

## **NOTICE OF CRITICAL STATUS**

### **CENTRAL NEW YORK LABORERS PENSION FUND**

(E.I.N. No.: 15-6016579; Plan No.: 001)

October 27, 2010

To: Central New York Laborers Pension Fund Participants and Beneficiaries  
Laborers International Union of North America, Local No. 633,  
Independent Contributing Employers, and Multiemployer Bargaining Associations

This is to inform you that on September 27, 2010 the plan actuary certified to the U.S. Department of the Treasury, and also to the plan sponsor, that the plan is in critical status for the plan year beginning July 1, 2010. Federal law requires that you receive this Notice.

#### **Critical Status**

The plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the plan's actuary determined that over the next three plan years, the plan has an accumulated funding deficiency for the 2011 plan year.

#### **Rehabilitation Plan and Possibility of Reduction in Benefits**

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. The law permits pension plans to reduce, or even eliminate, benefits called "adjustable benefits" as part of a rehabilitation plan. If the trustees of the plan determine that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits (other than a repeal of a recent benefit increase, as described below) will not reduce the level of a participant's basic (non-adjustable) benefit payable at normal retirement. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after October 27, 2010. But you should know that whether or not the Fund reduces adjustable benefits in the future, effective as of October 27, 2010, the plan is not permitted to pay lump sum benefits (or any other payment in excess of the monthly amount paid under a single life annuity) while it is in critical status.

#### **Adjustable Benefits**

The plan offers the following adjustable benefits which may be reduced or eliminated as part of any rehabilitation plan the pension plan may adopt: (i) Post-retirement death benefits; (ii) Disability benefits (if not yet in pay status); (iii) Early retirement benefits; (iv) Benefit payment options other than a qualified joint-and survivor annuity ("QJSA"); and (v) sixty-month payment guarantee.

## **Employer Surcharge**

The law requires that all contributing employers pay to the plan a surcharge to help correct the plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the plan under the applicable collective bargaining agreement. With some exceptions, a 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding plan year thereafter in which the plan is in critical status.

The Trustees have been advised that certain of the bargaining parties consummated a contract that included the anticipated contributions to be required by the 2010 Rehabilitation Plan of 50 cents per hour to be temporarily allocated into the Health and Welfare Fund contribution rate with the bargaining parties having the right to reallocate the 50 cents per hour into the Pension Fund contribution rate. When such contribution amendment is timely implemented, any applicable surcharge will not be levied.

### **WHERE TO GET MORE INFORMATION**

For more information about this Notice, you may contact:

Central New York Laborers Pension Fund  
Janet Moro, Fund Administrator  
7051 Fly Road  
East Syracuse, New York 13057-9659  
Telephone: (315) 434-9305

You have a right to receive a copy of the rehabilitation plan from the Fund.

**CENTRAL NEW YORK LABORERS  
PENSION FUND BOARD OF  
TRUSTEES**

cc: United States Department of Labor  
Employee Benefits Security Administration  
Public Disclosure Room, N-1513  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210  
[criticalstatusnotice@dol.gov](mailto:criticalstatusnotice@dol.gov)

Pension Benefit Guaranty Corporation  
Multiemployer Program Division  
1200 K Street, N.W., Suite 930  
Washington, D.C. 20005  
[multiemployerprogram@pbgc.gov](mailto:multiemployerprogram@pbgc.gov)

# ANNUAL FUNDING NOTICE FOR CENTRAL NEW YORK LABORERS' PENSION PLAN

## Introduction

This notice includes important funding information about your pension plan ("the Plan"). This notice also provides a summary of federal rules governing multiemployer plans in reorganization and insolvent plans and benefit payments guaranteed by the Pension Benefit Guaranty Corporation (PBGC), a federal agency. This notice is for the plan year beginning July 1, 2009 and ending June 30, 2010 (referred to hereafter as "Plan Year").

## Funded Percentage

The funded percentage of a plan is a measure of how well that plan is funded. This percentage is obtained by dividing the Plan's assets by its liabilities on the valuation date for the plan year. In general, the higher the percentage, the better funded the plan. The Plan's funded percentage for the Plan Year and 2 preceding plan years is set forth in the chart below, along with a statement of the value of the Plan's assets and liabilities for the same period.

<b>Plan Year Beginning</b>	July 1, 2009	July 1, 2008	July 1, 2007
<b>Valuation Date</b>	July 1, 2009	July 1, 2008	July 1, 2007
<b>Funded Percentage</b>	59.8%	72.6%	not applicable
<b>Value of Assets</b>	\$32,831,180	\$39,736,644	\$44,836,964
<b>Value of Liabilities</b>	\$54,933,471	\$54,711,328	not applicable

## Transition Data

For a brief transition period, the Plan is not required by law to report certain funding related information because such information may not exist for plan years before 2008. The plan has entered "not applicable" in the chart above to identify the information it does not have. In lieu of that information, however, the Plan is providing you with comparable information that reflects the funding status of the Plan under the law then in effect. For the Plan Year beginning July 1, 2007, the Plan's "funded current liability percentage" was 65.4%, the Plan's assets were \$44,836,964, and Plan liabilities were \$68,539,413.

## Fair Market Value of Assets

Asset values in the chart above are actuarial values. Market values tend to show a clearer picture of a plan's funded status as of a given point in time. However, because market values can fluctuate daily based on factors in the marketplace, such as changes in the stock market, pension law allows plans to use actuarial values for funding purposes. While actuarial values fluctuate less than market values, they are estimates. As of June 30, 2010, the fair market value of the Plan's assets are estimated to be \$25,573,217. As of June 30, 2009, the fair market value of the Plan's assets was \$27,359,317. As of June 30, 2008, the fair market value of the Plan's assets was \$33,113,870.

# **ANNUAL FUNDING NOTICE FOR CENTRAL NEW YORK LABORERS' PENSION PLAN**

## **Participant Information**

The total number of participants in the plan as of the Plan's valuation date was 679. Of this number, 219 were active participants, 352 were retired or separated from service and receiving benefits, and 108 were retired or separated from service and entitled to future benefits.

## **Funding & Investment Policies**

The law requires that every pension plan have a procedure for establishing a funding policy to carry out the plan objectives. A funding policy relates to the level of contributions needed to pay for benefits promised under the plan currently and over the years. The funding policy of the Plan is as follows:

The Trustees depend upon employer contributions, negotiated by signatories to collective bargaining agreements which require contributions to the Fund, for the capital income to the plan. Based upon actuarial advice, the Trustees have established the level of benefits that such contributions, investment income and other anticipated future events can support.

Annual actuarial valuations are completed and, based upon the results, the Trustees address the plan provisions. In their actions regarding the plan of benefits, the Trustees exercise their fiduciary duties and comply with governmental laws and regulations including efforts to insure that conditions will, realistically, support their actions in maintaining the level of benefits.

Further, the Trustees are sensitive to protection for the deductibility of the employers' contributions.

Once money is contributed to the Plan, the money is invested by plan officials called fiduciaries. Specific investments are made in accordance with the Plan's investment policy. Generally speaking, an investment policy is a written statement that provides the fiduciaries who are responsible for plan investments with guidelines or general instructions concerning various types or categories of investment management decisions. The investment policy can be summarized as follows:

## **Investment Manager**

The Investment Manager retained by the Board of Trustees will assist the Board of Trustees in establishing the Investment Policy and guidelines contained in this Investment Policy.

In accordance with the terms of the Investment Management Agreement, the Investment Manager will be responsible for managing the asset allocation, determining investment strategy and implementing security selection decisions through the investment sub-advisors for the mutual funds managed by the Investment Manager, within the Investment Policy and as otherwise provided by the Board of Trustees. The Investment Manager will monitor asset allocation across and among asset classes.

## **ANNUAL FUNDING NOTICE FOR CENTRAL NEW YORK LABORERS' PENSION PLAN**

The Investment Manager will monitor investment performance of the Plan. Performance reports will be provided to the Board of Trustees quarterly. The Investment Manager will report in a timely manner any substantive developments that may effect the management of Plan assets.

### STATEMENT OF OBJECTIVES

#### ERISA Compliance

The assets of the Plan will be invested in accordance with all applicable laws in a manner consistent with fiduciary standards including ERISA (if applicable). Specifically:

1. The safeguards and diversity that a prudent investor would adhere to must be present in the investment program.
2. All transactions undertaken on behalf of the Plan must be in the best interest of plan participants and their beneficiaries.

#### Primary Plan Objective

The primary objective of the Plan is to provide a source of retirement income for its participants and beneficiaries. The financial objectives of the Plan have been established in conjunction with a comprehensive review of the current and projected financial requirements.

#### Plan Financial Objectives

The primary financial objective of the Plan is to improve the funded status of the Plan. A secondary financial objective is, where possible, to minimize pension expense volatility. The objective is based on a long-term investment horizon, so that interim fluctuations should be viewed with appropriate perspective.

There can be no assurance that these objectives will be met.

The Board of Trustees also realizes and agrees that historical performance is no guarantee of future performance.

In accordance with the Plan's investment policy, the Plan's assets were allocated among the following categories of investments, as of the plan year ending June 30, 2010. These allocations are percentages of total assets:

**ANNUAL FUNDING NOTICE FOR  
CENTRAL NEW YORK LABORERS' PENSION PLAN**

<b>Asset Allocations</b>	<b>Percentage</b>
1. Interest-bearing cash	2.20%
2. U.S. Government securities	0.00%
3. Corporate debt instruments (other than employer securities):	
a. Preferred	.44%
b. All other	0.00%
4. Corporate stocks (other than employer securities):	
a. Preferred	0.00%
b. Common	0.00%
5. Partnership/joint venture interests	16.48%
6. Real estate (other than employer real property)	3.55%
7. Loans (other than to participants)	0.00%
8. Participant loans	0.00%
9. Value of interest in common/collective trusts	14.55%
10. Value of interest in pooled separate accounts	0.00%
11. Value of interest in master trust investment accounts	0.00%
12. Value of interest in 103-12 investment entities	0.00%
13. Value of interest in registered investment companies (e.g., mutual funds)	60.14%
14. Value of funds held in insurance co. general account (unallocated contracts)	0.00%
15. Employer-related investments:	
a. Employer Securities	0.00%
b. Employer real property	0.00%
16. Buildings and other property used in plan operation	0.00%
17. Other	2.64%

For information about the plan's investment in any of the following types of investments as described in the chart above – common/collective trusts, pooled separate accounts, master trust investment accounts, or 103-12 investment entities – contact the fund administrator.

**Critical or Endangered Status**

Under federal pension law a plan generally will be considered to be in "endangered" status if, at the beginning of the plan year, the funded percentage of the plan is less than 80 percent or in "critical" status if the percentage is less than 65 percent (other factors may also apply). If a pension plan enters endangered status, the trustees of the plan are required to adopt a funding improvement plan. Similarly, if a pension plan enters critical status, the trustees of the plan are required to adopt a rehabilitation plan. Rehabilitation and funding improvement plans establish steps and benchmarks for pension plans to improve their funding status over a specified period of time.

The Plan was critical status for the Plan Year because the Plan was projected to have an accumulated funding deficiency within three (3) succeeding plan years, not taking into account any extension of amortization periods. The trustees of the Central New York Laborers' Pension

## **ANNUAL FUNDING NOTICE FOR CENTRAL NEW YORK LABORERS' PENSION PLAN**

Plan made an election under section 204 of WRERA (Worker, Retiree, and Employer Recovery Act of 2008) to treat the plan as being neither in the endangered (including seriously endangered) nor critical status for the Plan Year.

### **Right to Request a Copy of the Annual Report**

A pension plan is required to file with the US Department of Labor an annual report (i.e., Form 5500) containing financial and other information about the plan. Copies of the annual report are available from the US Department of Labor, Employee Benefits Security Administration's Public Disclosure Room at 200 Constitution Avenue, NW, Room N-1513, Washington, DC 20210, or by calling 202.693.8673. Or you may obtain a copy of the Plan's annual report by making a written request to the fund administrator.

### **Summary of Rules Governing Plans in Reorganization and Insolvent Plans**

Federal law has a number of special rules that apply to financially troubled multiemployer plans. Under so-called "plan reorganization rules," a plan with adverse financial experience may need to increase required contributions and may, under certain circumstances, reduce benefits that are not eligible for the PBGC's guarantee (generally, benefits that have been in effect for less than 60 months). If a plan is in reorganization status, it must provide notification that the plan is in reorganization status and that, if contributions are not increased, accrued benefits under the plan may be reduced or an excise tax may be imposed (or both). The law requires the plan to furnish this notification to each contributing employer and the labor organization.

Despite the special plan reorganization rules, a plan in reorganization nevertheless could become insolvent. A plan is insolvent for a plan year if its available financial resources are not sufficient to pay benefits when due for the plan year. An insolvent plan must reduce benefit payments to the highest level that can be paid from the plan's available financial resources. If such resources are not enough to pay benefits at a level specified by law (see Benefit Payments Guaranteed by the PBGC, below), the plan must apply to the PBGC for financial assistance. The PBGC, by law, will loan the plan the amount necessary to pay benefits at the guaranteed level. Reduced benefits may be restored if the plan's financial condition improves.

A plan that becomes insolvent must provide prompt notification of the insolvency to participants and beneficiaries, contributing employers, labor unions representing participants, and PBGC. In addition, participants and beneficiaries also must receive information regarding whether, and how, their benefits will be reduced or affected as a result of the insolvency, including loss of a lump sum option. This information will be provided for each year the plan is insolvent.

### **Benefit Payments Guaranteed by the PBGC**

The maximum benefit that the PBGC guarantees is set by law. Only vested benefits are guaranteed. Specifically, the PBGC guarantees a monthly benefit payment equal to 100 percent of the first \$11.00 of the Plan's monthly benefit accrual rate, plus 75 percent of the next \$33.00 of the accrual rate, times each year of credited service. The PBGC's maximum guarantee, therefore, is \$35.75 per month times a participant's years of credited service.

## ANNUAL FUNDING NOTICE FOR CENTRAL NEW YORK LABORERS' PENSION PLAN

*Example 1:* If a participant with 10 years of credited service has an accrued monthly benefit of \$500.00, the accrual rate for purposes of determining the PBGC guarantee would be determined by dividing the monthly benefit by the participant's years of service ( $\$500.00/10$ ), which equals \$50.00. The guaranteed amount for a \$50.00 monthly accrual rate is equal to the sum of \$11.00 plus \$24.75 ( $.75 \times \$33.00$ ), or \$35.75. Thus, the participant's guaranteed monthly benefit is \$357.50 ( $\$35.75 \times 10$ ).

*Example 2:* If the participant in Example 1 has an accrued monthly benefit of \$200.00, the accrual rate for purposes of determining the guarantee would be \$20.00 (or  $\$200.00/10$ ). The guaranteed amount for a \$20.00 monthly accrual rate is equal to the sum of \$11.00 plus \$6.75 ( $.75 \times \$9.00$ ), or \$17.75. Thus, the participant's guaranteed monthly benefit would be \$177.50 ( $\$17.75 \times 10$ ).

The PBGC guarantees pension benefits payable at normal retirement age and some early retirement benefits. In calculating a person's monthly payment, the PBGC will disregard any benefit increases that were made under the plan within 60 months before the earlier of the plan's termination or insolvency (or benefits that were in effect for less than 60 months at the time of termination or insolvency). Similarly, the PBGC does not guarantee pre-retirement death benefits to a spouse or beneficiary (e.g., a qualified pre-retirement survivor annuity) if the participant dies after the plan terminates, benefits above the normal retirement benefit, disability benefits not in pay status, or non-pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay.

### **Where to Get More Information**

For more information about this notice, you may contact the fund administrator.

Janet M. Moro  
Central New York Laborers' Pension Fund  
7051 Fly Road  
E. Syracuse, NY 13057-9659  
315-434-9305

For identification purposes, the official plan number is 001 and the plan sponsor's employer identification number or "EIN" is 15-6016579. For more information about the PBGC and benefit guarantees, go to PBGC's website, [www.pbgc.gov](http://www.pbgc.gov), or call PBGC toll-free at 1-800-400-7242 (TTY/TDD users may call the Federal relay service toll free at 1-800-877-8339 and ask to be connected to 1-800-400-7242).