



Milwaukee County Retirement Plan Services

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Date: June 5, 2017

To: Theodore Lipscomb, Sr., Chairman, Milwaukee County Board of Supervisors

From: Amy Pechacek, Interim Director of RPS 

Subject: **Informational Report - Retirement Plan Services Update**

This memo serves as a regular informational update regarding Retirement Plan Services ("RPS") operations.

Baker Tilly Agreed-Upon Procedures Review

The fully executed Baker Tilly contract was signed March 31, 2017, for the Agreed-Upon Procedures audit to determine what other Employee Retirement Services ("ERS") issues may currently exist. RPS and Baker Tilly have mapped out the timeline for the audit, which commenced onsite on April 10, 2017. Phase 1 of the audit focuses on the areas of greatest concern as identified by RPS staff, the Audit Division of the Comptroller's Office, the Office of Corporation Counsel and outside counsel, and based on previously uncovered issues as identified through prior errors and the Voluntary Correction Plans ("VCP"). This phase also includes random sampling to ensure there are no blind spots in identifying the potential universe of problems. **Phase 1 is scheduled to conclude in June, with a report from Baker Tilly to be available and presented at the June 28, 2017 meeting of the Pension Board.** The Baker Tilly auditors will present the report to the **County Board in July** at whichever committee the Chairman deems appropriate.

There are two additional phases of the audit as outlined in the previously submitted scope document. Phase 2 will include expanded research into corrections and errors on the 2007/2008 VCP and the 2014 Supplemental VCP and any new issues uncovered by Baker Tilly during Phase 1 (via random sampling or otherwise). Lastly, Phase 3 consists of the consulting aspects and document process improvement recommendations from Baker Tilly to assist RPS in more efficient and accurate operations moving forward. Phase 3 is set to conclude in August. A final report will be available upon the conclusion of Phase 3 and the auditors will make one final presentation to both the Pension Board and the County Board.

Other RPS Updates

Working with the auditors during the Agreed-Upon Procedures Review has severely impacted staff time, however RPS has continued to perform the routine affairs of the office which includes monthly disbursement of retirement checks to over 8,200 beneficiaries, administrative plan management of approximately 18,000 employees and retirees, processing estimates, answering and researching around 1,000 phone call inquiries monthly, researching and responding to approximately 400 emailed questions monthly, holding pre-retirement seminars, processing

new retirees and terminating deceased member benefits, contract management, and coordinating Pension Board meetings and committees. In addition, the standard annual financial audit and the annual actuarial valuation have been underway for the past several months and require extensive data extraction and interpretive processing from the RPS team. Other updates include the release of the Request for Proposal for actuarial services during the week of June 5, 2017. A recommendation for contract award is expected to be presented in the August cycle to the Pension Board once the bids have been received and scored. Lastly, the research analyst position in RPS was recently vacated due to a retirement and RPS is exploring restructuring the position to focus more on supporting the systems side of administration.

Updated Summary of 2014 Supplemental VCP

As requested by the Personnel Committee, the remainder of this report outlines information on the 2014 Supplemental IRS VCP, including any information known to date about financial and ERS member impact. The below is a collection of previously reported information from the prior three committee cycles. **The areas on the 2014 Supplemental VCP categories that have been updated since the initial March cycle 2014 Supplemental VCP report are highlighted in bold and underlined, with a brief explanation of the update.** This summary is not a comprehensive fiscal analysis, which will be performed at the conclusion of the Baker Tilly Agreed-Upon Procedures Review as this third party audit is the investigatory process by which the population and severity of required corrections will be identified. Further, the Office of the Comptroller has agreed to perform the fiscal analysis from an independent vantage point and with financial subject matter expertise to determine the appropriate methodology on how to assess impacts for ERS and to Milwaukee County as the plan sponsor.

In 2014, Corporation Counsel and Pension Board counsel submitted a supplemental VCP regarding additional errors and proposed correction methodology. Below is a breakdown of several errors reported in the supplemental VCP. Pension Board counsel spoke with the IRS agent on January 26, 2017 regarding the supplemental filing. On March 1, 2017, the agent confirmed with Pension Board counsel that he would be the agent in charge of oversight for this supplemental filing. The IRS requested an updated status of research into the errors from RPS due on March 31, 2017. With the recent commencement of the Baker Tilly Agreed-Upon Procedures review, Pension Board attorney Steve Huff sent correspondence to the IRS requesting a reporting extension until the audit is concluded as this auditing process will uncover additional VCP reporting obligations and resolutions, and the review is needed to confirm and further define the information already contained in the VCP. The IRS agreed to provide an extension on status reporting for the 2014 Supplemental VCP to December of 2017.

The following data reflects the most current information known to date, and will be subject to future updates as research into the supplemental VCP continues.

PLEASE NOTE: All financial estimates contained herein are preliminary and are not to be interpreted as a final assessment, and are not reflective of a comprehensive overall fiscal impact of all known errors. Additionally, all corrections and amendments are subject to approval by the IRS as part of a final Compliance Statement.

1. Compliance with Domestic Relations Support Orders

- | | |
|--------------------------|----------------|
| a. Period of errors: | 2000-2013 |
| b. Individuals affected: | 80 |
| c. Cost to ERS: | Not Applicable |

Correction: ERS corrected this failure by retroactively amending the Plan document to authorize acceptance of these support orders. An amendment to Rule 1017 was adopted by the Pension Board to fix these errors on April 17, 2013.

2. Lump Sum BackDROP Errors – ERS incorrectly calculated members' backDROP lump sum payments and did not modify calculations for backDROPs in accordance with changes to the Ordinances, resulting in overpayments and underpayments.

- a. Period of error: 2009 – 2012
- b. Individuals affected: Approximately 600
- c. Cost to ERS: Approximately \$425,000 already paid for underpayments

Correction: ERS determined the difference between the amount the member was paid and what they should have been paid for both over- and underpayments. For underpayments, the difference plus 5% interest was paid to each member in a lump sum. These payments were made to members in 2012. Efforts are ongoing to verify the status of these overpayments (i.e., whether efforts were made to collect the overpayment from the member with 5% interest and/or if those efforts were ultimately successful). Any overpayments that are not recovered from the members will need to be contributed by the County. Please also refer to related memoranda addressing overpayments.

3. **UPDATED** Cost of Living Adjustments (“COLA”) – Two COLA failures included: (1) failure to apply cost of living adjustments, resulting in underpayments; and (2) excess payment of cost of living adjustments, resulting in overpayments.

- a. Period of error: 1985, 1993, 1996, 2001, 2004, 2008-2013
- b. Individuals affected: Approximately 350
- c. Cost to ERS: Approximately \$480,000 already paid for underpayments

Correction: ERS determined the correct cost of living attributable to each member’s benefit. For underpayments, ERS then paid the member the underpayment amount in a lump sum (plus interest at 5%). Efforts are ongoing to verify the status of the overpayments (i.e., whether efforts were made to collect the overpayment from the member with 5% interest and/or if those efforts were ultimately successful). Any overpayments that are not recovered from the members will need to be contributed by the County. Please also refer to related memoranda addressing overpayments. **UPDATE:** As noted on p. 2 of the April 5, 2017 RPS Update memo, following the March cycle committee reports RPS staff continued to research the errors and correction action associated with the 2014 Supplemental VCP. Under Item #3, COLA errors, an additional approximate 150 impacted individuals were uncovered to have underpayments which were corrected in 2012. These individuals resulted in an additional approximate \$30,000 of adjustments in underpayments in this category. This brings the total amount of impacted individuals to 350 people versus the previously reported total of approximately 200 impacted individuals. The updated total amount of underpayments is approximately \$480,000, versus the previously reported amount of approximately \$450,000.

4. Use of Incorrect Service Credit to Calculate Pension Benefit - Due to the use of incorrect service credits, the member's spouse was overpaid, and due to an error, the member's child was underpaid.

- a. Period of error: Over a number of years
- b. Individuals affected: 2

- c. Cost to ERS: Approximately \$250,000 inclusive of underpayments + overpayments¹

Correction: An agreement has been entered into with the spouse to apply a 100% offset to the spouse's benefit. Payment of benefits will resume when overpayment, plus 5% interest, has been recovered. Any overpayments that are not recovered from the spouse will need to be contributed by the County. RPS has calculated the amount payable to the member's child and paid that in a lump sum with 5% interest.

5. **UPDATED:** Benefit Paid to Wrong Member - The surviving spouse of an ERS member was incorrectly receiving the member's benefit plus the pension benefit of another, unrelated member (i.e., Jane Smith, wife of deceased ERS member Jack Smith, is receiving both Jack Smith's survivor pension benefit, as well as the survivor pension benefit of deceased unrelated ERS member John Doe). Neither the spouse (Jane) nor the individual who should have been receiving the benefit (John Doe's surviving spouse) notified RPS, so the error was not discovered until the spouse receiving the double benefits (Jane) died.
- a. Period of error: 2008 – 2011
b. Individuals affected: 2
c. Cost to ERS: Approximately \$100,000*

Correction: RPS updated its system to reflect accurate direct deposit information and hand-delivered a check to the member who should have been receiving monthly payments. **UPDATE:** * To clarify this figure, the cost is derived from both an underpayment to the member who was not originally paid their benefit and an overpayment to the member who was incorrectly receiving the first member's payment. The underpayment check consisted of the missed payments to the first beneficiary, amounting to approximately \$50,000 paid in a lump sum in 2011. This payment is stated to have included 5% interest as reported on the 2014 Supplemental VCP filing, the document submitted to the IRS dated April 22, 2014, and provided to the Board under file #17-243 during the March cycle. Interest rates and corrections on the 2014 Supplemental VCP are under review during Phase 2 of the Baker Tilly Agreed- Upon Procedures Review audit. Several attempts have been made to recover the overpayment of approximately \$50,000 paid in error to the other beneficiary, including contact with the family's lawyer. To date, no response has been received and no money repaid. Any overpayments that are not recovered from the family of the deceased member will need to be contributed by the County.

6. Definition of Employee – State employees received their entire wage from the State but were allowed to remain contributing members of ERS after their positions were transferred to the State as part of the income maintenance (MiLES) and childcare (MECA) legislation.
- a. Period of error: 2009 – 2011
b. Individuals affected: 40
c. Cost to ERS: Not Applicable

Correction: An Ordinance amendment was adopted by the County Board in December 2011, which corrected the operational error created by retroactively revising the definition of "employee" in Ordinance section 201.24(2.4).

¹ This figure represents an estimated \$20,000 in underpayments plus an estimated \$230,000 in overpayments. The reason that this is reported as a total estimated cost of \$250,000 is because if efforts to collect the overpayments from members fail, the County would be responsible for making the trust (i.e., the pension fund) whole, as described in the Overpayments Memorandum. Thus, the \$250,000 is an estimated "worst case" amount. Notwithstanding the foregoing, we also note that we are uncertain whether interest was appropriately applied to these corrections. Again, efforts are underway to verify the veracity of these corrections.

7. Pension Protection Act of 2006 (PPA) and Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART) Amendments – ERS has operationally complied with the requirements, however the required amendments under PPA and HEART were not adopted within the mandated time period.

- a. Period of error: 2011
- b. Individuals affected: 0
- c. Cost to ERS: Not Applicable

Correction: The County Board adopted Ordinance Amendments to comply with the required changes on May 22, 2014.

8. **UPDATED** Incorrect Retirement Option – A member elected 100% Joint and Survivor option but the beneficiary was paid under a 50% Joint and Survivor option, resulting in an underpayment.

- a. Period of error: Number of years
- b. Individuals affected: 1
- c. Cost to ERS: \$346,189.94 already paid

Correction: **UPDATE:** Since the March cycle committee reports and up until the commencement of the Baker Tilly review, RPS staff continued to research the errors and correction action associated with the 2014 Supplemental VCP. For item 1e of the 2014 Supplemental VCP, Incorrect Retirement Option, a correction has been made that involves a beneficiary who was originally paid a joint and survivor annuity at 50% when the deceased member elected a joint and survivor benefit at 100%. This error had been uncovered in the 2012 ERS audit performed by the Audit Division of the Comptroller's Office ("Excessive Manual Review and Intervention is Required to Ensure Pension Benefit Calculations from Milwaukee County ERS' Automated V-3 System are Accurate") and had been represented by the prior director as corrected. In researching information for the VCP, it was determined that the error was not corrected as previously represented. Accordingly, RPS worked to determine the current calculations to correct this error, notify the beneficiary, and make the damaged party whole. The underpayment error of \$117,556 as identified in the 2012 audit and on the VCP filing, was now currently calculated at \$346,189.94, of which \$157,581.46 is interest. This was reported to the County Board during the May committee cycle and is on p.2 of the May 8, 2017 memo. Interest calculations are in accordance with the IRS guidelines.

In summary, several items are still under research through the Agreed-Upon Procedures Review and these figures will continue to develop. Information will be shared on an on-going basis. These projections are not comprehensive and several areas under investigation for the 2014 Supplemental VCP have no current cost estimates given on-going research.

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

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Janelle Jensen, Senior Committee Coordinator, Office of the County Clerk