



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

Board of Trustees of the Teamsters Local 805 Pension and Retirement Plan
60 Broad Street
37th Floor
New York, NY 10004

FEB 15 2017

Craig A. Voelker, FSA
Enrolled Actuary
1236 Brace Rd. Unit E
Cherry Hill, NJ 08034

Re: Notification of Incomplete Application for Partition on Initial Review - Teamsters Local 805 Pension and Retirement Plan (the "Plan")

Dear Trustees and Mr. Voelker,

The Plan submitted an application for partition on February 1, 2017. PBGC has finished its initial review for the purpose of determining whether the Plan's application is complete under section 4233(a)(1) of the Employee Retirement Income Security Act ("ERISA"), as amended by the Multiemployer Pension Reform Act of 2014 ("MPRA").

PBGC has concluded that the Plan's application for partition is incomplete, because it does not contain all required information and satisfy the requirements described in §§ 4233.4 through 4233.9 of PBGC's partition regulation. On February 14, 2017, we held a conference call with Mr. Voelker and his colleagues to discuss the missing information. Pursuant to § 4233.10(b) of PBGC's regulation, this letter provides written notice to the Plan sponsor of the defects identified upon initial review.

1. *Calculation of Benefit Suspensions Relative to Effective Date of Partition.* The Plan proposes to calculate the reduction in participants' benefits under section 305(e)(9) of ERISA as of April 1, 2016, whereas the proposed effective date for the suspension of benefits and for the Plan's partition is April 1, 2018. Under § 4233.7(a)(10) of PBGC's regulation, an application must include a long-term projection of pre-partition benefit disbursements from the plan reflecting the maximum benefit suspensions permissible under section 305(e)(9) of ERISA¹ *beginning on the proposed effective date of the partition.* Under §§ 4233.8(e), (f) and (g) of PBGC's regulation, an application must contain participant census data reflecting the participant's vested accrued benefit before and after suspension of benefits, as well as the participant's monthly benefit guaranteed by PBGC. If the Plan decides to continue its application for partition with PBGC, it must submit corrected demonstrations reflecting all of these calculations (and any other affected demonstrations) as of the proposed effective date of the partition.

¹ The Preamble to PBGC's regulation states that the term "maximum benefit suspensions" under section 4233(b)(2) of ERISA means the maximum benefit suspensions permissible under section 305(e)(9) of ERISA. 80 FR 35220.

2. *Age Limitations as Applied to Contingent Annuitant Benefits.* Treasury regulations provide that, if the age-based limitation applies to a participant on the effective date of the suspension, then the age-based limitation also applies to the beneficiary of the participant *based on the age of the participant* as of the end of the month that includes the effective date of the suspension. Treasury regulation § 1.432(e)(9)-1(d)(3)(v). Under § 4233.8(i)(2)(i) of PBGC's regulation, an application for partition must include data relevant to a joint and survivor benefit and, specifically, the beneficiary's benefit amount before and after suspension, and the beneficiary's date of birth. It appears that at least some of the calculations submitted by the Plan in its partition application do not satisfy the age limitations on suspensions for beneficiaries.

3. *Partial Suspensions for Participants and Beneficiaries between ages 75 and 80.* The applicable percentage for purposes of determining the maximum suspendable benefit must be calculated based on the number of months during the period beginning with the month after the month in which the suspension is effective and ending with the month during which the participant or beneficiary attains the age of 80. Treasury regulation 1.432(e)(9)-1(d)(3)(iv)(A). Under § 4233.8(f) of PBGC's regulation, an application must contain participant census data reflecting the participant's vested accrued benefit after benefit suspension under section 305(e)(9) of ERISA. It appears that at least some of the calculations submitted by the Plan in its partition application do not satisfy the requirements for determining partial suspensions.

4. *Assumptions Underlying Critical and Declining Certification.* Missing from the Plan's application is a detailed description of the assumptions used in the Plan actuary's certification of critical and declining status, as specified in § 4233.7(a)(2) of PBGC's regulation.

5. *Allocation of Administrative Expenses.* Because the original plan and the successor plan are separate plans (the successor plan is a terminated and insolvent plan that is unable to pay benefits when due), we advise that cash flows in the Plan's application be amended to reflect an allocation of administrative expenses between the original plan and the successor plan. The Plan should adopt a reasonable administrative expense assumption for this purpose.

6. *Disability Protection for Certain Beneficiaries.* The Plan sponsor may consider extending the disability protection to beneficiaries of disabled participants. Although this is not required under Treasury regulations, a plan sponsor is permitted to protect beneficiaries of disabled individuals if the suspension (and partition) would otherwise meet the applicable requirements. *See* 81 FR 22547, Preamble to Treasury's regulation. Such a direction by the Plan sponsor would require changes to the Plan's application in the beneficiaries' vested accrued benefits after suspension.

7. *Minimum Benefit.* The Plan document provides a fixed monthly benefit (*e.g.*, \$2,100 in lieu of the normal retirement pension) under certain conditions. It is unclear whether the Plan's proposed suspension makes this benefit subject to suspension in all cases (*e.g.*, if a participant satisfies the eligibility requirements for the benefit after the effective date of a suspension of benefits).

8. *Duly Authorized Representative.* Please provide verification of the Plan's duly authorized representative, if any, for purposes of the Plan's application for partition.

By this letter, PBGC determines that the Plan's application is incomplete. If the Plan sponsor decides to continue its application for partition with PBGC, it must submit corrected demonstrations with respect to the issues described above. The Plan sponsor may proceed by supplementing its original application to the extent necessary.

Until PBGC receives a corrected application and completes another initial review of the completeness of the Plan's application, followed by a written determination to the Plan, the statutory 270-day review period under section 4233(a)(1) of ERISA and the 30-day notice period under section 4233(a)(2) of ERISA will not begin. See § 4233.10(c) of PBGC's regulation.

Please note that the initial review does not constitute a substantive evaluation of the information provided in the Plan's application. The purpose of the initial review is solely to identify whether the items contained in the Plan's application satisfy the filing requirements of PBGC's partition regulation. If the Plan sponsor decides to continue its application for partition, PBGC may in the future require the Plan sponsor to submit additional information necessary to make a determination on the Plan's application.

Please let us know if you have any questions.

Thank you,



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