

*U. A. LOCAL NO. 467 DEFINED BENEFIT PENSION PLAN  
U. A. LOCAL NO. 467 DEFINED CONTRIBUTION PLAN*

*PROCEDURE FOR DETERMINING QUALIFIED STATUS OF  
DOMESTIC RELATIONS ORDERS*

**I. PROVISIONS OF A QUALIFIED DOMESTIC RELATIONS ORDER**

The above-named Pension Plans must pay all benefits due to the Participant at the time of retirement under the anti-alienation provisions of the Internal Revenue Code, ERISA and the Trust Agreement. However, the Retirement Equity Act of 1984 requires that all pension plans comply with a domestic relations court order if it is "qualified." A Qualified Domestic Relations Order must meet the requirements of the Internal Revenue Code [26 U.S.C. § 414(p)] and the Employees Retirement Income Security Act [29 U.S.C. § 1056(d)].

**A. Required Provisions.**

In order to be "qualified," an order *must*:

- 1) Be a court order, including a court-approved property settlement, which is made pursuant to state domestic relations law and which relates to:
  - (a) child support;
  - (b) alimony or spousal maintenance; or
  - (c) spousal property rights.
- 2) Create a right for payment of benefits due the Participant under the Plan(s) to an "Alternate Payee." Only a spouse, former spouse, child or other dependent of the Participant can be an Alternate Payee under federal law, and an Alternate Payee is considered a beneficiary under the Plan(s).
- 3) Include the following information:
  - (a) the name and last known address of the Participant;
  - (b) the name and last known address of the Alternate Payee;
  - (c) the amount or percentage of the Participant's benefits to be paid by the Plan(s) to each Alternate Payee, or the method by which that amount or percentage will be determined in the future;
  - (d) the number of payments to be made to the Alternate Payee, or the period of time covered by the order; and
  - (e) the name of each Plan to which the order applies.

B. Prohibited Provisions.

In order to be "qualified," an order *must not*:

- 1) Require the Plan(s) to provide any type or form of benefit, or any option, which is not otherwise provided to beneficiaries under the Plan(s);
- 2) Require payment of benefits to an Alternate Payee in excess of what is required by the Plan(s), determined on the basis of actuarial values;
- 3) Require payment of benefits to an Alternate Payee which are required to be paid to another Alternate Payee under another order previously determined to be a Qualified Domestic Relations Order; or
- 4) Require payment in the form of a joint and survivor annuity for an Alternate Payee and his or her subsequent spouse.

C. Other Provisions.

A "qualified" order *may*:

- 1) If made pursuant to a state domestic relations law, require that an Alternate Payee may elect to begin receiving benefits at any time after the Participant attains the earliest retirement age under the Plan(s), even if the Participant continues to accrue benefits after that date, up until the time of the Participant's actual retirement. *However, such payments to an Alternate Payee shall be calculated without regard to any early retirement subsidies available to the Participant and shall take into account only the present value of benefits actually accrued, pursuant to 29 U.S.C. § 1056(d)(3)(E). Therefore, if such an order is made, an alternate payee's benefit will be reduced substantially, because the Defined Benefit Plan's early retirements are heavily subsidized.*
- 2) Require that an Alternate Payee shall be deemed a surviving spouse under the Plan(s) for the purpose of receiving a portion of any death or survivor benefits available to beneficiaries under the Plan(s), pursuant to 29 U.S.C. § 1056(d)(3)(F). However, the normal form of retirement benefit under the Defined Benefit Plan is a life annuity for the life of the Participant (with a guaranteed payment period specified in the Plan, and *any survivor annuities and contingent beneficiary options which extend benefits beyond the Participant's lifetime are subject to reduction. Unless otherwise provided in a qualified order, an Alternate Payee will bear the cost of extending the benefit beyond the lifetime of the Participant.*

- 3) Require that an Alternate Payee's survivor benefit shall be based solely upon Alternate Payee's one-half community property share of the Participant's benefit, as defined in a qualified order, *or* require that an Alternate Payee's survivor benefit shall be based on the entire community property share, as defined in a qualified order. *However, if an Alternate Payee's survivor benefit is based on the entire community property share, the Participant will forfeit the ability to include his or her one-half share of the community property portion of the total benefit in a survivorship option to a subsequent beneficiary.*
- 4) Provide for division of disability retirement benefits. However, unless otherwise provided in a qualified order, if the Participant should receive a disability retirement prior to the earliest non-disability retirement date permitted under the Plan(s), the Participant's monthly benefit shall be his or her separate property until he or she attains the earliest non-disability retirement age permitted under the Plan(s). If Participant receives a disability retirement at any time after the earliest retirement date permitted under the Plan(s) but prior to normal retirement age, the difference between Participant's disability retirement benefit and the benefit which would otherwise be payable to Participant under a non-disability retirement shall be Participant's separate property.

## II. ADMINISTRATIVE PROCEDURES

### A. Notification.

- 1) Upon receipt of any domestic relations order, or proposed domestic relations order, the Plan Contract Manager shall send a copy of the domestic relations order or proposed order to legal counsel for the Plan(s), and shall request a legal opinion as to whether the order is "qualified."
- 2) The Plan Contract Manager, through legal counsel, shall promptly notify the Participant and each Alternate Payee of receipt of the order, and shall send each a copy of these procedures. An Alternate Payee may designate a representative to receive all notices sent to an Alternate Payee in connection with the order.
- 3) Within a reasonable period of time, the Plan Contract Manager, through legal counsel for the Plan(s), shall determine whether such order is "qualified." As soon as any domestic relations order is confirmed as "qualified" or not by written opinion of legal counsel for the Plan(s), the Participant and each Alternate Payee shall be notified of such determination. If, in the opinion of counsel, the order is not "qualified," the Participant and Alternate Payee(s)

will be notified of the reasons.

B. Joinder.

- 1) The Plan(s) should be joined as a claimant in the dissolution proceeding, as set forth and required under California Family Code §§ 2060-2065.
- 2) Upon service of a proper Order of Joinder, or upon receipt of written notice of adverse interest under California Family Code § 755, the Plan(s) will not distribute the portion of Participant's interest in the Plan(s) sought to be attached by the spouse or former spouse. The Plan(s) will hold this interest in escrow for a reasonable period of time to allow the parties time to obtain a Qualified Domestic Relations Order.

C. Escrow for Determination Period.

- 1) During any period in which the issue of whether a domestic relations order is "qualified" is being determined (by the plan administrator, by a court of competent jurisdiction, or otherwise), the Plan Contract Manager shall separately account for the amounts, if any, (the "segregated amounts") which would have been payable to the Alternate Payee during such period if the order had been determined to be a Qualified Domestic Relations Order.
- 2) In the event the order is determined to be a Qualified Domestic Relations Order within 18 months after receipt, the segregated amounts shall be paid to the alternate payee. If the order is determined not to be qualified, the segregated amounts shall be paid to the Participant.
- 3) If the qualified status of any domestic relations order is not resolved for more than 18 months after receipt by the Plan(s), the segregated amounts shall be paid to the Participant. If the domestic relations order is at any time thereafter found to be "qualified," its application shall be prospective only.

D. Preferred Qualified Domestic Relations Order Form.

In order to reduce attorney fees for participants, alternate payees and the Plan(s), the Plan(s) will provide upon request a proposed Qualified Domestic Relations Order which contains language acceptable to the Plan(s). It is the responsibility of the Participant and the Alternate Payee to be certain that the provisions of any proposed domestic relations order, whether provided by the Plan(s) or not, are acceptable to the Participant and the Alternate Payee.