

**Spouse Benefits - Death of an Employee
Chapter 70*****Important Notice***

A series of court cases have changed the way the Office of Personnel Management (OPM) calculates disability annuities and survivor annuities that are based in whole or in part on service in positions that are usually tied to higher retirement deduction rates and to higher annuity accrual rates. Benefits Administration Letter (BAL) 10-105, ***Enhanced Disability and Survivor Annuity Computations Under CSRS and FERS***, July 7, 2010, provides information and guidance relating to those changes. The information in BAL 10-105 applies to both disability claims and survivor annuity claims (based on a death-in-service) under the Civil Service Retirement System (CSRS) and under the Federal Employees Retirement System (FERS) that involve employees who have performed service in the following positions:

- Law Enforcement Officer, Firefighter, and Nuclear Materials Courier, that is qualifying for retirement under 5 U.S.C. § 8336(c) or § 8412(d);
- Custom and Border Protection Officer that is qualifying for retirement under 5 U.S.C. § 8336(c) or § 8412(d);
- Member of the Supreme Court Police;
- Member of the Capitol Police; and
- Air Traffic Controller that is qualifying for retirement under 5 U.S.C. § 8336(e) or § 8412(e).

The information in BAL 10-105 supersedes the information in chapters 61 and 70 of the CSRS and FERS Handbook that references disability and survivor annuity computations for the employees working in positions listed above. It also supersedes the guidance provided in BAL 95-106, dated October 20, 1995, and BAL 02-104, dated May 10, 2002.

[Click here to read BAL 10-105.](#)

Table of Contents

Subchapter 70A CSRS

Part 70A1 General Information

Section 70A1.1-1 Overview	1
A. Introduction	1
B. Topics Covered	1
C. Organization of Subchapter	2
D. Statement of Authority	2
 Section 70A1.1-2 Eligibility Requirements	 3
A. General	3
B. Employee Requirements	3
C. Survivor Requirements	4

Part 70A2 Benefits Payable

Subpart 70A2.1 Amount of Survivor Benefits

Section 70A2.1-1 Survivor Annuity to a Spouse	6
A. General	6
B. Computation of Benefit--Regular Formula	6
C. Deceased Law Enforcement Officers and Firefighters	6
D. Deceased Air Traffic Controllers	7
 Section 70A2.1-2 Survivor Annuity to a Spouse -- Deceased CSRS Offset Employee . . .	 8
A. General	8
B. Social Security Benefits Not Payable	8
C. Social Security Benefits Payable	8
 Section 70A2.1-3 Effect of Refunded and Nondeduction Service	 9
A. General	9
B. Refunded Service	9
C. Nondeduction Service	9
D. Reference	9
 Section 70A2.1-4 Lump-Sum Payment	 10
A. General Rule	10
B. Reference	10

Subpart 70A2.2 Duration of Survivor Benefits

Section 70A2.2-1 Duration of Survivor Benefits	11
A. Beginning Date	11
B. Ending Date	11
C. Restoration of Survivor Benefits	11
 Part 70A3 Procedures	
 Section 70A3.1-1 Procedures	12
A. Agency Responsibility	12
B. Spouse Responsibility	13
C. OPM Responsibility	13
 Section 70A3.1-2 Advice to Surviving Spouse	14
A. Alternative Annuity	14
B. Health Benefits: Continuing Coverage	14
C. Health Benefits: Agency Responsibility	14
D. Life Insurance: Order of Precedence	14
E. Life Insurance: Agency Responsibility	15
 Part 70A4 Crediting Military Service	
 Subpart 70A4.1 General Information	
 Section 70A4.1-1 Overview	16
A. Introduction	16
B. Topics Covered	16
C. Cross References	16
D. Organization of Part	17
E. Statement of Authority	17
 Subpart 70A4.2 Military Service Performed Before January 1, 1957	
 Section 70A4.2-1 General Rules	18
A. General	18
B. Social Security Credit for Pre-1957 Military Service	18
C. Civil Service Survivor Benefits	18
 Subpart 70A4.3 Military Service Performed On or After January 1, 1957	
 Section 70A4.3-1 General Rules	19
A. General	19
B. Post-1956 Military Service Deposit	19

Section 70A4.3-2 Employee First Employed Under CSRS Before October 1, 1982 20

A. General 20

B. Survivor Eligibility Requirements for Immediate Social Security Benefits 20

C. Eligible for Social Security Benefits at Employee's Death 20

D. Eligible for Social Security Benefits in the Future 21

E. Not Eligible for Social Security Benefits 21

F. Survivors Who Lose Social Security Eligibility 21

G. Reference 22

**Section 70A4.3-3 Employee First Employed Under CSRS On or After
October 1, 1982** 23

A. Rule 23

B. Reference 23

Subpart 70A4.4 Procedures

Section 70A4.4-1 Procedures 24

A. Agency Responsibility 24

B. Survivor Responsibility 26

Part 70A5 Crediting Military Service - Military Retirees

Subpart 70A5.1 General Information

Section 70A5.1-1 Overview 28

A. Introduction 28

B. Topics Covered 28

C. Organization of Part 29

D. Statement of Authority 29

Subpart 70A5.2 Rules for Crediting Military Service

Section 70A5.2-1 General Rules 30

A. Employees Receiving Military Retired Pay 30

B. Offset by Amount of Military Survivor Benefits Payable 30

C. Benefit Adjustments 31

D. When Military Deposit is Required 31

E. Amount of Deposit 32

Subpart 70A5.3 Procedures

Section 70A5.3-1 Procedures 33

A. Agency Responsibility 33

B. Survivor Responsibility 33

Part 70A6 Office of Workers' Compensation Death Benefits

Subpart 70A6.1 General Information

Section 70A6.1-1 Benefits Payable	34
A. OWCP Death Benefits	34
B. Funeral Expenses	35
C. Compensation Benefits and Federal Retirement Benefits	35
D. Instances When OWCP Benefits Are Not Payable and CSRS Benefits Are	36
E. Worksheet Developed to be Used in Completing Death Benefits Forms	36

Subchapter 70B FERS**Part 70B1 General Information**

Section 70B1.1-1 Overview	39
A. Introduction	39
B. Organization of Subchapter	39
C. Applicability of Subchapter	39
D. Applicable CSRS Provisions	40
E. Statement of Authority	40

Part 70B2 Basic Death Benefit (Benefits Payable)

Section 70B2.1-1 Eligibility Requirements for the Basic Employee Death Benefit	41
A. General	41
B. Employee Requirements	41
C. Survivor Requirements	41
D. Creditable Civilian Service	41
E. Noncreditable Civilian Service	42
Section 70B2.1-2 Amount of Basic Benefit	43
A. General	43
B. \$15,000 Portion	43
C. Fifty Percent of Final Salary Amount	43
D. High-3 Average Salary	44
E. Deposit Service	44
Section 70B2.1-3 Payment of the Basic Death Benefit	45
A. Options	45
B. Election	45
C. Installment Payments	45
D. Amount of Installments	45
E. Stopping Installment Payments	45
F. Death of Survivor	45

Section 70B3.1-1 Eligibility for Survivor Annuity Benefit	47
A. Employee Requirements	47
B. Creditable Civilian Service	47
C. Creditable Military Service	47
Section 70B3.1-2 Amount of Survivor Annuity Benefit	48
A. General	48
B. Computation--Regular Formula	48
C. Deceased Law Enforcement Officers, Firefighters, and Air Traffic Controllers	48
Part 70B4 Procedures	
Section 70B4.1-1 Procedures	49
A. Applicable CSRS Provisions	49
B. Exceptions: Forms	49
Section 70B4.1-2 Advice to Surviving Spouse	50
A. Benefits Payable	50
B. Alternative Annuity	50
C. Direct Payment of FEHB Premiums	50
Part 70B5 Crediting Military Service	
Subpart 70B5.1 General Information	
Section 70B5.1-1 Overview	51
A. Introduction	51
B. Organization of Subpart	51
C. Applicable CSRS Provision	51
D. Statement of Authority	51
Subpart 70B5.2 Military Service Performed On or After January 1, 1957	
Section 70B5.2-1 Post-1956 Military Service in CSRS Annuity Component	52
A. General Rule	52
B. Amount of Deposit	52
Section 70B5.2-2 Post-1956 Service Under FERS Rules	53
A. General Rule	53
B. Effect of Military Deposit on Basic Death Benefits	53
C. Effect of Military Deposit on Survivor Annuity	53
D. Amount of Deposit	53

Subpart 70B5.3 Crediting Military Service - Military Retirees

Section 70B5.3-1 General Rules	54
A. Employees Receiving Military Retired Pay	54
B. When Military Deposit is Required	54

Subpart 70B5.4 Procedures

Section 70B5.4-1 Procedures	55
A. Applicable CSRS Provisions	55
B. Forms	55

Part 70B6 Office of Workers' Compensation Death Benefits**Subpart 70B6.1 General Information**

Section 70B6.1-1 Benefits Payable	56
A. OWCP Death Benefits Compared to FERS Benefits	56

Subchapter 70C Job Aids

Section 70C1.1-1 Forms	57
Agency Certification for Death in Service	58
Survivor's Military Service Election Deceased Employee Covered by CSRS or CSRS Offset	60
Verification of Military Retired Pay Status for Survivors of Deceased Federal Employees . .	63
Verification of Military Retired Pay Status for Survivors of Deceased Federal Employees . .	64
Worksheet to be Used in Completing the Following Forms for Death Benefits	65
Election of OWCP Benefits in Lieu of Survivor Annuity	69
Death Benefit Payment Rollover Election Form	70
 Section 70C2.1-1 Death Gratuity Authorized by Public Law 104-108	 72

Subchapter 70A CSRS**Part 70A1 General Information****Section 70A1.1-1 Overview**

A. Introduction

When an employee dies, annuity benefits may be payable to a surviving spouse, children, and a former spouse. This Chapter covers annuity benefits payable to a surviving spouse.

B. Topics Covered

1. This subchapter covers:
 - The eligibility requirements a spouse must meet;
 - The amount of survivor benefits payable as an annuity to the spouse of a deceased employee;
 - The effect service credit payments have on the amount of survivor benefits;
 - The effects of military service and/or military retired pay on the amount of survivor benefits;
 - The duration of the survivor annuity;
 - The procedures the agency and the surviving spouse must follow to initiate payment of benefits; and
 - Counseling the agency must provide the surviving spouse;
2. This subchapter does not cover:
 - Spousal benefits payable on the death of an annuitant (see Chapter 71, Spouse Benefits - Death of an Annuitant);
 - Spousal benefits payable on the death of a former employee (see Chapter 72, Spouse Benefits - Death of a Former Employee);
 - Death benefits payable to children (see Chapter 73, Children's Benefits);
 - Death benefits payable to former spouses (see Chapter 74, Former Spouse Survivor Benefits)

Section 70A1.1-1 Overview (Cont.)**B. Topics Covered (Cont.)**

- Lump sum death benefits; (see Chapter 75, Lump Sum Benefits);
 - Benefits payable on the death of a reemployed annuitant (see Chapter 100, Reemployed Annuitants); and
 - Benefits payable if the employee's death was job-related> are partially covered in this chapter, however also see Chapter 102, Relationship Between Retirement Annuity and Compensation for Work-Related Injuries and Diseases.
-

C. Organization of Subchapter

The CSRS subchapter has six parts.

Part	Name of Part	Page
70A1	General Information	1
70A2	Benefits Payable	8
70A3	Procedures	14
70A4	Crediting Military Service	18
70A5	Crediting Military Service - Military Retirees	31
70A6	Office of Workers' Compensation Death Benefits	36

NOTE: The FERS subchapter about spousal death benefits payable on the death of an employee begins on page 37.

D. Statement of Authority

This subchapter is based on the laws and regulations cited below.

- United States Code: 5 U.S.C. 8341(a)(1) and (2); 8341(d); 8341(g); 8341(i); 8342(c) and (d)
 - Code of Federal Regulations: 5 CFR 831.618, 831.619(a), 831.620, 831.301, 831.2101-2107
-

Section 70A1.1-2 Eligibility Requirements

A. General

A deceased employee and surviving spouse must meet certain requirements before spousal survivor annuity benefits are payable upon the death of the employee.

NOTE: If the employee's death was job-related, there may be workers' compensation benefits payable. See Chapter 102 for additional information.

B. Employee Requirements

1. For survivor annuity benefits to be payable, a deceased employee must have:
 - Completed at least 18 months of creditable civilian service; and
 - Died while subject to CSRS deductions.
2. An individual's death is considered a death in service and survivor benefits are payable as described in this subchapter if --
 - An applicant for disability retirement dies before final separation by the employing agency, even if the application for disability retirement has been approved; or
 - An applicant for immediate retirement dies before the commencing date of annuity, even though separation has occurred.
3. An individual is considered to have died as a retiree and survivor benefits are payable as described by the information in Chapter 71, Spouse Benefits - Death of an Annuitant, if the individual (1) has met all requirements for entitlement to annuity, including filing an application, (2) has separated from the agency rolls, and (3) dies on or after the date on which annuity begins to accrue.

Section 70A1.1-2 Eligibility Requirements (Cont.)**B. Employee Requirements (Cont.)**

NOTE: The alternative form of annuity (AFA) currently applies only to nondisability retirees with life-threatening afflictions or other critical medical conditions. Some employees with life-threatening or other critical medical conditions have met requirements (1) and (2), but have died before the date on which their annuity would begin. For example, an employee retired in the middle of the month, and his or her annuity would have commenced on the first day of the following month, but the employee died before that date. The individual will be considered a retiree for purposes of paying the AFA lump sum if the employee met all of the requirements for nondisability retirement, including filing an application, he or she was separated from the agency rolls, and medical information establishes a life threatening affliction or critical medical condition. The eligible survivor may receive the AFA even if the employee died before the annuity begins. The application submissions should include medical evidence to establish the terminal illness. If a statement is present concerning the voluntary retiree's wish to obtain the AFA, the statement can be forwarded to OPM.

4. Except in the case of a Member of Congress, an individual is not considered to be either a retiree or an employee and the only death benefits payable are as described by Chapter 75, Lump-Sum Benefits, if he or she separates from the service and dies --
 - Before applying for retirement; or
 - Before the commencing date of a deferred annuity.

C. Survivor Requirements

For a survivor annuity to be payable to a spouse, the spouse must meet **one** of the following requirements:

1. The surviving spouse and the employee must have been married for at least 9 months. Count the aggregate time of all marriages between the spouse and employee to determine the total length of marriage.

or
2. A child was born of the marriage. For this purpose, child includes:
 - A child born posthumously to the deceased employee and spouse;
 - A child born to the deceased employee and spouse before they were married; and

Section 70A1.1-2 Eligibility Requirements (Cont.)**C. Survivor
Requirements
(Cont.)**

- A child of a prior marriage between the deceased employee and spouse.

or

3. The death of the employee was accidental. See 5 CFR 831.642(d).

and

There is no court order awarding the total survivor annuity to a former spouse. If a former spouse was awarded only a part of the total survivor annuity, the surviving spouse will receive the remainder.

**C. Survivor
Requirements
(Cont.)**

However, if a court order awards the total survivor annuity to a former spouse, the surviving spouse will receive nothing.

In either case, if the former spouse later loses entitlement (because of death or remarriage before age 55), the surviving spouse will begin to receive the full survivor annuity.

Part 70A2 Benefits Payable**Subpart 70A2.1 Amount of Survivor Benefits****Section 70A2.1-1 Survivor Annuity to a Spouse**

A. General

A spousal survivor annuity is 55 percent of an annuity computed as if the employee had retired on a disability retirement as of the date of death.

B. Computation of Benefit--Regular Formula

A spouse receives 55 percent of the **HIGHER** of 1 or 2 below:

1. An annuity computed under the general formula (see Chapter 50) based on the deceased employee's high-3 average salary and length of service to date of death, including credit for unused sick leave.
2. A "guaranteed minimum" which is the **LESSER** of:
 - 40 percent of the deceased employee's high-3 average salary; or
 - The regular annuity obtained after increasing the deceased employee's length of service by the period of time between the date of death and the date he or she would have been age 60.

NOTE 1: If the employee has less than 3 years of service, the salary is simply averaged for the total period of service.

NOTE 2: See Chapter 61, Computation of Disability Retirement Benefits, for a detailed discussion of the guaranteed minimum disability annuity benefit computation which generally is applicable to widows and widowers.

NOTE 3: See parts 70A4 and 70A5 for information on situations involving post-1956 military service or in which the employee was in receipt of military retired pay at the date of death.

C. Deceased Law Enforcement Officers and Firefighters

1. If, at the date of death, the employee was a law enforcement officer or firefighter and:

had at least 20 years of law enforcement or firefighter service, the spouse receives 55 percent of an annuity computed under the special formula for law enforcement officers and firefighters (see Chapter 54, Special Computation Formulas for Law Enforcement Officers, Firefighters, and Air Traffic Controllers) based on the deceased employee's high-3 average salary and length of service to date of death, including credit for unused sick leave.

Section 70A2.1-1 Survivor Annuity to a Spouse (Cont.)

- C. Deceased Law Enforcement Officers and Firefighters (Cont.)**
2. If, at the date of death, the employee did not meet the requirements stated above, or was not age 50 with 20 years of law enforcement/ firefighter service, the spousal annuity is computed under the regular formula described in section 70A2.1-1B.
-
- D. Deceased Air Traffic Controllers**
1. If, at the date of death, the employee:
- Was age 50 or older and had at least 20 years of service as an air traffic controller, or
 - Had at least 25 years of air traffic controller service, regardless of age, the spouse receives 55 percent of an annuity computed under the special formula for air traffic controllers (see Chapter 54) based on the deceased employee's high-3 average salary and length of service to date of death, including credit for unused sick leave.
2. If, at the date of death, the employee does not meet the age and/or service requirements stated in paragraph 1, the spousal survivor annuity is computed under the regular formula described in section 70A2.1-1B.
-

Section 70A2.1-2 Survivor Annuity to a Spouse -- Deceased CSRS Offset Employee

- A. General** Survivor benefits to the spouse of a deceased CSRS Offset employee are the same as the benefits payable upon the death of an employee with full CSRS coverage until and unless the survivor becomes eligible for Social Security survivor benefits.
-
- B. Social Security Benefits Not Payable** A surviving spouse who is not entitled to Social Security survivor benefits continues to receive full CSRS survivor benefits.
-
- C. Social Security Benefits Payable** If Social Security benefits are payable:
1. The surviving spouse receives full CSRS survivor benefits until he or she becomes entitled to Social Security survivor benefits. This normally occurs at age 60 unless the spouse is disabled or has a minor child in care.
 2. When the spouse becomes entitled to Social Security survivor benefits, the CSRS survivor annuity is reduced (offset) by the amount of the survivor's Social Security benefit attributable to the period the deceased was under CSRS Offset.
 3. For more detailed information on the CSRS Offset reduction, see Chapter 50, Computation of Annuity Under the General Formula.
-

Section 70A2.1-3 Effect of Refunded and Nondeduction Service

A. General

All prior creditable civilian service counts toward eligibility for survivor benefits (for example, toward the 18-month service requirement), whether or not any deposit and/or redeposit is paid.

If the benefit would be based on 40 percent of the high-3 average salary (whether or not a deposit and/or a redeposit is paid), paying the deposit or redeposit does not increase the survivor annuity. However, if the "40 percent" benefit does not apply, refunded or nondeduction service will affect the computation of the survivor benefit as noted below.

B. Refunded Service

No credit is given in the computation of the survivor benefit for refunded service unless the survivor redeposits the refund plus any interest due. This includes refunded service performed before October 1, 1990.

NOTE: Pay rates in effect during refunded service may be used for high-3 average salary purposes even if no redeposit is made.

C. Nondeduction Service

If the nondeduction service was performed prior to October 1, 1982:

- Nondeduction service is fully creditable for computation purposes.
- If the deposit is not made, the amount of the annuity earned by the employee, which is used to determine the survivor's annuity, is reduced by 10 percent of the deposit due.

If the nondeduction service was performed on or after October 1, 1982:

- Nondeduction service is not used for service credit in the computation of the survivor benefit unless the survivor makes the deposit.
 - The nondeduction service can be used for high-3 average salary purposes.
-

D. Reference

See Chapter 21, Service Credit Payments for Civilian Service, for detailed information on deposits and redeposits.

Section 70A2.1-4 Lump-Sum Payment

- A. General Rule** If there is no survivor who is entitled to monthly survivor annuity benefits on the death of an employee, the total lump-sum credit in the Civil Service Retirement and Disability Fund is payable to the person(s) entitled under the normal order of precedence described in Chapter 75.
-
- B. Reference** Chapter 75, Lump-Sum Benefits, describes the amount of the benefit payable.
-

Subpart 70A2.2 Duration of Survivor Benefits**Section 70A2.2-1 Duration of Survivor Benefits**

A. Beginning Date An annuity to the surviving spouse of an employee begins on the day after the employee's death.

The exception is the case of a surviving spouse whose entitlement to a survivor annuity depends on the birth of a posthumous child. In this case, benefits begin on the day after the child is born.

B. Ending Date A survivor annuity to a widow or widower ends on the last day of the month preceding the month in which he or she:

1. Dies; or
 2. Remarries prior to age 55 (or age 60 if the remarriage occurred before November 8, 1984). > For remarriages occurring after January 1, 1995, if the widow or widower remarries before age 55, and was married for at least **30 years** to the individual on whose service the survivor annuity is based, the survivor annuity will not be terminated.<
-

C. Restoration of Survivor Benefits An annuity that ended because of remarriage before age 55 (or 60, if applicable) may be restored if the:

1. Remarriage ends by death, divorce, or annulment; and
 2. Widow or widower pays back any lump-sum benefit paid when the annuity ended.
-

Part 70A3 Procedures**Section 70A3.1-1 Procedures**

> Special procedures can be used when there is a disaster involving Federal employees. Examples of such situations include the death of civilian Federal employees aboard an aircraft operated or leased by the Federal Government, for victims of terrorism, Federal employees who die overseas, or other similar circumstances. If the normal handling procedures explained below are insufficient, contact OPM, Agency Services Division, at telephone number 202-606-0788.<

**A. Agency
Responsibility**

When an employee dies, the agency must:

1. Inform the next of kin or emergency addressee and advise him or her of the right to apply for death benefits.
2. Inform the next of kin about what benefits may be payable.
3. Assist the next of kin in completing the SF 2800, Application for Death Benefits.
4. Complete the SF 2800A, Agency Certification for Death in Service. (A copy of the form is in subchapter 70C.)
5. Complete the SF 2801-1, Certified Summary of Service.
6. Submit the deceased employee's Individual Retirement Record (SF 2806), SF 2801-1, SF 2800A, and all SF 2809's and SF 2810's to OPM as soon as possible. Also submit the applicant's SF 2800 if the applicant sends it to the agency before the SF 2800A and SF 2806 are transmitted to OPM.

The deceased employee's records and associated applications are to be received in OPM within 30 days of the date of death.

7. When there is a surviving spouse eligible for a survivor annuity, follow the procedures in parts 70A4 and 70A5 if the deceased had post-1956 military service or was receiving military retired pay at the date of death.
-

Section 70A3.1-1 Procedures (Cont.)**B. Spouse
Responsibility**

The spouse must:

1. Complete the Application for Death Benefits (SF 2800) and attach any other forms and/or evidence as the application or circumstances require.
2. Attach a certified copy of the employee's death certificate.
3. Attach a certified copy of the employee's and spouse's marriage certificate.
4. Send the completed application to:
 - The employing agency if the agency has not yet forwarded the employee's records to OPM; or
 - OPM if the employing agency has already forwarded the employee's records to OPM. Send the records to:

Office of Personnel Management
Retirement Operations Center
Post Office Box 45
Boyers, PA 16017-0045

NOTE: A widow or widower who is entitled to a benefit in her or his own right and also on behalf of a child, only needs to file one application.

**C. OPM
Responsibility**

OPM determines what benefits are payable and, depending upon the type of benefit and the circumstances in a particular case, may request the applicant to submit additional evidence.

Section 70A3.1-2 Advice to Surviving Spouse

- A. Alternative Annuity** The alternative annuity option is not available to a surviving spouse of an employee who dies in service. However, see the exception in Section 70A1.1-2 B, concerning alternative annuity payments when an employee dies after separation but before the annuity commences.<
-
- B. Health Benefits: Continuing Coverage**
1. If the employee had a self and family enrollment at the date of death and a survivor annuity is payable, the surviving spouse can continue health insurance coverage. The enrollment must be immediate, and there can be no lapse in coverage. The premiums will be deducted from the survivor annuity. If the annuity is inadequate to pay the FEHB premium, the survivor may make direct premium payments to OPM.
 2. If the employee had a self and family enrollment at the date of death, but no survivor annuity is payable--these survivors are **not** eligible for Temporary Continuation of Coverage--the enrollment terminates and the survivor has the right to convert to an individual policy within 30 days.
 3. If the employee had a self only enrollment at the date of death, the enrollment terminates at death with no right to enroll or convert for the survivor.
-
- C. Health Benefits: Agency Responsibility** Assuming the survivor annuitant is eligible to continue health benefits coverage, the agency must provide the survivor or next of kin with an SF 2810, Notice of Change in Health Benefits Enrollment. The survivor must be informed that his or her health benefits enrollment will be transferred to OPM and that OPM, when necessary, will change the survivor's enrollment from family to self only coverage if there are no other eligible family members.
- For additional health benefits information, see The Federal Employees Health Benefits Handbook for Personnel and Payroll Offices (formerly FPM Supplement 890-1).
-
- D. Life Insurance: Order of Precedence** The order of precedence for payment of life insurance proceeds is:
- Designated Beneficiary (SF 2823)
 - Widow or widower

Section 70A3.1-2 Advice to Surviving Spouse (Cont.)

- D. Life Insurance:
Order of
Precedence**
- Child or children in equal shares, with the share of any deceased child distributed among the descendants of that child
 - Parents in equal shares or the entire amount to the surviving parent
 - Duly appointed administrator/executor of estate
 - Next of kin under the laws of domicile at the time of the death.
-
- E. Life Insurance:
Agency
Responsibility**
1. Make a preliminary determination of who is entitled to insurance and have them complete form FE 6, Claim for Death Benefits.
 2. Send the FE 6 and all other life insurance forms to the Office of Federal Employees' Group Life Insurance with a certified copy of the death certificate.

If the claim is being made for an accidental death, the circumstances surrounding the death of the employee also must be documented.
 3. For additional life insurance information, see The Federal Employees Group Life Insurance Handbook for Personnel and Payroll Offices (formerly FPM Supplement 870-1).
-

Part 70A4 Crediting Military Service**Subpart 70A4.1 General Information****Section 70A4.1-1 Overview**

A. Introduction

In general, creditable military service can be used in computing the amount of annuity payable to the survivors of a deceased employee. However, there are certain special provisions for creditability that apply specifically to such benefits. Part 70A4 shows how these special provisions apply to the survivors of deceased CSRS employees; Part 70B5 shows how these special provisions apply to the survivors of deceased FERS employees.

NOTE: Part 70A5 discusses the special provisions that apply when the deceased employee was a military retiree.

B. Topics Covered

This part covers:

- The rules that apply if the deceased employee's military service was performed before January 1, 1957;
 - The rules that apply if the deceased employee's military service was performed on or after January 1, 1957; and
 - The procedures the employing agency and survivor must follow to make a deposit for creditable military service.
-

C. Cross References

- Chapter 22, Creditable Military Service, provides a complete discussion of the general rules for creditable military service.
 - Chapter 23, Service Credit Payments for Post-1956 Military Service, covers the general rules and procedures to be followed in making military deposits.
 - Chapter 74, Former Spouse Survivor Benefits, discusses the rights of former spouses.
-

Section 70A4.1-1 Overview (Cont.)**D. Organization of Part**

The CSRS part of this subchapter has four subparts.

Subpart	Name of Subpart	Page
70A4.1	General Information	16
70A4.2	Military Service Performed Before January 1, 1957	18
70A4.3	Military Service Performed On or After January 1, 1957	19
70A4.4	Procedures	24

Parts 70A5 and 70B5, about special CSRS and FERS rules that apply to crediting military service in the survivor benefit computation when the deceased employee was a military retiree, begin on pages 28 and 49 respectively.

E. Statement of Authority

This part is based on the laws and regulations cited below.

- United States Code: 5 U.S.C. 8332(c)(3)
 - Code of Federal Regulations: 5 CFR 831.301 and 5 CFR 831.2101-2107
-

Subpart 70A4.2 Military Service Performed Before January 1, 1957**Section 70A4.2-1 General Rules**

A. General

Generally, creditable military service performed before 1957 is used in the computation of a CSRS survivor annuity. (See Chapter 22 for the circumstances in which military service is creditable.) However, unlike an employee, who does not have a choice, a survivor annuitant may elect to have military service between September 16, 1940, and December 31, 1956, used in computing Social Security benefits instead of a CSRS survivor annuity.

B. Social Security Credit for Pre-1957 Military Service

The Social Security Administration (SSA) allows credit for military service performed before January 1, 1957, **only** if there are **no** benefits based on the pre-1957 service payable from a Federal agency, other than the Department of Veterans' Affairs. (See 42 U.S.C. 402(1).) Because the law does not permit pre-1957 service to be excluded from CSRS benefit computations, survivors who choose to have the military service included in the Social Security benefit must waive **all** rights to survivor benefits under CSRS. Any surviving spouse may make this election. However, the survivor should give careful consideration to whether the election will provide a higher benefit.

If the survivor is considering using the pre-1957 military service for Social Security benefits, he or she should contact a local Social Security office to obtain information on how benefits will be affected.

C. Civil Service Survivor Benefits

1. If the survivor decides to use the decedent's pre-1957 military service to compute Social Security benefits, he or she should express this intention, in writing, to OPM when filing an Application for Death Benefits (SF 2800). OPM will advise the survivor of the consequences of the election (no CSRS survivor annuity payable) and request confirmation of the election. The survivor will be informed that the election is irrevocable once made.
 2. Any retirement contributions, deposits, or redeposits credited to the deceased employee's account will be paid in a lump-sum to the entitled individual(s) under the order of precedence if the survivor elects to waive CSRS survivor annuity.
-

Subpart 70A4.3 Military Service Performed On or After January 1, 1957**Section 70A4.3-1 General Rules**

A. General

While all military service is potentially creditable for use in the computation of CSRS survivor annuity benefits, military service performed after December 31, 1956, is subject to Social Security (FICA) taxes and is primarily creditable toward an employee's or survivor's Social Security benefit, if any. However, under certain circumstances, the survivor will also receive credit for the deceased employee's post-1956 military service in the CSRS annuity computation. These circumstances are described in sections 70A4.3-2 and 70A4.3-3 below.

**B. Post-1956
Military Service
Deposit**

Military service performed after December 31, 1956, can be credited for both Social Security and CSRS survivor benefits if a deposit is paid. The military deposit for a CSRS employee is 7 percent of the deceased employee's military base pay earned during the post-1956 military service plus interest, if applicable. For information on the calculation of military deposits, see Chapter 23, Service Credit Payments for Post-1956 Military Service.

Section 70A.4.3-2 Employee First Employed Under CSRS Before October 1, 1982

A. General If the deceased employee was first employed under CSRS before October 1, 1982, the decision to make a deposit for post-1956 military service depends on the survivor's eligibility for Social Security survivor benefits.

B. Survivor Eligibility Requirements for Immediate Social Security Benefits The survivor of a deceased employee may be entitled to immediate Social Security survivor benefits if the employee was fully insured under Social Security (see guidance prepared by the Social Security Administration titled "Social Security Retirement, Survivors and Disability Insurance, and the Medicare Program" (issued as FPM Supplement 832-1) and:

1. The survivor is the parent of an eligible child in care (normally, a child under the age of 16); or
2. The survivor is age 50 or older and disabled (according to the Social Security definition of "disability"); or
3. The survivor is age 60 or older.

NOTE: Generally, Social Security spousal survivor benefits end if the survivor remarries before age 60 or benefits to a child in care terminate before the survivor reaches age 60.

C. Eligible for Social Security Benefits at Employee's Death Survivors who are eligible for Social Security survivor benefits at the employee's death may:

1. Make the non-refundable military deposit (see Chapter 23 for a discussion of situations when a refund can be paid) so that the post-1956 military service will be included in the survivor annuity computation; or
2. Not make the military deposit, and the post-1956 military service will not be included in the survivor annuity computation.

NOTE: If the deposit is not made, the post-1956 military service may be included in the computation in the future if the survivor loses entitlement to Social Security survivor benefits based on the deceased employee's service. However, the post-1956 military service will again be eliminated if the survivor later becomes entitled once again to Social Security benefits based on the deceased employee's service.

Section 70A4.3-2 Employee First Employed Under CSRS Before October 1, 1982 (Cont.)

D. Eligible for Social Security Benefits in the Future Survivors who are eligible for Social Security survivor benefits in the future may:

1. Avoid a reduction in survivor annuity benefits when he or she becomes entitled to Social Security survivor benefits based on the deceased employee's military service, by making a non-refundable military deposit before final adjudication of the claim; or
2. Receive credit for the post-1956 military service in the CSRS spousal survivor benefits computation without making the military deposit until he or she becomes entitled to Social Security benefits based on the deceased employee's military service (generally at age 60). When the survivor becomes entitled to Social Security survivor benefits, the post-1956 military service will be eliminated from the computation and the spousal survivor annuity reduced.

E. Not Eligible for Social Security Benefits If the survivor is not eligible for Social Security survivor benefits, the military deposit need not be made. Survivors who are not sure of their eligibility for benefits must contact their local Social Security office for further information.

F. Survivors Who Lose Social Security Eligibility Credit for post-1956 military service **may** be restored to a survivor who does not make the military deposit, if the survivor loses eligibility for Social Security survivor benefits based on the deceased employee's military service because:

- The survivor becomes eligible for Social Security benefits based on his or her own earnings that exceed the survivor benefit;
- The survivor remarries before age 60; or
- The Social Security benefit stops because a minor child reaches age 16 (and there is no other survivor currently eligible.)

EXAMPLE: Assume John dies in service without making a deposit for 4 years of post-1956 military service. He is fully insured under Social Security at date of death. The surviving spouse, Susan, who is age 50, will not be eligible for Social Security survivor benefits until age 60.

Section 70A4.3-2 Employee First Employed Under CSRS Before October 1, 1982 (Cont.)

- F. Survivors Who Lose Social Security Eligibility (Cont.)** The military service is credited in computing Susan's CSRS spousal survivor annuity whether or not she makes the military deposit. Susan chooses not to make the deposit. When Susan reaches age 60 and becomes eligible for Social Security survivor benefits, her CSRS spousal survivor annuity will be recomputed to exclude the military service. At age 62, Susan is eligible for and receives her own Social Security benefit because it exceeds the value of her benefit based on John's earnings record. Once payment of the Social Security survivor benefit stops, Susan's CSRS spousal survivor annuity may be recomputed to include the military service upon her request to OPM.
-
- G. Reference** For additional information on creditable military service and on service credit payments for post-1956 military service, see Chapters 22 and 23.
-

**Section 70A4.3-3 Employee First Employed Under CSRS On or After
October 1, 1982**

A. Rule

If the deceased employee was first employed under CSRS on or after October 1, 1982, a surviving spouse **must** make a deposit for the deceased employee's post-1956 military service to have the service credited in the computation of the survivor benefit from the commencing date. The deposit requirement applies whether or not the survivor is eligible for Social Security survivor benefits at the date of death or at any later date. If the deposit is made, the military service will be used to compute both CSRS and Social Security survivor benefits.

NOTE: If the surviving spouse is eligible for a survivor annuity based on the minimum basic annuity provisions of the law (see section 70A2.1-1, paragraph B), the exclusion of credit for post-1956 military service **may** have no effect on the amount of survivor annuity payable.

B. Reference

For additional information on creditable military service and service credit payments for post-1956 military service, see Chapters 22 and 23.

Subpart 70A4.4 Procedures**Section 70A4.4-1 Procedures**

**A. Agency
Responsibility**

A survivor must make the military deposit directly to the agency that employed the deceased employee. To assist the survivor with the decisions relating to the military service, the agency must take the following actions.

STEP ACTION

1. Compute the survivor annuity with and without the post-1956 military service.
 - If there is no rate difference (for example, the rate is based on the 40 percent minimum annuity) with or without military service, paying the deposit will not provide the survivor with any additional benefits.
 - If the rate is higher with the military service, and the decedent was first employed subject to CSRS before October 1, 1982, the survivor should contact the local office of the Social Security Administration (SSA) to see if he or she is entitled, or will be entitled in the future, to SSA benefits based on the deceased employee's service. If the survivor is not entitled, or will not be entitled in the future, to SSA benefits, making the deposit will not provide the survivor with any additional benefits. If the rate is higher with the military service, and the decedent was first employed subject to CSRS after September 30, 1982, the survivor must make the deposit to receive the higher benefit.
2. Prepare four copies of OPM Form 1519, Survivor Military Service Election, by completing Part A. (A copy of the form is in Subchapter 70C.)
 - Go over the information in Part A and the information provided in the accompanying notice, "Information for the Survivor of a Deceased CSRS Employee."

Section 70A4.4-1 Procedures (Cont.)

A. Agency
Responsibility
(Cont.)STEP ACTION

- Answer any questions the survivor has or direct him or her to the agency that can provide assistance.
 - Assist in obtaining any additional information needed (for example, estimated earnings during military service, verification of entitlement to military survivor benefits, etc.).
3. Retain one copy of OPM Form 1519 and give three copies to the survivor. Have the survivor complete Part B (and Part C, if appropriate), sign, date, and return two copies to the agency.
- If the survivor still is undecided or does not have sufficient information to make an informed election, the agency should not delay processing the SF 2800, Application for Death Benefits, or the SF 2806 pending receipt of the additional information. The survivor may note under "Other" in Part C of OPM Form 1519 that the election is tentative or will be delayed pending receipt of additional information.

NOTE: Final adjudication of the survivor benefit will be delayed pending receipt of an election.

4. Attach one signed copy of OPM Form 1519 to the SF 2800.
5. If the survivor decides to make the deposit, use the second signed copy of OPM Form 1519 to establish a deposit account. (See Chapter 23 for information on post-1956 military deposits.)

NOTE: **The deposit must be collected in one lump sum.**

6. Compute the amount of the military deposit the survivor owes.
7. Prepare OPM Form 1514, Military Deposit Worksheet, for the survivor's deposit account. Do not delay processing the SF 2800 and SF 2806 pending receipt of the deposit payment. When payment is received, prepare the SF 2806 as instructed in Chapter 23 and send it to OPM.

Section 70A4.4-1 Procedures (Cont.)**A. Agency
Responsibility
(Cont.)**

8. If the deceased employee began installment payments and the survivor has elected to make the deposit, but has not completed it by the time the regular SF 2806 is ready to send to OPM, close out the deposit account and send the SF 2806 for the military deposit to OPM with the decedent's other records. When the balance of the payment is received, prepare a new SF 2806 and send it to OPM.

NOTE 1: The survivor annuitant **must** at least make a tentative election to make or not make the military deposit and a signed and dated copy of the OPM Form 1519 should be enclosed with SF 2800.

NOTE 2: Refer to Chapter 23 for additional information on military deposit accounts; refer to Chapter 81 for instructions on how to complete SF 2806.

NOTE 3: The agency should refer to part 70A5 for further information on processing survivor elections on post-1956 military deposits when the employee was receiving military retired pay at time of death.

**B. Survivor
Responsibility**

The survivor must take the following steps to make a military deposit.

STEP ACTION

1. The survivor must elect to make the deposit in writing by completing:
 - OPM Form 1519, Survivor's Military Service Election; and
 - SF 2803, Application to make Deposit or Redeposit (showing military service only).
2. If there is insufficient documentation to determine the amount of the deposit due, the surviving spouse must send the form "Estimated Earnings During Military Service" to the appropriate military finance center. (See Chapter 23 for addresses.) The form should note: "Please expedite. Employee died (date)."

Section 70A4.4-1 Procedures (Cont.)**B. Survivor
Responsibility
(Cont.)**STEP ACTION

3. If the survivor elects to make the deposit, he or she must pay the amount due in one lump sum.
 4. If the survivor later decides not to pay or complete the deposit to the agency, he or she must notify OPM in writing. Any partial deposits made will be refunded by OPM.
 5. If the deceased employee was receiving military retired pay at the time of death, the survivor may elect to exclude military service from the survivor annuity computation. (See part 70A5 for further information.)
-

Part 70A5 Crediting Military Service - Military Retirees**Subpart 70A5.1 General Information****Section 70A5.1-1 Overview**

A. Introduction

Prior to April 25, 1987, if a deceased employee was receiving military retired pay at date of death, his or her military service could not be used in the computation of the spousal survivor annuity benefit. Public Law 99-556 (now 5 U.S.C. 8332 (c)(3)), enacted October 27, 1986, provided that, effective April 25, 1987, even if the employee was in receipt of military retired pay at the date of death, the military service must be used in the computation of spousal survivor benefits subject to certain conditions.

This subchapter covers the special rules that apply under CSRS for crediting military service in the survivor benefit computation when the deceased employee was a military retiree.

NOTE: See part 70A4 for a discussion of the rules for crediting the deceased employee's military service in the spousal survivor annuity computation. See Chapter 22 for a general discussion of creditable military service.

B. Topics Covered

This subchapter covers:

- The rules that apply if the deceased employee was receiving military retired pay at time of death;
 - The factors that may affect a survivor annuitant's decision to credit or exclude military service from the spousal survivor annuity computation; and
 - The modifications in the procedures the employing agency and survivor annuitant must follow to make a deposit for creditable military service.
-

Section 70A5.1-1 Overview (Cont.)

- C. Organization of Part** The CSRS part of this subchapter has three subparts.

Subpart	Name of Subpart	Page
70A5.1	General Information	32
70A5.2	Rules for Crediting Military Service	32
70A5.3	Procedures	35

Part 70B5, describing the effect of military retired pay on survivor annuities under FERS, begins on page 48.

- D. Statement of Authority** This part is based on the laws and regulations cited below.

- United States Code: 5 U.S.C. 8332(c)(3)
 - Code of Federal Regulations: 5 CFR 831.301 and 5 CFR 831.2101-2107
-

Subpart 70A5.2 Rules for Crediting Military Service**Section 70A5.2-1 General Rules**

A. Employees Receiving Military Retired Pay

If an employee has not waived military retired pay for civil service retirement purposes, and dies in service on or after April 25, 1987, the employee's military service **must** be included in the computation of the CSRS spousal survivor annuity, provided the necessary deposit, if any, **has been** made. However, survivors (including former spouses) may elect to exclude such military service from the survivor annuity computation. (See 70A5.3-1, paragraph B.)

In making this election, the survivor will need to consider the factors presented in paragraphs B through F of this section which may affect the amount of the benefit.

B. Offset by Amount of Military Survivor Benefits Payable

If the survivor qualifies for CSRS survivor benefits including the decedent's military service, and the decedent elected a survivor benefit from the military, the military survivor benefit will not be affected by eligibility for CSRS survivor benefits. However, OPM must reduce the CSRS survivor annuity by an amount equal to the military survivor benefit.

The amount deducted from the CSRS survivor benefit will not reduce the CSRS survivor annuity below the monthly benefit payable based on the civilian service alone (that is, OPM will pay the survivor at the rate payable for civilian service alone, if it is higher).

EXAMPLE: Assume a survivor's CSRS annuity has been computed to be \$1,800 per month after including the post-1956 military service in the computation. The survivor also will be receiving \$800 per month in military survivor benefits. The CSRS survivor annuity without the military service has been computed to be \$1,200 per month.

Since the CSRS survivor benefit including the military service and reduced by the military survivor benefit ($\$1,800 - \$800 = \$1,000$) is less than the survivor benefit based on the civilian service alone (\$1,200), OPM will pay at the rate of \$1,200 per month.

Section 70A5.2-1 General Rules (Cont.)**C. Benefit Adjustments**

Once OPM has established the reduction in the CSRS survivor annuity (the amount of the military benefit at the time of death) further reductions will not be made for cost-of-living increases in the military survivor benefit.

OPM will adjust the CSRS survivor annuity only when and if the survivor annuitant's military survivor benefit is affected because of his or her entitlement to benefits under title II of the Social Security Act (generally at age 62) or when the survivor becomes entitled to Social Security survivor benefits (generally at age 60). OPM will request new information from:

- The Social Security Administration, at age 60, regarding entitlement to Social Security survivor benefits. If the survivor is entitled to Social Security survivor benefits based on the deceased employee's military service, OPM must reduce the survivor annuity by eliminating any post-1956 military service for which a deposit has not been paid under 5 U.S.C. 8334(j).
 - The appropriate military finance center, at age 62, regarding military survivor benefits payable. If the military survivor benefits are reduced because of benefits payable under title II of the Social Security Act, the amount of the CSRS survivor benefit will be adjusted accordingly.
-

D. When Military Deposit is Required

The rules for crediting military service in section 70A5.2-1, are subject to the general rules for making a deposit for post-1956 military service discussed in Chapter 23.

1. No deposit is required to credit military service performed before January 1, 1957. Ordinarily, such service must be used in the computation of CSRS survivor benefits; however, see section 70A4.2-1, paragraph B, regarding Social Security credit for pre-1957 military service.
2. For deceased CSRS employees who have post-1956 military service and were first employed in a position subject to CSRS retirement deductions before October 1, 1982, the survivor annuitant's eligibility

Section 70A5.2-1 General Rules (Cont.)

- D. When Military Deposit is Required (Cont.)** for Social Security survivor benefits will affect whether the deposit must be made for the post-1956 military service in order to have the service used in computing the CSRS survivor annuity. (See discussion in section 70A4.3-2.)
3. For deceased CSRS employees who have post-1956 military service and were first employed in a position subject to CSRS retirement deductions on or after October 1, 1982, the deposit must be made for the post-1956 military service in order to have the service used in computing the CSRS survivor annuity.
-
- E. Amount of Deposit** If the surviving spouse elects to make the deposit for military service, he or she must pay 7 percent of the deceased employee's military base pay earned during the post-1956 military service (plus interest, if any). The employing agency must collect the amount due in one lump sum.
> However, if military service interrupts civilian service on or after August 1, 1990, different deposit rules may apply. See Chapter 23. <
-

Subpart 70A5.3 Procedures**Section 70A5.3-1 Procedures**

**A. Agency
Responsibility**

1. The agency must take the same actions described in section 70A4.4-1 to process cases involving military retired pay that was **not** awarded:
 - Based on a service-connected disability (1) incurred in combat with an enemy of the United States or (2) caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by section 301 of title 38; or
 - Based on chapter 1223 of title 10 (reserve retirement).
 2. In addition, the agency must:
 - Send the "Verification of Military Retired Pay Status for Survivors of Deceased Federal Employees" to the appropriate military finance center to verify the survivor's eligibility/ineligibility for military survivor benefits and the amount of the monthly benefit, if eligible, unless the survivor already has a document that provides this information (see subchapter 70C for a copy of the form and the addresses of military finance centers); and
 - Attach one signed copy of the election form and the documentation of the survivor's eligibility/ineligibility for military survivor benefits to the Application for Death Benefits (SF 2800).
-

**B. Survivor
Responsibility**

1. If the survivor does not want military service included in the CSRS survivor annuity computation, he or she must send OPM a written statement to that effect or use the box provided on OPM Form 1519, Survivor's Military Service Election.
 2. In making the decision to credit or exclude military service, the survivor should check with his or her Social Security Office to determine how Social Security benefits might be affected.
 3. See section 70A4.4-1, paragraph B, for the actions to be taken by the survivor in making the military deposit.
-

Part 70A6 Office of Workers' Compensation Death Benefits**Subpart 70A6.1 General Information****Section 70A6.1-1 Benefits Payable**

A. OWCP Death Benefits

If death of the employee results from injury or illness sustained in the performance of duty, compensation benefits may be payable. They are administered by the Department of Labor's Office of Workers' Compensation Programs (OWCP) under the Federal Employees' Compensation Act (FECA). A monthly compensation payment equal to a percentage of the monthly pay of the employee is payable to:

- a widow or widower, if there are no children, at the rate of 50% of the deceased employee's salary.
- a widow or widower, with child(ren), 45% and an additional 15% for each child not to exceed a total of 75% payment to widow or widower.
- children, if there is no widow or widower, 40% for one child and 15% each additional child not to exceed a total 75%.
- parents, if there is no widow, widower, or child(ren) -- the percentage is based on dependency of the parent on the employee at time of death (see 5 U.S.C. 8133 for percentage).
- dependent brothers, sisters, grandparents, and grandchildren when there is no widow, widower, child, or dependent parent (see 5 U.S.C. 8133 for percentage).

Compensation is payable from date of death of the employee until:

- a widow or widower remarries prior to age 55 or dies.
- a child marries or becomes 18 years old (**exception:** if 18 and a full-time student beyond high school or if incapable of self-support due to physical or mental condition, benefits continue).
- a parent/grandparent dies, marries, or ceases to be dependent (5 U.S.C. 8133).
- Compensation payments may not be reinstated if marriage ends.

All related medical costs are covered in full.

Section 70A6.1-1 Benefits Payable (Cont.)

B. Funeral Expenses When an employee's death results from injuries sustained while performing official duty, a payment of up to \$800 for funeral and burial expenses is authorized (5 U.S.C. 8134). Itemized funeral bills should be submitted to OWCP for consideration of payment or reimbursement. In addition, a \$200 allowance will be paid to a deceased employee's representative for reimbursement for costs in terminating the deceased's status as a Federal employee (5 U.S.C. 8133).

C. Compensation Benefits and Federal Retirement Benefits The FECA prohibits payment of compensation and survivor annuity at the same time. This prohibition does not, however, prevent an individual from filing for both benefits. If both benefits are approved, the rules prohibiting dual benefits apply. If the surviving spouse and/or children of an individual who died as a result of a job-related disease or injury are eligible for both death compensation benefits from OWCP and CSRS or FERS survivor benefits (see section 70B6 for differences in application of FERS benefits), the survivor must elect which of the two benefits he or she wishes to receive.

Most survivors will choose compensation benefits instead of a survivor annuity because compensation normally pays a higher amount. If the survivor elects compensation benefits he or she may also elect to receive a lump sum payment of the employee's contributions to the retirement fund. The lump sum is paid under a statutory order of precedence: first, to the designated beneficiary; if none designated, to the surviving spouse; if none, to the child or children and descendants of deceased children, by representation; if none, to any surviving parents; if none, to the duly appointed executor or administrator of the estate; if none, to the next of kin.

If the employee was single and had no dependent children, there would be no survivor annuity benefit or lump sum payable under OWCP unless there are dependent parents, grandparents, brothers, sisters, and grandchildren. FECA specifies the percentage of salary used to determine each benefit according to the degree of dependence. If there was no former spouse eligible for CSRS benefits, a lump sum of the employee's retirement contributions would be paid to his or her survivors under the order of precedence.

Section 70A6.1-1 Benefits Payable (Cont.)**D. Instances When OWCP Benefits Are Not Payable and CSRS Benefits Are**

CSRS benefits are payable under certain circumstances where compensation benefits are not payable. For instance, CSRS benefits may be payable to a former spouse if a court order awarded them, but compensation is not payable to a former spouse. In addition, if a subsequent marriage (under age 55) terminates a widow or widower's survivor benefits, the CSRS benefit may be reinstated on the termination of that marriage (provided the survivor has not received a refund of CSRS deductions except in the case of financial settlement from a third party explained below), while the compensation benefit may not.

A survivor eligible for both a CSRS survivor annuity and death compensation benefits from OWCP, whose compensation is suspended because he or she has received financial settlement from a third party directly responsible for the employee's death, may, since he or she is not in receipt of compensation, be paid a survivor annuity during the suspension period. Therefore, a survivor should postpone filing for the CSRS lump sum if he or she expects to file suit against a third party.

> Evidence necessary to establish liability of a third party may not be readily available, and litigation can be a lengthy process. Consequently, current OPM policy is to permit survivors to receive a survivor annuity if a third party settlement occurs at a later date. <

E. Worksheet Developed to be Used in Completing Death Benefits Forms

Because survivors of deceased employees may be eligible for as many as six kinds of payments based on the deceased employee's civilian service, a worksheet has been developed to compile all the information needed from a survivor; the worksheet can be used to complete all the other forms. A survivor(s) could be eligible for: -- 1) workers' compensation because of the work-related cause of death; 2) FEGLI; 3) CSRS or FERS for a lump sum payment of retirement contributions to the employee's credit unless a third party settlement is possible (we expect people to elect compensation since it pays more); 4) the deceased employee's Thrift account proceeds; 5) Social Security for FERS and CSRS Offset employees; and 6) unpaid compensation (salary) and lump sum leave from the employing agency. (Social Security enters information directly into its automated records when an applicant visits a Social Security office.)

The worksheet should reduce repetitious questioning of survivors who are going through a very traumatic experience and make filling out multiple application forms that ask for much the same information less burdensome.

The worksheet has the items that an applicant needs to complete (or an agency representative could obtain from the deceased employee's personnel records and by talking with the survivor). Then the agency can take the

Section 70A6.1-1 Benefits Payable (Cont.)

- E. Worksheet Developed to be Used in Completing Death Benefits Forms** completed worksheet, transfer the information to the appropriate applications, and present the survivor with completed forms that are ready to be signed. The worksheet is listed in subchapter 70C, Job Aids, and is included with the forms at the end of this Chapter.
- The worksheet instructions for CSRS and FERS applications provide that a number of items may be omitted as it is likely that survivors who are eligible for workers' compensation will want that benefit and a lump sum payment of retirement deductions. An election statement is provided in the Job Aids at the end of this Chapter for survivors who will be receiving compensation and want a lump sum payment of retirement deductions.
- F. New Death Gratuity Payment Authority** > **See the Job Aids at the end of this chapter to review the memorandum for heads of departments and independent agencies dated October 15, 1996, concerning the new death gratuity payment authority. Also see the memorandum on the tax status of the gratuity dated February 20, 1997.** <
-

BLANK PAGE

Subchapter 70B FERS

Part 70B1 General Information

Section 70B1.1-1 Overview

A. Introduction

Subchapter 70B contains the rules and policies applicable to survivor benefits payable upon the death of an employee under the Federal Employees Retirement System (FERS).

This subchapter explains how FERS differs from CSRS. It refers readers to the applicable CSRS rule or gives the FERS rule if different.

B. Organization of Subchapter

The FERS subchapter has six parts.

Part	Name of Part	Page
70B1	General Information	40
70B2	Basic Death Benefit	42
70B3	Survivor Annuity Benefit	48
70B4	Procedures	50
70B5	Crediting Military Service	52
70B6	Office of Workers' Compensation Death Benefits	57

C. Applicability of Subchapter

1. If an employee dies after having applied for retirement, including disability retirement, but before final separation from the agency, the employee's death is a death in service and the information in this subchapter applies, even if the person's retirement would have been retroactively effective upon separation.
 2. If an employee dies after separation from the service and after applying for retirement, the information in Chapter 71 (Spouse Benefits - Death of an Annuitant) applies.
 3. If an employee dies after separation from the service and before applying for retirement, either Chapter 72 (Spouse Benefits - Death of a Former Employee) or Chapter 75 (Lump-Sum Benefits) applies.
-

Section 70B1.1-1 Overview (Cont.)**D. Applicable CSRS Provisions**

The following sections of subchapter 70A are entirely applicable to FERS employees:

- Section 70A2.1-4: Lump-Sum Payment
- Section 70A2.2-1: Duration of Survivor Benefits
- Section 70A6.1-1: OWCP Death Benefits

NOTE: Generally, the CSRS provisions explained in Part 70A6 apply to FERS employees except that the compensation benefits are reduced if the employee was covered under FERS and their survivors are eligible for Social Security benefits based on the employee's Federal employment. Also, the basic employee death benefit is not payable if the OWCP benefits are elected.

E. Statement of Authority

This subchapter is based on the laws and regulations cited below.

- United States Code: 5 U.S.C. 8442(b)-(e)
 - Code of Federal Regulations: 5 CFR 843, Subparts B and C
-

Part 70B2 Basic Death Benefit (Benefits Payable)

Section 70B2.1-1 Eligibility Requirements for the Basic Employee Death Benefit

- A. General** The basic employee death benefit is a benefit payable to the spouse of a deceased employee who met certain eligibility requirements at the date of death.
-
- B. Employee Requirements** For the basic employee death benefit to be payable, a deceased employee must have:
- Completed at least 18 months of creditable civilian service; and
 - Died while subject to FERS deductions.
- > Employee includes a person who had applied for retirement under FERS but had not been separated from the Federal service prior to his or her death, even if the person's retirement would have been retroactively effective upon separation. <
-
- C. Survivor Requirements** The CSRS survivor requirements discussed in section 70A1.1-2, paragraph C, apply under FERS for both the basic employee death benefit and the survivor annuity benefit (Part 70B3) described below. The only exception is that the total spousal survivor annuity payable is 50 percent of an annuity computed as if the employee had retired optionally with no age reduction.
-
- D. Creditable Civilian Service** In determining whether an employee completed 18 months of potentially creditable civilian service, include all prior:
- Service included in a CSRS component, including refunded CSRS service;
 - CSRS Offset service for which the employee received a refund before becoming covered by FERS;
 - FERS service for which FERS retirement contributions remain to the employee's credit; and
 - Nondeduction service performed prior to January 1, 1989, regardless of whether a deposit for such service has been made.
-

Section 70B2.1-1 Eligibility Requirements for the Basic Employee Death Benefit (Cont.)**E. Noncreditable
Civilian Service**

For purposes of the 18-month requirement, creditable civilian service does not include:

1. Refunded FERS service;
 2. Nondeduction service performed on or after January 1, 1989; and
 3. Service performed on or after January 1, 1989, under another retirement system for Federal employees. Such service is not creditable under FERS for any purpose. The exception is service that is creditable under the Foreign Service Pension System (FSPS), provided that the survivor:
 - Waives credit for the service under the FSPS; and
 - Makes a deposit for the service.
-

Section 70B2.1-2 Amount of Basic Benefit

A. General

The basic employee death benefit is:

1. \$15,000 (increased by all CSRS COLA's beginning December 1, 1987) plus
2. 50 percent of the employee's final salary (or high-3 average salary if higher).

B. \$15,000 Portion

The \$15,000 amount has increased to:

Date Effective	Amount	CSRS COLA Percentage
December 1, 1987	\$15,630.00	4.2 percent
December 1, 1988	\$16,255.20	4.0 percent
December 1, 1989	\$17,019.19	4.7 percent
December 1, 1990	\$17,938.23	5.4 percent
December 1, 1991	\$18,601.94	3.7 percent
December 1, 1992	\$19,160.00	3.0 percent
March 1, 1994	\$19,658.16	2.6 percent
March 1, 1995	\$20,208.59	2.8 percent
March 1, 1996	\$20,734.01	2.6 percent
> December 1, 1997	\$21,783.34	2.1 percent<

C. Fifty Percent of Final Salary Amount

1. To determine a full-time employee's final salary, use the employee's basic pay as of date of death. (For an explanation of basic pay, see Chapter 30.)
2. For part-time employees, prorate the final salary according to the tour of duty that was in effect immediately before death; or, if it will produce a higher final salary, use the procedure described below for intermittent employees.
3. For intermittent employees, multiply the final hourly rate by the number of hours worked in the last 52 weeks immediately preceding the end of the last pay period the employee was in a pay status.

Section 70B2.1-2 Amount of Basic Benefit (Cont.)**D. High-3 Average Salary**

The high-3 average salary for basic employee death benefit purposes is computed the same as for annuity computation purposes. (See Chapter 50.)

If the employee has less than 3 years of service, the salary is simply averaged for the total period of service.

E. Deposit Service

If the employee has service prior to January 1, 1989, for which no retirement deductions were taken, and the deposit must be made to:

- Meet the 18-month minimum service requirement for a death benefit, or
 - Achieve the 10 years of service necessary for a monthly survivor benefit, OPM will withhold that deposit from the basic employee death benefit payment.
-

Section 70B2.1-3 Payment of the Basic Death Benefit

A. Options The surviving spouse must elect whether to receive the basic employee death benefit in:

1. One payment (see rollover information below); or
2. 36 monthly installments.

B. Election The survivor's election of one payment or 36 monthly installments is made on SF 3104B (formerly OPM Form RI 94-5) after the employing agency inserts the amounts payable.

C. Installment Payments To determine the amount of each monthly installment, multiply the total amount of the basic employee death benefit by the factor appropriate for the date of death of the employee. The current factor for deaths occurring on or after October 1, 1987, is .0306921.

EXAMPLE:	Basic Benefit	\$45,000.00
	Factor	x .0306921
	Monthly Installment	\$ 1,381.14

D. Amount of Installments The total amount paid in 36 installments is slightly larger than a single lump-sum payment because it includes interest.

E. Stopping Installment Payments The spouse may, at any time, elect to stop receiving the basic employee death benefit in installment payments and receive a lump-sum payment of the unexpended balance. The amount of the lump-sum payment will be less than the sum of the remaining payments because the interest stops on the date of the last payment.

F. Death of Survivor If the survivor elects installment payments but dies before the completion of these payments, any unexpended balance is paid in a lump sum to the survivor's next of kin. The amount of the lump-sum payment will be less than the sum of the remaining payments because the interest stops on the date of the last payment.

Section 70B2.1-3 Payment of the Basic Death Benefit (Cont.)

- G. Rollovers (Cont.)** Spouses and former spouses have the opportunity to directly roll over taxable lump sums, including the Basic Employee Death Benefit, into Individual Retirement Arrangements (IRA's). If not rolled over, taxable lump sums paid directly to spouses and former spouses are subject to a mandatory 20 percent withholding for Federal income tax. Any surviving spouse or former spouse who appears to be eligible to receive a lump sum should be given the IRA Rollover Option Information, including the Death Benefit Payment Rollover Election Form. A sample form is at the end of this chapter, and it can be duplicated.

The rollover election can be submitted with the application for benefits to expedite the IRA rollover election process, for those who would like to make their rollover election at the time they apply for death benefits. OPM will allow the election based on information provided by the agency. The latest revision of the FERS application form for death benefits, SF 3104B, includes the IRA rollover option in section 5.

If no rollover election is made with the death benefits application, OPM will send the surviving spouse or former spouse of a deceased Federal employee the rollover election information, and an election form, after we compute the benefit. This takes 30 to 60 days after we receive the application and supporting documentation.

Section 70B3.1-1 Eligibility for Survivor Annuity Benefit

- A. Employee Requirements** In addition to the basic employee death benefit, a monthly survivor annuity is payable to a spouse if the employee:
1. Completed at least 10 years of total creditable service; and
 2. Died while subject to FERS deductions.
-
- B. Creditable Civilian Service** For the purposes of items 1 and 2 in paragraph A above, creditable civilian service is determined the same way as for the basic employee death benefit. (See section 70B2.1-1, paragraph D.)
-
- C. Creditable Military Service**
1. For determining whether the employee completed 10 years of total service (item 2 in paragraph A above), use all active duty military service (subject to certain deposit requirements). See subchapter 70B5 for information on deposits for post-1956 military service.
 2. Survivors of employees who were military retirees may receive credit for creditable military service even though, at the time of death, the employee had not waived his or her military retired pay. See subchapter 70B5 for information on military retired pay in death in service cases.
-

Section 70B3.1-2 Amount of Survivor Annuity Benefit

A. General

A spousal survivor annuity is computed as if the employee retired optionally (with no age reduction) on the date of death.

**B. Computation--
Regular Formula**

The survivor receives 50 percent of the employee's basic annuity, based on the deceased employee's type of service, age, length of service, and high-3 average salary at date of death. (See Chapter 50.)

NOTE 1: For employees with a CSRS annuity component, the spouse receives 50 percent of the combined CSRS and FERS benefit.

NOTE 2: See Chapter 21 for information about situations involving refunded or nondeduction service.

NOTE 3: See part 70B5 for information about situations involving post-1956 military service; see part 70B6 for information about situations in which the employee was in receipt of military retired pay at the date of death.

**C. Deceased Law
Enforcement
Officers,
Firefighters, and
Air Traffic
Controllers**

1. The spousal survivor annuity is 50 percent of the annuity computed under the special formula for law enforcement officers, firefighters, and air traffic controllers if, at the date of death, the employee was:
 - Age 50 or older and had at least 20 years of law enforcement and/or firefighter service, or 20 years of air traffic controller service; or
 - Was any age with at least 25 years of law enforcement and/or firefighter service, or 25 years of air traffic controller service.
2. If, at the date of death the employee did not meet the age and/or service requirements stated in paragraph C1 above, the spousal survivor annuity is computed under the regular formula described in section 70B3.1-2B.

Part 70B4 Procedures

Section 70B4.1-1 Procedures

- A. Applicable CSRS Provisions** The procedures under FERS are the same as under CSRS with the exceptions noted below.
-
- B. Exceptions: Forms**
1. The application for death benefits is SF 3104.
 2. The new SF 3104B (Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death), includes:
 - Certified Summary of Federal Service
 - Basic Employee Death Benefit Election Form and Rollover Option
 - Health Benefits Election Form
 - Post-1956 Military Service Election Form
 - Agency Checklist.
-

Section 70B4.1-2 Advice to Surviving Spouse

- A. Benefits Payable** The benefits to a surviving spouse in a death in service case are very different from the benefits payable in an optional retirement or disability retirement case. This is especially true when the employee has less than 10 years of service and no survivor annuity is payable.
-
- B. Alternative Annuity** As in CSRS, the alternative annuity is not available in a FERS death in service case.
-
- C. Direct Payment of FEHB Premiums** The health and life insurance counseling points discussed in CSRS section 70A3.1-2 are entirely applicable under FERS with the following exception:
- EXCEPTION: The surviving spouse who is eligible for the basic employee death benefit but who is not eligible for a survivor annuity because the employee had less than 10 years of service may continue health benefits coverage by making direct premium payments to OPM. In addition, the survivor may make direct payments if the annuity is inadequate to pay the FEHB premium. (See The Federal Employees Health Benefits Handbook for Personnel and Payroll Offices (formerly FPM Supplement 890-1.)
-

Part 70B5 Crediting Military Service

Subpart 70B5.1 General Information

Section 70B5.1-1 Overview

A. Introduction Part 70B5 contains the special rules and policies applicable to military deposits made by survivor annuitants under the Federal Employees Retirement System (FERS).

This part explains how FERS differs from CSRS. It refers readers to the applicable CSRS rule or gives the FERS rules if different.

B. Organization of Subpart The FERS part of this subchapter has four subparts.

Subpart	Name of Subpart	Page
70B5.1	General Information	52
70B5.2	Military Service Performed On or After January 1, 1957	53
70B5.3	Crediting Military Service - Military Retirees	54
70B5.4	Procedures	56

C. Applicable CSRS Provision The following CSRS subpart is applicable to survivor annuitants under FERS with the exception of the form numbers. The FERS "Application for Death Benefits" is SF 3104. The "Survivor's Military Service Election" is included in the new SF 3104B.

- Subpart 70A4.2: Military Service Performed Before January 1, 1957
-

D. Statement of Authority This part is based on the laws and regulations cited below.

- United States Code: 5 U.S.C. 8411(c)(4)
 - Code of Federal Regulations: 5 CFR 842.306 and 842.307
-

Subpart 70B5.2 Military Service Performed On or After January 1, 1957**Section 70B5.2-1 Post-1956 Military Service in CSRS Annuity Component**

- A. General Rule**
1. Military deposits made by survivor annuitants are credited in the CSRS component of a FERS benefit (see Chapter 50, Computation of Annuity Under the General Formula) if:
 - the deceased employee had 5 or more years of civilian service potentially creditable under CSRS (other than CSRS Interim or Offset service) prior to FERS coverage; and
 - the military service was performed before the deceased employee was covered by FERS.
 2. If both the preceding conditions are met, the service will be credited under the CSRS rules outlined in subpart 70A4.3.
 - If the deceased employee was first employed subject to CSRS retirement deductions before October 1, 1982, the rules in section 70A4.3-2 apply.
 - If the deceased employee was first employed subject to CSRS retirement deductions on or after October 1, 1982, the rules in section 70A4.3-3 apply.

NOTE: If the deceased employee was receiving military retired pay at the time of death, see subpart 70B5.3.

- B. Amount of Deposit**
- The amount of the military deposit is 7 percent of military basic pay (plus interest, if any), if the deceased employee transferred to FERS and the military service is part of the CSRS component of the survivor annuity. (See Chapter 23.)
-

Section 70B5.2-2 Post-1956 Service Under FERS Rules

A. General Rule Unless the deposit is made, the survivor will **not** receive credit for the post-1956 military service **for any purpose if:**

1. The military service was performed after the decedent became covered by FERS; or
2. The deceased employee had less than 5 years of civilian service potentially creditable under CSRS (other than CSRS Interim or Offset service) upon becoming covered by FERS.

B. Effect of Military Deposit on Basic Death Benefits Payment or non-payment of the military deposit by the survivor annuitant will not affect the FERS Basic Death Benefit, which is discussed in part 70B2 above.

C. Effect of Military Deposit on Survivor Annuity Payment or non-payment of a military deposit **may** affect the amount and/or payment of the FERS spousal survivor annuity.

EXAMPLE 1: Assume a deceased employee had 10 years of Federal civilian service under FERS and 5 years of post-1956 military service for which a deposit is owed but not paid.

If the surviving spouse elects not to make the military deposit, the survivor annuity will be computed based on 10 years of service. If the survivor makes the deposit, the survivor annuity will be computed based on 15 years of service.

EXAMPLE 2: Assume a deceased employee had 6 years of Federal civilian service under FERS and 5 years of post-1956 military service for which a deposit is owed but not paid.

If the surviving spouse elects not to make the deposit, no survivor annuity is payable. If the survivor makes the deposit, the combined civilian and military service enable the survivor to meet the 10-year service requirement for payment of a FERS spousal survivor annuity. (See part 70B3 above.)

D. Amount of Deposit The amount of the deposit is 3 percent of the deceased employee's military basic pay plus interest, if the service is credited under FERS rules. > However, if military service interrupts civilian service after August 1, 1990, different deposit rules may apply.< (See Chapter 23.)

Subpart 70B5.3 Crediting Military Service - Military Retirees**Section 70B5.3-1 General Rules**

- | | |
|--|--|
| A. Employees Receiving Military Retired Pay | If an employee covered by FERS has not waived military retired pay for retirement purposes, and dies in service on or after April 25, 1987, the same rules that are applicable to CSRS spousal survivor annuities (70A5:2-1A, B, and C) apply to FERS spousal annuities. |
| B. When Military Deposit is Required | The rules for crediting military service under this section are found in subpart 70B5.2. |
-

Subpart 70B5.4 Procedures

Section 70B5.4-1 Procedures

- A. Applicable CSRS Provisions** The procedures under CSRS section 70A4.4-1 and 70A5.3-1 are applicable under FERS, with the exception of the forms noted below.
-
- B. Forms**
1. The "Application for Death Benefits" is SF 3104.
 2. The "Survivor's Military Service Election" is part of SF 3104B.
 3. The "Application to Make Service Credit Payment for Civilian Service" is SF 3108.
 4. The "Individual Retirement Record" is SF 3100.
-

Part 70B6 Office of Workers' Compensation Death Benefits**Subpart 70B6.1 General Information****Section 70B6.1-1 Benefits Payable**

A. OWCP Death Benefits Compared to FERS Benefits

If the death of the employee results from injury or illness sustained in the performance of duty, compensation benefits may be payable. They are administered by the Department of Labor's Office of Workers' Compensation Programs (OWCP) under the Federal Employees' Compensation Act (FECA). OWCP benefits payable to a FERS employee are the same as to a CSRS employee as described in part 70A6, except as explained below:

As under CSRS, the survivors must choose between death compensation benefits from the Department of Labor and FERS survivor benefits. If they elect workers' compensation death benefits, they may also elect to receive a lump sum of the employee's retirement contributions plus interest. The same order of precedence applies under FERS. If OWCP is elected, no survivor annuity benefit nor the basic employee death benefit would be payable. (See the comprehensive worksheet at the end of this chapter concerning OWCP election.)

> OWCP payments are reduced by the amount of any Social Security survivor benefits attributable to the deceased employee's Federal service while under FERS coverage. <

Subchapter 70C Job Aids

Section 70C1.1-1 Forms

This subchapter contains copies of the following forms and worksheet (all are authorized for local reproduction):

Number	Title
SF 2800A	Agency Certification for Death in Service
OPM Form 1519	Survivor's Military Service Election
RI 25-45	Verification of Military Retired Pay Status for Survivors of Deceased Federal Employees (see Chapter 23, RI 20-97 for addresses of military service finance centers)

Worksheet to be Used in Completing Forms for Death Benefits

> Death Benefit Payment Rollover Election Form and Information <

Spouse Benefits - Death of an Employee
Chapter 70

CSRS	Agency Certification for Death in Service	See CSRS and FERS Handbook for instructions	
Deceased employee's name (Last, first, middle)		Date of birth (mo, dy, yr)	Social Security Number

Section A - Federal Employee's Compensation Information

1. Did the deceased ever apply for or receive benefits from the Office of Workers' Compensation Programs (OWCP), Department of Labor because of job-related illness or injury?				<input type="checkbox"/> Yes- Complete 1a-3 below <input type="checkbox"/> No- Go to Section B	
a. Compensation Claim Number	b. Benefit Received		c. Type of Benefit		
	Fr. (mo, dy, yr)	To (mo, dy, yr)			
			<input type="checkbox"/> Scheduled award <input type="checkbox"/> Total or partial disability compensation		
			<input type="checkbox"/> Scheduled award <input type="checkbox"/> Total or partial disability compensation		
2. If the deceased applied for workers' compensation (Other than as listed in item 1a above) but did NOT receive benefits, check reason below and give the information requested.					
a. Compensation Claim Number			<input checked="" type="checkbox"/> Awaiting OWCP decision <input type="checkbox"/> Claim denied _____		b. Date claim denied
3. Except for scheduled compensation awards, workers' compensation and Civil Service retirement benefits CANNOT be paid for the same period of time. Please complete information below.					
a. Did the above employee's death occur due to a work-related injury?				<input type="checkbox"/> Yes → Complete 3b-d below <input type="checkbox"/> No → Go to Section B	
b. Has a claim for workers' compensation based on this death been filed?		<input type="checkbox"/> Yes _____ <input type="checkbox"/> No → Go to Section B		c. Name of person filing for death benefits	
d. Compensation Claim Number		<input type="checkbox"/> Awaiting OWCP decision <input type="checkbox"/> Claim denied _____		e. Date claim denied	

Section B - Federal Employees' Health Benefits and Group Life Insurance Program Information

1. Was the deceased employee enrolled in the Federal Employees' Health Benefits Program at the time of death?		<input type="checkbox"/> Yes → <input type="checkbox"/> No	Enrollment Code
2. Was the deceased enrolled in the Federal Employee's Group Life Insurance Program at the time of death?		<input type="checkbox"/> Yes <input type="checkbox"/> No	

Section C - Checklist

1. Are the following documents attached? Indicate by "X" for each item	Attached	Not Attached		Attached	Not Attached	Sent to OWCP
a. SF 2800.....			g. Court appointments.....			
b. Death Certificate.....			h. SF 2801-1*.....			
c. Marriage Certificate.....			i. OPM 1519*.....			
d. Divorce Decree.....			j. All SF 2809's in OPF.....			
e. Children's Birth Certificates.....			k. SF 2810* Transferring to retirement system...			
f. Medical Documentation (Disabled Children)			l. All other SF 2810's in OPF.....			
2. List any documents attached which are not listed above						

Section D - Certification By Personnel Officer (or Designee)

I certify that the above accurately reflects verified information in official records.						
1. Signature		2. Date		3. Address		
4. Official title						
5. Person to contact for further information (Print or type)				6. Telephone Number (including area code)		7. Submitting Office Number (SON)

Spouse Benefits - Death of an Employee
Chapter 70

SF 2801-1 - Certified Summary of Federal Service SF 2810 - Notice of Change in Health Benefits Enrollment
OPM 1519 - Surviving Spouse's Military Deposit Election Complete Reverse Side
AUTHORIZED FOR LOCAL REPRODUCTION

SF 2800A
April 1986

Spouse Benefits - Death of an Employee
Chapter 70

FERS

Part 2 - Payroll Office Checklist: To be completed by office maintaining Individual Retirement Record (SF 2806)

<p>1. Does SF 2806 for deceased employee named on the other side contain all information necessary to comply with instructions in Chapter 81 of the CSRS and FERS Handbook?</p> <p>G Yes G No - Explain in item 8</p>	<p>2. Is deceased employee's sick leave balance shown on SF 2806?</p> <p>G Yes G No - Explain in item 8</p>	
<p>3. Is deceased employee's last day in pay status shown on SF 2806?</p> <p>G Yes G No - Explain in item 8</p>		
<p>4. Is deceased employee's health benefits status posted on SF 2806?</p> <p style="text-align: center;">G Yes G No - Explain in item 8</p>		
<p>5. If a former spouse of the deceased employee was making direct health benefit premium payments to your payroll office, has the SF 2806 been properly annotated?</p> <p style="text-align: center;">G Not Applicable G Yes G No - Explain in item 8</p>		
<p>6. Has the SF 2806 been properly annotated concerning deposit for post-56 military service?</p> <p style="text-align: center;">G Yes G No - Explain in item 8</p>		
<p>7. Disposition of SF 2806: SF 2806 and Register of Separations and</p> <p style="text-align: center;">G Transfers (SF 2807) are attached G SF 2806 was forwarded as shown below:</p>		
Forwarded to:	SF 2807 Number	Date of SF 2807
<p>8. Remarks</p>		
<p>9. Certification by Payroll Office or Designee I certify that the above accurately reflects official records maintained by this office.</p>		
a. Signature	b. Date	c. Address
d. Official title		
e. Person to contact for further information (Print or type)		f. Telephone Number (including area code)
		g. Payroll Office Number

Chapter 70

**SURVIVOR'S MILITARY SERVICE ELECTION
Deceased Employee Covered by CSRS or CSRS Offset**

Part A - To be completed by employing agency				
1. Employee's name		2. Date of birth	3. Social Security number	
4. Is survivor eligible for an annuity based on the minimum basic annuity? G Yes (Complete item 4a) G No, annuity will be based on actual service		4a. If item 4 is "yes," would loss of credit for post-1956 military service reduce the amount of the annuity? G Yes G No		
5. Was a deposit account opened for the employee?		G Yes, complete information below		G No
Period of Military Service		Amount due (with interest)	Amount paid by employee	Balance due
From	To			
6. Agency records show the above named deceased employee was first employed under the Civil Service Retirement System(CSRS) and had post-1956 military service for which a deposit has not been made or has not been completed. G before October 1, 1982 G on or after October 1, 1982				
7. Agency representative to contact for information			Telephone number	
8. Agency personnel office address to which form should be returned			Election must be received by (date)	
Part B - To be completed by survivor				
Our records indicate that you might be eligible for a civil service survivor annuity. You have the right to make a deposit for the deceased employee's post-1956 military service. Your decision may affect your rights under CSRS. Read the attached "Information for the Survivor of a Deceased CSRS Employee..." carefully to be sure you understand the consequences of not making the deposit for military service. Then make your election, sign and date the form, and return two (2) copies to the address shown in item 8 above. If you have decided to pay the deposit, we will provide you with the necessary information. Payment must be made in a lump sum to this agency before the Office of Personnel Management completes its adjudication of your application for survivor benefits.				
Survivor Election - I have read the information concerning my right to make a lump sum deposit to the decedent's employing agency for post-1956 military service.				
G I elect to make (or complete) the deposit to the employing agency for the decedent's post-1956 military service. I understand that this deposit must be paid to the agency in a lump sum. (Note: The election may be changed at any time before the deposit is actually paid to the agency.)		G I elect not to make (or complete) the deposit for post-1956 military service. I understand this decision is irrevocable.		
Part C - To be completed by survivor of deceased employee in receipt of military retired pay at the time of death				
If the deceased employee received military retired or retainer pay that was (1) not awarded because of a service-connected disability incurred either in combat with an enemy of the United States or caused by an instrumentality of war and incurred in the line of duty during a period of war, or (2) awarded under reserve retiree provisions (chapter 67 of title 10, United States Code), you will receive credit for the military service subject to the rules for post-1956 military deposits. However, if you do receive credit for military service (including any pre-1957 military service), your CSRS survivor benefit must be reduced by the amount of any military survivor benefits payable to you. In some instances, it may be advantageous to receive a survivor benefit including the military service in the computation. In order to advise you about the survivor annuity benefits, we need to know if you are eligible for military survivor benefits. Your documentation or verification of your entitlement to military survivor benefits should be attached as indicated.				
G I have attached verification of my eligibility or ineligibility for military survivor benefits. (Specify monthly amount, if known \$_____.)				
Survivor Election - To exclude military service from the computation of your survivor annuity, etc., check the appropriate box below.				
G I elect to exclude the decedent's military service from my survivor annuity.		G Other (Specify here or on a separate sheet of paper).		
Signature			Date	

(OPM Form 1519 continued)

Information for the Survivor of a Deceased CSRS Employee
About Service Credit for Post-1956 Military Service

Because your decision about completing the deposit for or including the deceased employee's military service in the survivor annuity computation may affect your rights under the Civil Service Retirement System (CSRS), you need to be aware of the following information.

A. If The Deceased Employee Was First Employed Under CSRS Before October 1, 1982

1. Optional Deposit

- a. If you qualify at the employee's death for social security survivor benefits based on his or her service, you have the option of either making the deposit and the post-1956 military service will be included in the CSRS survivor annuity computation, or not making the deposit and the post-1956 military service will be excluded from the CSRS survivor annuity computation.
- b. If you will qualify at a future date for social security survivor benefits based on the decedent's service, post-1956 military service will be included in the computation of your CSRS survivor annuity until you become entitled (or would upon application be entitled) to social security benefits. You have the option of either making the deposit now and avoiding the reduction in your CSRS survivor annuity, or not making the deposit and having your CSRS annuity adjusted to exclude post-1956 military service when you become eligible for social security benefits based on the decedent's service.

2. Eligibility for Social Security

A survivor of a deceased employee may be eligible for social security survivor benefits if the employee was "fully insured" and the survivor is (a) the parent of an eligible child, (b) age 50 or over and disabled, (c) age 60 or over, or (d) a divorced spouse age 62 or over. For information about your present or future eligibility for social security survivor benefits, contact the Social Security Administration. NOTE: If you become ineligible for social security survivor benefits based on the deceased employee's service (e.g., by becoming eligible for social security benefits based on your own earnings which exceed the survivor benefits), you should contact OPM. You may be eligible to have the military service restored to the survivor annuity computation.

B. If the Deceased Employee Was First Employed Under CSRS After September 30, 1982, no credit is allowed for post-1956 military service unless a deposit is made for the service.

C. Factors that May Affect Creditability of Military Service Regardless of When the Deceased Was First Employed

1. Minimum Basic Annuity Provisions

If you are eligible for a CSRS survivor annuity based on the minimum basic annuity provisions of the law, it is possible that the exclusion of credit for post-1956 military service will have no effect on the amount of your annuity. (See items 4 and 5 in Part A of this form. If you need more information about how you may be affected, contact the decedent's employing agency representative in item 7 of Part A of this form.

2. Effect of Military Retired Pay

- a. If, at the time of death, the employee was receiving military retired or retainer pay that was (1) awarded because of a service-connected disability incurred either in combat with an enemy of the United States or caused by an instrumentality of war and incurred in the line of duty during a period of war, or (2) awarded under the reserve retiree provisions (chapter 67 of title 10, United States Code), you will receive credit for the military service subject to the provisions for military deposit for post-1956 military service.

(OPM Form 1519 continued)

b. If, at the time of death, the employee was receiving military retired or retainer pay that was not awarded under either of the two exceptions noted in C.2.a. above, you will also receive credit for the military service subject to an important difference in the computation of the benefits described below. (1) If your deceased spouse arranged for you to receive a military survivor benefit, your CSRS survivor benefit will be reduced by the amount of the military benefit. Since this reduction will never be greater than the value of the military service under the CSRS benefit computation, you are not disadvantaged by this requirement with respect to your CSRS benefit. (2) If you feel that it is not to your advantage to include the military service in the computation of your CSRS survivor benefit, you may send OPM your written election not to include the military service in your CSRS survivor annuity computation now. (See Part C of "Survivor Election.")

D. Information About Deposit for Military Service

1. The amount of deposit is 7 percent of military basic pay (plus interest, if any).
2. If the deposit is made, the post-1956 military service will be credited under both the civil service and the social security systems, if it is otherwise creditable.

E. If You Are the Survivor of a Reemployed Annuitant

1. If the deceased employee was reemployed while annuity payments were continuing and had less than 5 years of service as a reemployed annuitant at the time of death, you are not eligible to make a deposit for the military service.
2. If the deceased employee had 5 or more years of service as a reemployed annuitant and you elect a recomputation of the annuity under the law in effect at the time of death, you may make a deposit for post-1956 military service. However, if you elect a recomputation of the annuity, a deposit must also be made to cover any of the decedent's service as a reemployed annuitant for which no retirement deductions were made. Before you make your deposit ask the decedent's employing office for information about how a recomputation will affect your annuity.

F. If You Elect To Pay the Deposit

1. If you do not have sufficient documentation of military basic pay earnings for the employing agency to determine the amount due, the agency will tell you how to obtain an estimate of earnings from the branch of military service in which the decedent served.
2. You should make payment to the agency as soon as possible. The agency will not delay processing of your application for death benefits while you are waiting to receive an estimate of military earnings from the military service. If you have not made the deposit before the agency sends the application to OPM, the agency will tell OPM that you plan to pay the deposit.
3. In order to credit your deposit, OPM must receive documentation of your payment from the agency before your application is completely adjudicated.
4. If you elect to pay the deposit, but later decide not to do so, promptly notify the employing agency and OPM in writing so that OPM can complete final adjudication of your application for survivor benefits.

**Verification of Military Retired Pay Status
for Survivors of Deceased Federal Employees**

Deceased employee's name
Social Security number

This is a request for assistance in verifying the status of a surviving or former spouse of a deceased Federal employee, in regards to survivor benefits (SBP, RSFPP, etc.) from a uniformed service. To expedite the Office of Personnel Management's (OPM) processing in this case, we request that your reply be forwarded to the address shown, not later than _____.

The individual named above and on the reverse was a civilian employee of the Federal Government who was receiving military retired pay on the date of death shown on the reverse. The decedent's surviving or former spouse, also named on the reverse, is applying for survivor annuity under the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). Under provisions of 5 U.S.C. 8332(c)(3) for CSRS and 5 U.S.C. 8411(c)(4) for FERS, the surviving or former spouse is entitled to receive credit for the decedent's military service in the computation of the civil service survivor annuity despite the fact that the military retired pay was not waived before the date of death. However, a survivor annuitant's benefits must be offset by any amount he or she is entitled to receive based on the decedent's military service from a retirement system for members of uniformed services. Consequently, before OPM can complete adjudication of the survivor's application, we need to know if he or she is eligible for survivor's (other than a child's) benefits based on the decedent's military service.

If the surviving or former spouse is eligible, we also need to know the gross amount payable monthly as of the date the survivor benefit commences, so that OPM may offset the monthly annuity by that amount.

Your assistance in this matter is greatly appreciated.

Sincerely,

Return this form to:

(over)

**Verification of Military Retired Pay Status
for Survivors of Deceased Federal Employees****The following information is provided on the deceased employee:**

Name	Date of birth
Social security number	Date of death

The following information is provided on the applicant for survivor benefits:

Name	Social security number	Date of birth
------	------------------------	---------------

OPM needs the following information:

Nature of Retirement (Please check the appropriate block)	
<input type="checkbox"/> G Retirement for length of service	
<input type="checkbox"/> G Retirement for disability incurred in combat with an enemy of the United States; or caused by an instrumentality of war incurred in line of duty during a period of war (see 38 U.S.C. 301).*	
<input type="checkbox"/> G Retirement for disability incurred by means other than those listed above	
<input type="checkbox"/> G Retirement from the Reserves at age 60, under chapter 67 of title 10, United States Code, section 1331.*	
<input type="checkbox"/> G Retirement for reasons other than those listed above. Please specify:	
* Note: If retirement was for one of the two reasons marked with an asterisk, complete only the certification below.	
Survivor Benefit Election (Please fill in the appropriate information)	
<input type="checkbox"/> G The deceased elected a survivor benefit plan	
Type of program	<input type="checkbox"/> G SBP <input type="checkbox"/> G RSFPP
Gross monthly benefit as of date of death**	\$ <input type="text"/>
Social Security Offset amount, if any	\$ <input type="text"/>
Gross monthly benefit after SSA offset	<input type="text"/>
<input type="checkbox"/> G The deceased did not elect a survivor benefit plan	
** Note: It is immaterial whether the total monthly survivor benefit is actually being paid or not. With the exception of Social Security benefits attributable to the decedent's post-1956 military service, OPM must reduce the survivor's annuity by the total uniformed services benefits payable before any offsets or reductions.	

Certification

Certified by (signature)	Date
Title	Phone number
Department	

REPRODUCE LOCALLY

Page 2 RI 25-45
November 1990**Worksheet to be Used in Completing the Following Forms for Death Benefits:**

Standard Form 2800, Application for Death Benefits (CSRS)
Standard Form 2800A, Agency Certification for Death in Service
Standard Form 3104, Application for Death Benefits (FERS)
OPM Form 1519, Survivor's Military Service Election
RI 25-45, Verification of Military Retired Pay Status for Survivors of Deceased Federal Employees
FE-6, Claim for Death Benefits (Life Insurance)
TSP-17, Application for Account Balance of Deceased Participant
Standard Form 1153, Claim for Unpaid Compensation
Form CA-5, Claim for Compensation by Widow, Widower, and/or Children
Statement Signed by Applicant Electing OWCP Benefits Instead of Survivor Annuity from OPM

In many cases, survivors of deceased employees may be eligible for as many as six kinds of payments based on the deceased employee's civilian service -- 1) workers' compensation if the death is work-related; 2) FEGLI; 3) CSRS or FERS; 4) the deceased employee's Thrift account proceeds; 5) Social Security for FERS and CSRS Offset employees; and 6) unpaid compensation (salary) and lump sum leave from the employing agency.

To minimize the burden of asking survivors who are going through a very traumatic period to fill out multiple application forms that ask for much the same information, we have created a comprehensive worksheet to cover the OWCP, CSRS, FERS, TSP, and unpaid compensation (salary) applications. Since many of the death benefits forms require the same information, the completed information worksheet can be used to fill in all the forms required for filing for benefits. (Social Security enters information directly into its automated records when an applicant visits a Social Security office.)

The worksheet has the items that an applicant needs to complete (or an agency representative could obtain from the deceased employee's personnel records and by talking with the survivor). Then the agency can take the completed worksheet, transfer the information to the appropriate applications, and present the survivor with completed forms that are ready to be signed. The worksheet is listed in subchapter 70C, Job Aids, and is included with the forms at the end of this Chapter.

The worksheet instructions for CSRS and FERS applications provide that a number of items may be omitted. This is because survivors who are eligible for workers' compensation will want that benefit and a lump sum payment of retirement deductions. An election statement is provided in the Job Aids at the end of this Chapter for survivors who will be receiving workers' compensation and want a lump sum payment of retirement deductions.

Worksheet to be Used in Completing the Following Forms for Death Benefits: (Cont.)**Information Needed on Deceased**

1. Name

2. Social Security Number

3. Date of Birth

4. Date of Death

5. Legal residence at time of death

6. Agency name, address, and phone number

7. Prior marriages? If **No**, go to Applicant's section; otherwise, list former spouses, date(s) marriage terminated and how marriage terminated.

Worksheet to be Used in Completing the Following Forms for Death Benefits: (Cont.)

**Information Needed on Applicant
(if spouse)**

- 1. Name and address
- 2. Date of Birth
- 3. Social Security Number
- 4. Date of Marriage
- 5. Place of Marriage
- 6. Marriage was performed by Clergy or Justice of Peace Other
- 7. How many times were you married? _____
- 8. Give name of each spouse

- 9. How was marriage terminated?
- 10. Date marriage terminated.

**Information Needed about Children
(if applicable)**

List all employee's children, giving date of birth, address if different from deceased, relationship to deceased (i.e., child of marriage, adopted child, step child, recognized natural child, etc.), and Social Security Number.

Worksheet to be Used in Completing the Following Forms for Death Benefits: (Cont.)**Miscellaneous Questions**Standard Form 2800 - Application for Death Benefits (CSRS)Is there a child of the deceased not yet born? **G** Yes **G** NoAre you a citizen of the U.S. **G** Yes **G** No → What country are you a citizen of? _____

—

Relationship to deceased _____

If spouse is applying, do not complete sections C, D, E, or F.FE-6 - Claim for Death Benefits (Life Insurance)

Relationship to deceased _____

Was the deceased on active duty in the military at the time of death?

Was deceased survived by any children? **G** Yes **G** NoWere you living with the deceased at the time of death? **G** Yes **G** No

Daytime Phone (Area Code and Number) _____

If spouse is applying, do not complete sections D or E.TSP 17 - Application for Account Balance of Deceased Participant

Relationship to deceased _____

Daytime Phone (Area Code and Number) _____.

Standard Form 3104 - Application for Death Benefits (FERS)Was the deceased applying for or receiving workers' compensation from the Office of Workers' Compensation Programs? **G** No **G** Yes

Other names under which employed _____

Is there a child of the deceased not yet born? **G** Yes **G** No**If spouse is applying, do not complete sections D, E, F, G, or H.**

Election of OWCP Benefits in Lieu of Survivor Annuity

I elect to receive benefits from the Office of Workers' Compensation Programs and understand I will receive a refund of all retirement contributions. By making this election, I understand that I forfeit any future right to a survivor annuity from the Office of Personnel Management if I lose eligibility for compensation, > unless I receive payment as a settlement from a third party based on liability. In that instance, I understand that I may repay the refund of retirement contributions to OPM to reestablish any benefits I may otherwise be entitled to. <

(Signature)

U.S. Office of Personnel Management

Retirement Programs

FERS Division

Washington, DC 20415

Form approved:

OMB No. 3206-0218

Death Benefit Payment Rollover Election Form

Please read all of the information we have provided with this election form before you make your election on the reverse.

Survivor's name CSF Number Date

You are eligible to roll over the following survivor benefit(s)

Table with 4 columns: Type of Benefit, Basic Employee Death Benefit (BEDB)*, Interest on: Employee contributions, Excess contributions, Voluntary contributions, Alternative annuity, Amount (Monthly \$ or Lump sum \$)

Total amount that can be rolled over into an IRA (the total of the benefits identified above.)

Lump sum \$ OR Monthly basic employee death benefit Plus Lump sum \$

Mail the completed election form within 30 days to:

U.S. Office of Personnel Management
Retirement Programs
FERS Division
1900 E Street, N.W. - Room 4429
Washington, D.C. 20415

*If you are eligible to receive a basic employee death benefit, you can elect either a lump sum payment or 36 monthly installments of the benefit on this form, even if you have elected a different method of payment on another form. Complete the appropriate box on the reverse to verify how you would like to have your basic employee death benefit paid to you.

Privacy Act Statement

Solicitation of this information is authorized by the Unemployment Compensation Amendments of 1992 (Public Law 102-318). The information you furnish will be used to properly tax your benefits. The information may be shared and is subject to verification via paper, electronic media, or through the use of computer matching programs...

Public Burden Statement

We think this form takes an average of one hour per response to complete, including the time for reviewing instructions, getting the needed data, and reviewing the completed form. Send comments regarding our estimate or any other aspect of this form, including suggestions for reducing completion time, to the Office or Personnel Management, Reports & Forms Manager, (3206-0218), Washington, D.C. 20415.

Death Benefit Payment Rollover Election Form

Make an election in Section 1 or Section 2 below and sign your election. If you make an election in Section 2, the election form must also be completed by a representative of your financial institution.

Section 1		
<p>G I do not want to roll over any part of my eligible benefits into an Individual Retirement Arrangement (IRA).</p> <p>If applicable: I have elected to receive my BEDB (check one) G as a Lump Sum. G in monthly installments.</p>		
Signature	Daytime telephone no. (incl. area code)	Date

Section 2
<p>G I would like OPM to roll over all or part of my eligible benefits into an Individual Retirement Arrangement (IRA). Answer Parts A, B, C, below.</p>

Part A

Amount to roll into my IRA: Lump Sum \$ _____ BEDB Monthly Installment \$ _____ (Please state all or the specific portion [not less than \$500] of the total amount, shown on the reverse). If applicable: I have elected to receive my BEDB (check one) G as a Lump Sum. G in monthly installments.
(The BEDB election you make on this form is the election OPM will honor if you elected a different method of payment at some other time. Information concerning the lump sum and installment payments is available on the other side of this election form.)

Part B

I want to have the rollover amount sent: (check one box below)

G Directly to my financial institution. **G** To me for delivery to the financial institution. In this case, the check will be made payable to the IRA Account.

After you sign Parts A & B, directly below, continue with Part C.
 The certification by your financial institution must be completed.

Signature	Daytime telephone no. (incl. area code)	Date
-----------	---	------

Part C - Certification by Financial Institution

If you elect to roll over all or part of your eligible benefit(s) to an IRA, the following must be completed by your financial institution:

Name of institution	IRA account number	
Routing number and check digit (if payments should be transferred electronically and if an account number is available):		
Address of institution	Certification: As a representative of the financial institution named above, I confirm the identity of the person named on the other side of this notice and the account number. I certify that the financial institution agrees to receive the funds and deposit them in an IRA as defined in the Internal Revenue Code.	
Signature of certifying representative	Daytime telephone no. (incl. area code)	Date

Typed or printed name of certifying representative	
--	--

Section 70C2.1-1 Death Gratuity Authorized by Public Law 104-108**Death Gratuity
Authorized by Public
Law 104-108**

> Section 651 of Public Law 104-208 gave agency heads the authority to pay a death gratuity to the personal representative of an employee who dies of an injury sustained in the line of duty. Although no agency was assigned specific responsibility for issuing guidance to agencies about payment of this benefit, the Director of OPM issued the following memoranda to heads of departments and independent agencies on the new authority and the tax status of payments. The information in the memoranda was developed collaboratively by the U.S. Office of Personnel Management, the Office of Workers' Compensation Programs of the Department of Labor, the Internal Revenue Service of the Treasury Department, the Interior Department, and the Office of Management and Budget. <

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-0001
OCT 15 1996

MEMORANDUM FOR HEADS OF DEPARTMENTS AND INDEPENDENT AGENCIES

FROM: JAMES B. KING
DIRECTOR

SUBJECT: New Death Gratuity Payment Authority

Introduction

Section 651 of Public Law-104-208, the Omnibus Consolidated Appropriations Act, effective September 30, 1996, gives department and agency heads the authority to pay up to \$10,000 as a death gratuity to the personal representative of an employee who dies from an injury sustained in the line of duty.

This is an important new way to help meet the needs of the survivors of Federal employees who have made the ultimate sacrifice in the line of duty. While the authority is discretionary, we strongly encourage all department and agency heads to make full use of this new authority as soon as possible.

Eligibility for the Gratuity

The gratuity is payable to the personal representative of any Federal employee who dies from an injury that was sustained on or after August 2, 1990, in the line of duty. This includes a department or agency employee who dies after separation from service, if the death is the result of an injury sustained in the line of duty.

For this purpose, the personal representative of the deceased employee would generally be the formally designated executor or administrator of the employee's estate under State law. The department or agency head determines who is the personal representative in any particular case.

We believe that the gratuity would be unwarranted if the department or agency determines that the employee's death was the result of willful misconduct.

Payment of the Gratuity

The gratuity is to be paid from appropriations made available to the department or agency in an amount, when combined with certain other payments, that does not exceed \$10,000. The other payments that must be considered in determining the amount of the gratuity are:

\$200 payable under 5 U.S.C. S 8133(f), for reimbursement of the costs of termination of the decedent's status as an employee of the United States;

up to \$800 payable under 5 U.S.C. S 8134(a), for funeral and burial expenses in cases of employees who died as a result of an injury sustained in the performance of duty; and

any amount paid under section 312 of Public Law 103332, the Department of the Interior and Related Agencies Appropriations Act, 1995. This authority provides for payment of up to \$10,000 in reimbursement for burial costs and related out-of-pocket expenses for employees killed in the line of duty in agencies that receive appropriations under a Department of the Interior and Related Agencies Appropriations Act for fiscal year 1995 and thereafter.

The amount paid, under these three authorities, plus the gratuity paid under the new authority, may not total more than \$10,000. The gratuity is not reduced by any other amounts, including other benefits payable under the Federal Employees' Compensation Act.

Personal representatives who have received reimbursement of less than \$10,000 under the authority of section 312 of Public Law 103-332 may seek additional payment at this time under the new authority. In these cases, we encourage department and agency heads to pay any additional amounts now available under section 651 of Public Law 104-208, subject to the \$10,000 total limit.

Tax Status of the Gratuity

We have asked the Internal Revenue Service to determine whether the gratuity payment is subject to Federal income tax. The IRS now has this question under study. We will disseminate the final IRS ruling as soon as it is available. However, the IRS has informed us that payment of the gratuity is not subject to Federal income tax withholding.

Any payments made after the calendar year of the death of the employee are not subject to FICA taxes for Social Security and

Medicare. Also, the Internal Revenue Code provides that any payments made in the same calendar year as the death of the employee are not wages subject to FICA taxes if the payments are made by the agency or department head under a plan to make the death gratuity payments for a class of deceased employees. The IRS has orally advised us that if agency heads use objective criteria in making gratuity payments under section 651, the payment will not be subject to FICA tax withholding.

Where to Find Out More About Payment of the Gratuity

To assist agencies in identifying employees who have died following an injury sustained in service on or after August 2, 1990, OPM will distribute a list of cases to each agency- The list will contain names of cases identified by the office of Workers' Compensation Programs (OWCP) of the Department of Labor, in which a claim was filed.

In most cases in which the gratuity is payable, the benefits payable under 5 U.S.C. SS 8133(f) and 8134(a) will also be paid by the OWCP. OWCP maintains records of all claims under these provisions and can advise agencies about the benefits paid that must be offset from the \$10,000 gratuity. Agencies should contact:

Thomas Markey
Director, Federal Employees' Compensation Division
Office of Workers' Compensation Programs
U.S. Department of Labor
Employment Standards Administration
200 Constitution Avenue, N.W., Room S3229
Washington, DC 20210
Phone: (202) 219-7552

To assist agencies in identifying the personal representative eligible to receive payment under the new authority, OWCP will also be able to advise agencies concerning the determination it has made as to the personal representative eligible for the payments under 5 U.S.C. SS 8133(f) and 8134(a).

Any additional questions concerning the gratuity may be directed to James S. Green, OPM's Associate General Counsel (Compensation), at 202-606-1700.

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-0001
FEB 20 1997

MEMORANDUM FOR HEADS OF DEPARTMENT AND INDEPENDENT AGENCIES

FROM: JAMES B. KING
DIRECTOR

SUBJECT: Tax Status of New Death Gratuity Payment Authority

Section 651 of Public Law 104-208, the Omnibus Consolidated Appropriations Act, effective September 30, 1996, gives department and agency heads the authority to pay up to \$10,000 as a death gratuity to the personal representative of an employee who dies from an injury sustained in the line of duty.

On October 15, 1996, we issued a memorandum to all heads of departments and independent agencies, concerning the death gratuity, including information regarding the tax status of the gratuity payment. At that time, however, the Internal Revenue Service had not yet made a determination on whether these payments would be subject to Federal income tax.

The IRS has now issued a ruling that a death gratuity payment, while not subject to Federal income tax withholding, is fully subject to Federal income tax if the death occurred on or after August 20, 1996. If death occurred earlier, a \$5,000 exclusion will generally apply. The IRS explained its finding as follows.

Section 101(b) (of the Internal Revenue Code), for persons dying before August 20, 1996, provides that gross income does not include amounts received by the beneficiaries or the estate of an employee, if such amounts are paid by or on behalf of an employer and are paid by reason of the death of the employee. Section 101(b) has been repealed for persons dying on or after August 20, 1996, by section 1402 of the Small Business Job Protection Act of 1996, Pub. L. 104-188.

The aggregate amount excludable under S 101(b), with respect to an employee dying before August 20, 1996, is limited to \$5,000 regardless of the number of employers or the number of beneficiaries. If there is more than one beneficiary receiving an employee's death benefit, the \$5,000 exclusion must be allocated in the same proportion as the amount received by or the present value of the amount payable to each bears to the total death benefits paid or payable by or on behalf of the employer or employers. Sections 1.101-2(a) and (c) of the Income Tax Regulations. The \$5,000 exclusion applies to the first \$5,000 received. J.C. Nordt Co., Inc. v. Commissioner, 46 T.C. 431 (1966).

-2-

Accordingly, the availability of the exclusion with respect to the death gratuity payments (but only for employees dying before August 20, 1996) depends on what other amounts, if any, have already been paid by one or more employers with respect to that employee. Civilian employees of federal departments or agencies receive many benefits, at least one of which may, depending on facts or circumstances, be a death benefit excludible under S 101(b).

Thus, we conclude that a death gratuity payment made under section 651 of Public Law 104-208 with respect to an employee who died before August 20, 1996, qualifies as an item that may be taken into account in computing the \$5,000 exclusion under section 101(b) of the Code. The exclusion would apply for death gratuity payments made with respect to employees who died before August 20, 1996, to the extent that prior payments from the employer (or employers) of the employee had not used up the \$5,000 exclusion.

For death gratuity payments made with respect to employees who have died on or after August 20, 1996, no exclusion under section 101(b) of the Code is available.

Agencies may give this information to recipients of the gratuity payment. Any tax questions they may have should be directed either to the recipient's tax consultant or to the IRS. James S. Green, OPM's Associate General Counsel (Compensation), (202) 6061700, is available to answer general questions about the gratuity provision.