

TSP REGULATORY AND POLICY REQUIREMENTS

Glossary of Terms:

BPAC Account	Beneficiary Participant Account – Civilian
BPAU Account	Beneficiary Participant Account – Uniformed Services
C Account	Civilian Account (only for legal processes from state agencies)
CFR	Code of Federal Regulations
FRTIB	Federal Retirement Thrift Investment Board
IWO	Income Withholding Order
NCP	Noncustodial Parent
OCSE	Office of Child Support Enforcement
Order to Deliver	General term used by TSP for legal process that requires payment
Order to Withhold	General term used by TSP for legal process that requires a freeze be placed on the account in anticipation of legal process requiring payment
PII	Personally Identifiable Information
TSP	Thrift Savings Plan
TSP-CS-1 Form	Form created by TSP for administrative ease of state agencies. Meets all federal regulatory requirements when completed correctly
U Account	Uniformed Services Account (only for legal processes from state agencies)

Questions and Answers

Q1: Will the Thrift Savings Plan (TSP or FRTIB) honor a child support lien and levy for arrears?

A1: Yes, the TSP will honor a child support lien or levy for arrears if it meets all of the regulatory requirements found at 5 CFR § 1653 Subpart B.

Q2: What will happen if a state submits an order that does not meet the requirements found at 5 CFR § 1653 Subpart B?

A2: The TSP will review the order. If it is incomplete or not qualifying, a denial letter will be issued. See Q5 below for more information on denials.

Q3: What must be included to make an order complete?

A3: To be complete, a legal process must include the following:

1. A complete Social Security number or TSP account number in the order or on an accompanying document
2. All pages of the order
3. The order must expressly mention TSP, Thrift Savings Plan, Federal Retirement Thrift Investment Board, or FRTIB.

Q4: What types of legal processes are qualifying?

A4: To be qualifying, a legal process must (a) order the TSP to freeze an account in anticipation of an order to pay from the account; or (b) require payment. A legal process requiring payment requires the following to be qualifying:

1. Orders payment of a fixed dollar amount;
2. Orders a one-time payment for support arrears (not a series of payments);
3. If it requires payment from more than one account, each account is specified to a particular payment amount and the total from all accounts does not exceed the total arrears;
4. If the award includes attorney fees, court costs, and/or interest, those amounts are expressly made recoverable within a qualifying order; and
5. Where a TSP participant has more than one account, an order for disbursement of funds must specify the account from which funds are to be drawn.
 - a. Please note: the account must be specified if the participant has more than one account, regardless of whether one or more of the accounts currently has a zero balance. Accounts with a zero balance may not appear on the OCSE quarterly data match. To avoid denials, it is advisable to always include within the order the account type from which you are requesting funds.

Q5: What happens if I receive a denial letter?

A5: TSP's decision letter explains that the account will remain frozen for 30 calendar days from the date of the denial letter to allow the state sufficient time to submit a qualifying order. If a qualifying order is not received by the TSP within the 30 calendar day period, the freeze on the account will be removed.

Q6: Does the TSP meet the definition of financial institution?

A6: No, the TSP cannot be described as a financial institution.

Q7: Can states consolidate all arrears owed by an NCP for multiple cases onto one order?

A7: Yes, if an NCP has multiple arrears, the states can consolidate all arrears into a single order for more efficient processing. TSP would prefer to process a single order versus multiple orders on the same account.

Q8: Since the TSP requires us to identify whether the award applies to the Civilian, Uniformed Services, Beneficiary Participant Account Civilian or Beneficiary Participant Uniformed Services accounts, can we use "C," "U," "BPAC," or "BPAU" to describe the account type in the legal process document?

A8: Yes, you can use the letters to denote the proper account type. You do not have to spell out the words "Civilian" or "Uniformed Services." However, if the account type is BPA, you must include the terms "BPAC" or "BPAU." A "C" or "U" does not adequately describe those accounts. Also, a separate award must be described for each account type from which the state is requesting funds. You cannot, for example request a \$5,000 award to be drawn from the "U" and "C" accounts. Instead, you must indicate the exact amount to come from each account. For example: \$3,000 from the Civilian (or "C") Account and \$2,000 from the Uniformed Services (or "U") Account.

Q9: Do states have to send separate orders for each account type (for example, C and U) or can they combine more than one case in one order?

A9: States may combine liens/levies for both account types in one order as long as they are clearly defined and the amount sought is clearly associated with its respective account type.

- Q10: Does all of the necessary information have to be in the legal process or can it be in the cover letter?
- A10: The necessary information must be in the legal process or garnishment notice itself. A cover letter is only used for administrative purposes by LPU. If a state is concerned about exposing Personally Identifiable Information (PII) such as the required Social Security number or TSP account number in a public document/court order, those identifiers may be provided on an accompanying document.
- Q11: Can states use the standard Income Withholding Order (IWO)?
- A11: Yes, as long as it meets all of the regulatory requirements and requires a single, lump-sum distribution. An order requiring recurring payments will be rejected. The TSP-CS-1 form is available on the Office of Child Support Enforcement's (OCSE) website for state use. Use of this form provides all the data that the TSP requires to process a case. The use of the TSP-CS-1 is strongly encouraged but is not mandatory.
- Q12: Is there a preferred TSP form or format that states should use?
- A12: Yes. The TSP has the TSP-CS-1 form available through OCSE. It is a one-page form that, if properly filled out, contains all the information that the TSP needs to process an order. It provides options to: i) freeze an account; ii) order funds to be disbursed; iii) amend a case; or iv) vacate a case. This form is not mandatory, but its use is strongly encouraged as it decreases processing times significantly.
- Q13: Must the states fulfill state requirements for issuing a lien, levy, or legal process?
- A13: Yes. Any state requirements should be met. The TSP will only review a legal process for federal requirements.
- Q14: Does the legal process need to be signed?
- A14: No. It does not need to be signed but it must be issued or certified by a competent authority. The child support agency in this context is considered a competent authority.
- Q15: Is there additional documentation required when sending an IWO?
- A15: No. Additional documentation is not needed, but all of the information required by the TSP must be included in the IWO.
- Q16: If the FRTIB receives an order from a state for \$5,000 in past-due support and the balance in his/her TSP account is \$15,000, can the NCP/participant borrow money from their TSP account to pay the \$5,000 arrearage balance to avoid the tax penalty?
- A16: No. Once the TSP receives an order from a state the entire amount in the account is frozen and the NCP/participant may not take out a loan until the levy action is completed or unless the state agency issues an order to vacate. If the agency vacates the order, TSP cannot guarantee what the NCP/participant will do with the funds if they take out a loan or withdrawal.
- Q17: Will the TSP collect Receipt and Disbursement fees on the agency's behalf?
- A17: No. The TSP will only issue a disbursement for child support arrears. The entire amount of the arrearage should be included in the fixed dollar amount the agency is attempting to garnish. TSP will not issue subsequent payments or make additional garnishments to collect administrative fees on behalf of an agency.

TIMING

Q18: How will TSP prioritize multiple legal process orders to pay?

A18: If multiple orders are received on a single participant's account, the TSP will prioritize them by order of receipt (first-in, first-processed).

Q19: What if State X, a two-step state, submits an order to withhold and later, State Y, a one-step state, submits an order to pay. Will the TSP hold the payment to State Y until State X can submit an order to deliver or will State Y get first access to the funds?

A19: The TSP processes payments on a first-in, first-processed basis. If State X submits an order to withhold first, the TSP will wait to process the subsequent order to deliver from State X, even if State Y submits an order to deliver in the interim.

Q20: We submitted our order to deliver and received a decision letter with a scheduled payment date. Before receiving payment, we sent in an order to amend the arrears owed. The scheduled payment date has passed and we have not received payment. Why not?

A20: Federal regulations mandate that any new order received on an existing case is a superseding order. If we receive a superseding order, we have to close the prior case and stop any scheduled payment. We then process the new order in the order received. You will receive a decision letter in response to the new order as it is now the controlling case. This scenario will require a new tax notice period starting on the date the new decision letter is issued. See also Q32.

Q21: What is the current time frame for processing an order?

A21: TSP normally issues its decision letters 30 business days from the date of receipt of an order. Depending on the volume of orders received, the time frame may vary slightly up or down.

Q22: What is the time frame for payment?

A22: Funds are disbursed at the close of business 31 calendar days from the date of the decision letter for an Order to Deliver.

Q23: Does an Order to Withhold start the clock running on the disbursement date or is it the actual Order to Deliver?

A23: The issuance of our Decision Letter pursuant to a qualifying order to disburse funds starts the clock for the disbursement date.

Q24: Are frozen accounts still subject to investment experience?

A24: Yes. The TSP does not segregate funds pending the disbursement of a child support or retirement benefits payout. The money remains invested across the funds the participant is invested in and is subject to market experience. The account is only frozen so that the participant cannot take out loans or withdrawals. The participant is still eligible to transfer money between individual TSP investment funds (inter-fund transfers).

Q25: How is a case is processed?

A25: The TSP processes all cases in the following manner:

- Cases are logged in to the system, placing a freeze on the account and generating a notice to the TSP participant and to the agency indicating receipt of the order

- Cases are processed by an analyst at the Legal Processing Unit in the order in which they have been received
- Once a case has been initially processed, it is verified by a different analyst
- After each case has been verified as accurate, it moves to final approval; upon approval, the decision letter is generated and, if the order is seeking payment, a payment date is scheduled 31 days from the date of the decision letter

PAYMENT AND TAXES

Q26: How can states expect to receive payment?

A26: Currently payment will be issued by the U.S. Treasury as a paper check. Due to processing times by the U.S. Treasury and delivery by U.S. Postal Service, actual receipt of the check by an agency may take up to 7-10 additional business days beyond the scheduled pay date.

Q27: When is a legal process or court order "properly paid"?

Q27: "Properly paid" means no error in the payment by the TSP.

Q28: What do you mean by "payment cannot be reversed"?

A28: Funds properly paid out by the TSP cannot be returned to the participant's account. An error made by the state agency in calculating the arrearage, or a failure to notify TSP prior to payment that a participant is no longer in arrears, are not qualifying reasons to reverse payment. Please note that TSP cannot guarantee that it can stop a payment if vacate orders or amending orders are received less than 5 business days prior to a scheduled disbursement.

Q29: How is the tax penalty handled when funds are levied from a TSP account? Is the penalty subtracted from the amount specified by the state in the order?

A29: The TSP subtracts a mandatory 10% federal tax withholding from the amount disbursed. The TSP will issue the required tax form 1099-R to the participant. The TSP participant must address the issue of tax penalties, if any, directly with the IRS. For example, if the Participant owes \$10,000 in past-due support, the state will receive \$9,000. See also Q30 below.

Q30: What happens if the account balance at the time of payment is less than the award amount?

A30: If the participant's vested TSP account balance at the time of payment is less than the award amount, the TSP will pay out the entire vested account balance. Upon payment, the order is considered to be satisfied. The freeze will be lifted and no subsequent payments will be made on that order. If a state wants the freeze to remain on the account or wants an additional payment in the future, the state will have to submit a new legal process document.

Q31: How does the TSP treat orders adding earnings or interest to an award?

A31: Under the current Federal regulations governing the TSP, an agency may request earnings to be applied to an award amount. The agency has the option to identify in the legal process order an annual percentage rate (for example, 1% per annum) or a per diem dollar amount (for example, \$1.00 per day) that the TSP will use to calculate any additional earnings owed. If an order includes an award with earnings, but no percentage or per diem rate is specified within the body of the order, the TSP will, by default, apply an earnings and losses calculation to the award amount. The result of this earnings and losses calculation could result in a higher or lower

disbursement depending on market performance. If no reference to earnings or interest is included within the order, the TSP will not perform any additional calculations.

DISCREPANCIES, MODIFICATIONS, AND VACATES

- Q32: If the participant's total arrearage has changed since the legal process was submitted to the TSP, how should the state agency notify the TSP?
- A32: If the TSP has received a legal process that is no longer accurate, the agency must notify the Legal Processing Unit in writing, asking us to stop processing the legal process (see question 35 for information on how to submit an amending order or a vacate order). An award amount cannot be adjusted after the decision letter is issued. If a modification is submitted after the decision letter is issued but before payment, the TSP will stop the payment and close the pending case. The modification order will be processed based on its date of receipt. This will trigger a new decision letter and restart the tax notice period. Please note that TSP cannot guarantee that it can stop a payment if vacate orders or amending orders are received less than 5 business days prior to a scheduled disbursement. It is important to reiterate the need for agencies to ensure the TSP is a source of last resort. Once funds have been properly paid by the TSP, regulations governing the FRTIB do not allow for a return of those funds.
- Q33: If our state has any issues with account balance discrepancies or other file issues and/or errors, who should we contact?
- A33: Please e-mail fidm@ssa.gov regarding any TSP file issues.
- Q34: My state has a 2-step process for freezing/seizing assets. We send an initial request to the TSP to freeze a specific dollar amount. However, when we're ready to send the seize request the arrearage balance is more (or less) than the amount contained in the freeze notice. How are these situations addressed?
- A34: The TSP freezes the entire account based on the freeze notice. If the state sends a seize request that has a different dollar amount, the TSP will send the amount contained in the seize notice up to the participant's vested account balance.
- Q35: What should a state do when they need to send an amended order or a vacate notice to the TSP?
- A35: The TSP-CS-1 form can be used to amend or to vacate an existing order by checking the appropriate box. Alternatively, the TSP requests that states indicate in large letters on top of the amended order or the vacate notice what action the state is requesting. For example, if the state requests that the TSP vacate an order, the state should clearly print "VACATE" on the top of the form in large print and should ensure the order clearly identifies both the NCP/Participant and the case to which the order relates. In other words, it should provide the case number or other case identifier submitted with the original order. An order to amend or to vacate must be submitted for each individual case the state wishes to amend or to vacate.

FIDM AND PROCEDURES

- Q36: What Account Type will be used in reporting?
- A36: It will be coded as "Other" (18).

Q37: Will the quarterly match include active military?

A37: Yes, matches will include active military accounts. If the TSP receives a valid order or legal process to garnish a participant's account, active military deployment will not bar processing of the order.

Q38: Will this be part of the Administrative Offset?

A38: No, this is not considered part of the Administrative Offset.

Q39: How will the files be returned to states?

A39: The files will be returned to the states electronically.

Q40: Where should we direct further questions about the process?

A40: Please direct these questions to OCSE.

DECISION LETTERS, NOTIFICATIONS, AND CORRESPONDENCE

Q41: Will states be able to obtain a courtesy copy of the decision letter for the court?

A41: The participant and the state agency are sent a copy of the correspondence. If the agency would like the court to receive a copy of the letter, the court's address must also be provided.

Q42: Why is our state receiving decision letters at the addresses for both the child support enforcement unit and the state disbursement unit?

A42: The letter is sent to both addresses if both were provided by the state.

Q43: Will the TSP be notifying participants that it is cooperating with the OCSE to facilitate child support enforcement through the TSP?

A43: No special announcement was made since the federal regulations allowing the TSP to process child support garnishments are not new.

Q44: Are there additional contacts in the Legal Processing Unit that states can use when they have questions?

A44: Yes. The TSP provided a list of contacts that OCSE has available. Questions by an NCP should be directed to the TSP's Thriftline (877-968-3778). The Legal Processing Unit contact information shared by OCSE should not be shared with NCPs.

Q45: What is the fax and mailing address for our state to send the order?

A45: Fax Number: (703) 288-9041

Mailing Address:
TSP Legal Processing Unit
P.O. Box 4390
Fairfax, VA 22038-4390

Overnight Delivery Address:
TSP Legal Processing Unit
12210 Fairfax Town Center, Unit 906
Fairfax, VA 22033