



**Employee Benefits Security Administration**

**Performance Audit of the  
Thrift Savings Plan  
Defending Public Safety Employees' Retirement Act  
Implementation**

**January 30, 2018**

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## EXECUTIVE SUMMARY

Members of the Federal Retirement Thrift Investment Board  
Washington, D.C.

Michael Auerbach  
Acting Chief Accountant  
U.S. Department of Labor, Employee Benefits Security Administration  
Washington, D.C.

As part of the U.S. Department of Labor Employee Benefits Security Administration (EBSA) Fiduciary Oversight Program, we conducted a performance audit of the Thrift Savings Plan's (TSP) implementation of Public Law 114-26, Defending Public Safety Employees' Retirement Act (hereinafter referred to as the Act). Our fieldwork was performed from December 5, 2016 through September 29, 2017, primarily at the Federal Retirement Thrift Investment Board's Staff's (Agency) headquarters in Washington, DC. Our scope period for testing was January 1, 2016 through December 31, 2016.

We conducted this performance audit in accordance with the performance audit standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and the American Institute of Certified Public Accountants' *Standards for Consulting Services*. *Government Auditing Standards* require that we plan and perform the audit to obtain sufficient, appropriate audit evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives. Criteria used for this audit are defined in the EBSA's *Thrift Savings Plan Fiduciary Oversight Program*, which includes the Act.

The objectives of our audit over the implementation of the Act were to:

- Determine whether the Agency implemented certain procedures to process withdrawal payments in accordance with the Act; and
- Test compliance of TSP withdrawal payments in accordance with Section 2 of the Act.

We present one new finding addressing fundamental controls related to controls over the Agency's TSP withdrawals process, which impacts withdrawals made in accordance with the Act. This fundamental control finding was also identified in our performance audit over the TSP withdrawals process. We have developed a related recommendation for the finding, but rather than report the same recommendation twice, it is only presented in EBSA's report titled *Performance Audit of the TSP Withdrawals Process*, dated January 18, 2018. Therefore, no related recommendation has been included in Section III of this report. Fundamental control recommendations address significant procedures or processes that have been designed and operate to reduce the risk that material intentional or unintentional processing errors could occur without timely detection or that assets are inadequately safeguarded against loss. The recommendation is intended to strengthen the TSP withdrawal process. The Agency should review and consider the recommendation, as reported in the *Performance Audit of the TSP Withdrawals Process*, dated January 18, 2018 for timely implementation. Section III.B presents the details that support the current year finding.

Based upon the performance audit procedures conducted and results obtained, we have met our audit objectives. We conclude that for the period January 1, 2016 through December 31, 2016, the Agency implemented certain procedures to process withdrawal payments in accordance with the Act. However, as indicated above, we noted an internal control weakness in the TSP withdrawal process, which could adversely affect withdrawals made in accordance with the Act. As a result of compliance testing, we did not identify any instances of noncompliance with section 2 of the Act.

The Agency's responses to the finding, including the Executive Director's formal response, are included as an appendix within the report (Appendix A). The Agency did not concur with the finding. Specifically, we noted that management disagreed with the finding and asserted the Agency's policies and procedures comply with the CFR, which requires the completed withdrawal request forms be signed by participants' spouses in the presence of a notary for certain withdrawals. However, certain states and territories require notaries to apply a seal along with their signature to evidence their presence. As such, we did not revise this finding nor the related recommendation as reported in the *Performance Audit of the TSP Withdrawals Process*, dated January 18, 2018.

This performance audit did not constitute an audit of the TSP's financial statements in accordance with *Government Auditing Standards*. KPMG was not engaged to, and did not render an opinion on the Agency's internal controls over financial reporting or over financial management systems.

KPMG cautions that projecting the results of this audit to future periods is subject to the risks that controls may become inadequate because of changes in conditions or because compliance with controls may deteriorate.

While we understand that this report may be used to make the results of our performance audit available to the public in accordance with *Government Auditing Standards*, this report is intended for the information and use of the U.S. Department of Labor Employee Benefit Security Administration, Members of the Federal Retirement Thrift Investment Board, and Agency management. The report is not intended to be, and should not be, used by anyone other than these specified parties.

KPMG LLP

January 30, 2018

## **I. BACKGROUND OF THE DEFENDING PUBLIC SAFETY EMPLOYEES' RETIREMENT ACT**

### **A. The Thrift Savings Plan**

Public Law 99-335, the Federal Employees' Retirement Systems Act of 1986 (FERSA), as amended, established the Thrift Savings Plan (TSP). The TSP is a basic component of the Federal Employees' Retirement System (FERS) and provides a Federal (and, in certain cases, state) income tax deferral on employee contributions and related earnings. The TSP is available to Federal and Postal employees, members of Congress and certain Congressional employees, and members of the uniformed services. The TSP began accepting contributions April 1, 1987, and as of December 31, 2016 had approximately \$495 billion in assets and approximately 5 million participants<sup>1</sup>.

The FERSA also established the Federal Retirement Thrift Investment Board (Board) and the position of Executive Director. The Executive Director manages the TSP for its participants and beneficiaries. The Board's Staff (Agency) is responsible for administering TSP operations.

### **B. TSP Implementation of the Act<sup>2</sup>**

H.R. 2146, Public Law 114-26, Defending Public Safety Employees' Retirement Act (Act), was enacted on June 29, 2015 and it amends the Internal Revenue Code to allow public safety employees who separate from service during or after the year they turn age 50 to make a withdrawal from the TSP without incurring a 10 percent early withdrawal fee. Public safety employees include federal law enforcement officers, customs and border protection officers, federal firefighters, and air traffic controllers as specified by the Act. The Act is applicable to withdrawals made after December 31, 2015 from either the participant's Traditional or Roth account.

The employing agencies are responsible for determining which participants are public safety employees and for informing the TSP of those participants who have been identified as such. To identify public safety employees, the Agency created a new Employment Code "P" which is to be

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<sup>1</sup> Source: Minutes of the January 2017 Federal Retirement Thrift Investment Board Meeting, posted on [www.ftib.gov](http://www.ftib.gov)

<sup>2</sup> Source: Public Law 114-26, Defending Public Safety Employees' Retirement Act, and TSP Bulletin 15-4, *Public Safety Employees' Exemption to the Early Withdrawal Penalty*.

used by employing agencies when submitting participant information to the Agency upon employee separation. When a public safety employee separates from federal service, the employee's payroll office must submit an Employee Data Record containing the new "P" Employment Code and the appropriate Employment Code Date corresponding to the date of separation. Agencies should submit the "P" code regardless of the employee's age. Withdrawals associated with public safety participants are processed by the TSP similar to withdrawals for non-public safety individuals (including civilian and uniformed service personnel). See the Employee Benefits Security Administration's *Performance Audit of the Thrift Savings Plan Withdrawals Process*, dated January 18, 2018 for additional information on the TSP withdrawals process.

In January, the TSP annually distributes Form 1099-R, *Distributions from Pensions, Annuities, Retirement, or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.* to all participants (public safety and non-public safety) who made a withdrawal from their TSP account in the prior calendar year. The 1099-R form reflects a qualifying public safety employee's exemption from the early withdrawal penalty. For qualifying public safety participants, the 1099-R form would reflect the early distribution penalty tax exempt status, in Box 7, by indicating Code 2. The TSP uses the "P" Employment Code, Employment Code Date, and date of birth to determine if a participant is eligible for an exemption under the Act. The 1099-R forms distributed by the Agency in January 2017 for the 2016 tax year were the first forms to reflect the exemption related to this Act.

### **C. TSP Withdrawal Statistics<sup>3</sup>**

For public safety employees, the Act impacts withdrawals made after December 31, 2015. As such, calendar year 2016 is the only year of data during our scope period subsequent to implementation of the Act. For 2016, the Agency processed approximately 2.3 million post-separation<sup>4</sup> withdrawals totaling \$12.4 billion, which included approximately 3,800 withdrawals totaling \$467 million related to public safety employees.

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<sup>3</sup> The statistical data included in this section is unaudited.

<sup>4</sup> The total post separation withdrawals include court order disbursements made from the accounts of participants who are still in service.

## **II. OBJECTIVE, SCOPE, AND METHODOLOGY**

### **A. Objective**

The U.S. Department of Labor (DOL), Employee Benefits Security Administration (EBSA) engaged KPMG LLP (KPMG) to conduct a performance audit of the Thrift Savings Plan's (TSP) implementation of the Defending Public Safety Employees' Retirement Act (Act).

The objectives for our performance audit over the TSP's implementation of the Act were to:

- Determine whether the Federal Retirement Thrift Investment Board's Staff (Agency) implemented certain procedures to process withdrawal payments in accordance with the Act; and
- Test compliance of TSP withdrawal payments in accordance with Section 2 of the Act.

### **B. Scope and Methodology**

We conducted this performance audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and the American Institute of Certified Public Accountants' *Standards for Consulting Services*, using EBSA's *Thrift Savings Plan Fiduciary Oversight Program*. Our scope period for testing was January 1, 2016 through December 31, 2016. We performed the audit in four phases: (1) planning, (2) arranging for the engagement with the Agency, (3) testing and interviewing, and (4) report writing.

The planning phase was designed to assist team members in developing a collective understanding of the activities and controls associated with the applications, processes, and personnel involved with TSP operations. Arranging the engagement included contacting the Agency and agreeing on the timing of detailed testing procedures.

During the testing and interviewing phase, we conducted interviews, collected and inspected auditee-provided documentation and evidence, participated in process walk-throughs, and designed and performed tests of controls and compliance. We conducted these test procedures at the Agency's headquarters in Washington, D.C. In Appendix B, we identify the key documentation provided by Agency personnel that we reviewed during our performance audit.



Our performance audit procedures included testing a statistical sample using random attribute sampling to select specific TSP withdrawal transactions related to qualifying public safety employees, which we used to determine if the Agency processed the withdrawal transactions in a manner that complied with the Act. Specifically, we performed procedures over post-separation withdrawals to determine if (1) post-separation withdrawals were processed in a timely manner, (2) all necessary documentation, per type of withdrawal (e.g., automatic cash-out, partial withdrawal, single payment, monthly payment, and annuity) was properly completed before a withdrawal was processed, (3) the withdrawal amount was proper and distributed to the proper payee; (4) TSP participants are appropriately coded in the TSP system as public safety; and (4) tax statements related to withdrawals processed for public safety participants appropriately reflect the withdrawal's penalty tax status.

Criteria used for this engagement are defined in EBSA's *Thrift Savings Plan Fiduciary Oversight Program*, which includes the Act.

The report writing phase entailed drafting a preliminary report, conducting an exit conference, providing a formal draft report to the Agency for comment, and preparing and issuing the final report.

### III. FINDINGS

#### A. Introduction

We performed procedures related to the Thrift Savings Plan's (TSP) implementation of the Defending Public Safety Employees' Retirement Act (Act) while conducting a performance audit at the Federal Retirement Thrift Investment Board's (Board) Staff's (Agency) headquarters. Our scope period for testing was January 1, 2016 through December 31, 2016. This performance audit consisted of reviewing applicable policies and procedures and testing manual and automated processes and controls, which included interviewing key personnel, reviewing key reports and documentation (Appendix B), and observing selected procedures.

Based upon the performance audit procedures conducted and results obtained, we have met our audit objectives. We conclude that for the period January 31, 2016 through December 31, 2016, the Agency implemented certain procedures to process withdrawal payments in accordance with the Act. However, we noted internal control weaknesses related to the TSP withdrawals process, which could adversely affect withdrawals made in accordance with the Act. As a result of compliance testing, we did not identify any instances of noncompliance with Section 2 of the Act.

We present one new finding, presented in Section III.B, addressing a fundamental control related to the TSP's withdrawal process, which impacts withdrawals made in accordance with the Act. This fundamental control finding was also identified in our performance audit over the TSP withdrawals process. We have developed a related recommendation for the finding, but rather than report the same recommendation twice, it is presented only in the Employee Benefits Security Administration's report titled *Performance Audit of the TSP Withdrawals Process*, dated January 18, 2018. Therefore, no related recommendation has been included in this report. Fundamental control recommendations address significant procedures or processes that have been designed and operate to reduce the risk that material intentional or unintentional processing errors could occur without timely detection or that assets are inadequately safeguarded against loss. The recommendation is intended to strengthen the TSP withdrawal process. The Agency should review and consider the recommendation, as reported in the *Performance Audit of the TSP Withdrawals Process*, dated January 18, 2018 for timely implementation. The Agency's responses to the finding is included as an appendix within this report (Appendix A).

## **B. 2017 Finding**

While conducting our performance audit over the TSP's implementation of the Act, we identified one new fundamental control finding. As noted above, the related recommendation is presented in EBSA's report titled *Performance Audit of the TSP Withdrawals Process*, dated January 18, 2018. Therefore, no related recommendation has been included below.

### **FUNDAMENTAL CONTROL FINDING**

#### **2017-01: Incomplete Withdrawal Form Notarizations**

The instructions to the TSP withdrawal request forms (e.g., Forms TSP 70 and TSP 73) state that signatures on the forms must be notarized in order to be processed. During our current year audit procedures, we tested a sample of 58 withdrawals disbursed to public safety participants and identified 2 instances in which there was no notary seal in the Certification and Notarization section on the withdrawal request form.

The exception occurred because the Agency's current policies and procedures did not require Agency personnel to verify that a notary seal was properly included on the form for those states in which it was required. We determined, however, that each of the identified withdrawals were accurately processed based on the withdrawal request submitted.

The Government Accountability Office's *Standards for Internal Control in the Federal Government*, section 10.03 states,

Management designs appropriate types of control activities for the entity's internal control system. Control activities help management fulfill responsibilities and address identified risk responses in the internal control system.

Without sufficient policies and procedures in place over withdrawal request forms to ensure they are properly notarized, there is an increased risk of unauthorized withdrawal disbursements.



FEDERAL RETIREMENT THRIFT INVESTMENT BOARD  
77K Street, NE Washington, DC 20002

January 30, 2018

Mr. Michael Auerbach  
Chief Accountant  
Employee Benefits Security Administration  
United States Department of Labor  
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122 C Street, N.W.  
Washington, D.C. 20001-2109

Dear Michael:

This is in response to KPMG's email of December 12, 2017, transmitting the KPMG LLP report entitled Employee Benefits Security Administration Performance Audit of the Thrift Savings Plan Defending Public Safety Employees' Retirement Act Implementation January 2018. My comments with respect to this report are enclosed.

Thank you once again for the constructive approach that the Department of Labor and its contractors are taking in conducting the various audits of the TSP. The information and recommendations that are developed as a result of your reviews are useful to the continued improvement of the Thrift Savings Plan.

Very truly yours,



Ravindra Deo

Enclosure

Executive Director's Staff Formal Comments on the  
Employee Benefits Security Administration Performance Audit of the Defending Public  
Safety Employees' Retirement Act Implementation

**2017 RECOMMENDATIONS TO ADDRESS FUNDAMENTAL CONTROLS**

**2017-1: Incomplete Withdrawal Form Notarizations**

**Agency Response:**

The Agency does not concur with the finding. The Agency is in compliance with the Code of Federal Regulation (CFR) regarding this matter. The Agency's current policies and procedures meet the CFR requirements and the Agency is in compliance with the policies and procedures related to notary requirements.

**KEY DOCUMENTATION AND REPORTS REVIEWED**

**Federal Retirement Thrift Investment Board Documents and Reports**

- TSP Bulletin 15-4, *Public Safety Employees' Exemption to the Early Withdrawal Penalty*
- TSP Bulletin 14-3, *Agency Responsibilities When Thrift Savings Plan Participants Separate From Federal Service*
- TSP Booklet: *Withdrawing Your TSP Account After Leaving Federal Service*, dated March 2014
- TSP Tax Notice: *Tax Information: Payments From Your TSP Account*, dated January 2016
- *OPOP.121 Withdrawals Procedures*, dated February 2017
- Form 1099-R, *Distributions from Pensions, Annuities, Retirement, or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.* for selected dates during our scope period of January 1, 2016 through December 31, 2016
- Form TSP-16, *Exception to Spousal Requirements*, for selected dates during our scope period of January 1, 2016 through December 31, 2016
- Form TSP-70, *Request for Full Withdrawal*, for selected dates during our scope period of January 1, 2016 through December 31, 2016
- Form TSP-73, *Change in Monthly Payments*, for selected dates during our scope period of January 1, 2016 through December 31, 2016
- Form TSP-77, *Request for a Partial Withdrawal When Separated*, for selected dates during our scope period of January 1, 2016 through December 31, 2016