

NOTICE OF CRITICAL STATUS

FOR

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL NO. 98 PENSION FUND

EIN: 04-6127765

Plan No. 001

To: Participants, Beneficiaries, Participating Unions and Contributing Employers:

The Pension Protection Act of 2006 ("PPA" or "Act") requires that the Trustees of the Plan provide this Notice to you.

Plan's Status – Red Zone

On March 31, the Plan's actuary certified to the U.S. Department of the Treasury and the Board of Trustees that the International Union of Operating Engineers Local No. 98 Pension Fund ("Plan") is in critical status (the "red zone") for the Plan Year beginning January 1, 2010. Federal law requires that you be notified of the funding status of the Plan and its classification of critical status ("red zone"). The Plan is considered to be in critical status because it has funding problems. More specifically, the Plan's actuary has determined that the Plan is projected to have an accumulated funding deficiency beginning with the 2013 Plan Year.

Rehabilitation Plan

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 in the red zone to reduce, or even eliminate, benefits called "adjustable benefits" as part of the 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 or adjustments. No reduction of adjustable benefits (other than a repeal of a recent benefit increase, as described below) will reduce the level of a Participant's basic benefit payable at normal retirement age. In addition, the reductions may only apply to Participants and Beneficiaries whose benefit commencement date is on or after April 30, 2010.

Adjustable Benefits

The Plan offers the following adjustable benefits that may be reduced or eliminated as part of the Rehabilitation Plan:

Disability benefits (if not yet in pay status),

Early retirement benefits,

Death benefits, other than the Qualified Pre-Retirement Survivor Annuity (QPSA),

Optional forms of payments.

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. A 5% surcharge is applicable in the initial critical year and a 10%

surcharge is applicable for each succeeding Plan Year while the Plan is in critical status. Thus, the 5% surcharge is payable on contributions required for work performed on and after May 30, 2010 until December 31, 2010, and the 10% surcharge is payable with respect to contributions required for work performed after December 31, 2010. The surcharge ceases to be effective for an employer upon reaching an agreement adopting a schedule presented by the Trustees as part of the Rehabilitation Plan.

The surcharges will be disregarded in determining benefits and withdrawal liability, as required by the law.

What's Next

The Board of Trustees intends to adopt a Rehabilitation Plan no later than May 30, 2010. Shortly after the adoption of the Rehabilitation Plan by the Trustees, a copy will be sent to Contributing Employers and the Union. Participants and Beneficiaries will receive a separate notice identifying and explaining the effect of any reductions or adjustments of benefits and may request a copy of the Rehabilitation Plan.

You will receive notices like this each year, letting you know of the Plan's progress in stabilizing its financial status. Since the funding of the Plan is influenced by economic and financial variables beyond the control of the Trustees (such as investment market volatility and changes in employment levels and/or the number of contributing employers), unexpected developments can affect the Plan's status and cause modification of the Rehabilitation Plan and the required corrective actions needed.

Where to Get More Information

For more information about this notice, you may contact Barbara Lane, Administrator at Two Center Square, P. O. Box 217, East Longmeadow, Massachusetts 01028, (Telephone: 413 525-4221). For identification purposes, the official plan number is 001 and the plan sponsor's employer identification number or "EIN" is 04-6127765. For more information about the PBGC and benefit guarantees, go to PBGC's Web site, <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.)

We are working closely with our professional advisors to monitor the Plan's condition and develop strategies to improve the Fund's funding status and provide you with sound pensions.

Sincerely,

Board of Trustees

cc: Department of Labor
Pension Benefit Guaranty Corporation