

contributions or income, or items received as a result of sales, investments, reinvestment, interest or otherwise. It would not, however, be necessary to count the same item twice in arriving at the total funds "handled" by a given person during a reporting year. For example, a given person may have various duties or powers involving receipt, safekeeping or disbursement of funds which would place him in contact with the same funds at several times during the same year. Different duties, however, would not make it necessary to count the same item twice in arriving at the total "handled" by him. Similarly, where a person has several different positions with respect to a plan, it would not be necessary to count the same funds each time that they are "handled" by him in these different positions, so long as the amount of the bond is sufficient to meet the 10 percent requirement with respect to the total funds "handled" by him subject to risk or loss through fraud or dishonesty, whether acting alone or in collusion with others. In general, once an item properly within the category of "funds," has been counted as "handled" by a given person, it need not be counted again even though it should subsequently be "handled" by the same person during the same year.

§ 2580.412-15 Procedures to be used for estimating the amount of funds to be "handled" during the current reporting year in those cases where there is no preceding reporting year.

If for any reason a plan does not have a complete preceding reporting year, the amount "handled" by persons required to be covered by a bond shall be estimated at the beginning of the calendar, policy or other fiscal year, as the case may be, which would constitute either the operating year or the reporting year of the plan, whichever shall occur first, as follows:

(a) In the case of a plan having a previous experience year, even though it has no preceding reporting year, the estimate of the amount to be "handled" for any person required to be covered shall be based on the experience in the previous year by applying the same standards and criteria as in a plan which has a preceding reporting year.

Similarly, where a plan is recently established, but has had, at the time a bond is obtained, sufficient experience to reasonably estimate a complete year's experience for persons required to be bonded, the amount of funds to be "handled" shall be projected to the complete year on the basis of the period in which the plan has had experience, unless, to the knowledge of the plan administrator, the given period of experience is so seasonal or unrepresentative of the complete year's experience as not to provide a reasonable basis for projecting the estimate for the complete year.

(b) Where a plan does not have any prior experience sufficient to allow it to estimate the amount "handled" in the manner outlined in paragraph (a) of this section, the amount to be "handled" by the administrators, officers and employees of the plan during the current reporting year shall be that amount initially required to fund or set up the plan, plus the amount of contributions required to be made under the plan formula from any source during the current reporting year. In most cases, the amount of contributions will be calculated by multiplying the total yearly contribution per participant (required by the plan formula from either employers, employees, employer organizations or any other source) by the number of participants in the plan at the beginning of such reporting year. In cases where the per capita contribution cannot readily be determined, such as in the case of certain insured plans covered by the Act, the amount of contributions shall be estimated on the amount of insurance premiums which are actuarially estimated as necessary to support the plan, or on such other actuarially estimated basis as may be applicable. In the case of a newly formed profit-sharing plan covered by the Act, if the employer establishing the plan has a previous year of experience, the amount of contributions required by the plan formula shall be estimated on the basis of the profits of the previous year. The amount of the bond shall then be fixed at 10 percent of this calculation, but not more than \$500,000. A bond for such amount shall be obtained in any form the plan desires on all persons who are

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administrators, officers, or employees of the plan and who “handle” funds or other property of the plan.

§ 2580.412-16 Amount of bond required in given types of bonds or where more than one plan is insured in the same bond.

(a) As indicated in § 2580.412-10, the Act permits the use of blanket, schedule and individual forms of bonds so long as the amount of the bond penalty is sufficient to meet the requirements of the Act for any person who is an administrator, officer or employee of a plan handling funds or other property of the plan. Such person must be bonded for 10 percent of the amount he handles, and the amount of the bond must be sufficient to indemnify the plan for any losses in which such person is involved up to that amount.

(b) When individual or schedule bonds are written, the bond amount for each person must represent not less than 10 percent of the funds “handled” by the named individual or by the person in the position. When a blanket bond is written, the amount of the bond shall be at least 10 percent of the highest amount handled by any administrator, officer or employee to be covered under the bond. It should also be noted that if an individual or group or class covered under a blanket bond “handle” a large amount of funds or other property, while the remaining bondable persons “handle” only a smaller amount, it is permissible to obtain a blanket bond in an amount sufficient to meet the 10 percent requirements for all except the individual, group or class “handling” the larger amounts, with respect to whom excess indemnity shall be secured in an amount sufficient to meet the 10 percent requirement.

(c) The Act does not prohibit more than one plan from being named as insured under the same bond. However, any such bond must allow for recovery by each plan in an amount at least equal to that which would be required if bonded separately. This requirement has application where a person or persons sought to be bonded pursuant to the requirements of section 13 have “handling” functions in more than one plan covered under the bond. Where such is the case, the amount of the

bond must be sufficient to cover any such persons having functions in more than one plan for at least 10 percent of the total amount “handled” by them in all the plans covered under the bond. For example, X is the administrator of two welfare plans run by the same employer and he “handled” \$100,000 in the preceding reporting year for Plan A and \$500,000 in the preceding reporting year for Plan B. If both plans are covered under the same bond, the amount of the bond with respect to X shall be at least \$60,000 or ten percent of the total “handled” by X for both plans covered under the bond in which X has powers and duties of “handling” since Plan B is required to carry bond in at least the amount of \$50,000 and Plan A, \$10,000.

(d) Additionally, in order to meet the requirement that each plan be protected, it shall be necessary that arrangement be made either by the terms of the bond or rider to the bond or by separate agreement among the parties concerned, that payment of a loss sustained by one of such insureds shall not work to the detriment of any other plan covered under the bond with respect to the amount for which that plan is required to be covered. For example, if Plan A suffered a loss of \$30,000 as described above and such loss was recompensed in its entirety by the surety company, it would receive \$20,000 more than the \$10,000 protection required under section 13, and only \$30,000 would be available for recovery with respect to further losses caused by X. In a subsequently discovered defalcation of \$40,000 by X from Plan B, it would be necessary that the bond, rider, or separate agreement provide that such amount of recovery paid to Plan A in excess of the \$10,000 for which it is required to be covered, be made available by such insured to, or held for the use of, Plan B in such amount as Plan B would receive if bonded separately. Thus, in the instant case, Plan B would be able to recover the full \$40,000 of its loss. Where the funds or other property of several plans are commingled (if permitted by law) with each other or with other funds, such arrangement shall allow recovery to be attributed proportionately to the amount for which each plan is required