

## § 208.5

the cost of making the payment by check; and

(g) Where an agency's need for goods and services is of such unusual and compelling urgency that the Government would be seriously injured unless payment is made by a method other than electronic funds transfer; or, where there is only one source for goods or services and the Government would be seriously injured unless payment is made by a method other than electronic funds transfer.

### § 208.5 Availability of the ETA<sup>SM</sup>.

An individual who receives a Federal benefit, wage, salary, or retirement payment shall be eligible to open an ETA<sup>SM</sup> at any Federally-insured financial institution that offers ETAs<sup>SM</sup>. Any Federally-insured financial institution shall be eligible, but not required, to offer ETAs<sup>SM</sup> as Treasury's Financial Agent. A Federally-insured financial institution that elects to offer ETAs<sup>SM</sup> shall, upon entering into an ETA<sup>SM</sup> Financial Agency Agreement with the Treasury, be designated as Treasury's Financial Agent for the offering of the account pursuant to Public Law 104-208. Treasury shall make publicly available required attributes for ETAs<sup>SM</sup> and any ETA<sup>SM</sup> offered by a Federally-insured financial institution shall comply with such requirements. The offering of an ETA<sup>SM</sup> shall constitute the provision of EBT services within the meaning of Public Law 104-208.

### § 208.6 General account requirements.

(a) All Federal payments made by electronic funds transfer, including those made through an ETA<sup>SM</sup>, shall be deposited into an account at a financial institution. For all payments other than vendor payments, the account at the financial institution shall be in the name of the recipient, except as provided in paragraph (b) of this section.

(b)(1) Where an authorized payment agent has been selected, the Federal payment shall be deposited into an account titled in accordance with the regulations governing the authorized payment agent.

(2) Where a Federal payment is to be deposited into an investment account

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established through a securities broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, or an investment account established through an investment company registered under the Investment Company Act of 1940 or its transfer agent, such payment may be deposited into an account designated by such broker or dealer, investment company, or transfer agent.

### § 208.7 Agency responsibilities.

(a) An agency shall disclose to each individual who is eligible to receive a Federal benefit, wage, salary, or retirement payment and who is not already receiving payment by electronic funds transfer the individual's rights and obligations under §§ 208.3, 208.4(a) and 208.5 of this part, unless payment by electronic funds transfer is not required pursuant to any provision of subsections (b) through (g) of § 208.4.

(1) Prior to the date the ETA<sup>SM</sup> becomes available, the disclosure shall be in a form substantially similar to the model disclosure set forth in appendix A of this part.

(2) On and after the date the ETA<sup>SM</sup> becomes available, the disclosure shall be in a form substantially similar to the model disclosure set forth in appendix B of this part.

(b) An agency shall put into place procedures that allow recipients to indicate that the recipient elects to have payment deposited by electronic funds transfer to an account held by the recipient at a financial institution. In addition, an agency may put into place procedures to request that individuals who are invoking a hardship waiver under § 208.4(a) indicate, in writing or orally, that a hardship waiver has been invoked. However, an agency may not delay or withhold payment if a recipient does not respond to such a request.

### § 208.8 Recipient responsibilities.

Each recipient who is required to receive payment by electronic funds transfer and who has an account with a financial institution must, within the time frame specified by the agency making the payment, designate a financial institution through which the payment may be made and provide the

agency with the information requested by the agency in order to effect payment by electronic funds transfer.

#### § 208.9 Compliance.

(a) Treasury will monitor agencies' compliance with this part. Treasury may require agencies to provide information about their progress in converting payments to electronic funds transfer.

(b) If an agency fails to make payment by electronic funds transfer, as prescribed under this part, Treasury may assess a charge to the agency pursuant to 31 U.S.C. 3335.

#### § 208.10 Reservation of rights.

The Secretary reserves the right, in the Secretary's discretion, to waive any provision(s) of this regulation in any case or class of cases.

#### APPENDIX A TO PART 208—MODEL DISCLOSURE FOR USE UNTIL ETA<sup>SM</sup> BECOMES AVAILABLE

The Debt Collection Improvement Act of 1996 requires that most Federal payments be made by electronic funds transfer after January 2, 1999.

If you are currently receiving your Federal payment by check or you have just become eligible to begin receiving a Federal payment, you have several choices:

(1) Receive your payment by Direct Deposit through the financial institution of your choice.

The Government makes payments electronically through a program called Direct Deposit. Direct Deposit is a safe, convenient, and reliable way to receive your Federal payment through a financial institution. (A financial institution can be a bank, credit union, savings bank, or thrift.) Many financial institutions offer basic, low-cost accounts in addition to full-service checking or savings accounts.

(2) Do nothing now and wait for a basic, low-cost account, called an ETA<sup>SM</sup>, to become available.

If you do not have an account with a financial institution, you do not need to do anything now. In the future a low-cost account, called an ETA<sup>SM</sup>, will be available at many financial institutions. Like Direct Deposit, the ETA<sup>SM</sup> (which stands for electronic transfer account) is a safe, convenient, and reliable way to receive your Federal payment through a financial institution. You are eligible to open this account, at a low monthly fee, if you receive a Federal benefit, wage, salary, or retirement payment. [Agency name] will contact you and let you know

when the ETA<sup>SM</sup> is available and which financial institutions in your area offer the account.

(3) Continue to receive a check.

If receiving your payment electronically would cause you a hardship because you have a physical or mental disability, or because of a geographic, language, or literacy barrier, you may receive your payment by check. In addition, if receiving your payment electronically would cause you a financial hardship because it would cost you more than receiving your payment by check, you may receive your payment by check.

Please call [agency name] at [agency customer service number] if you would like more information on Direct Deposit, the ETA<sup>SM</sup>, or hardship waivers.

#### APPENDIX B TO PART 208—MODEL DISCLOSURE FOR USE AFTER ETA<sup>SM</sup> BECOMES AVAILABLE

The Debt Collection Improvement Act of 1996 requires that most Federal payments be made by electronic funds transfer after January 2, 1999.

If you are currently receiving your Federal payment by check or you have just become eligible to begin receiving a Federal payment, you have several choices:

(1) Receive your payment by Direct Deposit through the financial institution of your choice.

The Government makes payments electronically through a program called Direct Deposit. Direct Deposit is a safe, convenient, and reliable way to receive your Federal payment through a financial institution. (A financial institution can be a bank, credit union, savings bank, or thrift.) Many financial institutions offer basic, low-cost accounts in addition to full-service checking or savings accounts.

(2) Receive your payment through a basic, low-cost account called an ETA<sup>SM</sup>.

If you receive a Federal benefit, wage, salary, or retirement payment, you are eligible to open an ETA<sup>SM</sup>. This account is available for a low monthly fee at many financial institutions. Like Direct Deposit, the ETA<sup>SM</sup> (which stands for electronic transfer account) is a safe, convenient, and reliable way to receive your Federal payment through a financial institution. Please call the customer service number listed below to find out which financial institutions in your area offer the ETA<sup>SM</sup>.

(3) Continue to receive a check.

If receiving your payment electronically would cause you a hardship because you have a physical or mental disability, or because of a geographic, language, or literacy barrier, you may receive your payment by check. In