"), Part D ("Household Goods (HHG) Transportation"), and Parts E1, E2, and E3 ("POV Transportation").

g. Eligible family members must designate a location for transportation payments under this section if any payment is to be made. Transportation may be authorized anywhere within the United States or its territories, subject to established residency requirements. No payment shall be made if eligible family members choose not to invoke this authority, or if there are no eligible family members. In accordance with time limitations established under P.L. 109-234, no transportation payments under this section shall be made after September 30, 2008, except as provided for storage expenses under paragraph C.2.c., above.

D. Documentation Requirements

1. Eligible survivors are responsible for providing required documentation in order to apply for the death benefits addressed in C.1. and C.2., above. Employing offices of deceased employees shall advise eligible survivors(s) of their potential entitlement to these benefits and assist the survivors(s) to apply for them.

2. The following forms or documentation must be submitted by the eligible survivor:

   a. A written request for death gratuity and/or payment for transportation expenses under P.L. 109-234.

   b. Copy of the death certificate.

   c. For death gratuity payments, copy of approved claim under section 5 U.S.C. 8133, or in the case of a NAF employee covered by 5 U.S.C. 8171, an approved

death benefits claim filed under the Longshore and Harbor Workers Compensation Act.

d. For travel and/or transportation payments, written designation of the location to which effects will be transported. If applicable, the travel orders that authorized the PCS of the deceased employee and eligible family members at Government expense to the permanent duty station.. Transportation of furniture, household, and personal effects is authorized regardless of whether there was a Government-funded move to the deceased employee's permanent duty station.

E. Accountability

1. DoD Components are responsible for compliance with these requirements, and for ensuring that their civilian employees assigned to Iraq or Afghanistan between June 13, 2006 and September 30, 2008, are informed of these provisions. DoD Components are additionally responsible for ensuring that eligible family members of employees whose death occurs in Iraq or Afghanistan during the covered period are informed of these provisions.

2. DoD Components are responsible for determining eligibility for retroactive benefits in those cases where employee deaths occurred as a result of injuries sustained in Iraq or Afghanistan between June 15, 2006 and the date of this implementing policy.

3. DoD Components must maintain records of payment authorizations so as to allow for reporting of payments made under these provisions.