

## PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

## List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

## § 1915.3 List of communities with special hazard areas.

| State         | County    | Location             | Map No.                                      | State map repository                                                               | Local map repository                                                                                             | Effective date of identification of areas which have special flood hazards |
|---------------|-----------|----------------------|----------------------------------------------|------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| California    | San Mateo | Brisbane             |                                              |                                                                                    |                                                                                                                  | Apr. 7, 1972.                                                              |
| Connecticut   | Fairfield | Fairfield            |                                              |                                                                                    |                                                                                                                  | Do.                                                                        |
| Do.           | do.       | New Canaan           |                                              |                                                                                    |                                                                                                                  | Do.                                                                        |
| Massachusetts | Hampshire | Northampton          |                                              |                                                                                    |                                                                                                                  | Do.                                                                        |
| New Jersey    | Middlesex | Highland Park        |                                              |                                                                                    |                                                                                                                  | Do.                                                                        |
| Texas         | Bexar     | Unincorporated areas |                                              |                                                                                    |                                                                                                                  | Do.                                                                        |
| West Virginia | Logan     | do.                  | H 54 045 0000 05 through<br>H 54 045 0000 22 | West Virginia Insurance Department,<br>State Capitol, Charleston, W. Va.<br>25305. | Office of the Clerk of the County<br>Court of Logan County, City of<br>Logan Courthouse, Logan, W. Va.<br>25601. | Feb. 9, 1971.                                                              |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: March 29, 1972.

GEORGE K. BERNSTEIN,  
Federal Insurance Administrator.

[FR Doc.72-5443 Filed 4-7-72; 8:45 am]

## Title 25—INDIANS

Chapter I—Bureau of Indian Affairs,  
Department of the Interior

## SUBCHAPTER C—PROBATE

PART 16—ESTATES OF INDIANS OF  
THE FIVE CIVILIZED TRIBES

The authority to issue regulations is vested in the Secretary of the Interior by sections 463 and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9).

Beginning on page 536 of the FEDERAL REGISTER of January 13, 1972 (37 F.R. 536), there was published a notice of proposed rule making to revise Part 16 of Title 25 of the Code of Federal Regulations relating to the performance by State courts of functions affecting estates of Indians of the Five Civilized Tribes. The regulations were proposed pursuant to the Act of August 4, 1947 (61 Stat. 731) and 5 U.S.C. 301.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

The revised Part 16 shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

HARRISON LOESCH,  
Assistant Secretary of the Interior.

MARCH 27, 1972.

## Sec.

- 16.1 Definitions.
- 16.2 Scope of regulations.
- 16.3 Legal representation in State courts.
- 16.4 Exchange of information within the Department.
- 16.5 Acceptance and acknowledgement of service of process.
- 16.6 Authority of attorneys in State court litigation.

## Sec.

- 10.7 Performance of Federal functions by successor State courts.
- 16.8 Summary distribution of small liquid estates.
- 16.9 Escheat of estates of decedents.

AUTHORITY: The provisions of this Part 16 issued under 5 U.S.C. 301. (Interprets or applies Act of Apr. 26, 1906, ch. 1876, 34 Stat. 137, see 25 U.S.C. 355nt (1970); Act of May 27, 1908, ch. 199, 35 Stat. 312, see 25 U.S.C. 355nt (1970); Act of June 14, 1918, ch. 101, 40 Stat. 606, 25 U.S.C. 355, 375 (1970); Act of Apr. 12, 1926, ch. 115, 44 Stat. 239, see 25 U.S.C. 355nt (1970); Act of June 26, 1936, ch. 831, 49 Stat. 1967, 25 U.S.C. 501-509 (1970); Act of Aug. 4, 1947, ch. 458, 61 Stat. 731, 25 U.S.C. 502 (1970) and see 25 U.S.C. 355nt (1970); Act of Aug. 12, 1953, ch. 409, 67 Stat. 558, 25 U.S.C. 375c (1970) and see 25 U.S.C. 355nt (1970); Act of Aug. 11, 1955, ch. 786, 69 Stat. 666, see 25 U.S.C. 355nt (1970); Act of Aug. 29, 1967, Public Law No. 90-76, 81 Stat. 177, 25 U.S.C. 786-788 (1970); and Act of May 7, 1970, Public Law No. 91-240, 84 Stat. 203, 25 U.S.C. 375d (1970)).

## § 16.1 Definitions.

(a) The term "Secretary" means the Secretary of the Interior and his authorized representatives.

(b) The term "Bureau" means the Bureau of Indian Affairs, acting through the Commissioner of Indian Affairs and his authorized representatives, including field officials who are responsible for matters affecting properties in which a restricted interest is owned by an Indian of the Five Civilized Tribes.

(c) The term "Field Solicitor" means the supervising attorney in charge of the field office of the Solicitor in Muskogee, Okla.

(d) The term "Indian of the Five Civilized Tribes" means an individual who is either an enrolled member of the Cherokee, Chickasaw, Choctaw, Creek, or Seminole Tribes of Oklahoma, or a descendant of an enrolled member thereof.

(e) The term "restricted interest" means an interest owned in real or per-

sonal property subject to restraints upon alienation imposed either by Federal statute or by administrative action authorized by Federal statute. Although this term includes property subject to restraints which may be removed by administrative action, its use in this part refers primarily to property subject to restraints which State courts have jurisdiction to remove in proceedings such as those specified in § 16.2.

## § 16.2 Scope of regulations.

The regulations in this part set forth procedures for discharging the responsibilities of the Secretary in connection with the performance by State courts, as authorized by Federal statutes, of certain functions which affect properties in which a restricted interest is owned by an Indian of the Five Civilized Tribes. These State court functions pertain to such proceedings as guardianship, heirship determination, will probate, estate administration, conveyance approval, partition of real property, confirmation of title to real property, and appeal from action removing or failing to remove restrictions against alienation. In addition, the regulations in this part set forth procedures for discharging certain other responsibilities of the Secretary not necessarily involving State court functions, such as escheat of estates of deceased Indians of the Five Civilized Tribes.

## § 16.3 Legal representation in State courts.

The statutory duties of the Secretary to furnish legal advice to any Indian of the Five Civilized Tribes, and to represent such Indian in State courts, in matters affecting a restricted interest owned by such Indian, shall be performed by attorneys on the staff of the Solicitor, under the supervision of the Field Solicitor. Such advice and representation shall be undertaken to the extent that the Field Solicitor in his discretion shall consider necessary to discharge said duties.



with due regard to the complexity of the legal action contemplated, the availability of staff attorneys for such purposes, the value and extent of the restricted interests involved, possible conflicts between Indians claiming to be owners of such interests, the preference of such owners concerning legal representation, the financial resources available to such owners, the extent to which such owners require similar legal services in connection with their unrestricted properties, and any other factor appropriate for consideration.

**§ 16.4 Exchange of information within the Department.**

To the extent that information may be useful in discharging the duties covered by the regulations in this part, the Bureau shall furnish to the Field Solicitor, either on a current basis or at periodic intervals, processes and notices received concerning court cases and information, as current and complete as may reasonably be obtainable, concerning the estate and status of an Indian of the Five Civilized Tribes for whom legal assistance should be rendered pursuant to the regulations in this part. Similarly, to the extent that such information may be useful for Bureau action or records, the Field Solicitor shall advise the Bureau of court proceedings, information received, and action taken in furnishing legal services pursuant to the regulations in this part.

**§ 16.5 Acceptance and acknowledgment of service of process.**

Service by the Field Solicitor or any other person of any process or notice, pursuant to any Federal statute which by its express terms is applicable to Indians of the Five Civilized Tribes, may be accepted and acknowledged by the Field Solicitor, or by any attorney authorized to perform the duties specified in § 16.3, on behalf of the Secretary and the Bureau, notwithstanding any specific designation in such statute of the official to be served (such as the Secretary, Superintendent for the Five Civilized Tribes, Probate Attorney, etc.).

**§ 16.6 Authority of attorneys in State court litigation.**

Attorneys authorized to perform the duties specified in § 16.3 appearing in State court litigation in their official capacities are authorized to take such action as the Secretary could take if he were personally appearing in his official capacity as counsel therein, including but not limited to the filing or decision against filing of initial, responsive, or supplemental pleadings and appeals from adverse judgments, the exercise or decision against exercise of a preferential right to purchase property subject to sale, the removal or decision against removal of actions to Federal courts, and the waiver or decision against waiver of the failure to make timely service of process or notice.

**§ 16.7 Performance of Federal functions by successor State courts.**

All authority to perform functions relating to Indians of the Five Civilized Tribes which by express provisions of

Federal statute had been conferred upon probate or county courts of Oklahoma before such county courts were abolished on January 12, 1969, has since that date been vested in the successor district courts of that State, and all rights of litigants continue undiminished in the successor forum, including the right to appeal from adverse decisions rendered therein to the successor appellate court.

(Interprets or applies Okla. Op. Atty. Gen. No. 68-381 (Dec. 20, 1968))

**§ 16.8 Summary distribution of small liquid estates.**

Where information, furnished by the Bureau pursuant to § 16.4 or otherwise obtained, reveals that the estate of a deceased Indian of the Five Civilized Tribes contains no restricted land but consists of a restricted interest in funds not exceeding \$500 on deposit to the credit of the decedent, the Field Solicitor shall, in the absence of any final decree determining the heirs or legatees of the decedent, prepare and furnish to the Bureau a finding and order of distribution, based on affidavit or other proof of death and heirship or bequest, setting forth the facts of death and heirship or bequest and the amount payable from the estate to each person determined to be an heir or legatee of the decedent. The Field Solicitor shall mail to each person considered a possible claimant to any portion of the estate, as an heir or legatee or otherwise, a copy of the order with a notice that the order shall become final 30 days after the date of mailing thereof unless within that period the officer by whom the order was signed shall have received a written request for reconsideration of the order. After final action on any order has been taken by the Field Solicitor, the Bureau shall distribute the funds in the estate of the decedent in accordance with such final action, unless a timely appeal therefrom has been filed in accordance with Part 2 of this title.

**§ 16.9 Escheat of estates of decedents.**

Where information, furnished by the Bureau pursuant to § 16.4 or otherwise obtained, reveals that the estate of a deceased Indian of the Five Civilized Tribes, who has been dead 5 or more years after having died intestate without heirs, consists of restricted interests in lands or rents or profits therefrom, the Field Solicitor shall, in the absence of any final decree determining that the decedent died without heirs or devisees, prepare and furnish to the Bureau a finding and order of escheat, based on affidavit or other proof of intestate death without heirs, setting forth the restricted interests in lands or rents or profits therefrom which have by escheat vested in the tribe which allotted the lands. The Field Solicitor shall mail to each person considered a possible claimant to any portion of the estate, as an heir or devisee or otherwise, a copy of the order with a notice that the order shall become final 30 days after the date of mailing thereof unless within that period the officer by whom the order was signed shall have received a written request for reconsideration of the order. After final action on any order has been

taken by the Field Solicitor, the Bureau shall cause a certified copy thereof to be filed in the land records of each county within which are located any escheated lands described therein and shall cause the tribe to be credited with any funds in said estate which arose from rents or profits from such lands, unless a timely appeal therefrom has been filed in accordance with Part 2 of this title.

[FR Doc.72-5405 Filed 4-7-72;8:48 am]

## Title 47—TELECOMMUNICATIONS

### Chapter I—Federal Communications Commission

[Docket No. 19246]

#### PART 76—CABLE TELEVISION SERVICE

##### Nondiscrimination in Employment Practices; Correction

In the matter of amendment of the Commission's rules to require operators of community antenna television systems and community antenna relay station licensees to show nondiscrimination in their employment practices.

The report and order in the above-entitled matter, FCC 72-275, released March 29, 1972, is corrected in the following respects:

(a) The second sentence of paragraph 16 of the report and order is corrected to read as follows: "Also, proposed § 74.1105 (e) has been amended (and is renumbered § 76.13(a)(8)) to permit omission of an EEO program statement from a new-system application for certificate of compliance, if the proposed operator (1) believes that there will not be 5 full-time employees at any time during the first 3 months of the year following commencement of operation of the cable system, and (2) submits a statement justifying that conclusion."

(b) In Appendix A of the report and order—

(1) Section 76.311(c)(1)(i)(c)(1) is corrected to read as follows: "Where, pursuant to paragraph (b)(3), a program is jointly established by two or more cable systems with an aggregate total of 5 or more full-time employees, a multiple cable operator shall file a combined statement."

(2) The first sentence of new § 76.311 (d)(1) is corrected to read as follows: "All operators of cable television systems shall submit an annual report to the Commission no later than May 31 of each year indicating whether any complaints regarding violations by the operator of equal employment provisions of Federal, State, Territorial, or local law have been filed during the preceding calendar year before any body having competent jurisdiction."

Released: April 4, 1972.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[FR Doc.72-5413 Filed 4-7-72;8:47 am]



# Title 32—NATIONAL DEFENSE

## Chapter V—Department of the Army

### SUBCHAPTER G—PROCUREMENT

#### MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Title 32, Chapter V, Subchapter G, is amended as follows:

#### PART 591—GENERAL PROVISIONS

1. In § 591.150 (a), (b) (2), (4), (5), (6), and (7) are amended, in paragraph (c) of this section the subparagraphs are revised, and paragraphs (e) and (f) are amended; §§ 591.307(b) and 591.350-5 (c) are amended; § 591.350-7(k) is added; §§ 591.401-50(a) (1), 591.401-51, 591.403-52(e) (1), 591.405(a) (3) and (e) are amended; § 591.452-1(b) (3) is revised; §§ 591.452-4(b), 591.1050-1 (b) and (c), 591.1050-2(a), 591.5003, 591.5005, and 591.5006 (b) and (c) are amended; in the appendix to § 591.5102 the Delegations of Authority, Ref. No. SAOSA-71-1 dated May 28, 1971 and SAOSA-71-7 dated May 8, 1971, are superseded without prejudice to any actions taken pursuant thereto, and new Delegations of Authority are inserted in lieu thereof, as follows:

§ 591.150 Procurement channels and mailing addresses.

(a) Unless otherwise specifically prescribed in ASPR or APP, submittals to higher authority of recommendations, reports, findings, data, information, and other documents relating to procurement matters shall be through procurement channels as indicated in paragraph (f) of this section.

(b) \* \* \*

(2) Assistant Secretary of the Army (Installations and Logistics) (Assistant Judge Advocate General for Civil Law) Attn: DAJA-ZC, Department of the Army, Washington, D.C. 20310.

(4) Chief Trial Attorney, Office of the Judge Advocate General. Address: HQDA (DAJA-CA).

(5) Comptroller of the Army, Attention: Chief, Contract Financing Office. Address: HQDA (DACA-FIS-C).

(6) Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics), Department of the Army, Washington, D.C. 20310.

(7) Chief of Engineers, Forrestal Building. Address: HQDA (DAEN).

(c) \* \* \*

(1) Requests for deviation from provisions of ASPR or APP,

(2) Requests for approval of awards or determinations and findings,

(3) Requests for changes to provisions of ASPR or APP,

(4) Mistakes in bids and protest cases,

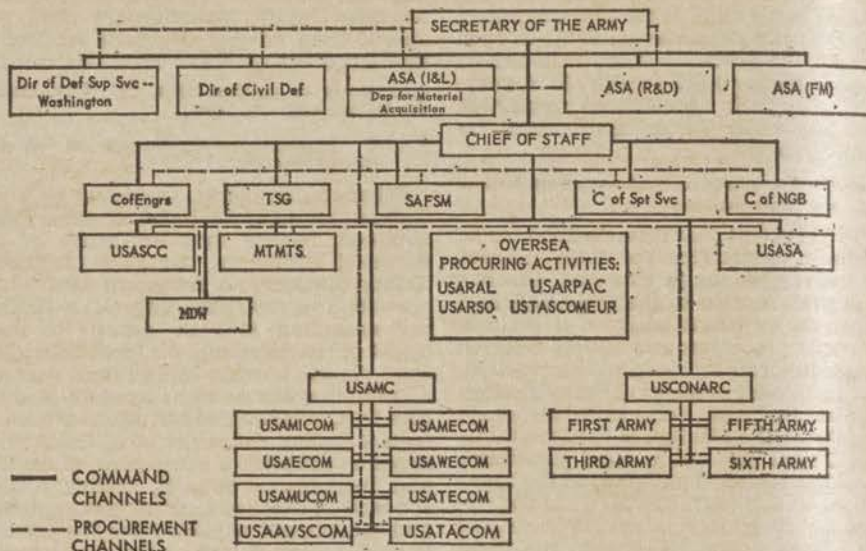
(5) GAO and other type investigative reports,

(6) Actions under Public Law 85-804, and

(7) Other significant actions and matters relating to procurement policy.

(e) When regulations require submission of documents listed in paragraph (c) of this section to a Head of Procuring Activity or higher authority, the commander, his deputy, or the staff officer responsible for procurement shall sign the correspondence at each echelon through which processed.

(f) Flow of procurement authority:



§ 591.307 Priorities, allocations, and allotments.

(b) Since the use of priorities and allocations is limited to procurements placed with U.S. suppliers, the Deputy Chief of Staff for Logistics has not re-delegated his authorities to overseas commanders. Should an overseas commander be authorized to place a procurement directly with a U.S. supplier and a priority rating be required to obtain timely delivery, a request for a priority rating shall be submitted to HQDA (DALO-MAE-I) containing the following information—

§ 591.350-5 Extensions beyond fourth.

(c) The Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics) for all other procuring activities.

§ 591.350-7 Exceptions.

(k) Contracts providing for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

§ 591.401-50 Exercise of functions of Head of Procuring Activity.

(a) \* \* \*

(1) U.S. Army Research Offices, Durham, N.C., and Arlington, Va.; and

§ 591.401-51 Purchasing offices not assigned to a Head of Procuring Activity.

The Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics), shall exercise the functions of Head of Procuring Activity for any purchasing office

within the Department of the Army which has not otherwise been assigned to a Head of Procuring Activity.

§ 591.403-52 Review of contracts and modifications.

(e) \* \* \*

(1) Contracts for utilities services (see § 591.450-6), contracts for employing personnel in Army dependent schools, contracts for contract surgeons, off-duty academic instruction contracts, educational service agreements; and modifications thereto;

§ 591.405 Selection, appointment, and termination of appointment of contracting officers.

(a) \* \* \*

(3) The Deputy or Assistant Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics);

(e) Organizational charts of each Army purchasing office are maintained on file in the office of the Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics). Accordingly, whenever the organization of an Army purchasing office is changed, one copy of the revised organizational chart shall be forwarded the addressee in § 591.150(b) (6) (see § 591.150(d)).

§ 591.452-1 Policy.

(b) \* \* \*

(3) The functions of an ordering officer are an added duty of the individual



selected for appointment, not the primary or major portion of his duties; and the individual has the time available to perform the ordering officer functions without assistance from others and without redelegating his authority to others; and

§ 591.452-4 Surveillance.

(b) At least twice each year activities of ordering officers shall be physically inspected or reviewed through examination of his purchase documents and records by the appointing authority or his designee, an individual well qualified in procurement procedures used by ordering officers.

§ 591.1050-1 Proposed contract awards of \$1 million or more.

(b) Contracting officers shall telephone the information in the sequence in § 591.1050-3 to the Chief Procurement Statistics Office, Data Processing Center, Office of the Deputy Chief of Staff for Logistics, HQDA (DALO-DCP), at OXFORD 5-3032, OXFORD 7-2016, or OXFORD 5-3058, at least twenty (20) working hours before award (based on an 8-hour day, exclusive of Saturdays, Sundays, and Federal legal holidays), except that—

(c) No award shall be made before 1500 hours Washington, D.C. time without prior approval obtained through the ODCSLOG Procurement Statistics Office (see paragraph (b) of this section).

§ 591.1050-2 Contracts under \$1 million.

(a) Contracting officers shall furnish the information called for in § 591.1050-3 for all contracts under \$1 million which are of significant local community or congressional interest or which have public relations aspect by mail or message directed to Department of the Army, Attention: SACLL, Washington, D.C. 20310, or by telephone to the Special Operations Division, SACLL, at OXFORD 7-4417.

§ 591.5003 Determination and referral for hearing.

(a) The Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics), shall determine whether the matter shall be referred for a hearing. When he determines that the matter shall be so referred, he shall advise the Chairman of the Armed Services Board of Contract Appeals [ASBCA] in writing of his determination and request that the case be heard by a division of the Board. The request for hearing shall contain sufficient information to permit the Board Recorder to provide due notice to the contractor.

(b) The Deputy for Materiel Acquisition shall furnish the files in the case to

The Judge Advocate General, Attention: Chief, Contract Appeals Division, for use of Government counsel.

§ 591.5005 Withholding of funds.

Pending determination of the Deputy for Materiel Acquisition as to referral of a case to the Board and a decision of the Board if a hearing is recommended, the contracting officer administering the contract or contracts involved shall withhold from payments otherwise due the contractor a sum equivalent to ten times the estimated costs of the gratuities alleged to have been offered or given by the contractor, his agents, or other representatives, in violation of the Gratuities clause.

§ 591.5006 Post-hearing actions.

(b) The Deputy for Materiel Acquisition shall promptly furnish the contractor with a copy of the Secretarial decision. He shall also advise the cognizant Head of Procuring Activity of the Secretarial decision, who in turn shall furnish notification and instructions to the contracting officer without delay.

(c) At the conclusion of the case, the Board Recorder shall forward all files in the matter to the Office of The Judge Advocate General which shall serve as the Office of Record for cases brought for hearing under 10 U.S.C. 2207. With the approval of the Deputy for Materiel Acquisition, the Office of Record may make available to persons properly and directly concerned matters of official record pertaining to the case.

§ 591.5102 Delegations of authority.

APPENDIX TO § 591.5102 DELEGATIONS OF AUTHORITY

DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
WASHINGTON, D.C. 20310

OCTOBER 29, 1971.

Ref No.: SAOSA-71-1

DELEGATION OF AUTHORITY TO APPROVE THE PUBLICATION OF ADVERTISEMENTS, NOTICES OR PROPOSALS

1. Pursuant to title 5, United States Code, section 302(b)(2), and section IV part 8 of the Armed Services Procurement Regulation, I hereby delegate, without authority to redelegate further except as stated below, the authority to approve the publication of advertisements, notices or proposals in newspapers, subject to the limitations in 44 United States Code 3701, 3702, and 3703, to:

Heads of Procuring Activities with authority to redelegate to their Deputies, Principal Assistants Responsible for Procurement, or installation/activity commanders  
The Adjutant General.  
Director of Civilian Personnel, U.S. Army.  
Civilian Personnel Officer, Staff Civilian Personnel Division, Office, Chief of Staff, Department of the Army.  
Director of Personnel and Training, U.S. Army Materiel Command.  
Chief, U.S. Army Audit Agency.  
Chief, Personnel Administration, Office of the Chief of Engineers.  
Commanding General, U.S. Army Recruiting Command.

Division Engineers, Corps of Engineers.  
Commander, U.S. Army Safeguard System Evaluation Agency.

2. Procedures prescribed in section IV Part 8 of the Armed Services Procurement Regulation shall be used in actions taken pursuant to this delegation of authority.

3. The foregoing delegation of authority becomes effective on November 1, 1971 and, as of that date, Delegation of Authority SAOSA-71-1, May 28, 1971, subject: Delegation of Authority to Approve the Publication of Advertisements, Notices or Proposals, is superseded without prejudice to any action taken pursuant thereto.

DUDLEY C. MECUM,  
Assistant Secretary of the Army,  
(Installations and Logistics).

DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
WASHINGTON, D.C. 20310

AUGUST 3, 1971.

Ref No. SAOSA-71-7

DELEGATION OF AUTHORITY TO CONTRACT FOR PUBLIC UTILITY SERVICES (POWER, GAS, WATER, AND COMMUNICATIONS) FOR PERIODS NOT EXCEEDING 10 YEARS

1. Under Department of Defense Directive 5100.32, June 23, 1971, subject: Delegation of Authority with Respect to Contracts for the Procurement of Public Utility Services, I hereby delegate (i) to the Chief of Engineers as the Department of the Army Power Procurement Officer, the authority to enter into contracts for public utility services (power, gas, and water), and (ii) to the Commanding Generals, U.S. Army Strategic Communications Command and U.S. Continental Army Command, the authority to enter into contracts for communications services, for periods extending beyond a current fiscal year but not exceeding 10 years under one or more of the following circumstances:

a. Where there are obtained lower rates, larger discounts, or more favorable conditions of service than those available under contracts the firm term of which would not extend beyond a current fiscal year.

b. Where connection or special facility charges payable under contracts the firm term of which would not extend beyond a current fiscal year are eliminated or reduced.

c. Where the utility company refuses to render the desired service except under a contract the firm term of which extends beyond a current fiscal year.

2. The authority delegated in paragraph 1 above may be redelegated (i) with respect to contracts for power, gas, and water, to the Deputy Department of the Army Power Procurement Officer, and (ii) with respect to contracts for communications services to a level no lower than chiefs of purchasing offices.

3. This authority shall be exercised strictly in accordance with the applicable provisions of the "Statement of Areas of Understanding Between the Department of Defense and General Services Administration" entitled "Procurement of Utility Services (Power, Gas, Water)," 15 Federal Register 8227 (1950), and "Procurement of Communication Services," 15 Federal Register 8226 (1950).

4. Unless distribution thereof is inadvisable for reasons of security, copies of contracts executed under the authority of this delegation and other pertinent data and information with respect thereto shall be furnished to the General Services Administration.

5. The foregoing delegation of authority supersedes, without prejudice to any action



taken pursuant thereto, REF NO: SAOSA-71-7, 8 May 1971, subject: Delegation of Authority to Contract for Public Utility Services (Power, Gas, Water, and Communications) For Periods Not Exceeding 10 Years.

EUGENE M. BECKER,  
Assistant Secretary of the Army,  
(Financial Management).

## PART 592—PROCUREMENT BY FORMAL ADVERTISING

2. Sections 592.406-3(b) and 592.407-8(d)(2), (h) and (i) are amended, as follows:

### § 592.406-3 Other mistakes.

(b) Authority is delegated to the individuals named in § 2.406-3(b)(1) of this title to make determinations described in § 2.406-3(a)(2), (3), and (4) of this title. Contracting officers shall submit cases for determination by the Deputy or Assistant Deputy for Materiel Acquisition, OASA (I&L), directly the addresses in § 591.150(b)(6) of this chapter, concurrently furnishing the cognizant Head of Procuring Activity an information copy.

### § 592.407-8 Protests against award.

(2) Those cases emanating in purchasing offices under the jurisdiction of the Chief of Engineers shall be forwarded to the Chief of Engineers, address: HQDA (DAEN-GCZ-M). The Chief of Engineers shall in turn forward protests directly to the Comptroller General;

(h) When a protest is filed directly with the Comptroller General, the cognizant Head of Procuring Activity shall be notified by the Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics). The Head of Procuring Activity shall in turn notify the contracting officer concerned and the contracting officer shall promptly forward the information prescribed in paragraph (b) of this section together with any other documentation specifically requested by the Comptroller General. Cases shall be forwarded in accordance with paragraphs (d)(1), (2), or (4) of this section.

(i) Because of the sensitivity of many protests filed with the Comptroller General, no award will be made under the provisions of § 2.407-8(b)(2) of this title without prior approval of the Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics). Furthermore, unless otherwise authorized by the Deputy for Materiel Acquisition, all informal contacts with the Comptroller General shall be made by the Office of the Assistant Secretary of the Army (Installations and Logistics). Such contacts include advising the Comptroller General in appropriate cases of the intent of the Department of the Army to make an award prior to the resolution of the protest.

## PART 593—PROCUREMENT BY NEGOTIATION

3. Sections 593.207-3, 593.607-4(b) and (c), 593.608-50(c) and (e) and 593.1100-2(b) and (c) are amended; as follows:

### § 593.207-3 Limitation.

Procurement shall not be made under this authority unless consistent with Subpart L, Part 5 of this title and AR 40-61.

### § 593.607-4 Procedures.

(b) COD orders shall be placed only when the price of an item has been obtained by verbal or written quotation or has been taken from the supplier's current catalog or pricelist. COD orders shall not be placed based upon "ceiling" prices.

(c) Contracting or ordering officers shall authorize imprest fund purchases made by use of Standard Forms 1165 by signing the form in the block entitled "Purpose."

### § 593.608-50 Use of DD Form 1155 for shipments to Army attaches.

(c) Shipments shall be addressed to—  
U.S. Army Attaché [City—Country], HQDA (DAMI-DOC), Washington, D.C. 20310.

(e) Two copies of DD Form 1155, clearly indicating thereon the addressee to whom they are to be returned, shall be mailed by the contracting officer at the time the order is placed to—

HQDA (DAMI-DOC), Washington, D.C. 20310.

### § 593.1100-2 Review of decision to lease.

(b) Requests for approval of ADPE to be leased on a noncompetitive basis shall be forwarded to the Assistant Secretary of Defense (Comptroller) through the Office, Assistant Vice Chief of Staff, Department of the Army, address: HQDA (DACS-CM), and shall include the justification specified in § 15.205-48(d) of this title.

(c) Requests for technical ADP assistance pursuant to § 3.1100-2(c) of this title shall be directed to the Office, Assistant Vice Chief of Staff, Department of the Army, address: HQDA (DACS-CM).

## PART 594—SPECIAL TYPES AND METHODS OF PROCUREMENT

4. The table of contents of this part is amended by adding a new Subpart EEE; § 594.108-50 is revised; §§ 594.5503(h)(1) and (3) and 594.5505(b) are amended; and Subpart EEE is added, as follows:

### § 594.108-50 Annual reports.

An annual report on Grants for Basic Scientific Research and Transfer of Title to Government Equipment (Public Law 85-934), Reports Control Symbol DD-

I&L(A) 598, shall be prepared and submitted by Army agencies listed in AR 70-5 on DA Forms 2697-R in accordance with instructions therein.

### § 594.5503 Order forms under educational service agreements.

(h) \* \* \*  
(1) The Surgeon General, address: HQDA (DASG-PTC), for Army Medical Department personnel;

(3) The Chief of Personnel Operations, address: HQDA (DAPO-EPO-RS), for other Army personnel.

### § 594.5505 Contracts with commercial and industrial firms.

(b) Questions of policy with respect to training of Army Medical Department personnel in commercial and industrial firms shall be referred to The Surgeon General, HQDA (DASG-PTC). Questions of policy with respect to training of other Army personnel in commercial and industrial firms shall be referred to the Chief of Personnel Operations, HQDA (DAPO-EPO-RS).

### Subpart EEE—Procurement of Bell System Practices

| Sec.       |                                                                    |
|------------|--------------------------------------------------------------------|
| 594.5701   | Scope of subpart.                                                  |
| 594.5702   | Definition.                                                        |
| 594.5703   | Responsibilities.                                                  |
| 594.5704   | Procedures.                                                        |
| 594.5704-1 | Ordering BSP for existing communications equipment and facilities. |
| 594.5704-2 | Ordering new communications equipment and facilities from WECO.    |

AUTHORITY: The provisions of this Subpart EEE issued under secs. 2301-2314, 3012, 70 Stat. 127-133, 157; 10 U.S.C. 2301-2314, 3012.

### Subpart EEE—Procurement of Bell System Practices

#### § 594.5701 Scope of subpart.

This subpart prescribes procedures for the procurement of Bell System Practices (BSP) and as applicable to all Department of the Army installations, commands, and agencies concerned with the installation, operation, or maintenance of commercial type communications equipment and facilities where BSP are a requirement.

#### § 594.5702 Definition.

Bell System Practices are a series of publications of the American Telephone and Telegraph Co. [A.T. & T.] containing detailed information and standard practices relating to engineering, installation, maintenance, operation, and administration of Western Electric Co. [WECO] equipment and facilities.

#### § 594.5703 Responsibilities.

(a) In connection with existing communications equipment, the Commanding General, U.S. Army Strategic Communications Command, has delegated to the Commanding General, U.S. Army Communications-Electronics Engineering Installation Agency, the responsibility for—



(1) Reviewing and processing all requests for BSP;

(2) Performing direct procurement of BSP in accordance with procedures established by the Department of Defense; and

(3) Programing and budgeting for procurement of BSP.

(b) Heads of Procuring Activities are responsible for insuring that applicable BSP are included in contracts for new communications equipment and facilities procured from WECO as items to be purchased from the contractor.

§ 594.5704 Procedures.

§ 594.5704-1 Ordering BSP for existing communications equipment and facilities.

(a) All orders for BSP shall be submitted by letter request to the Commanding General, U.S. Army Communications-Electronics Engineering Installation Agency [USACEIA], Attention: SCCC-LOG-RC, Fort Huachuca, Ariz. 85613, with information copy to the Commanding General, U.S. Army Strategic Communications Command, Attention: SCC-LOG-S, Fort Huachuca, Ariz. 85613.

(b) Letter requests shall include—

- (1) A listing of the BSP required;
- (2) Quantities required;
- (3) Shipping and mailing address; and

(4) Justification for the need for the BSP and identification of the types of equipment or facilities or other information which support the need.

(c) Individual BSP or complete divisions may be ordered. A division is a broad grouping of individual BSP by types of systems, equipments, or major categories of information. For individual BSP, the complete number shall be listed. When ordering complete divisions, the applicable division number shall be listed followed by the notation "Complete Division."

(d) When processing orders for BSP from the Army, A.T. & T. follows a back order procedure in that if a particular BSP is not available at the time of the order, it will be back ordered for later shipment. Any BSP requested but not received need not be reordered by the requesting agency.

(e) The requesting agency shall acknowledge to the addressee in paragraph (a) of this section receipt of all BSP ordered.

§ 594.5704-2 Ordering new communications equipment and facilities from WECO.

(a) Applicable BSP shall be individually identified in the equipment procurement contract as items to be purchased from the contractor.

(b) In addition to any other clause pertaining to data prescribed in Subchapter A of this title, the following clause shall be included in all contracts for the purchase of BSP—

BELL SYSTEM PRACTICES (BSP) (DEC. 1971)

(a) Notwithstanding any other provisions of this contract relating to technical data, the Government's rights with respect to any BSP specified to be delivered under this

contract, which BSP bears the following legend, shall be limited to those rights stated in the legend:

"This Bell System Practice is furnished for use only for Department of Defense or Coast Guard purposes in the interest of national defense. It will not be sold or disposed of to other Government agencies or to anyone outside the Government. The contents thereof will not be reproducible in whole or in part except for such purposes and upon such terms and conditions as may be agreed to in writing by the American Telephone and Telegraph Co. Nothing contained herein shall imply or grant a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent."

(b) No limitation on rights of use shall be asserted as to any data which the Contractor has previously delivered to the Government without restriction. The limited rights provided for by this clause shall not impair the right of the Government to use similar or identical data not originated by the Bell System.

(c) The BSP called for herein are primarily issued, replaced, or revised, as circumstances warrant, for the use of Bell System personnel. No guarantee can be made that all of such BSP will be available, either as such or as a reissue or replacement, at the time delivery is required hereunder and the Contractor assumes no liability in the event of failure to deliver, except as to an equipment adjustment in price if warranted. The immediately preceding sentence of this clause shall not be applicable to BSP called for herein which cover equipment, if any, also called for herein.

PART 596—FOREIGN PURCHASES

5. Section 596.1106-3(b) is amended, as follows:

§ 596.1106-3 Awards requiring approval by higher authority.

(b) The Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics) has been delegated the authority to determine whether a proposed procurement described in § 6.1106-3 of this title shall be made payable in United States-owned foreign currency or in U.S. dollars.

PART 598—TERMINATION OF CONTRACTS

6. Section 598.602-3 (a) and (b) are amended, as follows:

§ 598.602-3 Procedure for default.

(a) Contracts which involve outstanding guaranteed loans, progress payments, or advance payments, except where the contractor is in bankruptcy, shall be terminated for default only after the procuring activity has coordinated the action with the U.S. Army Materiel Command, the U.S. Continental Army Command, or the Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics), as applicable. In addition, prior to termination, all such cases except those involving bankruptcy shall be coordinated with the Director of Contract Financing, Office of the Comptroller of the Army [the addressee in § 591.150(b) (5) of this

chapter] who shall coordinate when necessary with the contract financing offices of other Military Departments. Cases forwarded shall include the following data—

(b) Copies of notices of intent to terminate any small business contractor for default shall be furnished the nearest Regional Office of the Small Business Administration [SBA] after coordination with the Small Business and Labor Surplus Advisor serving the purchasing office. The SBA Regional Office will determine whether the contractor has any outstanding loans which were made with SBA's participation or any Certificates of Competency which were issued by SBA. Contracts involving a small business contractor to whom a Certificate of Competency was issued or to whom loans were made with SBA's participation shall not be terminated for default without prior written approval of the Head of Procuring Activity.

PART 599—PATENTS, DATA, AND COPYRIGHTS

7. Section 599.304-2 is amended, as follows:

§ 599.304-2 Review of agreements.

Proposed foreign license and technical assistance agreements between domestic concerns and foreign governments or concerns forwarded to the Department of the Army pursuant to § 9.304-1 of this title shall be forwarded through the cognizant Head of Procuring Activity for review by appropriate patent and technical personnel in accordance with § 9.304-2 of this title (see § 591.150(d) of this chapter). Comments and recommendations of the Head of Procuring Activity reviewing such agreements shall be forwarded to the Deputy Chief of Staff for Logistics, PEMA Executive Division, Industrial Defense Branch, address: HQDA (DALO-MAE-F).

PART 600—BONDS, INSURANCE, AND INDEMNIFICATION

8. Sections 600.110 and 600.112(d) (3) are amended; § 600.352 is revised, as follows:

§ 600.110 Substitution of surety bonds.

Requests for approval of acceptance of a new surety bond for a bond previously approved shall be forwarded to The Judge Advocate General, address: HQDA (DAJA-PLB).

§ 600.112 Execution and administration of bonds and consents of surety.

(d) Bid bonds (except annual bid bonds);

§ 600.352 Coordination with Departments of the Navy and Air Force.

(a) Where the Departments of the Navy or Air Force have an interest in a



contractor's insurance program, coordination shall be effected—

(1) For the Navy with the Headquarters Naval Material Command, Contract Insurance Branch, MAT-0242, Department of the Navy, Washington, D.C. 20360; and

(2) For the Air Force with the Headquarters Air Force Contract Management Division, AFSC, AF Unit Post Office, Los Angeles, Calif. 90045, attention: CMKOL.

(b) Prior approval of a contractor's insurance program by another Military Department shall be considered by a Head of Procuring Activity in determining the adequacy of the contractor's program and shall be accepted, subject to whatever modification may be appropriate.

## PART 601—TAXES

9. Section 601.000(a) is amended, as follows:

### § 601.000 Resolution of tax problems.

(a) Actual or anticipated tax problems which cannot readily be solved by reference to Part 11 of this title shall be forwarded to The Judge Advocate General, address: HQDA (DAJA-PL), through procurement channels (see § 591.150(d)). Direct communication with The Judge Advocate General is authorized if the time by which a solution to a tax problem is required is so short that communication through channels would be inadequate.

## PART 602—LABOR

10. Section 602.102-4(f) is amended, as follows:

### § 602.102-4 Approval of overtime premiums in certain cost-reimbursement type contracts.

(f) Such others as may be specifically designated from time to time by the Deputy for Materiel Acquisition, Office of the Assistant Secretary of the Army (Installations and Logistics).

## PART 603—GOVERNMENT PROPERTY

11. Section 603.301(d) is amended; §§ 603.801 and 603.803 are revised, as follows:

### § 603.301 Providing facilities.

(d) Requests for approval for acquisition of ADPE to be acquired on a non-competitive basis shall be forwarded to the Assistant Secretary of Defense (Comptroller) through the Office, Assistant Vice Chief of Staff, Department of the Army, address: HQDA (DACS-CM), and shall include the justification specified in § 15.205-48(d) of this title.

### § 603.301 Appointment of property administrator.

Individuals authorized to appoint property administrators shall follow the same procedures as are prescribed in § 591.406-50 of this chapter for the des-

ignation of contracting officers' representatives.

### § 603.803 Records of Government property.

(a) The Head of Procuring Activity may name the head of one or more Department of the Army purchasing offices as his designee to approve exceptions to the policy of using a contractor's records of Government property as the official records.

(b) Policies and procedures governing the transfer of military property to contractors and accounting for such property in instances where the exception in paragraph (a) of this section is applied are contained in AR 735-71 and AR 735-72. AR 735-71 provides that, where Government property is lost or damaged and the property administrator is unable to exhibit conclusive proof of receipt of the items by a contractor, the property shall be accounted for on a Report of Survey (DD Form 200, Standard Form 361, or DD Form 1599) in accordance with AR 735-11.

## PART 606—PROCUREMENT FORMS

12. Section 606.5003(c) is amended and a new paragraph (f) is added, as follows:

### § 606.5003 Reproducible masters.

(c) If the cognizant Head of Procuring Activity approves the use of the reproducible masters requested, he shall forward the approval to HQDA (DAAG-PAM) for authority to purchase reproducible masters locally in accordance with AR 310-1.

(f) Contracting officers are not required to obtain authority for the use of reproducible masters stocked in publications depots. Such reproducible masters may be obtained by requisition upon the publications depots.

[Rev. 7, Jan. 10, 1972] (Secs. 2301-2314, 3012, 70A Stat. 127-133, 157; 10 U.S.C. 2301-2314, 3012).

For the Adjutant General.

R. B. BELNAP,  
Special Advisor to TAG.

[FR Doc. 72-5376 Filed 4-7-72; 8:45 am]

## Title 26—INTERNAL REVENUE

### Chapter I—Internal Revenue Service, Department of the Treasury

#### SUBCHAPTER A—INCOME TAX

[T.D. 7177]

### PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

#### Taxation of Exempt Organizations on Rents from Property, and Interest, Rents, etc., from Controlled Organizations

On June 9, 1971, notice of proposed rule making with respect to the amend-

ments of the Income Tax Regulations (26 CFR Part 1) under section 512(b) of the Internal Revenue Code of 1954 to conform the regulations to changes made by section 121(b)(2)(A) and (C) of the Tax Reform Act of 1969 (83 Stat. 538) was published in the FEDERAL REGISTER (36 F.R. 11100). After consideration of all such relevant matters as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

Paragraphs (c) and (f) of § 1.512(b)-1, as set forth in paragraph 2 of the notice of proposed rule making, are revised as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,  
Commissioner of Internal Revenue.

Approved: April 3, 1972.

FREDERIC W. HICKMAN,  
Acting Assistant Secretary  
of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 512(b) of the Internal Revenue Code of 1954 to section 121(b)(2)(A) and (C) of the Tax Reform Act of 1969 (83 Stat. 538), such regulations are amended as follows:

PARAGRAPH 1. Section 1.512(b) is amended by revising paragraph (3) of section 512(b) and by adding at the end thereof a new paragraph (15) and by revising the historical note. These amended and added provisions read as follows:

### § 1.512(b) Statutory provisions: unrelated business taxable income; modifications.

SEC. 512. Unrelated business taxable income. \* \* \*

(b) Modifications. \* \* \*

(3) In the case of rents—

(A) Except as provided in subparagraph (B), there shall be excluded—

(i) All rents from real property (including property described in section 1245(a)(3)(C)), and

(ii) All rents from personal property (including for purposes of this paragraph as personal property any property described in section 1245(a)(3)(B)) leased with such real property, if the rents attributable to such personal property are an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is placed in service.

(B) Subparagraph (A) shall not apply—

(i) If more than 50 percent of the total rent received or accrued under the lease is attributable to personal property described in subparagraph (A)(ii), or

(ii) If the determination of the amount of such rent depends in whole or in part on the income or profits derived by any person from the property leased (other than an amount based on a fixed percentage or percentages of receipts or sales).

(C) There shall be excluded all deductions directly connected with rents excluded under subparagraph (A).

(15) Notwithstanding paragraphs (1), (2), or (3), amounts of interest, annuities, royalties, and rents derived from any organization



(in this paragraph called the "controlled organization") of which the organization deriving such amounts (in this paragraph called "controlling organization") has control (as defined in section 368(c)) shall be included as an item of gross income (whether or not the activity from which such amounts are derived represents a trade or business or is regularly carried on) in an amount which bears the same ratio as—

(A) (i) In the case of a controlled organization which is not exempt from taxation under section 501(a), the excess of the amount of taxable income of the controlled organization over the amount of such organization's taxable income which is derived directly by the controlling organization would not be unrelated business taxable income, or

(ii) In the case of a controlled organization which is exempt from taxation under section 501(a), the amount of unrelated business taxable income of the controlled organization, bears to,

(B) The taxable income of the controlled organization (determined in the case of a controlled organization to which subparagraph (a) (ii) applies as if it were not an organization exempt from taxation under section 501(a)), but not less than the amount determined in clause (i) or (ii), as the case may be, of subparagraph (A),

both amounts computed without regard to amounts paid directly or indirectly to the controlling organization. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

[Sec. 512(b) as amended by Act of Apr. 7, 1958 (Public Law 85-367, 72 Stat. 80); Act of July 17, 1964 (Public Law 88-380, 78 Stat. 333); sec. 121(b) (2) (A) and (C) of the Tax Reform Act 1969 (83 Stat. 538)]

PAR. 2. Section 1.512(b)-1 is amended by revising paragraph (c) and adding at the end thereof a new paragraph (1). These amended and added provisions read as follows:

#### § 1.512(b)-1 Modifications.

(c) *Rents*—(1) *Taxable years beginning before January 1, 1970.* For taxable years beginning before January 1, 1970, rents from real property (including personal property leased with the real property) and the deductions directly connected therewith shall be excluded in computing unrelated business taxable income, except that certain rents from, and certain deductions in connection with, a business lease (as defined in section 514(f)) shall be included in computing unrelated business taxable income. See subparagraph (5) of this paragraph for rules governing amounts received for the rendering of services.

(2) *Taxable years beginning after December 31, 1969*—(i) *In general.* For taxable years beginning after December 31, 1969, except as provided in subdivision (iii) of this subparagraph, rents from property described in subdivision (ii) of this subparagraph, and the deductions directly connected therewith, shall be excluded in computing unrelated business taxable income. However, notwithstanding subdivision (ii) of this subparagraph, certain rents from and certain deductions in connection with either debt-financed property (as defined

in section 514(b)) or property rented to controlled organizations (as defined in paragraph (1) of this section) shall be included in computing unrelated business taxable income.

(ii) *Excluded rents.* The rents which are excluded from unrelated business income under section 512(b) (3) (A) and this paragraph are—

(a) *Real property.* All rents from real property; and

(b) *Personal property.* All rents from personal property leased with real property if the rents attributable to such personal property are an incidental amount of the total rents received or accrued under the lease, determined at the time the personal property is first placed in service by the lessee.

For purposes of the preceding sentence, rents attributable to personal property generally are not an incidental amount of the total rents if such rents exceed 10 percent of the total rents from all the property leased. For example, if the rents attributable to the personal property leased are determined to be \$3,000 per year, and the total rents from all property leased are \$10,000 per year, then such \$3,000 amount is not to be excluded from the computation of unrelated business taxable income by operation of section 512(b) (3) (A) (ii) and this paragraph, since such amount is not an incidental portion of the total rents.

(iii) *Exception.* Subdivision (ii) of this subparagraph shall not apply, if either—

(a) *Excess personal property rents.* More than 50 percent of the total rents are attributable to personal property, determined at the time such personal property is first placed in service by the lessee; or

(b) *Net profits.* The determination of the amount of such rents depends in whole or in part on the income or profits derived by any person from the property leased, other than an amount based on a fixed percentage or percentages of the gross receipts or sales. For purposes of the preceding sentence, the rules contained in paragraph (b) (1) of § 1.856-4 shall apply.

(iv) *Illustration.* This subparagraph may be illustrated by the following example:

*Example.* A, an exempt organization, owns a printing factory which consists of a building housing two printing presses and other equipment necessary for printing. On January 1, 1971, A rents the building and the printing equipment to B for \$10,000 a year. The lease states that \$9,000 of such rent is for the building and \$1,000 for the printing equipment. However, it is determined that notwithstanding the terms of the lease \$4,000, or 40 percent (\$4,000/\$10,000), of the rent is actually attributable to the printing equipment. During 1971, A has \$3,000 of deductions, all of which are properly allocable to the land and building. Under these circumstances, A shall not take into account in computing its unrelated business taxable income the \$6,000 of rent attributable to the building and the \$3,000 of deductions directly connected with such rent. However, the \$4,000 of rent attributable to the printing equipment is not excluded from the computation of A's unrelated business taxable income by operation of section

512(b) (3) (A) (ii) or this paragraph since such rent represents more than an incidental portion of the total rents.

(3) *Definitions and special rules.* For purposes of subparagraph (2) of this paragraph—

(i) *Real property defined.* The term "real property" means all real property, including any property described in sections 1245(a) (3) (C) and 1250(c) and the regulations thereunder.

(ii) *Personal property defined.* The term "personal property" means all personal property, including any property described in section 1245(a) (3) (B) and the regulations thereunder.

(iii) *Multiple leases.* If separate leases are entered into with respect to real and personal property, and such properties have an integrated use (e.g., one or more leases for real property and another lease or leases for personal property to be used upon such real property), all such leases shall be considered as one lease.

(iv) *Placed in service.* Property is "placed in service" by the lessee when it is first subject to his use in accordance with the terms of the lease. For example, property subject to a lease entered into on November 1, 1971, for a term commencing on January 1, 1972, shall be considered as placed in service on January 1, 1972, regardless of when the property is first actually used by the lessee.

(v) *Changes in rent charged or personal property rented.* If—

(a) By reason of the placing of additional or substitute personal property in service, there is an increase of 100 percent or more in the rent attributable to all the personal property leased, or

(b) There is a modification of the lease by which there is a change in the rent charged (whether or not there is a change in the amount of personal property rented),

the rent attributable to personal property shall be recomputed to determine whether the exclusion under subparagraph (2) (ii) (b) of this paragraph or the exception under subparagraph (2) (iii) (a) of this paragraph applies. Any change in the treatment of rents, attributable to a recomputation under this subdivision, shall be effective only with respect to rents for the period beginning with the event which occasioned the recomputation.

(4) *Examples.* Subparagraphs (2) and (3) of this paragraph may be illustrated by the following examples:

*Example (1).* On January 1, 1971, A, an exempt organization, executes two leases with B. One is for the rental of a computer, with a stated annual rental of \$750. The other is for the rental of office space in which to use the computer, at a stated annual rental of \$7,250. The total annual rent under both leases for 1971 is \$8,000. At the time the computer is first placed in service, however, taking both leases into consideration, it is determined that notwithstanding the terms of the leases, \$3,000, or 37.5 percent (\$3,000/\$8,000), of the rent is actually attributable to the computer. Therefore, for 1971, only the \$5,000 (\$8,000—\$3,000) attributable to the rental of the office space is excluded from the computation of A's unrelated business taxable income by operation of section 512(b) (3).



**Example (2).** Assume the facts as stated in example (1). Assume further that the leases to which the computer and office space are subject in example (1) provide that the rent may be increased or decreased, depending upon the prevailing rental value for similar computers and office space. On January 1, 1972, the total annual rent is increased in the computer lease to \$2,000, and in the office space lease to \$9,000. For 1972, it is determined that notwithstanding the terms of the leases \$6,000, or 54.5 percent (\$6,000/\$11,000), of the total rent is actually attributable to the computer as of that time. Even though the rent attributable to personal property now exceeds 50 percent of the total rent, the rent attributable to real property will continue to be excluded, since there was no modification of the terms of the leases and since the increase in the rent was not attributable to the placing of new personal property in service. See subparagraph (3)(v) of this paragraph. Thus, for 1972 the \$5,000 of rent attributable to the office space continues to be excluded from the computation of A's unrelated business taxable income by operation of section 512(b)(3).

**Example (3).** Assume the facts as stated in example (1), except that on January 1, 1973, B rents a second computer from A, which is placed in service on that date. The total rent is increased to \$2,000 for the computer lease and to \$10,000 for the office space lease. It is determined at the time the second computer is first placed in service that notwithstanding the terms of the leases \$7,000 of the rent is actually attributable to the computers. Since the rent attributable to personal property has increased by more than 100 percent (\$4,000/\$3,000 = 133 percent), a redetermination must be made pursuant to subparagraph (3)(v)(a) of this paragraph. As a result, 58.3 percent (\$7,000/\$12,000) of the total rent is determined to be attributable to personal property. Accordingly, since more than 50 percent of the total rent A receives is attributable to the personal property leased, none of the rents are excluded from the computation of A's unrelated business taxable income by operation of section 512(b)(3).

**Example (4).** Assume the facts as stated in example (3), except that on June 30, 1975, the lease between B and A is modified. The total rent for the computer lease is reduced to \$1,500 and the total rent for the office space lease is reduced to \$7,500. Pursuant to subdivision (3)(v)(b) of this paragraph, a redetermination is made as of June 30, 1975. As of the modification date, it is determined that notwithstanding the terms of the leases, the rent actually attributable to the computers is \$4,000, or 44.4 percent (\$4,000/\$9,000), of the total rent. Since less than 50 percent of the total rent is now attributable to personal property, the rent attributable to real property (\$5,000), for periods after June 30, 1975, is excluded from the computation of A's unrelated business taxable income by operation of section 512(b)(3). However, the rent attributable to personal property (\$4,000) are not excluded from unrelated business taxable income for such periods by operation of section 512(b)(3), since it represents more than an incidental portion of the total rents.

(5) **Rendering of services.** For purposes of this paragraph, payments for the use or occupancy of rooms and other space where services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, boarding houses, or apartment houses furnishing hotel services, or in tourist camps or tourist homes, motor courts, or motels, or for the use or occu-

pancy of space in parking lots, warehouses, or storage garages, does not constitute rent from real property. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only. The supplying of maid service, for example, constitutes such service; whereas the furnishing of heat and light, the cleaning of public entrances, exists, stairways, and lobbies, the collection of trash, etc., are not considered as services rendered to the occupant. Payments for the use or occupancy of entire private residences or living quarters in duplex or multiple housing units, of offices in any office building, etc., are generally treated as rent from real property.

**(1) Interest, annuities, royalties, and rents from controlled organizations—**

(i) **In general.** For taxable years beginning after December 31, 1969, if an exempt organization (hereinafter referred to as the "controlling organization") has control (as defined in subparagraph (4) of this paragraph) of another organization (hereinafter referred to as the "controlled organization"), the controlling organization shall include as an item of gross income in computing its unrelated business taxable income, the amount of interest, annuities, royalties, and rents derived from the controlled organization determined under subparagraph (2) or (3) of this paragraph. The preceding sentence shall apply whether or not the activity conducted by the controlling organization to derive such amounts represents a trade or business or is regularly carried on. Thus, amounts received by a controlling organization from the rental of its real property to a controlled organization may be included in the unrelated business taxable income of the controlling organization, even though the rental of such property is not an activity regularly carried on by the controlling organization.

(2) **Exempt controlled organization—**  
(i) **In general.** If the controlled organization is exempt from taxation under section 501(a), the amount referred to in subparagraph (1) of this paragraph is an amount which bears the same ratio to the interest, annuities, royalties, and rents received by the controlling organization from the controlled organization as the unrelated business taxable income of the controlled organization bears to whichever of the following amounts is the greater—

(a) The taxable income of the controlled organization, computed as though the controlled organization were not exempt from taxation under section 501(a), or

(b) The unrelated business taxable income of the controlled organization, both determined without regard to any amounts paid directly or indirectly to the controlling organization. The controlling organization shall be allowed all deductions directly connected with

amounts included in gross income under the preceding sentence.

(ii) **Examples.** This subparagraph may be illustrated by the following examples:

**Example (1).** A, an exempt scientific organization described in section 501(c)(3), owns all the stock of B, another exempt scientific organization described in section 501(c)(3). During 1971, A rents space for a laboratory to B for \$15,000 a year. A's total deductions for 1971 with respect to the leased property are \$3,000: \$1,000 for maintenance and \$2,000 for depreciation. If B were not an exempt organization, its total taxable income would be \$300,000, disregarding rent paid to A. B's unrelated business taxable income, disregarding rent paid to A, is \$100,000. Under these circumstances, \$4,000 of the rent paid by B will be included by A as net rental income in determining its unrelated business taxable income, computed as follows:

|                                                                                             |           |
|---------------------------------------------------------------------------------------------|-----------|
| B's unrelated business taxable income (disregarding rent paid to A)                         | \$100,000 |
| B's taxable income (computed as though B were not exempt and disregarding rent paid to A)   | \$300,000 |
| Ratio (\$100,000/\$300,000)                                                                 | 1:3       |
| Total rent                                                                                  | \$15,000  |
| Total deductions                                                                            | \$3,000   |
| Rental income treated as gross income from an unrelated trade or business (1/3 of \$15,000) | \$5,000   |
| Less deductions directly connected with such income (1/3 of \$3,000)                        | \$1,000   |
| Net rental income included by A in computing its unrelated business taxable income          | \$4,000   |

**Example (2).** Assume the facts as stated in example (1), except that B's taxable income is \$90,000 (computed as though B were not an exempt organization, and disregarding rents paid to A). B's unrelated business taxable income (\$100,000) is therefore greater than its taxable income (\$90,000). Thus, the ratio used to determine the portion of rent received by A which is to be taken into account is one since both the numerator and denominator of such ratio is B's unrelated business taxable income. Consequently, all the rent received by A from B (\$15,000), and all the deductions directly connected therewith (\$3,000), are included by A in computing its unrelated business taxable income.

(3) **Nonexempt controlled organization—**  
(i) **In general.** If the controlled organization is not exempt from taxation under section 501(a), the amount referred to in subparagraph (1) of this paragraph is an amount which bears the same ratio to the interest, annuities, royalties, and rents received by the controlling organization from the controlled organization as the "excess taxable income" (as defined in subdivision (ii) of this subparagraph) of the controlled organization bears to whichever of the following amounts is the greater—

(a) The taxable income of the controlled organization, or

(b) The excess taxable income of the controlled organization, both determined without regard to any amount paid directly or indirectly to the controlling organization. The controlling organization shall be allowed all deductions which are directly connected with amounts included in gross income under the preceding sentence.



(ii) *Excess taxable income.* For purposes of this paragraph, the term "excess taxable income" means the excess of the controlled organization's taxable income over the amount of such taxable income which, if derived directly by the controlling organization, would not be unrelated business taxable income.

(iii) *Examples.* This subparagraph may be illustrated by the following examples:

*Example (1).* A, an exempt university described in section 501(c)(3), owns all the stock of M, a nonexempt organization. During 1971, M leases a factory and a dormitory from A for a total annual rental of \$100,000. During the taxable year, M has \$500,000 of taxable income, disregarding the rent paid to A: \$150,000 from a dormitory for students of A university, and \$350,000 from the operation of a factory which is a business unrelated to A's exempt purpose. A's deductions for 1971 with respect to the leased property are \$4,000 for the dormitory and \$16,000 for the factory. Under these circumstances, \$56,000 of the rent paid by M will be included by A as net rental income in determining its unrelated business taxable income, computed as follows:

|                                                                                                               |                |
|---------------------------------------------------------------------------------------------------------------|----------------|
| M's taxable income (disregarding rent paid to A).....                                                         | \$500,000      |
| Less taxable income from dormitory .....                                                                      | 150,000        |
| Excess taxable income.....                                                                                    | \$350,000      |
| Ratio (\$350,000/\$500,000).....                                                                              | $\frac{7}{10}$ |
| Total rent paid to A.....                                                                                     | \$100,000      |
| Total deductions (\$4,000+\$16,000) ..                                                                        | 20,000         |
| Rental income treated as gross income from an unrelated trade or business ( $\frac{7}{10}$ of \$100,000)..... | \$70,000       |
| Less deductions directly connected with such income ( $\frac{7}{10}$ of \$20,000) ..                          | \$14,000       |
| Net rental income included by A in computing its unrelated business taxable income.....                       | \$56,000       |

*Example (2).* Assume the facts as stated in example (1), except that M's taxable income (disregarding rent paid to A) is \$300,000, consisting of \$350,000 from the operation of the factory and a \$50,000 loss from the operation of the dormitory. Thus, M's "excess taxable income" is also \$300,000, since none of M's taxable income would be excluded from the computation of A's unrelated business taxable income if received directly by A. The ratio of M's "excess taxable income" to its taxable income is therefore one (\$300,000/\$300,000). Thus, all the rent received by A from M (\$100,000), and all the deductions directly connected therewith (\$20,000), are included in the computation of A's unrelated business taxable income.

(4) *Control.*—(i) *In general.* For purposes of this paragraph—

(a) *Stock corporation.* In the case of an organization which is a stock corporation, the term "control" means ownership by an exempt organization of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of such corporation.

(b) *Nonstock organization.* In the case of a nonstock organization, the term "control" means that at least 80 percent of the directors or trustees of such organization are either representatives of or

directly or indirectly controlled by an exempt organization. A trustee or director is a representative of an exempt organization if he is a trustee, director, agent, or employee of such exempt organization. A trustee or director is controlled by an exempt organization if such organization has the power to remove such trustee or director and designate a new trustee or director.

(ii) *Gain or loss of control.* If control of an organization (as defined in subdivision (i) of this subparagraph) is acquired or relinquished during the taxable year, only the interest, annuities, royalties, and rents paid or accrued to the controlling organization in accordance with its method of accounting for that portion of the taxable year it has control shall be subject to the tax on unrelated business income.

(5) *Amounts taxable under other provisions of the Code.*—(i) *In general.* Section 512(b)(15) and this paragraph do not apply to amounts which are included in the computation of unrelated business taxable income by operation of any other section of the Code. However, amounts which are not included in unrelated business taxable income by operation of section 512(a)(1), or which are excluded by operation of section 512(b)(1), (2), or (3), may be included in unrelated business taxable income by operation of section 512(b)(15) and this paragraph.

(ii) *Debt-financed property.* Rents derived from the lease of debt-financed property by a controlling organization to a controlled organization are subject to the rules contained in section 512(b)(15) and this paragraph. Thus, if a controlling organization leases debt-financed property to a controlled organization, the amount of rents includible in the controlling organization's unrelated business taxable income shall first be determined under section 512(b)(15) and this paragraph, and only the portion of such rents not taken into account by operation of section 512(b)(15) are taken into account by operation of section 514. See example (3) of § 1.514(b)-1(b)(3).

[FR Doc.72-5371 Filed 4-7-72;8:45 am]

[T.D. 7179]

# PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

## Trusts—Election Regarding Amounts Distributed in First 65 Days of Taxable Year

In order to clarify the rules relating to the election by the fiduciary of a trust to treat certain amounts distributed by the trust during the first 65 days following the close of a taxable year as distributed on the last day of such taxable year, subparagraph (1) of paragraph (a) of § 13.6 of the Temporary Income Tax Regulations under the Tax Reform Act of 1969 (26 CFR Part 13) is amended to read as follows:

§ 13.6 Accumulation trusts; 65 day election; "first taxable year in which income is accumulated."

(a) *Election regarding distributions in first 65 days of taxable year.*—(1) *In general.* With respect to taxable years beginning after December 31, 1968, the fiduciary of a trust may elect under section 663(b) to treat any amount or portion thereof that is properly paid or credited to a beneficiary within the first 65 days following the close of the taxable year as an amount that was properly paid or credited on the last day of such taxable year. An election is effective only with respect to the taxable year for which the election is made. In the case of distributions made after May 8, 1972, the amount to which the election applies shall not exceed—

(i) The amount of income of the trust (as defined in § 1.643(b)-1) of this chapter for the taxable year for which the election is made, or

(ii) The amount of distributable net income of the trust (as defined in §§ 1.643(a)-1 through 1.643(a)-7 of this chapter) for such taxable year, if greater.

reduced by any amounts paid, credited, or required to be distributed in such taxable year other than those amounts considered paid or credited in a preceding taxable year by reason of section 663(b) and this section. An election shall be made for each taxable year for which the treatment is desired. The application of this paragraph may be illustrated by the following example:

*Example.* X Trust, a calendar year trust, has \$1,000 of income (as defined in § 1.643(b)-1) and \$800 of distributable net income (as defined in § 1.643(a)-1 through 1.643(a)-7) in 1972. The trust properly pays \$550 to A, a beneficiary, on January 15, 1972, which the trustee elects to treat under section 663(b) as paid on December 31, 1971. The trust also properly pays to A \$600 on July 19, 1972, and \$450 on January 17, 1973. For 1972, the maximum amount to which the election made under this paragraph may apply is \$400 (\$1,000-\$600). The \$550 paid on January 15, 1972, does not reduce the maximum amount to which the election may apply because that amount is treated as properly paid on December 31, 1971.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNIE M. WALTERS,  
Commissioner of Internal Revenue.

Approved: April 4, 1972.

FREDERIC W. HICKMAN,  
Acting Assistant Secretary of  
the Treasury.

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