

(4) The participant must have paid 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) When determining financial hardship needs, a participant cannot use any expenses that are already paid or are reimbursable to the participant by insurance or otherwise.

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

(1) The amount requested; or

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

(e) The participant must certify that he or she has a financial hardship as described on the hardship withdrawal form, and that the dollar amount of the withdrawal request does not exceed the actual amount of the financial hardship.

(f) A participant is not eligible for an in-service hardship withdrawal based solely on monthly negative cash flow (as described in paragraph (b)(1) of this section) during the time he or she has pending a petition in bankruptcy under Chapter 13 of the Bankruptcy Code (11 U.S.C. chapter 13).

[68 FR 35503, June 13, 2003, as amended at 68 FR 74451, Dec. 23, 2003]

**§ 1650.33 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 a period of six months after the withdrawal is processed. Therefore, the participant's employing agency will discontinue his or her contributions (and any applicable agency matching contributions) for six months after the agency is notified by the TSP; in the case of a FERS participant, agency automatic (1%) contributions will continue. A participant whose TSP con-

tributions are discontinued by his or her agency after a financial hardship withdrawal can resume contributions any time after expiration of the six-month period by submitting a new TSP contribution election. Contributions will not resume automatically.

**§ 1650.34 Uniqueness of loans and withdrawals.**

An outstanding TSP loan cannot be converted into an in-service withdrawal or vice versa. Funds distributed as an in-service withdrawal cannot be returned or repaid.

**Subpart E—Procedures for In-Service Withdrawals**

**§ 1650.41 How to obtain an age-based withdrawal.**

To request an age-based withdrawal, a participant must submit to the TSP record keeper a properly completed paper TSP age-based withdrawal request form or use the TSP Web site to initiate a request. A participant's ability to complete an age-based withdrawal on the Web will depend on his or her retirement system coverage, marital status, and whether or not part or all of the withdrawal will be transferred to an eligible employer plan or traditional IRA.

[68 FR 35503, June 13, 2003, as amended at 70 FR 32215, June 1, 2005]

**§ 1650.42 How to obtain a financial hardship withdrawal.**

(a) To request a financial hardship withdrawal, a participant must submit to the TSP record keeper a properly completed paper TSP hardship withdrawal request form or use the TSP Web site to initiate a request. A participant's ability to complete a financial hardship withdrawal on the Web will depend on his or her retirement system coverage and marital status.

(b) There is no limit on the number of financial hardship withdrawals a participant can make; however, the TSP will not accept a financial hardship withdrawal request for a period of six months after a financial hardship disbursement is made.

[68 FR 35503, June 13, 2003, as amended at 70 FR 32215, June 1, 2005]