

it cannot process a post-employment withdrawal for the participant. A post-employment withdrawal cannot occur until at least 30 full calendar days have elapsed after the date of separation except when the §1650.22(a) procedures apply.

(b) *Information to be provided to the participant.* When a TSP participant separates from Government employment, his or her employing agency must furnish the participant with the most recent copies of the TSP withdrawal booklet, withdrawal forms, and tax notice. The employing agency is also responsible for counseling participants concerning TSP withdrawals.

§ 1650.21 Accounts of more than \$3,500.

A participant whose account balance is more than \$3,500 must submit a properly completed withdrawal election on Form TSP-70, Withdrawal Request, and any other form required by the TSP, in order to elect a post-employment withdrawal of his or her account balance.

§ 1650.22 Accounts of \$3,500 or less.

(a) Unless he or she has already submitted a complete withdrawal election and can be scheduled for payment, a participant whose account balance is \$3,500 or less as of the month end following receipt of separation information from the employing agency will be sent a notice informing him or her that the account balance will be paid directly to the participant automatically in the third monthly processing cycle following the date of the notice if the account is still \$3,500 or less on the date of payment. The notice will inform the participant that he or she can:

- (1) Choose to transfer all or part of the payment to an Individual Retirement Arrangement (IRA) or other eligible retirement plan;
- (2) Choose another withdrawal method (as described in subpart B of this part);
- (3) Choose to have the payment made directly to him or her as soon as possible; or
- (4) Choose to leave his or her money in the Plan.

(b) If the participant does not take one of the actions described in para-

graph (a) of this section, payment will be made as scheduled.

(c) No spousal rights attach to any post-employment withdrawals made to a participant whose account balance is \$3,500 or less.

(d) If a participant's account balance is \$3,500 or less after separation but later increases to more than \$3,500, this section will cease to apply to that participant.

(e) This section does not apply to accounts containing a balance of less than \$5.00.

Subpart D—In-Service Withdrawals

§ 1650.30 Age-based withdrawals.

(a) A participant who reached age 59½ and who has not separated from Government employment is eligible to withdraw all or a portion of his or her vested TSP account balance in a single payment. The amount of an age-based in-service withdrawal request must be at least \$1,000.

(b) The participant may request that the TSP transfer all or a portion of the withdrawal to an Individual Retirement Arrangement (IRA) or other eligible retirement plan. If a participant chooses to receive directly all or a portion of the withdrawal, the TSP will withhold for Federal income tax purposes 20 percent of all amounts paid directly to the participant.

(c) A participant is permitted only one age-based in-service withdrawal.

§ 1650.31 Financial hardship withdrawals.

(a) A participant who has not separated from Government employment and who demonstrates financial hardship is eligible to withdraw all or a portion of his or her own contributions to the TSP and their attributable earnings in a single payment to meet certain specified financial obligations. The amount of a financial hardship in-service withdrawal request must be at least \$1,000. A participant will demonstrate financial hardship if he or she meets one or both of the following tests:

- (1) The participant's monthly cash flow is negative, *i.e.*, net income is less

than ordinary monthly household expenses based on TSP calculations; and/or

(2) The participant has incurred or will incur within the next six months an extraordinary expense which he or she has not paid, for which there has not been and will not be reimbursement (as defined in §1650.1), and which cannot be met by his or her monthly cash flow over a period of six months. Extraordinary expenses are limited to the following four types:

(i) Medical expenses payable by the participant and related to the treatment of the participant, the participant's spouse, or the participant's dependents. Generally, eligible expenses are those that would be eligible for deduction for Federal income tax purposes, but without regard to the Internal Revenue Service's (IRS) income limitations on deductions. However, the following IRS allowable expenses are excluded from TSP unreimbursed medical expenses: health insurance premiums and expenses associated with household improvements required as a result of a medical condition, illness, or injury to the participant, the participant's spouse, or the participant's dependents. These items are already taken into account elsewhere in the financial hardship determination;

(ii) The cost of household improvements required as a result of a medical condition, illness or injury to the participant, the participant's spouse, or the participant's dependents, which is eligible for deduction as a medical expense for Federal income tax purposes, but without regard to the IRS income limitations on deductions or the fair market value of the property. Household improvements are changes to the participant's living quarters or the installation of special equipment that is necessary to accommodate the circumstances of the incapacitated person;

(iii) The cost of repairs or replacement resulting from casualty loss that would be eligible for deduction for Federal income tax purposes, but without regard to the IRS income limitations on deductions, fair market value of the property, or number of events. This is sudden property loss resulting from damage or destruction by fire, storm,

or other casualty, or due to theft of property; and

(iv) Legal costs, which are defined as attorney fees and court costs, associated with separation or divorce. Unpaid legal costs do not include alimony or child support payments or settlements a participant must pay a spouse or former spouse.

(b) The amount of a participant's financial hardship withdrawal cannot exceed the smallest of the following:

(1) The amount requested;

(2) The amount in the participant's account that is equal to his or her own contributions and attributable earnings; or

(3) The gross amount which would, subject to a request made under §1650.42(b), result in a net disbursement to the participant (after the mandatory Federal income tax with holding) of enough funds to both:

(i) Make up the participant's negative cash flow for a period of six months in the case of a financial hardship withdrawal based on ordinary monthly household expenses; and

(ii) Pay the extraordinary expense upon which the participant's financial hardship withdrawal is based. If the participant has a negative cash flow, the amount of the net disbursement based on extraordinary expense is equal to the amount of the extraordinary expense. If there is a positive cash flow, the amount is equal to the amount of the expense minus six times the amount of the calculated monthly positive cash flow.

§ 1650.32 Contributing to the TSP after an in-service withdrawal.

(a) A participant's TSP contribution election will not be affected by an age-based in-service withdrawal; therefore, his or her TSP contributions will continue without interruption.

(b) A participant who obtains a financial hardship in-service withdrawal may not contribute to the TSP for any pay date falling within a period of six months, beginning on the 46th day after the date of the withdrawal and ending 180 days after this beginning date; therefore, his or her TSP contributions (and any applicable matching contributions) will be discontinued by his or her agency upon notification

by the TSP. A participant whose TSP contributions were discontinued by his or her agency because of a hardship withdrawal can resume contributions any time after expiration of the six month period by submitting a new TSP Election Form (TSP-1). If a participant voluntarily terminated TSP contributions, he or she can resume contributions at the expiration of the six-month period, or in the next open season during which the participant would be eligible to submit a new Form TSP-1, whichever is later.

§ 1650.33 Uniqueness of loans and withdrawals.

An outstanding TSP loan cannot be converted into an in-service withdrawal, and *vice versa*; nor can an in-service withdrawal be returned or repaid.

Subpart E—Procedures for In-Service Withdrawals

§ 1650.40 How to obtain an age-based in-service withdrawal.

To request an age-based in-service withdrawal, a participant must submit to the TSP Service Office a properly completed withdrawal election on Form TSP-75, Age-Based In-Service Withdrawal Request.

§ 1650.41 How to obtain a financial hardship in-service withdrawal.

To request a financial hardship in-service withdrawal, a participant must submit to the TSP Service Office a properly completed request for withdrawal on Form TSP-76, Financial Hardship In-Service Withdrawal Request, a current earnings and leave statement, and supporting documentation for any extraordinary expenses listed on the application.

§ 1650.42 Taxes related to in-service withdrawals.

(a) An in-service withdrawal is an eligible rollover distribution under the Internal Revenue Code (IRC), and the IRC requires that the Board withhold at least 20 percent for Federal income tax purposes from any portion of the withdrawal that is not directly transferred to an Individual Retirement Arrangement (IRA) or other eligible re-

tirement plan. A participant who wants the TSP to transfer all or a portion of an in-service withdrawal to an IRA or other eligible retirement plan must submit to the TSP Service Office a properly completed Form TSP-75-T, Transfer of In-Service Withdrawal. If the participant does not make a transfer election, the withdrawal will be disbursed in the form of a single payment minus the mandatory tax withholding. The mandatory withholding cannot be waived, although a participant can elect to have additional taxes withheld by submitting Form W-4P, Withholding Certificate for Pension or Annuity Payments, to the TSP Service Office.

(b) If a participant applies for a financial hardship in-service withdrawal and does not make a transfer election, he or she can request the TSP to remove additional amounts from his or her TSP account so that the amount received after the mandatory 20 percent tax withholding is the amount requested (or for which the participant qualifies, if that amount is less than the amount requested). This option may be limited by the amount of employee contributions and attributable earnings available for withdrawal.

Subpart F—[Reserved]

Subpart G—Spousal Rights

§ 1650.60 Spousal rights pertaining to post-employment withdrawals.

(a) The spousal rights described in this section only apply to post-employment withdrawals when the participant's vested TSP account balance exceeds \$3,500.

(b) The spouse of a CSRS participant is entitled to notice when the participant applies for a post-employment withdrawal, unless the participant was granted an exception under § 1650.63 to the spouse notification requirement within one year of the date the withdrawal form is processed by the TSP. The participant must provide the TSP record keeper with the spouse's correct address. The TSP record keeper will send the required notice by first class mail to the most recent address provided by the participant.