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Office of the General Counsel

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November 29, 1995

Mr. Roger W. Mehle  
Executive Director  
Federal Retirement Thrift Investment Board  
1250 H Street, NW  
Washington, D.C. 20005

Dear Mr. Mehle:

This responds to your letter of November 2 to the Comptroller General concerning our report, Federal Pensions: Thrift Savings Plan Has Key Role in Retirement Benefits (GAO/HEHS-96-1). You reiterate the position of the Federal Retirement Thrift Investment Board (first expressed in commenting on a draft of the report) that it lacks legal authority to carry out our recommendation to provide information to federal employees on how Thrift Savings Plan investments interact with retirement under the Federal Employees' Retirement System (FERS). I am enclosing a copy of our letter of November 14 to Representative Constance A. Morella (Thrift Savings Plan, GAO/HEHS-96-66R), in which we explain our disagreement with the Board on this issue. (Ms. Morella has not made this letter public, and we have therefore not released it for general distribution.)

You also suggest that we should have asked the Board to comment again after we modified our draft recommendation, in accordance with our publication, Government Auditing Standards (the Yellow Book). We complied fully with Yellow Book requirements that government auditors report the views of responsible program officials concerning the auditors' findings, conclusions, and recommendations, and that the views of those officials be objectively evaluated and recognized, as appropriate, in the report. We sent the draft report to the Board; we reproduced the Board's comments verbatim in the published report; and we stated in the report our disagreement with the Board's position.

As you point out, after the Board had commented on the recommendation we modified it to say that the Board, in providing information to investors in the Thrift Savings Plan, should collaborate with the Office of Personnel Management (OPM). The modification did not affect the substance of the recommendation, and the

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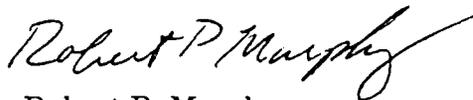
purpose of the Yellow Book requirement, to get program officials' views of our work before releasing it, had already been achieved.

You state that the Board's comments would have explained why the modified recommendation did not cure what the Board considers to be the "legal defect" in the original recommendation. We were aware that the modification did not address the Board's concerns about the original recommendation. We added the reference to collaboration with OPM, not to address the Board's legal views, with which we disagreed, but because the Board said, in commenting on our draft, that it had worked with OPM in the past on these issues, and that OPM materials contained information of the kind that we believe the Board should disseminate.

Having considered the matter again, we see no reason to change our conclusion that the Board has legal authority to carry out our recommendation. You remain convinced that it does not. Even if we agreed with you, we would not change the substance of our recommendation because we continue to believe that, for programmatic reasons, the Board is better able than OPM to carry it out effectively. That is why we suggested in the enclosed letter that a change in the law to remove any doubt about the Board's authority may be appropriate.

I trust this has been responsive to the issues you raised. Either I or Barry Bedrick, Associate General Counsel (202-512-5881), would be happy to discuss this matter further.

Sincerely,



Robert P. Murphy  
General Counsel

Enclosure