

§ 1653.25

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(b) The following documents will not be treated as purporting to be qualifying legal process. Therefore, accounts of participants to whom such orders relate will not be frozen and these documents will not be reviewed by the Board:

(1) A document that pertains to a TSP account that has been closed.

(2) A document that does not indicate that it relates either to the TSP or to the participant's retirement benefits.

(3) A document that does not appear to have been issued by a proper authority as described in §1653.23(b)(1).

(c) The Board will review a document that purports to be qualifying legal process to determine whether it is complete.

(d) If the Board determines that the document is incomplete, it will request a complete copy of the document from the party that submitted the document. If a complete copy is not received by the Board within 30 days of the Board's request, the participant's account will be unfrozen and no further action will be taken by the Board with respect to the document.

(e) Upon receipt of a complete document, the Board will review it to determine whether it is qualifying legal process.

(f) The Board will advise the submitting party and the TSP participant of the determination. The Board's decision letter will contain the following information:

(1) A statement of the applicable statute and regulations.

(2) A decision regarding whether the document is qualifying legal process, as defined in §1653.23 (b) and (c).

(3) If the document is determined to be qualifying legal process, the effect that compliance with the terms of the document will have on the participant's account.

(4) If the order requires payment, the amount that will be paid pursuant to the qualifying legal process; and to whom the payment will be made.

(5) If the order requires payment, tax reporting and withholding information will be sent to the party as to whom the payment will be reported to the Internal Revenue Service as income.

(g) The Board's decision constitutes the final administrative action by the

Board. There is no appeal right within the Board.

(h) An account frozen under this section will be unfrozen:

(1) If a complete document has not been received within 30 days from the date of a request described in paragraph (d) of this section, upon the expiration of the 30-day period;

(2) If the account was frozen pursuant to legal process requiring the Board to Freeze the participant's account in anticipation of an order to pay over the account, the account will be unfrozen upon the occurrence of any one of the following events:

(i) As soon as practicable after receipt of a complete copy of an order vacating or superseding such order (unless the order vacating or superseding the preliminary order itself warrants placing a freeze on the account); or

(ii) Upon payment pursuant to the order to pay over the account, if the Board determines that the order is qualifying; or

(iii) As soon as practicable after the Board issues a decision letter informing the parties that the order to pay over the account is not qualifying legal process requiring payment from the participant's account; or

(3) If the account was frozen upon receipt of a document that purports to be legal process requiring payment from the participant's account, the account will be unfrozen upon the occurrence of any one of the following events:

(i) Upon payment pursuant to the document, if the Board determines that the document is qualifying legal process requiring payment from the participant's account; or

(ii) As soon as practicable after the Board issues its decision letter informing the parties that the document is not qualifying legal process requiring payment from the participant's account.

§ 1653.25 Payment pursuant to qualifying legal process.

(a) Payment will be made pursuant to qualifying legal process after the Board's decision has been issued and the 30-day tax withholding notification period has ended. The taxpayer may receive the payment sooner by waiving the tax notification period.

(b) A payment made pursuant to qualifying legal process will be made only to the persons or entities specified in the process. If payment is to be made to the spouse or former spouse of the participant, he or she may request that the TSP transfer all or a portion of his or her payment to an Individual Retirement Arrangement (IRA) or other eligible retirement plan. Such a request must be made by filing Form TSP-13-S, "Spouse Election to Transfer to IRA or Other Eligible Retirement Plan", which must be received before payment.

(c) In no case may a payment made pursuant to qualifying legal process exceed the participant's vested account balance, excluding any outstanding loan amount as of the end of the month preceding the date of payment. If the amount to be paid exceeds the participant's vested account balance (excluding any outstanding loan amount), then only the vested amount in the account (excluding the outstanding loan balance) will be paid.

(d) The entire amount to be paid pursuant to qualifying legal process must be disbursed at one time. A series of payments will not be made even if the process provides for such a method of payment. A payment made pursuant to qualifying legal process extinguishes all further rights to any payment under that legal process even if the entire amount specified could not be paid. Any further payment must be made pursuant to separate legal process.

(e) Multiple legal processes pending before the Board will be honored as follows:

(1) As between conflicting legal processes relating to the same spouse, same former spouse, or same children of the participant, the Board will pay only the legal process bearing the latest date of issuance.

(2) As between conflicting legal processes relating to two or more former spouses or to different children of the participant, the Board will pay the legal processes in the order of their dates of issuance starting with the legal process bearing the earliest date and continuing until the account is exhausted.

(f) Payment cannot be made jointly to more than one person. If payment is

to be made to more than one person, the legal process must separately indicate the amount to be paid to each.

(g) In order to make payment pursuant to a qualifying legal process, the TSP recordkeeper must be provided with the full name and mailing address of the payee, even if the payment is being mailed to another address. In addition, if the payee is a spouse or former spouse of the participant, the payee must provide his or her Social Security number.

(h) If the payee dies before a payment is made pursuant to a qualifying legal process, payment will be made to the estate of the payee, unless otherwise specified by the legal process. If the participant dies before payment is made pursuant to qualifying legal process, the process will be honored as long as it is received by the TSP before payment of the account, regardless of whether the order was received before the participant's death.

(i) A payment made pursuant to qualifying legal process in accordance with this subpart bars recovery by any other person or entity pursuant to that qualifying legal process.

(j) Payments made pursuant to qualifying legal process will be paid *pro rata* from the TSP investment funds in which the participant is invested, on the date as of which the payment is made. The TSP will not honor provisions of legal process that require payment to be made from specific investment funds.

(k) Unless the qualifying legal process specifically provides, interest or earnings will not be paid on the amount paid to a party or parties pursuant to the qualifying legal process.

[60 FR 45624, Aug. 31, 1995, as amended at 61 FR 18912, Apr. 29, 1996]

PART 1655—LOAN PROGRAM

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