

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ICE Policy System

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DIRECTIVE TITLE: EMERGENCY AND SPECIAL EVACUATION ALLOWANCES

1. **PURPOSE and SCOPE.** This Directive establishes U.S. Immigration and Customs Enforcement (ICE) policy and procedures for emergency and special evacuation allowances. This Directive applies to all components of ICE.
2. **AUTHORITIES/REFERENCES.**
 - 2.1. Public Law 93-288, Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 United States Code (U.S.C.), Sections 5121-5206.
 - 2.2. 5 U.S.C, Section 5725, Transportation expenses; employees assigned to danger areas.
 - 2.3. 5 U.S.C., Section 7106 (a) (2) (D), Management Rights.
 - 2.4. 5 Code of Federal Regulations (CFR), Part 550, Subpart D, Payments during Evacuation. (Office of Personnel Management (OPM)).
 - 2.5. 5 CFR, Part 208.4, Waivers.
 - 2.6. 41 CFR, Chapters 300-304, Federal Travel Regulation (FTR).
 - 2.7. DHS Chief Financial Officer's Memo dated 21 September, 2005.
 - 2.8. Office of Personnel Management (OPM) Handbook on Pay and Leave Benefits for Federal Employees Affected by Severe Weather Conditions or Other Emergency Situations dated June 2008
3. **SUPERSEDED/CANCELED POLICY/ SUMMARY OF CHANGES.** This Directive is the originating and establishing directive for ICE policy on emergency and special evacuation allowances and supersedes all legacy guidance.
4. **BACKGROUND.** This Directive defines the authorities and allowances under an Order to Evacuate for emergency and special evacuation allowances. Separate operating procedures and instructions will be issued to support the implementation and compliance with this policy.
5. **DEFINITIONS.** The following definitions are provided for the purposes of this Directive.

- 5.1. **Dependent.** A relative of an employee who resides with the employee and is dependent upon the employee for support.
- 5.2. **Employee.** A federal employee, with the exception of a contract employee.
- 5.3. **Evacuation Order.** The authorized or ordered departure of an employee and/or his/her dependents for the purpose of ensuring their safety.
- 5.4. **Evacuation Payment.** A special payment made to an employee during an evacuation period. The payment is issued on the employee's regular pay day and is based on the rate of pay (including locality, allowances, and differentials to which he/she was entitled immediately before the evacuation period).
- 5.5. **Federal Travel Regulation (FTR).** The regulations which implement statutory requirements and Executive branch policies for travel by Federal civilian employees and others authorized to travel at Government expense.
- 5.6. **Lodgings-Plus per Diem System.** The method for computing per diem allowances for official travel whereby employees are reimbursed for the actual lodging up to a set limit, in addition to the fixed amount for meals and incidental expenses that they receive.
- 5.7. **Natural Disaster.** A calamitous event that brings damage, loss, or destruction caused by nature (e.g., hurricane, tornado, and flood).
- 5.8. **Per Diem Allowance.** Also referred to as subsistence allowance, a daily payment instead of reimbursement for actual expenses for lodging, meals, and related incidental expenses. The per diem allowance is separate and distinct from transportation expenses and other miscellaneous expenses. The per diem allowance includes all charges, including taxes and service charges where applicable for lodging, meals, and incidental expenses.
- 5.9. **Safe Haven.** A designated area to which an employee and/or dependents is evacuated.
- 5.10. **Special Evacuation Allowances.** Allowances for expenses consisting of: (1) en route travel and per diem to the designated safe haven; (2) subsistence expenses at the safe haven (lodging, meal and incidental expenses); (3) en route travel and per diem to return to permanent duty station. (5 CFR §550.405).
- 5.11. **Temporary Duty (TDY) Travel.** Authorized travel for an employee who must conduct official business away from his/her residence or Permanent Duty Station (PDS).
- 5.12. **Travel Allowances.** Allowances and entitlements as outlined in the Federal Travel Regulation (FTR) for an employee who is traveling on official business.
- 5.13. **Uninhabitable Home.** A home is uninhabitable when it does not have power or portable water, or has other deficiencies that render it a risk to health and safety or when road obstructions preclude access.

- 5.14. **Habitable Home.** A determination of whether or not a residence is habitable will be made in accord with the appropriate city, state, and federal authorities.
6. **POLICY.** Emergency and special evacuation allowances shall be available based on the execution of an official, signed Order for Evacuation or other issuance by the Assistant Secretary or his/her designee. These allowances will be approved by the respective Program director or his/her designee consistent with operating procedures to ensure overall consistency within ICE.
7. **RESPONSIBILITIES.**
- 7.1. **The Department of Homeland Security (DHS) Chief Financial Officer (CFO)** directs, manages and issues policy, and provides guidance and oversight of DHS financial management personnel, activities and operations.
- 7.2. **The ICE Assistant Secretary or his/her designee** authorizes the payments for evacuation pursuant to a formal, written evacuation order.
- 7.3. **The Highest Ranking Financial Officer or his/her designee** for each ICE program is responsible for ensuring that the implementation of the emergency and special evacuation allowances is in compliance with this policy.
8. **PROCEDURES.**
- 8.1 **Special Evacuation Allowances for Evacuated Employees and their Dependents.**
- 8.1.1 For the first consecutive 30 days after the evacuation order, the employee and dependent(s) age 12 and older will receive full "lodgings-plus" per diem rate applicable for the safe haven location or for a station other than the safe haven that has been approved by appropriate authority; and based on GSA-prescribed per diem rate (<http://www.gsa.gov/perdiem>). For dependents under age 12, the per diem is calculated at one-half (50 percent) of the full rate for the employee.
- 8.1.2 If the evacuation continues for more than 30 days, beginning on the 31st day, the maximum per diem rates are reduced to 60 percent of the applicable per diem rate paid during the first 30 days.
- 8.1.3 Special Evacuation Allowance payments may be made during period of time the evacuation order remains in effect. The maximum period that evacuation payments can be made is 180 days from the effective date of the evacuation order. However, payments may be terminated earlier or extended in the case of employee(s) who is/are evacuated again because of the designation of a subsequent emergency situation or evacuation order by the appropriate authority. In the latter case, a new 180-day period for receiving the Special Evacuation Allowances payments begins on the date of the second evacuation order.

- 8.1.4** In order to reestablish normal operations, ICE may require the employee to report for duty at the evacuation zone - Permanent Duty Station (PDS) or at an alternative duty location, as instructed. Failure to report may result in termination of evacuation pay and subsistence allowances, as well as disciplinary/adverse action.
- 8.1.5** If the evacuated employee, who has reached the safe haven locale, is directed to return to his/her PDS in the evacuation zone, and his/her home is uninhabitable, he/she will receive travel allowances provided in the FTR and the agency's policies for Temporary Duty (TDY) travel, even though the employee would not normally be eligible for travel allowances while working at the PDS. His/her dependent(s) who remain at the safe haven will continue to receive the special evacuation allowances. However, if the home is habitable, the employee may not receive lodging payments even if returning to the home would be inconvenient.
- 8.1.6** If the employee has been assigned official duties at the safe haven, the employee will receive the special evacuation allowances both for the employee and his/her dependents if any. Since the employee is not considered to be on TDY travel, he/she will not receive travel allowances as the safe haven location will be considered his/her official duty station.
- 8.1.7** If the employee has been assigned official duties at a location other than the evacuation zone or the safe haven locale, the employee will be considered to be in TDY travel status. While his/her dependent(s) who remain at the safe haven continue(s) to receive the special evacuation allowances, the employee will receive only applicable regular travel and per diem in accordance with the FTR.
- 8.1.8** Generally, the employee and his/her dependent(s)' special evacuation allowances are terminated when either: (1) the evacuation is over and the employee returns to his/her PDS; or (2) the employee and his/her dependent(s) return to their habitable home; and the employee reports for duty at his/her PDS.
- 8.1.9** The Agency may grant an Electronic Funds Transfer (EFT) payment waiver upon an evacuated employee's written request according to the 31 CFR, part 208.4 (c) which exempts him/her from the mandatory requirements of the Debt Collection Improvement Act (DCIA). However, this waiver is limited to payments made within 120 days after the disaster is declared.
- 8.1.10** In the event of an emergency or evacuation, each employee is responsible for contacting his or her supervisor or designated official. The employee's failure to immediately contact his/her supervisor or designated official when an event occurs causing an evacuation may result in the employee's termination of evacuation pay and special evacuation allowances as well as disciplinary/adverse action.
- 8.1.11** An employee's failure to adhere to the agency's written evacuation order/or an oral order followed as soon as possible shall result in the employee and his/her dependents' forfeiting eligibility for evacuation payments and benefits.
- 8.1.12** No lodging reimbursements are allowed if the evacuated employee and his/her dependents stay with friends or relatives instead of the safe haven, regardless of whether or not the

evacuated employee makes a lodging payment to the friend or relative. In this case, the employee and dependents are only authorized the Miscellaneous and Incidental Expenses (MI&E) portion of the per diem allowance.

8.2 Emergency subsistence allowances for employees who have been ordered to remain in the evacuation zone for official duties.

8.2.1 The emergency subsistence allowances are benefits and not entitlements and each program's director or his/her designee has the authority to determine an employee's eligibility on a case-by-case basis.

8.2.2 The employee may request emergency subsistence allowances in the form of per diem similar to the ones for evacuated employees. However, if his/her home is habitable, an employee may not receive lodging even if returning to the home would be inconvenient.

8.2.3 Any employee who has chosen to remain in the evacuation zone for personal reasons or who has not been directed by his/her chain of command to remain in the evacuation zone to safeguard life and protect federal property will not receive the emergency subsistence allowances.

8.3 Vouchers for special evacuations allowance payments and emergency subsistence payments.

8.3.1 In order to voucher for and receive special evacuation allowance payments, the evacuated employee and his/her dependent(s) must have a written evacuation order and a travel authorization document issued through the employee's chain of command. This evacuation order should be kept by the employee as an official record.

8.3.2 In order to voucher for and receive emergency subsistence payments for any employee remaining in the evacuation zone, the employee must have a written directive from the employee's chain of command stating that he /she has been directed to remain in the evacuation zone to safeguard life and protect federal property. This directive should be kept by the employee as an official record.

8.3.3 Copies of the evacuation order and the directive as specified in "a" and "b" must be provided by the issuing official directly to the Travel Program Manager so that they can be matched up with travel authorizations and travel vouchers.

8.3.4 Programs shall ensure that the correct fund and project codes are established and used to capture all appropriate emergency and evacuation financial transactions for tracking and reporting purposes.

9. ATTACHMENT. None.

10. NO PRIVATE RIGHT STATEMENT. This Directive is an internal policy statement of ICE. It is not intended to, and does not create any rights, privileges, or benefits, substantive

or procedural, enforceable by any party against the United States; its departments, agencies, or other entities; its officers or employees; or any other person.

Approved *Julie L. Myers*
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