

§ 1650.21

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

(c) No spousal rights attach to any post-employment withdrawals made to

5 CFR Ch. VI (1-1-03 Edition)

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 can demonstrate 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 withdrawal must be at least \$1,000.

(b) A participant will demonstrate financial hardship if he or she meets one or both of the following tests:

(1) Based on TSP calculations, the participant's monthly cash flow is negative (*i.e.*, net income is less than ordinary monthly household expenses).

(2) The participant has incurred, or will incur within the next six months, extraordinary expenses which the participant has not paid, for which he or

she has not been and will not be reimbursed, and which cannot be met by his or her monthly cash flow over a period of six months. Documentation of the expenses must be dated within 45 days of the date of the withdrawal request. 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 as medical expenses for Federal income tax purposes, but without regard to the Internal Revenue Service's (IRS) income limitations on deductibility. However, the following expenses that are allowed by the IRS are not eligible TSP 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 TSP financial hardship calculations.

(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 deductibility or the fair market value of the property. Household improvements are structural improvements 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 repair or replacement resulting from a personal casualty loss that would be eligible for deduction for Federal income tax purposes, but without regard to the IRS income limitations on deductibility, fair market value of the property, or number of events. Personal casualty loss includes damage, destruction, or loss of property resulting from a sudden, unexpected, or unusual event, such as an earthquake, hurricane, tornado, flood, storm, fire, or theft.

(iv) Legal expenses for attorney fees and court costs associated with separation or divorce. Court-ordered payments to a spouse or former spouse and child support payments are not allowed, nor are costs of obtaining prepaid legal services or other coverage for legal services.

(c) 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)(i) The amount which would both:

(A) Make up the participant's negative cash flow, if any, for a period of six months; and

(B) Pay documented extraordinary expenses, if any.

(ii) If the TSP calculates that the participant has a negative cash flow and extraordinary expenses, the amount of the disbursement is equal to six times the amount of the negative monthly cash flow plus the amount of the extraordinary expenses. If the TSP calculates that the participant has a positive cash flow, the amount of the disbursement is equal to the amount of the documented extraordinary expenses minus six times the amount of the positive monthly cash flow.

(d) A participant is not eligible for an in-service hardship withdrawal during the time he or she has pending a petition in bankruptcy under Chapter 13 of the Bankruptcy Code.

[66 FR 43462, Aug. 20, 2001]

§ 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