

### § 1651.3

### 5 CFR Ch. VI (1–1–08 Edition)

pay the funds as a death benefit in accordance with paragraph (a) of this section.

(2) If the participant requested a single life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of the TSP withdrawal request form, or as a death benefit in accordance with paragraph (a) of this section if no beneficiary designated on the withdrawal request survives the participant.

(3) If the participant requested a joint life annuity without additional features, the TSP will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit in accordance with paragraph (a) of this section if the joint life annuitant does not survive the participant.

(4) If the participant requested a joint life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of the TSP withdrawal request form if the joint life annuitant does not survive the participant, or as a death benefit in accordance with paragraph (a) of this section if neither the joint life annuitant nor any designated beneficiary survives the participant.

(5) If a participant dies after annuity payments have begun, the annuity vendor will make or stop the payments in accordance with the annuity method selected.

(c) *TSP loans.* If the TSP processes a notice that a participant has died, any pending loan disbursement will be cancelled and the funds designated for the loan will be distributed as a death benefit in accordance with paragraph (a) of this section. If a TSP loan has been disbursed, but the check has not been negotiated (or an electronic funds transfer (EFT) has been returned), the loan proceeds will be used to pay off the loan. If the loan check has been negotiated (or the EFT has been processed), the funds cannot be returned to the

TSP and the TSP will declare the loan balance as a taxable distribution in accordance with 5 CFR 1655.15.

(d) *Investment of a TSP account upon notice of death.* If a participant dies with any portion of his or her TSP account in a TSP Fund other than the G Fund, the TSP will transfer the entire account into the G Fund after it processes a notice that the participant has died, or a death code from the participant's employing agency reporting the participant's death. The account will accrue earnings at the G Fund rate in accordance with 5 CFR part 1645 until it is paid out under this part.

[68 FR 35509, June 13, 2003, as amended at 70 FR 32215, June 1, 2005]

#### § 1651.3 Designation of beneficiary.

(a) *Filing requirements.* To designate a beneficiary of a TSP account, a participant must complete and file a TSP designation of beneficiary form with the TSP record keeper. A participant may designate more beneficiaries than the TSP form accommodates by attaching additional pages to the TSP designation of beneficiary form in accordance with the instructions on the form. A valid TSP designation of beneficiary remains in effect until it is properly canceled or changed as described in § 1651.4.

(b) *Eligible beneficiaries.* Any individual, firm, corporation, or legal entity, including the U.S. Government, may be designated as a beneficiary. Any number of beneficiaries can be named to share the death benefit. A beneficiary may be designated without the knowledge or consent of that beneficiary or the knowledge or consent of the participant's spouse.

(c) *Validity requirements.* To be valid, a TSP designation of beneficiary form must be:

(1) Received by the TSP record keeper on or before the date of the participant's death; and

(2) Signed by the participant and two witnesses. The participant must either sign the form in the presence of the witnesses or acknowledge his signature on the form to the witnesses. If the participant attaches an additional page or pages to the designation of beneficiary form, each additional page must be signed and witnessed in the same

manner (by the same witnesses) as the form itself, and must follow the format of the TSP designation of beneficiary form. A witness must be age 21 or older. A witness designated as a beneficiary will not be entitled to receive a death benefit payment; if a witness is the only named beneficiary, the designation of beneficiary is invalid. If more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries *pro rata*.

(d) *Will*. A participant cannot use a will to designate a TSP beneficiary.

[70 FR 32216, June 1, 2005]

**§ 1651.4 How to change or cancel a designation of beneficiary.**

(a) *Change*. To change a designation of beneficiary, the participant must submit to the TSP record keeper a new TSP designation of beneficiary form meeting the requirements of §1651.3 to the TSP record keeper. If the TSP receives more than one valid TSP designation of beneficiary form, it will honor the form with the latest date signed by the participant. A participant may change a TSP beneficiary at any time, without the knowledge or consent of any person, including his or her spouse.

(b) *Cancellation*. A participant may cancel all prior designations of beneficiaries by sending the TSP record keeper either a new valid designation of beneficiary form meeting the requirements of §1651.3, or a letter. If the participant uses a letter to cancel a designation of beneficiary, it must be signed and witnessed in the same manner as a TSP designation of beneficiary form; it must explicitly state that all prior designations are canceled; and the TSP record keeper must receive it on or before the date of the participant's death.

(c) *Will*. A participant cannot use a will to change or cancel a TSP designation of beneficiary.

[70 FR 32216, June 1, 2005]

**§ 1651.5 Spouse of participant.**

(a) For purposes of payment under §1651.2(a)(2), the spouse of the participant is the person to whom the participant was married on the date of death.

A person is considered to be married even if the parties are separated, unless a court decree of divorce or annulment has been entered. State law of the participant's domicile will be used to determine whether the participant was married at the time of death.

(b) If a person claims to have a marriage at common law with a deceased participant, the TSP will pay benefits to the putative spouse under §1651.2(a)(2) in accordance with the marital status shown on the most recent Federal income tax return filed by the participant. Alternatively, the putative spouse may submit a court order or administrative adjudication determining that the common law marriage is valid.

[71 FR 9897, Feb. 28, 2006]

**§ 1651.6 Child or children.**

If the account is to be paid to the child or children, or to descendants of deceased children by representation, as provided in §1651.2(a)(3), the following rules apply:

(a) *Child*. A child includes a natural or adopted child of the deceased participant.

(b) *Descendants of deceased children*. "By representation" means that, if a child of the participant dies before the participant, all descendants of the deceased child at the same level will equally divide the deceased child's share of the participant's account.

(c) *Adoption by another*. A natural child of a TSP participant who has been adopted by someone other than the participant during the participant's lifetime will not be considered the child of the participant, unless the adopting parent is the spouse of the TSP participant.

**§ 1651.7 Parent or parents.**

If the account is to be paid to the participant's parent or parents under §1651.2(a)(4), the following rules apply:

(a) *Amount*. If both parents are alive at the time of the participant's death, each parent will be separately paid fifty percent of the account. If only one parent is alive at the time of the participant's death, he or she will receive the entire account balance.