

participant's years of service (\$500/10), which equals \$50. The guaranteed amount for a \$50 monthly accrual rate is equal to the sum of \$11 plus \$24.75 (.75 x \$33), or \$35.75. Thus, the participant's guaranteed monthly benefit is \$357.50 (\$35.75 x 10).

Example 2: If the participant in Example 1 has an accrued monthly benefit of \$200, the accrual rate for purposes of determining the guarantee would be \$20 (or \$200/10). The guaranteed amount for a \$20 monthly accrual rate is equal to the sum of \$11 plus \$6.75 (.75 x \$9), or \$17.75. Thus, the participant's guaranteed monthly benefit would be \$177.50 (\$17.75 x 10).

In calculating a person's monthly payment, the PBGC will disregard any benefit increases that were made under the plan within 60 months before the earlier of the plan's termination or insolvency. Similarly, the PBGC does not guarantee pre-retirement death benefits to a spouse or beneficiary (e.g., a qualified pre-retirement survivor annuity) if the participant dies after the plan terminates, benefits above the normal retirement benefit, disability benefits not in pay status, or non-pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay.

Where to Get More Information

For more information about this notice, you may contact [enter name of plan administrator and, if applicable, principal administrative officer], at [enter phone number and address]. For more information about the PBGC and multiemployer benefit guarantees, go to PBGC's website, www.pbgc.gov, or call PBGC toll-free at 1-800-400-7242 (TTY/TDD users may call the Federal relay service toll free at 1-800-877-8339 and ask to be connected to 1-800-400-7242).

[71 FR 1911, Jan. 11, 2006]

§ 2520.101-5 [Reserved]

§ 2520.101-6 Multiemployer pension plan information made available on request.

(a) *In general.* For purposes of compliance with the requirements of section 101(k) of the Employee Retirement Income Security Act of 1974, as amended (the Act), 29 U.S.C. 1001, *et seq.*, the administrator of a multiemployer pension plan shall, in accordance with the requirements of this section, furnish copies of reports and applications described in paragraph (c) of this section to plan participants, beneficiaries, employee representatives and contributing employers, described in paragraph (e) of this section.

(b) *Obligation to furnish.* (1) Except as provided in paragraph (d) of this section, the administrator of a multiemployer pension plan shall, not later than 30 days after receipt of a written request for a report(s) or application(s) described in paragraph (c) of this section from a plan participant, beneficiary, employee representative or contributing employer described in paragraph (e) of this section, furnish the requested document or documents to the requester.

(2) The plan administrator shall furnish reports and applications pursuant to paragraph (b)(1) of this section in a manner consistent with the requirements of 29 CFR 2520.104b-1, including paragraph (c) of that section relating to the use of electronic media.

(3) The plan administrator may impose a reasonable charge to cover the costs of furnishing documents pursuant to this section, but in no event may such charge exceed—

(i) The lesser of: (A) The actual cost to the plan for the least expensive means of acceptable reproduction of the document(s) or (B) 25 cents per page; plus

(ii) The cost of mailing or delivery of the document.

(c) *Documents to be furnished.* For purposes of paragraph (a) of this section, and subject to paragraph (d) of this section, a plan participant, beneficiary, employee representative or contributing employer described in paragraph (e) of this section, shall be entitled to request and receive a copy of any:

(1) Periodic actuarial report. For this purpose the term “periodic actuarial report” means any—

(i) Actuarial report prepared by an actuary of the plan and received by the plan at regularly scheduled, recurring intervals; and

(ii) Study, test (including a sensitivity test), document, analysis or other information (whether or not called a “report”) received by the plan from an actuary of the plan that depicts alternative funding scenarios based on a range of alternative actuarial assumptions, whether or not such information is received by the plan at regularly scheduled, recurring intervals.

(2) Quarterly, semi-annual, or annual financial report prepared for the plan by any plan investment manager or advisor (without regard to whether such advisor is a fiduciary within the meaning of section 3(21) of the Act) or other fiduciary; and

(3) Application filed with the Secretary of the Treasury requesting an extension under section 304 of the Act or section 431(d) of the Internal Revenue Code of 1986 and the determination of such Secretary pursuant to such application.

(d) *Limitations and exceptions.* For purposes of this section, reports and applications (and related determinations) required to be disclosed under this section shall not include:

(1) Any report or application that was furnished to the requester within

the 12-month period immediately preceding the date on which the request is received by the plan;

(2) Any report or application that, as of the date on which the request is received by the plan, has been in the plan’s possession for 6 years or more;

(3) Any report described in paragraph (c)(1) and (c)(2) of this section that, as of the date on which the request is received by the plan, has not been in the plan’s possession for at least 30 days; except that, if the plan administrator elects not to furnish any such document, the administrator shall furnish a notice, not later than 30 days after the date on which request is received by the plan, informing the requester of the existence of the document and the earliest date on which the document can be furnished by the plan.

(4) Any information or data which served as the basis for any report or application described in paragraph (c) of this section, although nothing herein shall limit any other right that a person may have to review or obtain such information under the Act; or

(5)(i) Any information within a report or application that the plan administrator reasonably determines to be either:

(A) individually identifiable information with respect to any plan participant, beneficiary, employee, fiduciary, or contributing employer, except that such limitation shall not apply to an investment manager, adviser, or other person (other than an employee of the plan) preparing a financial report described in paragraph (c)(2) of this section; or

(B) proprietary information regarding the plan, any contributing employer, or entity providing services to the plan.

(ii) For purposes of paragraph (d)(5)(i)(B) of this section, the term “proprietary information” means trade secrets and other non-public information (e.g., processes, procedures, formulas, methodologies, techniques, strategies) that, if disclosed by the plan, may cause, or increase a reasonable risk of, financial harm to the plan, a contributing employer, or entity providing services to the plan.

(iii) The plan administrator may treat information relating to a contributing employer or entity providing services to the plan as other than proprietary if the contributing employer or service provider has not identified such information as proprietary.

(iv) A plan administrator shall inform the requester if the plan administrator withholds any information described in paragraph (d)(5)(i) of this section from a report or application requested under paragraph (b) of this section.

(e) *Persons entitled to request documents.* For purposes of this section, a plan participant, beneficiary, employee representative or contributing employer entitled to request and receive reports and applications includes:

(1) Any participant within the meaning of section 3(7) of the Act;

(2) Any beneficiary receiving benefits under the plan;

(3) Any labor organization representing participants under the plan;

(4) Any employer that is a party to the collective bargaining agreement(s) pursuant to which the plan is maintained or who otherwise may be subject to withdrawal liability pursuant to section 4203 of the Act.

[75 FR 9341, Mar. 2, 2010]

Subpart B—Contents of Plan Descriptions and Summary Plan Descriptions

§ 2520.102-1 [Reserved]

§ 2520.102-2 Style and format of summary plan description.

(a) *Method of presentation.* The summary plan description shall be written in a manner calculated to be understood by the average plan participant and shall be sufficiently comprehensive to apprise the plan's participants and beneficiaries of their rights and obligations under the plan. In fulfilling these requirements, the plan administrator shall exercise considered judgment and discretion by taking into account such factors as the level of comprehension and education of typical participants in the plan and the complexity of the terms of the plan. Consideration of these factors will usually require the limitation or elimination of technical

jargon and of long, complex sentences, the use of clarifying examples and illustrations, the use of clear cross references and a table of contents.

(b) *General format.* The format of the summary plan description must not have the effect to misleading, misinforming or failing to inform participants and beneficiaries. Any description of exception, limitations, reductions, and other restrictions of plan benefits shall not be minimized, rendered obscure or otherwise made to appear unimportant. Such exceptions, limitations, reductions, or restrictions of plan benefits shall be described or summarized in a manner not less prominent than the style, captions, printing type, and prominence used to describe or summarize plan benefits. The advantages and disadvantages of the plan shall be presented without either exaggerating the benefits or minimizing the limitations. The description or summary of restrictive plan provisions need not be disclosed in the summary plan description in close conjunction with the description or summary of benefits, provided that adjacent to the benefit description the page on which the restrictions are described is noted.

(c) *Foreign languages.* In the case of either—

(1) A plan that covers fewer than 100 participants at the beginning of a plan year, and in which 25 percent or more of all plan participants are literate only in the same non-English language, or

(2) A plan which covers 100 or more participants at the beginning of the plan year, and in which the lesser of (i) 500 or more participants, or (ii) 10% or more of all plan participants are literate only in the same non-English language, so that a summary plan description in English would fail to inform these participants adequately of their rights and obligations under the plan, the plan administrator for such plan shall provide these participants with an English-language summary plan description which prominently displays a notice, in the non-English language common to these participants, offering them assistance. The assistance provided need not involve written materials, but shall be given in the non-