

at the most recent address provided by the participant.

(c) The spouse of a FERS or uniformed services participant has a right to a joint and survivor annuity with a 50 percent survivor benefit, level payments, and no cash refund based on the participant's entire account balance when the participant elects a full post-employment withdrawal. The participant may make a different withdrawal election only if his or her spouse waives the right to this annuity.

(1) To show that the spouse has waived the right to this annuity, the participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary, unless the TSP granted the participant an exception under this subpart to the spousal notification requirement within 90 days of the date the withdrawal form is processed by the TSP. If the TSP granted the participant an exception to the signature requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form.

(2) Because a partial post-employment withdrawal will diminish the amount in the account which is available for a joint and survivor annuity, a spouse's consent is required before a partial withdrawal will be approved, regardless of the amount to be withdrawn.

(3) Both a spouse's waiver of a joint and survivor annuity and a spouse's consent to a partial withdrawal must be properly notarized.

(4) The spouse's waiver or consent is irrevocable for that withdrawal once the TSP record keeper has received it.

[68 FR 35503, June 13, 2003, as amended at 69 FR 29851, May 26, 2004]

§ 1650.62 Spousal rights applicable to in-service withdrawals.

(a) The spousal rights described in this section apply to all in-service withdrawals and do not depend on the amount of the participant's vested account balance or the amount requested for withdrawal.

(b) The spouse of a CSRS participant is entitled to notice when the participant applies for an in-service withdrawal, unless the participant was

granted an exception under this subpart to the spousal notification requirement within 90 days of the date on which the withdrawal request is processed by the TSP. If the TSP granted the participant an exception to the notice requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form. 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 spouse at the most recent address provided by the participant.

(c) A participant who is covered by FERS or who is a member of the uniformed services must obtain the consent of his or her spouse before obtaining an in-service withdrawal, unless the participant was granted an exception under this subpart to the signature requirement within 90 days of the date the withdrawal form is processed by the TSP. To show the spouse's consent, a participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse in the presence of a notary. Once a form containing the spouse's consent has been submitted to the TSP record keeper, the spouse's consent is irrevocable for that withdrawal.

[68 FR 35503, June 13, 2003, as amended at 69 FR 29851, May 26, 2004]

§ 1650.63 Executive Director's exception to the spousal notification requirement.

(a) Whenever this subpart requires the Executive Director to give notice of an action to the spouse of a CSRS participant, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for such an exception must be submitted to the TSP record keeper on the appropriate TSP paper form, accompanied by the following:

(1) A court order stating that the spouse's whereabouts cannot be determined;

(2) A police or governmental agency determination, signed by the appropriate department or division head,

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which states that the spouse's whereabouts cannot be determined; or

(3) Statements by the participant and two other persons, which meet the following requirements:

(i) The participant's statement must give the full name of the spouse, declare the participant's inability to locate the spouse, state the last time the spouse's location was known, explain why the spouse's location is not known currently, and describe the good faith efforts the participant has made to locate the spouse in the 90 days before the request for an exception was received by the TSP. Examples of attempting to locate the spouse include, but are not limited to, checking with relatives and mutual friends or using telephone directories and directory assistance for the city of the spouse's last known address. Negative statements, such as, "I have not seen nor heard from him," or "I have not had contact with her," are not sufficient.

(ii) The statements from two other persons must support the participant's statement that he or she does not know the spouse's whereabouts, and substantiate the participant's description of the efforts he or she made to locate the spouse, including the dates the participant made those efforts.

(iii) All statements must be signed and dated and must include the following certification: "I understand that a false statement or willful misrepresentation is punishable under Federal law (18 U.S.C. 1001) by a fine or imprisonment or both."

(b) A withdrawal election will be processed within 90 days of an approved exception so long as the spouse named on the form is the spouse for whom the exception has been approved. The spouse's SSN must be included on the withdrawal request.

(c) The TSP, in its discretion, may require a participant to provide additional information before granting a waiver. The TSP may use any of the information provided to conduct its own search for the spouse.

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§ 1650.64 Executive Director's exception to the spousal consent requirement.

(a) Whenever this subpart requires the consent of a spouse of a FERS or uniformed services participant to a loan or withdrawal or a waiver of the right to a survivor annuity, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that:

(1) The spouse's whereabouts cannot be determined in accordance with the provisions of this subpart; or

(2) Due to exceptional circumstances, requiring the spouse's signature would be inappropriate.

(i) An exception to the requirement for a spouse's signature may be granted based on exceptional circumstances only when the participant presents a court order or government agency determination that contains a finding or a recitation of exceptional circumstances regarding the spouse which would warrant an exception to the signature requirement.

(ii) Exceptional circumstances are narrowly construed, but are exemplified by a court order or government agency determination that:

(A) Indicates that the spouse and the participant have been maintaining separate residences with no financial relationship for three or more years;

(B) Indicates that the spouse abandoned the participant, but for religious or similarly compelling reasons, the parties chose not to divorce; or

(C) Expressly states that the participant may obtain a loan from his or her TSP account or withdraw his or her Thrift Savings Plan account balance notwithstanding the absence of the spouse's signature.

(b) A post-employment withdrawal election or an in-service withdrawal request processed within 90 days of an approved exception will be accepted by the TSP so long as the spouse named on the form is the spouse for whom the exception has been approved. The spouse's SSN must be included on the withdrawal request form.

[68 FR 35503, June 13, 2003, as amended at 69 FR 29851, May 26, 2004]