



International Painters and Allied Trades **Industry Pension Fund**

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NOTICE OF FUNDING IMPROVEMENT PLAN **INTERNATIONAL PAINTERS AND ALLIED TRADES INDUSTRY PENSION PLAN** (EIN 52-6073909, Plan No. 001)

Introduction

This is a Notice to the Bargaining Parties of a Funding Improvement Plan (“FIP”) adopted pursuant to Section 432 of the Internal Revenue Code (“IRC”), 26 U.S.C. §432, and Section 305 of the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. §1085, by the Board of Trustees of the International Painters and Allied Trades Industry Pension Fund, the “plan sponsor” of the International Painters and Allied Trades Industry Pension Plan (“Plan”).

Under the current Plan of Benefits, hourly contributions at the rate in effect on January 1, 2006 receive an accrual rate of one percent (1%) and increased contributions after January 1, 2006 receive a two percent (2%) accrual rate on the increased amount. Effective January 1, 2010, the accrual rate will be one half percent (0.5%) of contributions and a one percent (1%) accrual rate on the amount that contributions increased after January 1, 2006. This Plan Amendment was adopted separate and apart from the FIP.

Endangered Status and Rules

Under the Pension Protection Act (“PPA”), pension plans are placed in different categories, depending upon their current funding level, and whether there is any projected funding deficiency over the next several years. On an annual basis, the Plan’s actuaries are legally required to certify the status of the Plan under the PPA. The Plan actuary has certified that the Plan is in the “yellow,” or “endangered” zone, meaning that it has a current funding level that is less than 80%, but, there are no anticipated funding deficiencies within the next several years.

Once a pension plan is classified as endangered, the Trustees are legally obligated to develop what is known as a “Funding Improvement Plan,” which must reduce the Plan’s underfunded status by one-third over a period of not more than thirteen (13) years. The Plan is currently 72.1% funded under the PPA test. Under the PPA, that means that the Plan is viewed as having a shortfall in funding of 27.9% (100% - 72.1% = 27.9%). The law requires that one-third of that deficiency, or 9.3%, be eliminated over a thirteen (13) year period beginning January 1, 2012 and ending December 31, 2024.

Options for Bargaining Parties

The law requires two options for the bargaining parties. The Trustees have adopted Option 1 as the Funding Improvement Plan (FIP) for the Plan.

Option 1 - Funding Improvement Plan Schedule. By law, one option must propose increases in contributions under the plan necessary to achieve the funding target and avoid a funding deficiency, and assume no amendments reducing future benefit accruals under the plan.

Under Option 1, the Plan is expected, over a thirteen (13) year period running from 2012 to 2025, to increase the funded percentage for the Plan to a level of 82%. The Trustees will review progress annually against the funding percentage target and funding requirements, using updated data to test assumptions on asset earnings and liabilities toward the 33% improvement in the funding percentage required by the PPA. It is legally possible for the Plan to achieve its goals and leave the “yellow” zone and its rules earlier than 2025.

In order to achieve this objective, the Trustees adopted the following plan for Option 1.

- *Contributions.* Effective January 1, 2012, each employer’s hourly contribution rate in effect as of March 1, 2009 must be increased by a supplemental contribution equal to 35% of that rate.
- *Benefits.* The supplemental 35% contribution will not yield any additional benefit for the participant, but will be used solely to offset the unfunded liability of the Pension Plan and to secure the objective of the FIP. Participants under the Option 1 contribution schedule will, in addition to the benefit accrual provided in the Plan of Benefits, continue to be eligible for existing disability retirement benefits, early retirement credits and death benefits under the Plan of Benefits.
- *Early Increase Incentive.* The Board of Trustees anticipated that many District Councils, Local Unions and signatory employers will need to plan ahead and increase contribution levels, in order to satisfy the FIP, ahead of time. The Trustees will allow, and encourage, District Councils, Local Unions and signatory contractors to elevate their contribution rates early in order to get the contributions to the Pension Plan for the supplemental contribution as promptly as possible. For those parties that choose to elevate their contribution rates earlier than January 1, 2012, the Plan will provide a benefit accrual of two percent (2%) of contributions for increases up to the 35% supplemental contribution that is received prior to January 1, 2012. Then, as of January 1, 2012, when the 35% supplemental contribution goes into effect, this extra contribution will simply be converted into the supplemental contribution (and no further benefits for the participant will be received on that extra 35%). In this manner, no party need be concerned about modifying its collective bargaining agreement early in order to get the extra 35% percent built into its contribution rate – the members and participants will benefit from that extra money paid early by accumulating a 2% benefit on it.

Option 2 - Default Schedule. The default schedule is the other option. By law, the default schedule must: (1) eliminate future benefit accruals and other benefits to the maximum extent permitted by law, and (2) assume that there are no increases in contributions under the plan (other than the increases necessary to meet the funding target and avoid a funding deficiency after benefits are frozen).

Under Option 2, *generally effective January 1, 2012*, the signatory employer will be required to continue to make contributions to the Plan in an amount not less than the hourly contribution rate in effect as of March 1, 2009 plus a supplemental contribution to this contribution rate in the amount of fifteen percent (15%). In addition, participants working under a “default option” rate will not receive any benefit accrual for such contributions on or after January 1, 2012 or a later default schedule date (in other words, benefits are frozen) and will not be eligible for disability or death benefits (other than a legally mandated pre-retirement surviving spouse annuity) and early retirement benefits (reduced and unreduced) will also be frozen at the amount earned through the default schedule effective date and will not be increased for future service.

There are no other contribution options. The PPA prohibits a direct or indirect reduction in contributions from now through 2024 and assesses an excise tax to the IRS for any difference between actual contributions and the rate required by a FIP after 2011. An employer who fails to contribute in accordance with the PPA may also be deemed to have withdrawn and be assessed withdrawal liability.

Endangered Status Limitations

Some limits apply regardless of the agreement or schedule adopted by the bargaining parties.

Contribution Reductions. After a certification of endangered status and throughout the funding improvement plan period running to 2024, the plan may not accept a contribution agreement that provides a reduction in the level of contributions for any participants, a suspension of contributions with respect to any period of service, or any new direct or indirect exclusion of younger or newly hired employees from plan participation. Rejection of the contract may cause a withdrawal and assessment of withdrawal liability.

Benefit Increases. Until January 2012, no plan amendment can increase the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become vested. (The plan can still increase liabilities by an amendment that is required by the IRS to maintain the tax-exempt “qualified” status of the plan, or to comply with other applicable law). After 2011, the plan may only increase benefits, including future benefit accruals, if the Plan actuary certifies that the increase is paid for out of additional contributions not contemplated by the funding improvement plan to reach the funding target and avoid a funding deficiency, and, is consistent with the funding improvement plan.

Implementation

The Trustees must implement the default schedule if a collective bargaining agreement providing for contributions to the plan that was in effect at the time the Plan entered endangered status (January 1, 2009) expires, and after receiving the notice of the funding improvement plan and schedules, the bargaining parties fail to adopt a contract with contribution or benefit schedules consistent with the funding improvement plan and schedules. The law sets a deadline of 180 days after expiration of the collective bargaining agreement for such changes.

Participation agreements for non-bargained employees are treated as collective bargaining agreements for purposes of the default schedule rules. The participation agreement is deemed to expire with the main agreement for the employer's union employees or, if there is no such agreement, the end of the plan year in which this notice of the funding improvement plan is given.

Conclusion

The current Funding Improvement Plan (FIP) needs to be addressed for negotiations this year to prepare for the legal requirements that take effect in 2012. Under the PPA, the bargaining parties may rely on the current schedule of required contribution rates in negotiating a collective bargaining agreement, and those rates will remain in effect for the duration of that collective bargaining agreement. After 2009, the Trustees will review the Funding Improvement Plan annually and file any update with the Plan's Form 5500.

BOARD OF TRUSTEES
INTERNATIONAL PAINTERS AND ALLIED TRADES INDUSTRY PENSION FUND

Date Mailed: April 30, 2009