



Milwaukee County

Department of Human Resources

INTER-OFFICE COMMUNICATION

Date: January 19, 2017
To: Theodore Lipscomb, Sr., Chairman, Milwaukee County Board of Supervisors
From: Kerry Mitchell, Chief Human Resources Officer *KJM*
Marian Ninneman, Director of Retirement Plan Services *MN*
Subject: Informational Report: Summary of Voluntary Correction Plan

As requested, this report outlines information about the 2008 IRS Voluntary Correction Plan ("VCP"), including overall financial and Employees' Retirement System ("ERS") member impact.

From time to time, County Board Supervisors have received inquiries from retirees or employees about this VCP and its possible effect on their pension benefits. Please note that those individuals who are affected by the VCP have been contacted by Retirement Plan Services ("RPS"). The majority of ERS members are not affected by the VCP, and if a member has not been contacted by RPS, that member's pension remains unchanged. Please continue to share this message with anyone who reaches out to you, and encourage them to contact Retirement Plan Services at 414-278-4207 with any additional questions.

Summary of VCP Corrections and Errors

The following is a summary of the errors identified in the 2008 VCP, as well as the steps taken to correct the errors, the number of individuals affected and the payments associated with each error.

Failure #1 – Failure to comply with two-year repayment deadline

During 1986 and from 1989 through 2004, ERS permitted rehired Plan participants to repurchase prior service credits through a buy-back program, associated with a previous cash-out of employee contributions after the applicable two-year repayment deadline specified by the Plan's written terms.

Correction: Retroactive Ordinance amendment was adopted that conforms the Plan to operation. The County Board adopted the Ordinance amendments to section 11.1 with the changes as requested by the IRS.

Letters were distributed to all affected members confirming that their errors were corrected and they would retain their purchased service credit.

Number of individuals affected: 97
Payments made: \$0*

*These service credits have been included in the annual actuarial valuation. To determine the net effect of allowing the members to retain their purchased service credit through the

ordinance amendment would require a calculation of each benefit with and without the service credit.

Failure #2 - Allowed ineligible individuals to purchase service credit

At times, ineligible Plan participants or individuals were permitted to purchase service via the Buy Back Program or were allowed to purchase additional service credit for periods of employment with the County during which participation in the Plan was optional and the participant did not enroll or was unaware of their ability to enroll in the Plan. These errors took place in 1990, 1992, 1993, 1996, 1997, 2000 and 2002.

Correction: Rescind the service credit purchase. If the individual is entitled to receive an on-going benefit, recalculate the benefit. If the individual was not entitled to receive a benefit, stop the benefit going forward. To recoup the overpayment, retain the funds used to purchase the service credits and send demand letters requesting payment of money due to ERS plus 5% interest.

For those individuals who were hired by United Regional Medical Services, Inc., who became employed by Froedtert Memorial Lutheran Hospital in conjunction with the sale of Doyme Hospital, or who retired from the County to the terms in Ordinance sections 201.24(4.25) and 201.24(4.26), the County will conform the Plan's terms to actual Plan operation.

Service credits have been rescinded and benefits either recalculated or discontinued. For members not yet retired, purchase has been refunded and service credits removed from their account. Letters have been sent to all affected members.

Number of individuals affected:	18
Payments made:	
URMS / Froedtert employees	\$0*
Refunds	\$73,491
All others	\$(300,181)

Failure #3 - Failure to comply with Code section 415 limits for BIBBs

Some purchases made under the Buy-In and Buy-Back program exceeded ERS limits on amounts that could be contributed/allocated or exceeded the limit imposed by Code section 415(c). These errors took place during 1982, 1985, and 1989 through 1996 and in plan years ending in 1998 through 2007.

Correction: Retroactive Ordinance amendments were adopted to conform with the Plan's operation. Additionally, if members' payments can be allocated to a future year's compensation, no violation occurred. Letters have been sent to all affected members.

Number of individuals affected:	121
Payments made:	\$0*

Failure #4 –Accepted 457 Plan Funds to Purchase Service Credit

In operation, Plan participants made purchases under the Buy-In and Buy-Back programs using funds transferred from Milwaukee County's 457(b) plan even though the terms of the Plan did not permit such transfers. This failure impacted two groups: those using 457(b) funds to fully cover their purchase of service credits and those who used partial funds from their 457(b) funds but never completed their purchase. These errors took place from 2002 through 2007.

Correction:

Completed Purchases: Retroactive Ordinance amendment conforming to Plan operation was adopted. Letters were sent to all affected members confirming that their errors were corrected and the retained their purchased service credit.

In-Process Purchases: Service credits were rescinded and payments used to purchase the service credit were refunded. Members with 457 plan accounts were transferred back to their 457 accounts through a tax free transfer. Members without 457 plan accounts received a refund of the payment used to purchase service credits plus 5% interest.

Number of individuals affected:

Completed purchases	101
Partially completed purchases	14
Payments made:	\$160,477

Failure #5 - Accepted Rollover from Prior Employer Plan to Purchase Service Credit

A participant was allowed to fund a Buy Back service credit purchase with a rollover contribution from a former employer's retirement plan even though the terms of the Plan did not permit this practice. This error took place in 1994.

Correction. Purchased service credit has been rescinded and a letter informing participant of the errors and requesting that he repay the overpayment he received has been sent.

Number of individuals affected:	1
Payments made:	\$(57,386)

Failure #6 - Failure to Comply with the Required Minimum Distribution Rules

ERS failed to make timely pension payments in accordance with Plan terms and compliance with required minimum distribution rules in accordance with IRS Code. These errors occurred during 2012 through 2015. These five deferred members failed to contact the County when they turned 70.5 years old, and our system failed to catch when they turned 70.5 years old. We developed and implemented a system query to identify these members moving forward.

Correction: The minimum distributions amounts required under the Code were calculated and distributions have been made. Letters have been sent to affected members informing them of the errors.

Number of individuals affected:	5
Payments made:	\$45,293

Failure # 7 - Disability Errors.

This failure consisted of two errors:

- (1) ERS failed to reduce disability benefits after compensation from an employer exceeded ERS stated compensation limits. These errors took place during 1996 through 2010.
- (2) ERS failed to convert a benefit when member reached age 62. This error occurred during 2001 through 2008.

Correction: The disability benefits of those members with excess earnings have been reduced and they are currently in repayment status to recover overpayments plus 5% interest in accordance with repayment agreements.

The disability benefit for the member who was not converted to a normal retirement benefit at age 62 has been converted and member is currently in repayment status to recover overpayment plus 5% interest in accordance with repayment agreement.

Number of individuals affected	
Excess Earnings	4
Conversion at age 62	1
Payments made:	\$(214,556)

Failure #8 - Failure to Use Correct Mortality Table

Benefits for members electing an optional form of benefit that were actuarially equivalent to the Plan's normal form of benefit (straight life annuity) resulted in benefit underpayments to some retirees and their beneficiaries. This error occurred during 2001 through 2008.

Correction: The benefits of affected members were recalculated based on the correct mortality table, and lump sum payments plus 8% interest have been made to retirees or their beneficiaries. Letters regarding the error and the correction have been sent to affected members.

Number of individuals affected	1,283
Payments made:	\$14,305,347

Failures #9 - Failure to Timely Adopt Required Ordinance Amendments

The Plan was not amended to comply with the applicable requirements of the Uruguay Round Agreements Act; the Uniformed Services Employment and Reemployment Rights Act of 1994; the Small Business Job Protection Act of 1996; the Taxpayer Relief Act of 1997; the Internal Revenue Service Restructuring and Reform Act of 1998; and the Community Renewal Tax Relief Act of 2000 (collectively known as "GUST") by the required dates in accordance with Code section 401(b) and Treasury regulations.

Correction: The County Board adopted Ordinance amendments to comply with the required changes.

Individuals affected: N/A

Payments made: N/A

Failures #10 - Failure to Timely Adopt Required Ordinance Amendments

The Plan was not amended to comply with the statutory, regulatory, or guidance changes provided for in the 2007 Cumulative List for Cycle C by the end of its remedial amendment cycle. The Plan's remedial amendment cycle ended on January 31, 2009.

Correction: The County Board adopted Ordinance amendments to comply with the required changes.

Individuals affected: N/A

Payments made: N/A

Failures #11 - Failure to Timely Adopt Required Ordinance Amendments

The Plan was not amended for compliance with the Pension Protection Act of 2006 (PPA) by the required dates in accordance with Code section 401(b) and Treasury Regulations thereunder.

Correction: The County Board adopted Ordinance amendments to comply with the required changes.

Individuals affected: N/A

Payments made: N/A

Failures #12- Failure to Timely Adopt Required Ordinance Amendments

The Plan was not amended for compliance with the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART) by the required dates in accordance with Code section 401(b) and Treasury regulations thereunder.

Correction: The County Board adopted Ordinance amendments to comply with the required changes.

Individual affected: N/A

Payments made: N/A

Prior Reports

Because some of our County Board members are relatively new and may not be familiar with the VCP, we attached links to some prior Board reports for your review:

- 03/14/2014: [Pension Board Request for amendments to ERS Pension Ordinances – File 14-244](#)
- 05/13/2014: [2014 chronology memo – File 14-465](#)
- 12/01/2014: [Purchases of Pension Service Credit – File 14-947](#)
- 12/29/2014: [Pension Board Request for amendments to ERS Pension Ordinances; sections 201.24\(8.17\)\(11.1\), \(11.11\) and \(12.4\) – File 15-31](#)
- 01/09/2015: [Pension Buy-In/Buy-Back Informational Update – File 15-89](#)
- 06/30/2016: [ERS Pension Ordinance Amendment – File 16-411](#)

Future Items

In 2014, Corporation Counsel and external legal counsel submitted a supplemental VCP regarding additional errors and proposed correction methodologies. As of today, the IRS has not yet assigned this VCP to an agent to work with the County. We plan to provide an informational report about this 2014 supplemental VCP during the March cycle.

Please contact us with any questions. Thank you.

Cc: Supervisor Peggy A. West, Chairwoman, Finance and Audit Committee
Supervisor James Schmitt, Chairman, Personnel Committee
Chris Abele, County Executive
Finance and Audit Committee
Personnel Committee
Kelly Bablitch, Chief of Staff, County Board
Raisa Koltun, Chief of Staff, Office of the County Executive
Teig Whaley-Smith, Director, Department of Administrative Services
Steve Cady, Research & Policy Director, Research Services Division, Office of the Comptroller
Shanin Brown, Committee Coordinator, Office of the County Clerk
Janelle Jensen, Senior Committee Coordinator, Office of the County Clerk