

REPLY FROM THE RENEGOTIATION BOARD

THE RENEGOTIATION BOARD,
Washington, D.C., March 9, 1965.

Hon. JOHN E. MOSS,
Chairman, Foreign Operations and Government Information Subcommittee,
Committee on Government Operations, House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your letter dated February 12, 1965, requesting information on the relation of section 3 of the Administrative Procedure Act (5 U.S.C. 1002) to the activities of this agency. The paragraphs that follow are numbered to correspond with the questions in your letter.

1. The only functions of the Renegotiation Board are those delineated in the Renegotiation Act of 1951. Section 111 excludes such functions from the operation of the Administrative Procedure Act, except as to the requirements of section 3 thereof. Thus, section 3 applies to all the functions of this agency. There are no divisions, bureaus, branches, or other constituent units of this agency to which the section does not apply.

2. (a) Official descriptions of the central and field organization of the Board are published in the Federal Register in the form of Renegotiation Board Regulations from time to time, as changes are made, and annually in the U.S. Government Organization Manual. Publication thereof is also made in the Renegotiation Board Regulations manual printed by the Government Printing Office and available to the general public by subscription. The central and field organization is also described in a pamphlet entitled "Renegotiation—What It Is, How It Works," available to the general public.

(b) Statements of the general course and method by which the functions of the Board are channeled and determined are published officially in the Federal Register in the form of Renegotiation Board Regulations, as adopted from time to time. Publication thereof is also made in the manual of such regulations, referred to in (a) above. Explanations thereof are also furnished to the general public in a booklet entitled "Instructions for Filing Renegotiation Reports" and the pamphlet entitled "Renegotiation—What It Is, How It Works."

(c) Substantive rules adopted as authorized by law are published officially in the form of Renegotiation Board Regulations, as adopted from time to time. Publication is also made in the manual of such regulations.

(d) Statements of general policy and interpretations formulated and adopted by the Board for the guidance of the public are published officially in the Federal Register in the form of Renegotiation Board Regulations, as adopted from time to time. They are also published in the manual of such regulations. Additional guidance to the public is issued from time to time in the form of renegotiation rulings and renegotiation bulletins.

(e) The Board does not publish its orders to or agreements with contractors for the elimination of excessive profits (see 3 and 4, below).

3. The extent to which the Board makes its records available for public inspection is described in its regulations, as follows:

(a) Section 1480.4(a) of the Renegotiation Board Regulations provides:

(a) *The public.*—Upon request to the Secretary of The Renegotiation Board, Washington, D.C., any person may inspect during usual business hours, at the office of the Secretary, a copy of the transcript of any official Board actions granting exemptions of contracts from renegotiation under the act, except in cases where such Board action is of a nature required to be held confidential for good cause. The purpose of this paragraph (a) is to make available for public inspection Board actions on applications for exemptions, when such actions are not issued as regulations and are not required to be held confidential for good cause.

(b) Section 1480.8 of the Renegotiation Board Regulations provides:

Opinions and orders.—Except as authorized in section 1480.4(a), opinions and orders will not be published or made available to the public under section 3(b) of the Administrative Procedure Act, inasmuch as they are regarded as confidential for good cause shown, by reason of the confidential data furnished by contractors and relating to their business, and included therein. For the purposes of this paragraph, the term "opinion" includes a statement furnished pursuant to part 1477 of this subchapter and the term "order" includes an agreement to eliminate excessive profits, as well as a unilateral determination. Opinions and orders are not cited as precedents in any renegotiation proceedings.