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(e) The participant must certify that he or she has a financial hardship as described on the hardship withdrawal request, 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; 85 FR 61805, Oct. 1, 2020; 87 FR 31683, May 24, 2022]

§ 1650.33 [Reserved]

§ 1650.34 Uniqueness of loans and in-service 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.

[87 FR 31684, May 24, 2022]

Subpart E—Procedures for In-Service Withdrawals

SOURCE: 87 FR 31684, May 24, 2022, unless otherwise noted.

§ 1650.41 How to obtain an age-based withdrawal.

To request an age-based withdrawal, a participant must initiate a request in form and manner prescribed by the TSP record keeper.

§ 1650.42 How to obtain a financial hardship withdrawal.

(a) To request a financial hardship withdrawal, a participant must initiate a request in the form and manner prescribed by the TSP record keeper.

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

§ 1650.43 [Reserved]

Subpart F [Reserved]

Subpart G—Spousal Rights

§ 1650.61 Spousal rights applicable to post-employment withdrawals.

(a) The spousal rights described in this section apply to total post-employment distributions when the married participant's vested TSP account balance exceeds $3,500, to partial post-employment distributions without regard to the amount of the participant's account balance, and to any change in the amount or frequency of an existing installment payment series, including a change from payments calculated based on life expectancy to payments based on a fixed-dollar amount.

(b) Unless the participant was granted an exception under this subpart to the spousal notification requirement within 90 days of the date the distribution request is processed by the TSP record keeper, the spouse of a CSRS participant is entitled to notice when the participant applies for a post-employment distribution or makes a change to the amount or frequency of an existing installment payment series. The participant must provide the TSP record keeper with the spouse's correct email or physical address to which to send the required notice.

(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 total post-employment distribution.

(1) The participant may make a different total post-employment distribution election only if his or her spouse consents to that election and waives the right to this annuity.

(2) A participant's spouse must consent to any partial post-employment distribution election (other than an election to purchase this type of an annuity with such amount) and waive his or her right to this annuity with respect the amount distributed.

(3) A spouse must consent to any change in the amount or frequency of an existing installment payment series

and waive his or her right to this annuity with respect to the applicable amount. Spousal consent is not required to stop installment payments.

(4) Unless the participant was granted an exception under this subpart to the spousal consent requirement within 90 days of the date the distribution request is processed by the TSP record keeper, to show that the spouse has consented to a different total or partial post-employment distribution election or installment payment change and waived the right to this annuity with respect to the applicable amount, the participant must submit to the TSP record keeper a properly completed distribution request, signed by his or her spouse.

(5) The spouse's consent and waiver is irrevocable for the applicable distribution or installment payment change once the TSP record keeper has received it.

[84 FR 46422, Sept. 4, 2019, as amended by 85 FR 21312, Apr. 17, 2020; 85 FR 59174, Sept. 21, 2020; 87 FR 31684, May 24, 2022]

§ 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) 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 record keeper, the spouse of a CSRS participant is entitled to notice when the participant applies for an in-service withdrawal. The participant must provide the TSP record keeper with the spouse's correct email or physical address to which to send the required notice.

(c) Unless the participant was granted an exception under this subpart to the spousal consent requirement within 90 days of the date the withdrawal request is processed by the TSP record keeper, before obtaining an in-service withdrawal, 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 and waiver of the spouse's right to a joint and survivor annuity described in § 1650.61(c) with respect to the applicable amount. To show the spouse's consent and waiver, a participant must submit to the TSP record keeper a properly completed withdrawal request, signed by his or her spouse. Once a request containing the spouse's consent and waiver 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; 84 Fr 46423, Sept. 4, 2019; 85 FR 21312, Apr. 17, 2020; 85 FR 50174, Sept. 21, 2020; 87 FR 31684, May 24, 2022]

§ 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 in the form and manner prescribed by the TSP record keeper, 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, 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 record keeper. 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 TSP withdrawal election will be processed within 90 days of an approved exception so long as the spouse named on the TSP withdrawal request is the spouse for whom the exception has been approved.

(c) The TSP and/or its record keeper may require a participant to provide additional information before granting a waiver. The TSP and/or its record keeper may use any of the information provided to conduct its own search for the spouse.

[68 FR 35503, June 13, 2003, as amended at 70 FR 32215, June 1, 2005; 87 FR 31684, May 24, 2022]

§ 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 TSP 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 make a TSP withdrawal notwithstanding the absence of the spouse's signature.

(b) A post-employment distribution election or an in-service withdrawal request processed within 90 days of an approved exception will be accepted by the TSP record keeper so long as the spouse named on the request is the spouse for whom the exception has been approved.

[68 FR 35503, June 13, 2003, as amended at 69 FR 29851, May 26, 2004; 87 FR 31685, May 24, 2022]

PART 1651—DEATH BENEFITS

Sec.

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1651.19 Beneficiary participant accounts.

AUTHORITY: 5 U.S.C. 8424(d), 8432d, 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

SOURCE: 62 FR 32429, June 13, 1997, unless otherwise noted.

§ 1651.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

Administrative finding means an evidence-based determination reached by a hearing, inquiry, investigation, or trial before an administrative agency of competent jurisdiction in any State, territory or possession of the United States.

Death benefit means the portion of a deceased participant's account that is payable under FERSA's order of precedence.

Order of precedence means the priority of entitlement to a TSP death benefit specified in 5 U.S.C. 8424(d).

Required beginning date means the required beginning date as defined in Internal Revenue Code section 401(a)(9) and the regulations and guidance promulgated thereunder.

Required minimum distribution means the amount required to be distributed to a beneficiary participant beginning on the required beginning date and every year thereafter pursuant to Internal Revenue Code section 401(a)(9) and the regulations promulgated thereunder, as applicable.

[68 FR 35509, June 13, 2003, as amended at 74 FR 63062, Dec. 2, 2009; 78 FR 57784, Sept. 20, 2013; 84 FR 46423, Sept. 4, 2019; 85 FR 40571, July 7, 2020; 87 FR 31685, May 24, 2022]

§ 1651.2 Entitlement to funds in a deceased participant's account.

(a) *Death benefits.* Except as provided in paragraph (b) of this section, the account balance of a deceased participant will be paid as a death benefit to the individual or individuals surviving the participant, in the following order of precedence:

(1) To the beneficiary or beneficiaries designated by the participant in accordance with § 1651.3;

(2) If there is no designated beneficiary, to the spouse of the participant in accordance with § 1651.5;

(3) If there are no beneficiaries or persons as described in paragraphs (a)(1) and (a)(2) of this section, to the child or children of the participant and descendants of deceased children by representation in accordance with § 1651.6;

(4) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(3) of this section, to the parents of the participant in equal shares or entirely to the surviving parent in accordance with § 1651.7;

(5) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(4) of this section, to the duly appointed executor or administrator of the estate of the participant in accordance with § 1651.8; or

(6) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(5) of this section, to the next of kin of the participant who is or are entitled under the laws of the state of the participant's domicile on the date of the participant's death in accordance with § 1651.9.

(b) *TSP withdrawals.* If the TSP record keeper processes a notice that a participant has died, it will cancel any pending request by the participant to withdraw his or her account. The TSP record keeper will also cancel an annuity purchase made on or after the participant's date of death but before annuity payments have begun, and the annuity vendor will return the funds to the TSP. The funds designated by the participant for the withdrawal will be paid as a death benefit in accordance with paragraph (a) of this section, unless the participant elected to withdrawal his or her account in the form of an annuity, in which case the funds designated for the purchase of the annuity will be paid as described in paragraphs (b)(1) through (5) of this section:

(1) If the participant requested a single life annuity with no cash refund or 10-year certain feature, the TSP record keeper will pay the funds as a death benefit in accordance with paragraph (a) of this section.

(2) If the participant requested a single life annuity with a cash refund or 10-year certain feature, the TSP record keeper will pay the funds as a death benefit to the beneficiary or beneficiaries designated by the participant

on the annuity portion of the TSP post-employment distribution request, or as a death benefit in accordance with paragraph (a) of this section if no beneficiary designated on the withdrawal request survives the participant.

(3) If the participant requested a joint life annuity without additional features, the TSP record keeper will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit in accordance with paragraph (a) of this section if the joint life annuitant does not survive the participant.

(4) If the participant requested a joint life annuity with a cash refund or 10-year certain feature, the TSP record keeper will pay the funds as a death benefit to the joint life annuitant if he or she survives the participant, or as a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of the TSP post-employment distribution request if the joint life annuitant does not survive the participant, or as a death benefit in accordance with paragraph (a) of this section if neither the joint life annuitant nor any designated beneficiary survives the participant.

(5) If a participant dies after annuity payments have begun, the annuity vendor will make or stop the payments in accordance with the annuity method selected.

(c) *TSP loans.* If the TSP record keeper processes a notice that a participant has died, any pending loan disbursement will be cancelled and the funds designated for the loan will be distributed as a death benefit in accordance with paragraph (a) of this section. If a TSP loan has been disbursed, but the check has not been negotiated (or an electronic funds transfer (EFT) has been returned), the loan proceeds will be used to pay off the loan. If the loan check has been negotiated (or the EFT has been processed), the funds cannot be returned to the TSP and the TSP record keeper will declare the loan balance as a loan foreclosure in accordance with part 1655 of this chapter.

(d) *TSP investments.* Upon a participant's death, his or her TSP account will remain invested in the same TSP core funds as the account balance was invested on his or her date of death. If any portion of the participant's TSP account is invested through the mutual fund window at the time of his or her death, his or her mutual fund window account will be closed and the balance will be transferred back to the TSP core funds in the participant's TSP account in accordance with his or her most recent investment election until it is paid out or a beneficiary participant account is established under this part.

[68 FR 35509, June 13, 2003, as amended at 70 FR 32215, June 1, 2005; 80 FR 52174, Aug. 28, 2015; 87 FR 31685, May 24, 2022]

§ 1651.3 Designation of beneficiary.

(a) *Designation requirements.* A participant may designate one or more beneficiaries for his or her TSP account. A valid TSP designation of beneficiary remains in effect until it is properly changed as described in § 1651.4.

(b) *Eligible beneficiaries.* Any individual, firm, corporation, or legal entity, including the U.S. Government, may be designated as a beneficiary. A participant can name up to 20 total (primary and contingent) beneficiaries to share the death benefit. A beneficiary may be designated without the knowledge or consent of that beneficiary or the knowledge or consent of the participant's spouse.

(c) *Validity requirements.* To be valid and accepted by the TSP record keeper, a TSP designation of beneficiary must:

(1) Be received by the TSP record keeper on or before the date of the participant's death;

(2) Identify the participant in such a manner so that the TSP record keeper can locate his or her TSP account;

(3) Be signed and properly dated by the participant and signed and properly dated by one witness:

(i) The participant must either sign the designation of beneficiary in the presence of the witness or acknowledge his or her signature on the designation of beneficiary to the witness;

(ii) A witness must be age 21 or older; and

(iii) A witness designated as a beneficiary will not be entitled to receive a death benefit payment; if a witness is the only named beneficiary, the designation of the beneficiary is invalid. If

more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries pro rata;

(4) Designate primary beneficiary shares which when summed equal 100%;

(5) Contain no substantive alterations (e.g., struck-through shares or scratched-out names of beneficiaries);

(6) Designate each primary and each contingent beneficiary in such a manner so that the TSP record keeper can identify the individual or entity;

(7) Not attempt to designate beneficiaries for the participant's traditional balance and the participant's Roth balance separately; and

(8) Be received by the TSP record keeper not more than 365 calendar days after the date of the participant's most recent signature.

(d) *Will.* A participant cannot use a will to designate a TSP beneficiary.

[87 FR 31685, May 24, 2022]

§ 1651.4 How to change a designation of beneficiary.

(a) *Change.* To change a designation of beneficiary, the participant must submit to the TSP record keeper a new TSP designation of beneficiary meeting the requirements of § 1651.3 to the TSP record keeper. If the TSP record keeper receives more than one valid designation of beneficiary, it will honor the designation with the latest date signed by the participant. A participant may change a TSP beneficiary at any time, without the knowledge or consent of any person, including his or her spouse.

(b) [Reserved]

(c) *Will.* A participant cannot use a will to change a TSP designation of beneficiary.

[87 FR 31686, May 24, 2022]

§ 1651.5 Spouse of participant.

(a) For purposes of payment under § 1651.2(a)(2) and establishment of beneficiary participant accounts under § 1651.19, the spouse of the participant is the person to whom the participant was married on the date of death. A person is considered to be married even if the parties are separated, unless a court decree of divorce or annulment has been entered. The laws of the jurisdiction in which the marriage was initially established will be used to determine whether the participant was married on the date of death.

(b) If a person claims to have a marriage at common law with a deceased participant, the TSP record keeper will pay benefits to the putative spouse under § 1651.2(a)(2) in accordance with the marital status shown on the most recent Federal income tax return filed by the participant. Alternatively, the putative spouse may submit a court order or administrative adjudication determining that the common law marriage is valid.

[71 FR 9897, Feb. 28, 2006, as amended at 75 FR 78879, Dec. 17, 2010; 78 FR 57784, Sept. 20, 2013; 87 FR 31686, May 24, 2022]

§ 1651.6 Child or children.

If the account is to be paid to the child or children, or to descendants of deceased children by representation, as provided in § 1651.2(a)(3), the following rules apply:

(a) *Child.* A child includes a natural or adopted child of the deceased participant.

(b) *Descendants of deceased children.* ''By representation'' means that, if a child of the participant dies before the participant, all descendants of the deceased child at the same level will equally divide the deceased child's share of the participant's account.

(c) *Adoption by another.* A natural child of a TSP participant who has been adopted by someone other than the participant during the participant's lifetime will not be considered the child of the participant, unless the adopting parent is the spouse of the TSP participant.

(d) *Parentage disputes.* If the identity of the father or mother of a child is in dispute or otherwise unclear (e.g., only one parent is listed on a birth certificate), the purported child must submit to the TSP record keeper either:

(1) A court order or other administrative finding establishing parentage; or

(2) Documentation sufficient for establishing parentage under the law of the state in which the participant was domiciled at the time of death.

[62 FR 32429, June 13, 1997, as amended at 74 FR 63063, Dec. 2, 2009; 87 FR 31686, May 24, 2022]

§ 1651.7 Parent or parents.

If the account is to be paid to the participant's parent or parents under § 1651.2(a)(4), the following rules apply:

(a) *Amount.* If both parents are alive at the time of the participant's death, each parent will be separately paid fifty percent of the account. If only one parent is alive at the time of the participant's death, he or she will receive the entire account balance.

(b) *Step-parent.* A step-parent is not considered a parent unless the step-parent adopted the participant.

§ 1651.8 Participant's estate.

If the account is to be paid to the duly appointed executor or administrator of the participant's estate under § 1651.2(a)(5), the following rules apply:

(a) *Appointment by court.* The executor or administrator must provide documentation of court appointment.

(b) *Appointment by operation of law.* If state law provides procedures for handling small estates, the TSP record keeper will accept the person authorized to dispose of the assets of the deceased participant under those procedures as a duly appointed executor or administrator. Documentation which demonstrates that the person is properly authorized under state law must be submitted to the TSP record keeper.

[62 FR 32429, June 13, 1997, as amended at 87 FR 31686, May 24, 2022]

§ 1651.9 Participant's next of kin.

If the account is to be paid to the participant's next of kin under § 1651.2(a)(6), the next of kin of the participant will be determined in accordance with the state law of the participant's domicile at the time of death.

§ 1651.10 Deceased and non-existent beneficiaries.

(a) *Designated beneficiary dies before participant.* The share of any designated beneficiary who predeceases the participant will be paid pro rata to the participant's other designated beneficiary or beneficiaries. If no designated beneficiary survives the participant, the account will be paid according to the order of precedence set forth in § 1651.2(a).

(b) *Trust designated as beneficiary but not in existence.* If a participant designated a trust or other entity as a beneficiary and the entity does not exist on the date of the participant's death, or is not created by will or other document that is effective upon the participant's death, the amount designated to the entity will be paid in accordance with the rules of paragraph (a) of this section, as if the trust were a beneficiary that predeceased the participant.

(c) *Non-designated beneficiary dies before participant.* If a beneficiary other than a beneficiary designated on a TSP designation of beneficiary dies before the participant, the beneficiary's share will be paid equally to other living beneficiaries bearing the same relationship to the participant as the deceased beneficiary. However, if the deceased beneficiary is a child of the participant, payment will be made to the deceased child's descendants, if any. If there are no other beneficiaries bearing the same relationship or, in the case of children, there are no descendants of deceased children, the deceased beneficiary's share will be paid to the person(s) next in line according to the order of precedence.

(d) *Beneficiary dies after participant but before payment.* If a beneficiary dies after the participant, the beneficiary's share will be paid to the beneficiary's estate. A copy of a beneficiary's certified death certificate is required in order to establish that the beneficiary has died, and when.

[70 FR 32216, June 1, 2005; as amended at 87 FR 31686, May 24, 2022]

§ 1651.11 Simultaneous death.

If a beneficiary dies at the same time as the participant, the beneficiary will be treated as if he or she predeceased the participant and the account will be paid in accordance with § 1651.10. The same time is considered to be the same hour and minute as indicated on a death certificate. If the participant and beneficiary are killed in the same event, death is presumed to be simultaneous, unless evidence is presented to the contrary.

§ 1651.12 Homicide.

If the participant's death is the result of a homicide, a beneficiary will not be paid as long as the beneficiary is under investigation by local, state or Federal law enforcement authorities as a suspect. If the beneficiary is implicated in the death of the participant and the beneficiary would be precluded from inheriting under state law, the beneficiary will not be entitled to receive any portion of the participant's account. The TSP record keeper will follow the state law of the participant's domicile as that law is set forth in a civil court judgment (that, under the law of the state, would protect the TSP record keeper from double liability or payment) or, in the absence of such a judgment, will apply state law to the facts after all criminal appeals are exhausted. The TSP record keeper will treat the beneficiary as if he or she predeceased the participant and the account will be paid in accordance with § 1651.10.

[62 FR 32429, June 13, 1997, as amended at 75 FR 44066, July 28, 2010; 87 FR 31686, May 24, 2022]

§ 1651.13 How to apply for a death benefit.

To apply for a TSP death benefit, a potential beneficiary must contact the ThriftLine for instructions on providing a certified copy of the participant's death certificate, along with any other information as required by the TSP.

[87 FR 31686, May 24, 2022]

§ 1651.14 How payment is made.

(a) *In general.* Each beneficiary's death benefit will be disbursed pro rata from the participant's traditional and Roth balances. The payment from the traditional balance will be further pro rated between the tax-deferred balance and tax-exempt balance. The payment from the Roth balance will be further pro rated between contributions in the Roth balance and earnings in the Roth balance. In addition, all death benefits will be disbursed pro rata from all TSP core funds in which the deceased participant's account is invested. All pro rated amounts will be based on the balances in each TSP core fund or source of contributions on the day the disbursement is made. Disbursement will be made separately for each entitled beneficiary.

(b) *Spouse beneficiaries.* The TSP record keeper will automatically transfer a surviving spouse's death benefit to a beneficiary participant account (described in § 1651.19) established in the spouse's name. The TSP record keeper will not maintain a beneficiary participant account if the balance of the beneficiary participant account is less than $200 on the date the account is established. The TSP record keeper also will not transfer this amount or pay it by electronic funds transfer. Instead, the spouse will receive an immediate distribution in the form of a check.

(c) *Nonspouse beneficiaries.* The TSP record keeper will send notice of pending payment to each beneficiary. Payment will be sent to the address that is provided on the participant's TSP designation of beneficiary unless the TSP record keeper receives notice of a more recent address. All individual beneficiaries must provide the TSP record keeper with a Social Security number. The following additional rules apply to payments to nonspouse beneficiaries:

(1) *Payment to minor child or incompetent beneficiary.* Payment will be made in the name of a minor child or incompetent beneficiary. A parent or other guardian may direct where the payment should be sent and may make any permitted tax withholding election. A guardian of a minor child or incompetent beneficiary must submit court documentation showing his or her appointment as guardian.

(2) *Payment to executor or administrator.* If payment is to the executor or administrator of an estate, the check will be made payable to the estate of the deceased participant, not to the executor or administrator. A taxpayer identification number must be provided for all estates.

(3) *Payment to trust.* If payment is to a trust, the payment will be made payable to the trust and mailed in care of the trustee. A taxpayer identification number must be provided for the trust.

(4) *Payment to inherited IRA on behalf of a nonspouse beneficiary.* If payment is

to an inherited IRA on behalf of a nonspouse beneficiary, the check will be made payable to the account. Information pertaining to the inherited IRA must be submitted by the IRA trustee. A payment to an inherited IRA will be made only in accordance with the rules set forth in 5 CFR 1650.25.

(5) *Undeliverable payments.* If a death benefit payment is returned as undeliverable, the TSP record keeper will attempt to contact the beneficiary. If the beneficiary does not respond within 90 days, the death benefit payment will be forfeited to the TSP. The beneficiary can claim the forfeited funds, although they will not be credited with investment returns.

(6) *Proper payments.* A properly paid death benefit payment cannot be returned to the TSP.

[87 FR 31686, May 24, 2022]

§ 1651.15 Claims referred to the Board.

(a) *Contested claims.* Any challenge to a proposed death benefit payment must be filed in writing with the TSP record keeper before payment. All contested claims will be referred to the Board. The Board may also consider issues on its own.

(b) *Payment deferred.* No payment will be made until the Board has resolved the claim.

§ 1651.16 Missing and unknown beneficiaries.

(a) *Locate and identify beneficiaries.* (1) The TSP record keeper will attempt to identify and locate all potential beneficiaries.

(2) If a beneficiary is not identified and located, and at least one year has passed since the date of the participant's death, the beneficiary will be treated as having predeceased the participant and the beneficiary's share will be paid in accordance with § 1651.10

(b) *Payment to known beneficiaries.* If all potential beneficiaries are known but one or more beneficiaries (and not all) appear to be missing, payment of part of the participant's account may be made to the known beneficiaries. The lost or unidentified beneficiary's share may be paid in accordance with paragraph (a) of this section at a later date.

(c) *Abandoned account.* If no beneficiaries of the account are located, the account will be considered abandoned and the funds will revert to the TSP. If there are multiple beneficiaries and one or more of them refuses to cooperate in the TSP record keeper's search for the missing beneficiary, the missing beneficiary's share will be considered abandoned. In such circumstances, the account can be reclaimed if the missing beneficiary is found at a later date. However, earnings will not be credited from the date the account is abandoned. The TSP may require the beneficiary to apply for the death benefit in the form and manner prescribed by the TSP record keeper and submit proof of identity and relationship to the participant.

[62 FR 32429, June 13, 1997, as amended at 70 FR 32217, June 1, 2005; 87 FR 31687, May 24, 2022]

§ 1651.17 Disclaimer of benefits.

(a) *Right to disclaim.* The beneficiary of a TSP account may disclaim his or her right to receive all or part of a TSP death benefit. If the disclaimant is a minor, the parent or guardian of the minor must sign the disclaimer.

(b) *Valid disclaimer.* The disclaimer must expressly state that the beneficiary is disclaiming his or her right to receive either all or a stated percentage of the death benefit payable from the TSP account of the named participant and must be:

(1) Submitted in writing;

(2) Signed or acknowledged, in the presence of a notary, by the person (or legal representative) disclaiming the benefit; and

(3) Received before the TSP pays the death benefit.

(c) *Invalid disclaimer.* A disclaimer is invalid if it:

(1) Is revocable;

(2) Directs to whom the disclaimed benefit should be paid; or

(3) Specifies which balance (traditional, Roth, or tax-exempt) is to be disclaimed.

(d) *Disclaimer effect.* The disclaimed share will be paid as though the beneficiary predeceased the participant, according to the rules set forth in § 1651.10. Any part of the death benefit