

## Bureau of Indian Affairs, Interior

## § 16.5

(c) The term *Field Solicitor* means the Regional Solicitor, Southwest Region, Page Belcher Federal Building, P.O. Box 3156, Tulsa, Oklahoma 74101.

(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 personal 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.

[37 FR 7082, Apr. 8, 1972, as amended at 50 FR 12529, Mar. 29, 1985]

### § 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 rep-

resent 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