

THE COUNTY OF MILWAUKEE
EIN/PN: 39-6005720 / 001
EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

ATTACHMENT TO FORM 14568 - SECTION II
Applicant's Description of Failures

1. Description of Failures. The Pension Board of the Employees' Retirement System of the County of Milwaukee has authority over ERS. Retirement Plan Services ("RPS") is responsible for day-to-day administration of ERS. In addition to the violations reported in prior VCP filings, a comprehensive review of ERS has revealed several additional operational errors, which are described in detail below.

A. Compliance with Domestic Relations Support Orders. Ordinance section 201.24(11.7) provides for the non-alienation of retirement benefits. ERS Rule 1017 provides a limited exception to this prohibition for a Domestic Relations Order ("DRO"). The Rule requires that in order to be treated as a DRO, the support order must contain certain elements. Periodically, RPS receives Income Withholding Support Orders sent by County support enforcement agencies requesting that RPS withhold support amounts from members' benefit checks for a child or former spouse. These support orders do not contain all of the information required under Rule 1017 to qualify as a DRO. However, RPS has generally complied with these orders and a basis exists to conclude that state law requires RPS to comply with these orders.

B. BackDROP Failures. Ordinance section 201.24(5.16) and ERS Rule 711 allow members remaining in County employment past their earliest retirement date to elect to receive a backDROP form of benefit upon actual retirement from County employment. This benefit form consists of a lump sum DROP benefit comprised of the member's monthly annuity payments that would have been payable to the member had the member retired on his or her backDROP date through the member's actual retirement date. The member will prospectively receive a monthly annuity in the amount that the member would have received had the member retired on his or her backDROP date. ERS Rule 713 provides that the interest rate applicable to calculating the backDROP lump sum benefit shall be the rate used by the ERS actuary as the assumed rate of return for funding purposes in the year of the member's actual retirement.

A number of failures were discovered in the administration of the backDROP.

1. Lump Sum BackDROP Payments Failed to Include Applicable Interest. RPS discovered an error in the ERS computer system's calculation of interest on the backDROP payments. When calculating a backDROP benefit, ERS's computer system did not include interest on the member's final month of service to the County. For example, if the retiring member's last day on the payroll was the 20th of the month, 20 days of interest for that final month should have been included in the back DROP amount. This final partial month of service was not included in the final interest calculation.

2. BackDROP Limitation Date. In accordance with Ordinance section 201.24(5.16), when a member elects a backDROP, the member's benefit for purposes of

calculating his or her monthly benefit and backDROP lump sum benefit are effectively frozen as of the elected backDROP date. Ordinance section 201.24 (5.16) further provides that if a member elects a backDROP date that is on or after April 1, 2013, then the member's monthly benefit and the member's backDROP benefit will be calculated as of April 1, 2013 instead of the later elected backDROP date. RPS discovered that the backDROP limitation date of April 1, 2013 was not uniformly incorporated into all backDROP calculations. This error resulted in members receiving overpayments.

2.3. BackDROP Election by Beneficiary. Members' beneficiaries selected a backDROP form of benefit on the members' behalf after the members died. Pursuant to Rule 711, only members who are in active service may elect a backDROP. Beneficiaries are ineligible to elect a backDROP for a member.

C. Cost of Living Adjustments ("COLA"). Ordinance section 201.24(5.7) provides that each year after retirement a member's monthly pension benefit shall be increased by two percent of the amount paid to the member for the first full month of retirement. Beneficiaries receiving annuities after the death of the member are also entitled to these increases. RPS discovered two categories of errors relating to the COLA adjustments:

1. Failure to Apply COLAs to Benefits. ERS failed to apply COLAs to some members' benefits, resulting in underpayments to these individuals. This error occurred primarily as a result of the change to ERS's computer system at the time.

2. Paid Excess COLAs. ERS also discovered members for whom excess COLAs had been paid, resulting in overpayments to these individuals.

D. Administration of 10-Year Certain Benefit. Ordinance section 201.24(7.1) provides that members may choose an optional form of benefit outside of the single life annuity. One of those forms is a 10-year certain annuity that provides a reduced monthly benefit payable to the member for his or her lifetime. If the member dies before receiving 120 monthly payments, then the monthly payments shall be payable to the member's beneficiary until the full 120 payments have been made. ERS discovered the following errors in the administration of this benefit.

1. Exceeding Cut-Off Dates/Calculation Errors. Overpayments to beneficiaries resulted from calculation errors and the failure to cut-off monthly benefit payments after the required 120 payments were made.

2. Premature Cut-Offs. Underpayments to beneficiaries occurred as a result of premature cut-off dates. ERS failed to continue to make payments to the designated beneficiary if the member died prior to receiving 120 payments.

E. Incorrect Retirement Option. Ordinance section 201.27(7.1) allows members to elect optional forms of benefit instead of receiving their benefits in the form of the default single life annuity. As part of their retirement applications, members elect these optional forms. ERS discovered ~~one~~ members whose benefits were calculated ~~survivor benefits were calculated~~ under the wrong retirement option. The members elected one option, and their benefits were calculated and paid under a different option, resulting in overpayments and underpayments. ~~The member~~

~~elected a 100% joint and survivor annuity, but the survivor benefit was calculated based on a 50% joint and survivor annuity. This resulted in an underpayment of approximately \$346,189.94.~~

F. Allowing Optional Employees to Remain in OBRA After Electing into ERS. The County administers two retirement systems for its employees: ERS and the OBRA 1990 Retirement System of the County of Milwaukee ("OBRA"). ERS is the primary retirement system for County employees. In general, most employees automatically become members of ERS but certain members were previously allowed to elect into ERS or OBRA. Rule 202 (now repealed) governed these elections and provided that the option to elect into ERS from OBRA may be exercised at any time but may not be thereafter revoked except by withdrawal from service and the retirement system. Up until 2014, seasonal employees were provided the option to elect into ERS. However, given the nature of their employment schedules with the County, they often leave and return each season. While ERS treats seasonal employees as terminated at the end of each season and returning employees are reenrolled in ERS or OBRA each season, the majority do not withdraw from the retirement system each year. Therefore, violations occurred when a seasonal employee elected into ERS in a previous year and chose to remain in OBRA in a subsequent year without first withdrawing from ERS.

G. Annuity Paid to Multiple Beneficiaries. ERS discovered multiple errors arising out of the payment of an active member's death benefit. The member was not eligible to receive a death benefit in the form of an annuity because the member was in active service and had not completed the required paperwork to elect a Protective Survivorship Option under Ordinance section 201.24(7.1)(3). Accordingly, only the lump sum death benefit provided for by Ordinance section 201.24(6.3) was payable at the time of the member's death. However, ERS paid a death benefit in the form of an annuity. Additionally, the annuity was paid to multiple beneficiaries, which is not allowed under the Ordinances and Rules unless the member has approval from the Pension Board under an Option 7 form of benefit (Option 7 is no longer available). The beneficiaries also received a backDROP and are included as part of the error explained in Section (B)(iii) above.

~~H. — Incorrect Benefit Calculations Use of Incorrect Service Credit to Calculate Pension Benefit. ERS discovered a number of errors related to incorrect benefit calculations. For example, some individuals' benefits were incorrect due to service credit calculation errors, while others had errors based on incorrect multipliers or errors related to the calculation of the members' compensation that an overpayment had been made to a member's spouse because the benefit was calculated using full-time instead of part-time service credit.~~

~~H. It was also subsequently discovered that the member's child was incorrectly paid. Under the Ordinances and Rules, a child of a deceased member who was in active service is eligible for a pension benefit until the child reaches age 18 or 22 if the child is unmarried and a full-time student. This amount is to be offset by any Social Security benefits payable to the child. RPSERS failed to pay the child of this member a survivor pension in accordance with the Ordinances and Rules. These errors resulted in overpayments and underpayments.~~

I. Benefits Paid to Wrong Members. ERS discovered that some individuals' pension benefits were being paid to a different individual. For example, in one instance, the surviving

spouse of an ERS member was incorrectly receiving her survivor benefits plus the pension benefit of another member. Neither the spouse nor the individual who should have been receiving the benefit notified ERS, so the error was not discovered until the surviving spouse died.

J. Definition of Employee. Prior to the adoption of a resolution amending Ordinance section 201.24(2.4), which includes the definition of "Employee", the definition of Employee included only individuals employed by the County or individuals employed by the State who received a portion of his or her wages from the County. State employees who received their entire wages from the State participated in ERS after their positions were transferred from County to State oversight. Accordingly, these individuals were not encompassed within the definition of Employee in Ordinance section 201.24(2.4).

K. IRS and Wisconsin Department of Revenue Levies. ERS periodically receives notices of levy/attachment for delinquent income taxes from the IRS and the Wisconsin Department of Revenue ("DOR") requesting that ERS send all or a portion of a member's pension benefit to the IRS or DOR for payment of unpaid taxes. ERS generally complies with these levies. However, Ordinance section 201.24(11.7) provides for the non-alienation of ERS retirement benefits, which prohibits the payment of pension benefits to satisfy a debt, claim, damage or judgment. Accordingly, ERS's compliance with the levies violates the alienation of benefits prohibition in the Ordinances.

L. Payment of Deferred Vested Benefits to Non-Vested Members. Ordinance section 201.24(4.5) provides that members are eligible for deferred vested benefits, if among other requirements, they have sufficient service credit to vest in their benefits. Members become eligible for deferred vested benefits if there is a gap between the member's termination of service and retirement (*i.e.*, the member does not retire directly from active service). The required years of service necessary to vest in a benefit depends on the member's enrollment date. For enrollment dates between January 1, 1971 and January 1, 1982, a member must have 6 years of service credit. For enrollment dates on or after January 1, 1982, where the member did not earn service credit after January 1, 2001, the member must have 10 years of service. For members who have service on or after January 1, 2001, the member must have 5 years of service to vest in his or her deferred vested benefit from ERS. Despite the vesting requirements in Ordinance section 201.24(4.5), members with less than the required service credit necessary to vest have been paid benefits in violation of this Ordinance section.

M. Pension Protection Act of 2006 ("PPA") and Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART") Amendments. The legislative body with authority to amend ERS did not adopt the required amendments under PPA and HEART within the required time period. ERS has operationally complied with the requirements.

N. Use of Incorrect Mortality Tables. ERS discovered that some ERS staff members had not updated the benefit calculators they were using to reflect the correct mortality table. Accordingly, benefit computation errors occurred when an incorrect mortality table was used to calculate optional forms of benefit that were actuarially equivalent to ERS's normal form of benefit (a straight life annuity). This resulted in underpayments to members.

O. Offset of Survivor Benefits. Ordinance section 201.24(11.9) and Rule 1018 requires ERS to offset any disability or death benefits payable under the Ordinances and Rules by any amounts payable under workers' compensation or similar laws arising out of the same death or disability. ERS failed to appropriately offset some members' and beneficiaries' benefits in accordance with these Ordinances and Rules. This failure resulted in overpayments and underpayments.

Q.P. Required Start Dates. Ordinance sections 201.24(4.6) and 201.24(4.7) reflect the Internal Revenue Code's ("Code") required benefit commencement dates for members and beneficiaries when an individual has not applied for the benefit to begin earlier. In addition, while not a required Code provision, Ordinance section 201.24(6.4) directs ERS to automatically commence certain survivor portions of a beneficiary's benefit once the beneficiary attains age 60. Similarly, some other Ordinances (e.g., Ordinance sections 201.24(6.2) and (6.3)) direct ERS to pay a death benefit but do not specify whether a beneficiary is required to apply for the benefit. During an internal audit, ERS discovered the following errors related to this issue:

- *No Death Benefit Paid.* Ordinance section 201.24(6.3) provides for a lump sum death benefit if a member dies in active service and no other benefit is payable. While not specifically required by the Ordinance, ERS has historically required members to apply for these benefits. In cases where ERS does not receive an application, ERS has not paid out such benefits. In a couple of cases, ERS paid out the members' employee contributions (in accordance with Ordinance section 201.24(3.5)) but did not pay out the lump sum death benefit.

- *Overpayment of Survivor Annuities.* Some beneficiaries receiving survivor annuities in accordance with Ordinance section 201.24(6.4) received overpayments when their annuities were not stopped in accordance with the Ordinance's requirements. This resulted in overpayments.

- *Eligibility Questions.* A beneficiary may be eligible for either the Ordinance section 201.24(6.3) lump sum death benefit or for the Ordinance section 201.24(6.4) survivor annuity, but not both. Ordinance section 201.24(6.4) only applies to certain beneficiaries, and if a dependent spouse remarries, they are no longer eligible for the benefit. Children are eligible for the benefit based on their ages, and at a certain age, student status. Accordingly, ERS must receive certain information from the beneficiary before it can determine which survivor benefit should be paid or how long the benefit should be paid. In instances where the beneficiary does not provide the requested information, ERS has not paid out a benefit.

- P. • *Survivor Benefits Paid to Ineligible Members.* The Ordinances and Rules are not clear with regard to the definition of member and active service as it relates to death benefits. ERS's past practice has been to not pay out death benefits if the individual is not earning service credit in ERS at the time of death (e.g., individual is in non-ERS covered employment or out on extended medical or other leave). However, ERS discovered at least one instance in which an individual who was not earning service credit in ERS at the time of death has received a survivor annuity under Ordinance section 201.24(6.4).

Q. Benefit Initiation. Pursuant to Ordinance section 201.24(5.16), a member cannot request a backDROP if the member is a deferred vested member. The Ordinance is silent on

whether a member who is employed by the County but working in a non-ERS covered position is eligible to receive a backDROP. ERS has historically not allowed members who are in non-ERS covered positions at the time of their retirement to elect a backDROP. However, this prohibition is not part of the Ordinances and Rules.

R. Optional Employee - Required Contributions. Ordinance section 201.24(3.11) requires the majority of ERS members to make contributions to ERS. Additionally, Ordinance section 201.24(3.3) requires members who elect into ERS (who would otherwise be enrolled in the County's other system, OBRA) to make additional contributions. Contrary to these requirements, some members did not make the contributions for certain years. Because these members did not make the required contributions, the employees were not credited with the applicable service credit for those years.

S. Refunds of Membership Accounts upon Death. ERS members make employee contributions to ERS.¹ These contributions are held in a member's membership account. Ordinance section 201.24(3.5) provides that upon the death of an active member or a deferred vested member, the member's beneficiary will be paid, in a lump sum, the balance of the member's membership account upon the date of death. If the beneficiary is eligible for an annuity benefit due to the member's death, the beneficiary will receive that benefit. However, the Ordinance further provides that if the amount of the membership account at the date of a member's death exceeds the total of the amount of the annuity payments made to the beneficiary after all payments have been made, such excess shall be paid in a lump sum to the member's beneficiaries. Regardless of whether the beneficiary receives a refund of the membership account upon the death of the member or after all annuity payments are made, interest is payable on the membership account through the date of death. ERS has made some payments to beneficiaries using interest payable through the date of distribution instead of the date of death, resulting in overpayments.

T. Final Average Salary Calculation. Rule 1045 provides that in calculating final average salary under Ordinance section 201.24(2.8), ERS will use a member's 78 or 130 consecutive pay periods at which the member's compensation was the highest depending on whether the member's final average salary is based on a 3- or 5-year period. For some employees, ERS has not used this calculation method.

U. Re-Retirements. Ordinance section 201.24(11.2) provides that upon reemployment of a retired member, the member's pension benefit will cease and the member will again receive service credit. Additionally, Rule 1013 provides that a member may not change his or her form of benefit after the member's retirement effective date. When the member subsequently retires, ERS recalculates the member's benefit to account for the increased service credit earned during that subsequent period of service. The Pension Board has previously interpreted the Ordinances and Rules to not allow a member to change his or her form of benefit or receive a backDROP when the member re-retires. However, ERS has allowed members to change their forms of benefit upon re-retirement.

¹ See Ordinance sections 201.24(3.3) and (3.11).

V. Benefit Administration. ERS discovered that it overpaid three members. One member received an extra retroactive payment, and two members received full month payments instead of partial month payments.

W. Corrections to 2007 VCP. While reviewing the errors reported as part of the 2007 VCP, ERS discovered that in correcting the mortality table errors reported on that VCP, ERS used a 9% backDROP interest rate instead of 8.5%, which was the correct interest rate at the time. Additionally, one member's use of a 401(k) rollover to purchase service credit was reported to the IRS with a correction method of returning the Plan to the position it would have been in had the error not occurred. Pursuant to this correction method, ERS was to rescind his purchased service credit, recalculate his benefit and recover any overpaid amounts. This member is requesting that the Ordinances be retroactively amended to allow his rollover to purchase service credit.

X. Failure to Cease Payments at Death. As is the case with all retirement plans, for members and beneficiaries receiving lifetime annuities, often ERS will not be aware of the recipient's death until sometime after the date of death. While ERS ceases payments as soon as it becomes aware of the death, which therefore does not appear to technically create errors under EPCRS, there are often overpayments that occur during this time period between the date of death and cessation of payments.

Y. Minimum Distribution Incidental Benefit. Under the Code and corresponding Regulations, distribution options that are in the form of a joint and survivor annuity for the joint lives of a member and a non-spouse beneficiary must meet the minimum distribution incidental benefit ("MDIB") requirement. For ERS purposes, this requirement is applicable to retirements with optional forms of benefit under Ordinance section 201.24(7.1)(1) and the Protective Survivorship Option ("PSO") under Ordinance section 201.24(7.1)(3). Ordinance section 201.24(7.1)(2) provides that the optional forms of benefit will be the actuarial equivalent of the member's single life annuity. Ordinance section 201.24(4.6) incorporates by reference Code section 401(a)(9) and the applicable Treasury regulations, including the minimum distribution incidental benefit requirement.

Under a PSO, a member who is eligible for retirement, but continues to work, may elect a 100% joint and survivor annuity with a beneficiary that will commence upon the member's death in active service as if the member had retired immediately before death with this same election. ERS discovered one instance where the non-spouse beneficiary is receiving an unreduced 100% joint and survivor benefit, which does not satisfy the MDIB requirements. ERS's past practice in administering the MDIB requirement is to not allow members to elect an optional form of benefit over the 50% joint and survivor annuity if the beneficiary's benefit would not satisfy the MDIB requirement. However, there are two beneficiaries receiving survivor annuities as a result of PSO elections whose benefits have been reduced to less than 100% survivor annuity (e.g., 73%) in order to satisfy the MDIB requirements. While these annuities do not appear to be errors under the Code because they satisfy the MDIB requirements, they are not in accordance with ERS's past practice and they result in a benefit that is not actuarially equivalent.

Z. Transfer Errors. ERS members often change positions throughout their careers with the County. Some transfers are between represented and non-represented positions and some are between represented positions with different unions. ERS discovered two errors affecting members who transferred from non-deputy sheriff positions to deputy sheriff positions.

1. Multiplier. The deputy sheriffs' CBA with the County (incorporated into the Ordinances and Rules via Ordinance section 201.24(8.21)) provides that employees hired on or after July 1, 1995 will receive a 2% multiplier instead of the 2.5% multiplier provided for earlier hires under the CBA. Accordingly, for employees who commenced employment with the Deputy Sheriff's department after July 1, 1995 (regardless of when their County employment started), those employees receive a 2% multiplier for their deputy sheriff service credit. However, in some instances, ERS calculated members' benefits using a 2.5% multiplier if the member commenced County employment prior to July 1, 1995 even if they did not start as a deputy sheriff until after July 1, 1995. This issue is the subject of a grievance filed by the Milwaukee Deputy Sheriff Association ("MDSA"). The MDSA is arguing that the 2.5% multiplier should apply to any employee who commenced County employment prior to July 1, 1995 regardless of when the employee started employment as a deputy sheriff.

2. Multiplier Bonus. Ordinance section 201.24(5.15) provides for a .5% multiplier bonus for certain members who earned service credit on and after January 1, 2001. This provision also provides for the same multiplier bonus to apply to service credit up to 8 years earned prior to January 1, 2001 assuming the member earns 8 years of service after January 1, 2001. While some represented employees are eligible for the bonus, deputy sheriffs are not. However, ERS discovered some members whose benefits were calculated to include this .5% multiplier increase for members' deputy sheriff service credit.

2. Years in which the Failures Occurred. ERS believes that:

A. Compliance with Domestic Relations Support Orders. This failure occurred in 2000 through 2013.

B. BackDROP Failures.

1. This failure occurred from approximately 2001-2012~~3~~.

2. This failure occurred in approximately 2014 and 2015.

~~2~~3. This failure occurred in approximately 2002, 2003 and 2004.

C. Cost of Living Adjustments.

1. This failure occurred in approximately 1985, 1993, 1996, 2001, 2004, 2008-2013.

2. This failure occurred ~~in approximately 2008-2016~~ ~~over a number of years.~~ ~~RPS is confirming the exact dates, and this filing will be updated once those dates are received.~~

D. Administration of 10-Year Certain Benefit.

1. This failure occurred from approximately 2003-2009.

2. This failure occurred from approximately 2003-2009.

E. Incorrect Retirement Option. This failure occurred from approximately 2003-2017.

F. Allowing Optional Employees to Remain in OBRA After Electing into ERS. This failure occurred ~~from approximately 1992 through 2013~~ ~~over a number of years.~~ ~~RPS is confirming the exact dates, and this filing will be updated once those dates are received.~~

G. Annuity Paid to Multiple Beneficiaries. This failure occurred from approximately 2003-2014.

H. Incorrect Benefit Calculations. This failure ~~initially~~ occurred in approximately 1996, 2009 and from 2011-2016 ~~1996 and 2009.~~

I. Benefits Paid to Wrong Members. This failure occurred from approximately 2008-2011 and in 2017.

J. Definition of Employee. This failure occurred from approximately 2009-2011.

K. IRS and Wisconsin Department of Revenue Levies. This failure occurred from approximately 2000-2013.

L. Payment of Deferred Vested Benefits to Non-Vested Members. This failure occurred from approximately 2011-2013.

M. Pension Protection Act of 2006 ("PPA") and Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART") Amendments. This failure occurred in approximately 2011.

N. Use of Incorrect Morality Table. This failure occurred from approximately 2009-2012.

O. Offset of Survivor Benefits. This failure occurred from approximately 2005-2016.

P. Required Start Dates. This failure occurred from approximately 1981-2014.

Q. Benefit Initiation. This failure occurred in approximately 2017.

R. Optional Employees - Required Contributions. This failure occurred from approximately 2013 -2017.

S. Refunds of Membership Accounts upon Death. This failure occurred from approximately 2011-2017.

T. Final Average Salary Calculation. This failure occurred from approximately 1967-2017.

U. Re-Retirements. This failure occurred in approximately 2011, 2013, 2014 and 2017.

V. Benefit Administration. This failure occurred in approximately 2005, 2011, 2015 and 2017.

W. Corrections to 2007 VCP. This failure occurred in approximately 2016.

X. Failure to Cease Payments at Death. This failure occurred in approximately 1991-2017.

Y. Minimum Distribution Incidental Benefit. This failure occurred in approximately 2007, 2009 and 2015.

Z. Transfer Errors. These failures occurred in approximately 2014-2016.

3. Number of Participants Affected. ERS believes that:

A. Compliance with Domestic Relations Support Orders. This failure affected approximately 80 participants.

B. BackDROP Failures.

1. This failure affected approximately 1,724~~872~~ members.

2. This failure affected approximately 13 members.

~~2.3.~~ This failure affected approximately 5 ~~members~~beneficiaries.

C. Cost of Living Adjustments.

1. This failure affected approximately 350 members.

2. This failure affected approximately 9 members. ~~RPS is confirming the number of members affected, and this filing will be updated once those dates are received.~~

D. Administration of 10-Year Certain Benefit.

1. This failure affected approximately ~~710~~ beneficiaries.

2. This failure affected approximately ~~66~~ beneficiaries.

E. Incorrect Retirement Option. This failure affected approximately ~~6 members~~~~1 beneficiary~~.

F. Allowing Optional Employees to Remain in OBRA After Electing into ERS. This failure affected ~~approximately 144 members~~~~all optional employees who previously elected into ERS and were subsequently allowed to remain in OBRA.~~ ~~RPS is confirming an estimate of the number of affected members.~~

G. Annuity Paid to Multiple Beneficiaries. This failure affected approximately 4 beneficiaries.

H. Incorrect Benefit Calculations. This failure affected approximately ~~122~~ members and beneficiaries.

I. Benefits Paid to Wrong Members. This failure affected approximately ~~4 individuals~~~~1 member and 1 beneficiary~~.

J. Definition of Employee. This failure affected approximately 40 members.

K. IRS and Wisconsin Department of Revenue Levies. This failure affected approximately 11 members.

L. Payment of Deferred Vested Benefits to Non-Vested Members. This failure affected approximately ~~64~~ members.

M. Pension Protection Act of 2006 ("PPA") and Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART") Amendments. This failure did not affect individual members.

N. Use of Incorrect Mortality Tables. This failure affected approximately ~~376~~ members.

O. Offset of Survivor Benefits. This failure affected approximately 6 members or beneficiaries.

P. Required Start Dates. This failure affected approximately 65 beneficiaries.

Q. Benefit Initiation. This failure affected approximately 1 member.

R. Optional Employee - Required Contributions. This failure affected approximately 25 members.

S. Refunds of Membership Accounts Upon Death. This failure affected approximately 21 beneficiaries.

T. Final Average Salary Calculation. This failure affected any member who had less than full-time annuity hours in a final average salary year.

U. Re-Retirements. This failure affected approximately 4 members.

V. Benefit Administration. This failure affected approximately 5 members.

W. Corrections to 2007 VCP. This failure affected approximately 12 members.

X. Failure to Cease Payments at Death. This failure affected approximately 188 members.

Y. Minimum Distribution Incidental Benefit. This failure affected approximately 3 beneficiaries.

Z. Transfer Errors. These failures affected approximately 9 members.

THE COUNTY OF MILWAUKEE
EIN/PN: 39-6005720 / 001
EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

ATTACHMENT TO FORM 14568 - SECTION III
Applicant's Description of Proposed Method of Correction

1. Relief Requested. On behalf of the Plan Sponsor and ERS, we respectfully request a favorable compliance letter for ERS in accordance with Revenue Procedure 2016-51. We respectfully request a conference with you or Review Staff in the event you contemplate issuing a determination that is unfavorable.

2. Methods of Correction.

A. Compliance with Domestic Relations Orders. ERS proposes to correct this failure by retroactively amending the Plan document to authorize acceptance of these support orders.

B. BackDROP Errors.

1. Lump Sum BackDROP Payments Failed to Include Applicable Interest. ERS proposes to correct this failure by determining the difference between the amount of interest the member should have received with his or her backDROP and the amount of interest the member actually received with his or her backDROP and pay that amount to the affected member, plus interest (as calculated below). -

ERS has been correcting members' errors as they are identified.
Accordingly, ERS proposes to calculate interest as follows:

- Members Identified as part of 2007 VCP. While correcting the mortality table errors disclosed as part of the 2007 VCP, ERS identified 635 members that were also affected by this interest error. For those members, ERS corrected their errors using 8% compound interest for underpayments and 5% compounded interest for overpayments in accordance with the 2007 VCP Compliance Statement. ERS proposes to take no further action on these corrections.
- Members Identified Prior to 2007 VCP Compliance Statement. When ERS initially discovered this interest error in 2013, ERS corrected 605 members' errors that were discovered at that time. ERS corrected those errors using 5% simple interest. ERS proposes to take no further action on these corrections and would ask the IRS to agree to the interest calculated for these members.
- 2. • Members Recently Identified. ERS recently determined that this failure affects another 484 members. These members have not yet

been corrected. For these members, ERS proposes to calculate interest as required by the Compliance Statement pursuant to this VCP (see Section III(5) below for a discussion on proposed interest rates). ~~on that difference and pay the difference, plus 5% simple interest through the date of correction, to the member. ERS has already begun making these corrective payments.~~

2. BackDROP Limitation Date. ERS proposes to recalculate the affected members' benefits to reflect the backDROP date of April 1, 2013 and pay that benefit going forward. ERS will also calculate the amount of benefit the member has been overpaid. The overpayment amounts will be adjusted by the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

3. Back DROP Election by Beneficiary. ERS proposes to seek a refund of the backDROP lump sum benefit paid to each ineligible beneficiary, including interest. To do so, ERS would recalculate the pension benefit that each beneficiary would have been entitled to receive had he or she not elected the backDROP benefit. The beneficiary's monthly benefit will be changed accordingly. ERS would offset the amount of the refund by the amount of the additional pension benefit to which each beneficiary would have been entitled had he or she not elected the backDROP. If, after the appropriate amount is offset against the refund, ERS determines that the beneficiary received an underpayment, such amount shall be paid in a lump sum to the individual, plus applicable interest ~~8% interest compounded annually~~ through the date of correction. ERS will notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment.

If a beneficiary received an overpayment as determined by the process described above, ERS will seek a refund of such amount, plus applicable interest ~~at 5% compounded annually~~. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

C. Cost of Living Adjustments. To correct the errors, ERS proposes to determine the correct COLA attributable to the members' benefits. ERS has already begun making these corrective payments.

1. *Failure to Apply COLAs to Benefits.* If a member did not receive COLAs when required, ERS will recalculate the member's benefit and begin paying the member the appropriate amount. ERS will also pay to the member a lump sum payment for the COLA amounts not paid, plus 5% simple interest through the date of correction.

2. *Paid Excess COLAs.* If a member received a COLA when it should not have been received, ERS proposes to recalculate the member's benefit to reflect the appropriate amount and request repayment of the overpaid amount, plus 5% simple interest. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

D. Administration of the 10-Year Certain Benefit. ERS proposed to correct this failure by adopting a retroactive Rule amendment that conforms the plan to ERS's past practices. However, some errors cannot be corrected via retroactive amendment because the calculation of the benefit was outside the administrative practice at the time. To the extent failures cannot be corrected via the retroactive Ordinance amendment, ERS proposed to correct the failures as follows:

1. *Exceeding Cut-Off Dates/Calculation Errors.* ERS proposes to correct these failures by discontinuing the erroneous benefit payments and attempting to recover the overpayments, plus applicable interest ~~5% interest compound annually~~. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

2. *Premature Cut-Offs.* ERS proposes to determine the amount of the underpayment, calculate applicable interest ~~8% interest compounded annually~~ on the underpaid amount, and pay the total amount to the individual. ERS will notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment.

E. Incorrect Retirement Option. ERS proposes to correct these failures in the following ways:

1. For overpayments, ERS proposes to recalculate the affected individuals' benefits under the elected optional form of benefit and pay those benefits going forward. If as a result of the failure, the member or beneficiary has received an overpayment, ERS will calculate the overpayment amount owed. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return

the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

E.2. For underpayments, ERS proposes to recalculate the affected individuals' benefits under the elected optional form of benefit and pay those benefits going forward. ERS will calculate the underpayments that should have been paid to each individual and distribute these amounts to the individuals. The underpayments will be increased by the applicable interest rate through the date of correction. ERS will notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment. ~~ERS proposes to recalculate the beneficiary's benefit under the correct retirement option, determine the amount of the underpayment and pay the underpayment, plus 8% interest compounded annually through the date of correction to the individual. ERS will notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment.~~

F. Allowing Optional Employees to Remain in OBRA After Electing into ERS. ERS proposes to correct this failure by amending the Plan document to authorize optional members to have the option to elect into ERS each season after termination of employment from the prior season. Prospectively, the Plan document has already been amended to specify that seasonal employees are no longer allowed to elect into ERS. Accordingly, ERS proposes no additional corrections are necessary.

G. Annuity Paid to Multiple Beneficiaries. ERS proposes to discontinue the benefit payments to the four beneficiaries and obtain repayment of the overpayment. To calculate the overpayment, ERS will combine the lump sum backDROP amount and the total monthly payments paid to each beneficiary. This amount will be charged applicable interest ~~5% interest compounded annually~~. This figure will be decreased by any death benefit that was payable under the Ordinances and Rules. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

H. Incorrect Benefit Calculations ~~Use of Incorrect Service Credit to Calculate Pension Benefit~~. ERS proposes to correct these failures in the following ways:

1. For overpayments, ERS proposes to recalculate the affected individuals' benefits in accordance with the Ordinances and Rules and pay those benefits going forward. If as a result of the failure, the member or beneficiary has received an overpayment, ERS will calculate the overpayment amount owed. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a

choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

H. — For underpayments, ERS proposes to recalculate the affected individuals' benefits in accordance with the Ordinances and Rules and pay those benefits going forward. ERS will calculate the payments that should have been paid to each individual and distribute these amounts to the individuals. The underpayments will be increased by the applicable interest rate through the date of correction. ERS will notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment. ~~ERS proposes to recalculate the spouse's monthly benefit, determine the amount of the overpayment and obtain the repayment of the amount of the overpayment, plus 5% interest compounded annually. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.~~

I.2. — To correct the error related to the failure to pay the member's child the correct benefit amount, ERS proposes to calculate the amount that should have been paid to the child and pay that amount to the child, plus 8% interest compounded annually from the date the benefit should have been paid to the date of correction.

J.I. Benefits Paid to Wrong Members. To correct this error, ERS proposes to determine the amounts of the overpayments paid to the erroneous recipients surviving spouse and the underpayments that should have been paid to the correct individuals e-member.

RPSERS will commence the member's monthly benefit payments to the correct individuals and make a lump sum payments to the member consisting of the missed benefit payments. ~~ERS has already made this corrective payment.~~ To account for the delay in payment, ERS proposes to calculate the interest owed to the individuals between the date that the payments should have been made and the date they were distributed and pay the applicable interest on that amount to the individual.

To make ERS whole for the overpayment amounts, plus applicable interest 5% interest compounded annually, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

K.J. Definition of Employee. Because ERS is a governmental pension plan, amendments to the Ordinances are made by a legislative body, the County Board of Supervisors.

ERS has no authority to adopt amendments to the Ordinances. The amendment adopted by the County Board in December 2011, corrects the operational failures created by retroactively revising the definition of "employee" in Ordinance section 201.24(2.4) to permit state employees who receive all of their compensation from the state to be members of ERS. ERS requests retroactive effect of this amendment to correct the errors created by members participating in ERS who did not fit the definition of "employee" at the time of their participation.

L.K. IRS and Wisconsin Department of Revenue Levies. As noted above, because ERS is a governmental pension plan, amendments to the Ordinances are made by a legislative body, the County Board of Supervisors. ERS has no authority to adopt amendments to the Ordinances. ERS proposes to correct the error by adopting a retroactive Ordinance amendment or a Rule allowing for compliance with federal and state tax levies and corrects the operational failures created by retroactively permitting ERS to comply with tax levies from the IRS and Wisconsin Department of Revenue. The County Board will be considering an Ordinance amendment to correct this error. A copy of the Ordinance amendment will be provided once the amendment is submitted to the County Board.

M.L. Payment of Deferred Vested Benefits to Non-Vested Members. ERS proposes to correct these operational errors by ceasing the members' monthly benefits, determining the amount of the overpayments and obtaining the return of the overpayments, plus 5% compound interest. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

N.M. PPA and HEART Amendments. The legislative body adopted ~~the~~ amendments to comply with the required changes on May 22, 2014. Please note that the amendments also include amendments related to EGTRRA. The EGTRRA failure was submitted to the IRS on August 21, 2007 as part of the prior VCP filing.

O.N. Use of Incorrect Mortality Tables. ERS proposes to recalculate each affected member's benefit by using the correct mortality table. These recalculated benefits will be paid to the members going forward. ERS will also calculate each member's underpayment of benefits that should have been paid had ERS used the correct mortality table. ERS will distribute these amounts to members with the amounts increased due to the delayed payment using the applicable interest rate through the date of correction. If any members are deceased, the corrective distributions will be paid to their spouse, or if none, to the children in equal shares or if none, to the member's estate. ERS will also notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment.

O. Offset of Survivor Benefits. ERS proposes to correct these failures in the following ways:

1. For overpayments, ERS proposes to recalculate the affected individuals' benefits to reflect the appropriate offset and pay that benefit going forward. ERS will calculate the offsets that should have been made in prior years and determine the amounts that were overpaid to members. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

2. For underpayments, ERS proposes to recalculate the affected individuals' benefits and pay those increased benefits going forward. ERS will calculate the amounts that should have been paid to the individual and distribute these amounts. The underpayments will be increased by the applicable interest rate through the date of correction. ERS will notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment.

P. Required Start Dates. ERS proposes to correct these failures by retroactively amending the Ordinances and Rules to require beneficiaries to apply for these benefits, subject to the requirements of the Code. If the amendments are adopted by the County Board, ERS proposes to correct these errors as follows:

- *No Death Benefit Paid.* To the extent such applications and paperwork were previously received and amounts were not paid, ERS will distribute these amounts to the beneficiaries with the amounts increased due to the delayed payment using the applicable interest rate through the date of correction. If such applications and paperwork were not received, ERS proposes to contact the affected beneficiaries and pay the benefits, without interest, upon receipt of the necessary application and paperwork. If any beneficiaries are deceased, the corrective distributions will be paid to their spouse, or if none, to the children in equal shares or if none, to the member's estate. ERS will also notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment.

- *Overpayment of Survivor Annuities.* ERS proposes to cease the beneficiaries' benefits and calculate the amounts that were overpaid. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by requesting that they return the overpayments (adjusted for interest) to ERS. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

- *Eligibility Questions.* ERS proposes to contact the affected beneficiaries and pay the benefits for which the beneficiaries are eligible, without interest, upon

receipt of the necessary application and paperwork. If any beneficiaries are deceased, the distributions will be paid to their spouse, or if none, to the children in equal shares or if none, to the member's estate. ERS will also notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment. To the extent the beneficiaries do not respond to ERS's requests for information or provide sufficient information to show they are entitled to the survivor annuity, ERS proposes to pay the lump sum death benefit to the beneficiary.

• *Survivor Benefits Paid to Ineligible Members.* ERS proposes to correct this error by retroactively amending the plan to reflect ERS's past practice of only paying death benefits to beneficiaries of members who are earning service credit in ERS at the time of their deaths. For any beneficiaries who previously received a benefit that they should not have received under this rule, ERS will cease any future payments and calculate the overpayments. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts (adjusted for interest) from the affected individuals. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

Q. Benefit Initiation. ERS proposes to correct this error by adopting a retroactive amendment to the Plan to conform the Plan to ERS's past practice.

R. Optional Employees - Service Credit. ERS proposes to correct these errors by returning the Plan to the position it would have been in had the errors not occurred. To do so, ERS will provide the affected members with the option of paying the required contributions that should have been made by each affected member to ERS, plus applicable interest, or foregoing the service credit earned in ERS for those years. If the members decide to forego the ERS service credit, the credit they would have earned had they not elected into ERS (and remained in OBRA) will be credited to them in OBRA and paid out under those plan terms.

S. Refunds of Membership Accounts Upon Death. ERS proposes to correct these errors by retroactively amending the Ordinances to pay interest through the date of distribution instead of death and eliminate the option for the beneficiary to receive a survivor benefit and a refund of the remaining membership account balance. Alternatively, if the Ordinance amendments are not adopted, ERS proposes to put the plan into the place it would have been had the errors not occurred. The errors resulted in overpayments paid to beneficiaries. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by requesting that the individual return the overpayment (adjusted for interest). To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

T. Calculation of Final Average Salary. ERS proposes to correct these errors by retroactively the Ordinances to codify ERS's past practice.

U. Re-Retirements. ERS proposes to correct these errors by returning the Plan to the position it would have been in had the errors not occurred. ERS proposes to contact the affected members and recalculate their benefits based on their initial retirement elections and pay those benefits going forward. A clarifying amendment to the Plan will also be adopted to confirm how re-retirements will be administered going forward.

If overpayments have occurred, ERS proposes to calculate the overpayments, adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

For underpayments, ERS proposes to calculate the amounts that should have been paid to the individual and distribute these amounts. The underpayments will be increased by the applicable interest rate through the date of correction. ERS will notify each affected individual that the corrective distribution is taxable and not eligible for tax-free rollover treatment.

V. Benefit Administration. ERS proposes to correct these errors by returning the Plan to the position it would have been in had the errors not occurred. ERS proposes to calculate the amount of the overpayments made to each affected individual. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

W. Corrections to 2007 VCP. To correct the backDROP interest rate error, ERS proposes to calculate the members' benefits using the correct interest rate for the backDROP. ERS further proposes to calculate the amount of the overpayments made to each affected individual. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

ERS also proposes to present to the County, as Plan Sponsor, an Ordinance amendment that would retroactive amend the Ordinances to allow the member to have used a rollover from a prior employer's 401(k) plan to purchase service credit. If the Plan Sponsor agrees to adopt such an Ordinance amendment, ERS proposes that the correction required by the 2007 VCP Compliance Statement be revised to reflect this correction method.

X. Failure to Cease Payments at Death. ERS proposes to calculate the amount of the overpayments made to each affected individual. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, ERS will attempt to recover the overpayment amounts from the recipients. However, to the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, ERS proposes that any County obligation to repay the overpayments be waived. ERS intends to diligently pursue such overpayments going forward, but a number of these overpayments are quite old and with interest, it would be a large amount for the County to contribute.

Y. Minimum Distribution Incidental Benefit. ERS proposes to correct the MDIB error by reducing the beneficiary's benefit to the 50% joint and survivor annuity option. ERS also proposes to reduce to the 50% joint and survivor annuity (in accordance with past practice) the other beneficiaries' benefits. ERS will also propose amendments to the Plan to codify that for purposes of satisfying the MDIB requirement, any member whose beneficiary's benefit will breach the MDIB limit, cannot elect a form of benefit that provides for more than a 50% joint and survivor annuity. Alternatively, ERS proposes to reduce the beneficiary's benefit affected by the MDIB error to the survivor annuity limit instead of the 50% joint and survivor annuity and not reduce the other beneficiaries' benefits who are receiving the survivor benefit up to the MDIB limit. Going forward, ERS will continue with its past practice to require members to elect a 50% joint and survivor annuity if the MDIB limits are implicated.

Z. Transfer Errors. ERS proposes to correct these errors as follows:

1. Multiplier. ERS proposes to recalculate the affected members' benefits using the correct 2% multiplier. ERS also proposes to calculate the amount of the overpayments made to each affected individual. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS. Alternatively, if the County determines that a final and binding decision is made on the grievance filed by the MDSA that requires the County to calculate the affected members' benefits based on the 2.5%

multiplier, ERS proposes to correct these errors via retroactive Ordinance amendment providing for the 2.5% multiplier.

2. Multiplier Bonus. ERS proposes to recalculate the affected members' benefits using the correct multiplier and not including the .5% multiplier bonus for the years of deputy sheriff service credit. ERS also proposes to calculate the amount of the overpayments made to each affected individual. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. The overpayment amounts will be adjusted using the applicable interest rate through the date of correction. To make ERS whole for the overpayment amounts, to the extent the County does not voluntarily contribute the amounts to ERS, ERS will attempt to recover the overpayment amounts from the affected individuals by giving them a choice to return the overpayment (adjusted for interest) or by having future annuity payments (if any) reduced to recover the overpayment. To the extent the overpayment amounts (adjusted for interest) are not recovered from the affected individual, the County, as Plan Sponsor, will contribute these overpayment amounts to ERS.

3. Expected Cost of Correction of Operational Errors. ERS is preparing an estimate of the cost of correcting all of the new operational errors outlined above. The estimate will be provided once finalized.

4. Calculations or Assumptions Used to Determine Amounts For Correction for Operational Errors. ERS will use ERS's normal plan assumptions to recalculate pension amounts for any individual who received an overpayment or underpayment as outlined above.

5. Methodology to Calculate Interest for Correction of Operational Errors. As described above as part of the applicable failures, ERS previously corrected some failures using 5% simple interest before the interest rates were confirmed for purposes of the 2007 VCP. Some other errors were previously corrected as part of the 2007 VCP (using 5% compound interest for overpayments and 8% compound interest for underpayments). Accordingly, the proposed corrections described above propose allowing ERS to use the interest rates for those errors that have already been corrected.

5.—— To the extent a failure has not already been corrected, ERS proposes to use 5% simple interest for the corrections. The IRS previously required ERS to use 5% compound interest for overpayments and 8% compound interest for underpayments for purposes of the 2007 VCP corrections. The County Board may consider Ordinance amendments that will direct ERS to use 5% simple interest for purposes of overpayments and underpayments.

6. Sample Calculations of Operational Error Correction Method. Enclosed is a sample calculation sheet that ERS will complete for each affected member for all errors that require recalculations. To the extent that the wrong information (e.g., multipliers, mortality table) was used to calculate the benefit, this information will be corrected and the overpayment or

underpayment will be calculated. ~~RPS is preparing sample calculations. The sample calculations will be provided once finalized.~~

**THE COUNTY OF MILWAUKEE
EIN/PN: 39-6005720 / 001
EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE**

**ATTACHMENT TO FORM 14568 - SECTION IV
Applicant's Proposed Procedures to Locate and Notify Former Employees or Beneficiaries**

To the extent ERS is required, it will communicate with any affected former employee concerning the VCP correction by mailing a notice to the last known address of the former employee. To the extent ERS is unable to locate any former employee, it agrees to utilize, as applicable, commercial locator services, credit reporting locator services or Internet search tools to locate the former employees.

THE COUNTY OF MILWAUKEE
EIN/PN: 39-6005720 / 001
EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

ATTACHMENT TO FORM 14568 - SECTION V
Applicant's Proposed Revision to Administrative Procedures

Explanation of How and Why Failures Occurred. The Pension Board has delegated authority to RPS to conduct the day-to-day administration of ERS. RPS is charged with administering a very large defined benefit retirement plan, and in light of the demands imposed on RPS in administering this plan, RPS could have been more fully staffed. Additionally, RPS has also experienced turnover within the Office and in the outside advisors retained to assist RPS with actuarial and other services. Furthermore, ERS changed computer systems and the installed system had errors in its initial programming. Those errors have been identified and have been fixed.

To the best information available at this time, ERS believes that the operational failures occurred because RPS did not have procedures in place (a) to identify and comply with the applicable rules of certain Ordinances and Rules; or (b) conduct necessary annual testing and to ensure that all provisions of ERS are properly administered.

Measures to be Implemented to Ensure Same Failures Do Not Continue to Occur. RPS's computer system and attendant control measures ensure that compliance with all ERS governing plan documents is monitored on a regular basis. Additionally, RPS has a new manager who routinely utilizes Corporation Counsel and outside counsel to answer questions regarding proper administrative procedures.

8907192

Member		Beneficiary	
First Name	John	First Name	Jane
Last Name	Doe	Last Name	Doe
Birth Date	11/13/1953	Birth Date	11/8/1993
Actual Age	62	Actual Age	22
Age in Retirement Year	55	Age in Retirement Year	15
Age in BD Year	N/A	Age at BD	N/A
Death Date	11/18/2013	Death Date	N/A

Clear Contents

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Retrieve

Save As Workbook

Pension		Union Code	
Clock	999999	DC	
BD Date		N/A	
Type	ERS Ordinary Disability	Term Date	5/29/2008
Type Option	Option 6 (10 Year Certain and Life)	Retire Date	5/30/2008
Benefit Annuity	Ordinary Disability	Part Acct Enroll Date	3/6/1989
If BD, Years of Cola	N/A	Adjusted Enroll Date	N/A

New Monthly Amount:	1617.42
Total One Time Payment:	40387.50

Work History	
FAS	3890.86

Benefit Calc				Use for Early Penalty Only			
Group A: Multiplier	FAS	SVC	FAS * SVC * Multi	Constant	Month Early	V3 Early Penalty	Est Early Penalty
0.02000	3890.85630	18.15902	1413.08275	0.004196	0	-5.13248E-06	0
Group B: Multiplier	FAS	SVC	FAS * SVC * Multi				
			0.00000				
Group C: Multiplier	FAS	SVC	FAS * SVC * Multi				
			0.00000				

Sum Total 1413.08275

Previous Values		Corrected Values	
DEF BEN Max Benefit	N/A	Calculated Max Benefit	\$1,413.09
UP-84 Factor	0.8049	GAM Factor	0.9867
V3 Original Monthly Base Benefit	\$1,125.24	Corrected Monthly Base Benefit	\$1,394.30
V3 COLA	\$22.75	Corrected COLA	\$27.89
V3 Military COLA	N/A	Corrected Military COLA	N/A
Last Updt Dt	12/20/2016	Last Updt Dt	N/A
Updated By	abbeymoreno	Updated By	N/A

COLA Month:	
COLA Month:	May
Military COLA Month:	N/A

Over Payments	Compounding	Under Payments	Compounding
Interest Rate	5.00%	Interest Rate	8.00%
Interest Per Day	0.0136990%	Interest Per Day	0.02191800%
Interest Thru	12/30/2016	Interest Thru	12/30/2016

Record Counts	
Total Disbursement Rec	130
Total Over Under	95
Total Months between RD and Last Payment Date	103

Reviewer	
Reviewed by:	Abbey
Approved by:	Abbey

Comments	
1	
2	
3	

1	2	3	4	5	6	7	8
Row Number	Monthly Disbursement	Original Gross	Corrected Gross	Difference	Interest	Over/Under	
1	1/31/2009	9086.74	11244.35	2157.61	1817.11	Under	
2	2/28/2009	1223.15	1394.3	171.15	142.74	Under	
3	3/31/2009	1137.39	1394.3	256.91	211.95	Under	
4	4/30/2009	1137.39	1394.3	256.91	209.7	Under	
5	5/31/2009	1160.14	1422.19	262.05	211.53	Under	
6	6/30/2009	1160.14	1422.19	262.05	209.24	Under	
7	7/31/2009	1160.14	1422.19	262.05	206.87	Under	
8	8/31/2009	1160.14	1422.19	262.05	204.51	Under	
9	9/30/2009	1160.14	1422.19	262.05	202.21	Under	
10	10/31/2009	1160.14	1422.19	262.05	199.85	Under	
11	11/30/2009	1160.14	1422.19	262.05	197.56	Under	
12	12/31/2009	1160.14	1422.19	262.05	195.19	Under	
13	1/31/2010	1160.14	1422.19	262.05	184.86	Under	
14	2/28/2010	1160.14	1422.19	262.05	182.81	Under	
15	3/31/2010	1160.14	1422.19	262.05	180.54	Under	
16	4/30/2010	1160.14	1422.19	262.05	178.35	Under	
17	5/31/2010	1182.89	1450.08	267.19	179.53	Under	
18	6/30/2010	1182.89	1450.08	267.19	177.29	Under	
19	7/31/2010	1182.89	1450.08	267.19	174.98	Under	
20	8/31/2010	1182.89	1450.08	267.19	172.66	Under	
21	9/30/2010	1182.89	1450.08	267.19	170.42	Under	
22	10/31/2010	1182.89	1450.08	267.19	168.11	Under	
23	11/30/2010	1182.89	1450.08	267.19	165.87	Under	
24	12/31/2010	1182.89	1450.08	267.19	163.55	Under	
25	1/31/2011	1182.89	1450.08	267.19	154.66	Under	
26	2/28/2011	1182.89	1450.08	267.19	152.65	Under	

27	3/31/2011	1182.89	1450.08	267.19	150.43 Under
28	4/30/2011	1182.89	1450.08	267.19	148.29 Under
29	5/31/2011	1205.64	1477.97	272.33	148.88 Under
30	6/30/2011	1205.64	1477.97	272.33	146.69 Under
31	7/31/2011	1205.64	1477.97	272.33	144.42 Under
32	8/31/2011	1205.64	1477.97	272.33	142.16 Under
33	9/30/2011	1205.64	1477.97	272.33	139.97 Under
34	10/31/2011	1205.64	1477.97	272.33	137.71 Under
35	11/30/2011	1205.64	1477.97	272.33	135.52 Under
36	12/31/2011	1205.64	1477.97	272.33	133.26 Under
37	1/31/2012	1205.64	1477.97	272.33	125.71 Under
38	2/29/2012	1205.64	1477.97	272.33	123.68 Under
39	3/31/2012	1205.64	1477.97	272.33	121.51 Under
40	4/30/2012	1205.64	1477.97	272.33	119.41 Under
41	5/31/2012	1228.39	1505.86	277.47	119.45 Under
42	6/30/2012	1228.39	1505.86	277.47	117.31 Under
43	7/31/2012	1228.39	1505.86	277.47	115.1 Under
44	8/31/2012	1228.39	1505.86	277.47	112.88 Under
45	9/30/2012	1228.39	1505.86	277.47	110.74 Under
46	10/31/2012	1228.39	1505.86	277.47	108.53 Under
47	11/30/2012	1228.39	1505.86	277.47	106.39 Under
48	12/31/2012	1228.39	1505.86	277.47	104.18 Under
49	1/31/2013	1228.39	1505.86	277.47	97.9 Under
50	2/28/2013	1228.39	1505.86	277.47	95.98 Under
51	3/31/2013	1228.39	1505.86	277.47	93.86 Under
52	4/30/2013	1228.39	1505.86	277.47	91.8 Under
53	5/31/2013	1251.14	1533.75	282.61	91.34 Under
54	6/30/2013	1251.14	1533.75	282.61	89.25 Under
55	7/31/2013	1251.14	1533.75	282.61	87.08 Under
56	8/31/2013	1251.14	1533.75	282.61	84.92 Under
57	9/30/2013	1251.14	1533.75	282.61	82.83 Under
58	10/31/2013	1251.14	1533.75	282.61	80.66 Under
59	11/30/2013	0	1533.75	1533.75	426.41 Under
60	12/31/2013	0	1533.75	1533.75	414.67 Under

61	1/31/2014	3753.42	1533.75	-2219.67	-339.97 Over
62	2/28/2014	1251.14	1533.75	282.61	69.44 Under
63	3/31/2014	1251.14	1533.75	282.61	67.36 Under
64	4/30/2014	1251.14	1533.75	282.61	65.35 Under
65	5/31/2014	1262.52	1561.64	299.12	66.97 Under
66	6/30/2014	1262.52	1561.64	299.12	64.84 Under
67	7/31/2014	1262.52	1561.64	299.12	62.64 Under
68	8/31/2014	1262.52	1561.64	299.12	60.45 Under
69	9/30/2014	1262.52	1561.64	299.12	58.32 Under
70	10/31/2014	1262.52	1561.64	299.12	56.12 Under
71	11/30/2014	1262.52	1561.64	299.12	53.99 Under
72	12/31/2014	1262.52	1561.64	299.12	51.79 Under
73	1/31/2015	1262.52	1561.64	299.12	47.66 Under
74	2/28/2015	1273.9	1561.64	287.74	44.01 Under
75	3/31/2015	1273.9	1561.64	287.74	41.98 Under
76	4/30/2015	1379.21	1561.64	182.43	25.37 Under
77	5/31/2015	1285.28	1589.53	304.25	40.15 Under
78	6/30/2015	1285.28	1589.53	304.25	38.07 Under
79	7/31/2015	1285.28	1589.53	304.25	35.92 Under
80	8/31/2015	1285.28	1589.53	304.25	33.77 Under
81	9/30/2015	1285.28	1589.53	304.25	31.69 Under
82	10/31/2015	1285.28	1589.53	304.25	29.54 Under
83	11/30/2015	1285.28	1589.53	304.25	27.46 Under
84	12/31/2015	1285.28	1589.53	304.25	25.31 Under
85	1/31/2016	1285.28	1589.53	304.25	22.27 Under
86	2/29/2016	1285.28	1589.53	304.25	20.34 Under
87	3/31/2016	1285.28	1589.53	304.25	18.27 Under
88	4/30/2016	1285.28	1589.53	304.25	16.27 Under
89	5/31/2016	1296.66	1617.42	320.76	14.97 Under
90	6/30/2016	1296.66	1617.42	320.76	12.87 Under
91	7/31/2016	1296.66	1617.42	320.76	10.69 Under
92	8/31/2016	1296.66	1617.42	320.76	8.51 Under
93	9/30/2016	1296.66	1617.42	320.76	6.4 Under
94	10/31/2016	1296.66	1617.42	320.76	4.22 Under

95 11/30/2016 1296.66 1617.42 320.76 2.11 Under

	Original	Corrected	Difference	Interest
Non BD	124712.74	153241.43	28528.69	11858.81
BD	0	0	0.00	0
Sum Total	124712.74	153241.43	28528.69	11858.81

Total One Time Payment	40387.50
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New Monthly Amount	1617.42
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