

## **Qualification of Domestic Relations Orders**

### **Guidelines and Procedures for Attorneys and Parties-in-Interest**

The Retirement Equity Act specifies the following criteria for qualification of domestic relations orders assigning pension benefits to an alternate payee. Unless and until a domestic relations order is qualified by the Plan Administrator, its terms will not be honored. This statement is provided to assist you in drafting an order which will be qualified.

Upon receipt of a domestic relations order (hereinafter, "Order") with respect to the Plan, the **Plan Administrator** shall act in accordance with the following procedures.

#### **Pension Fund Procedures**

##### **Procedures upon Receipt of an Order**

1. Upon receipt of an Order, the Plan Administrator shall:
  - a. Send written notice of receipt of such Order to each person named therein as being entitled to benefits under the Plan (at the address specified in the Order, if applicable), together with a copy of these procedures;
  - b. Separately account for and invest all amounts affected by the Order (except for any amounts that would not be distributable in any event during the period in which these procedures are applicable).
2. Upon review of the Order, the Plan Administrator will advise the parties requesting approval of the Order of any changes necessary for the Order to be recognized as qualified. Upon receipt of an Order acceptable to the Plan Administrator, the Plan administrator shall advise the interested parties the Order will be recognized as qualified.

##### **Procedures upon Final Determination**

1. If, by the end of or within the 18 month period beginning with the date on which the first payment would be required to be made under an Order, a final determination is made that the Order (as modified, if applicable ) is a QDRO, the Plan Administrator shall follow the terms of the Order. If separate accounting has been maintained for an alternate payee pursuant to Section 1(b) above, the Plan Administrator shall authorize distribution of such segregated amounts (including earnings thereon) to commence, or be made, to such alternate payee.
2. If, by the end of the 18 month period beginning with the date on which the first payment would be required to be made under an Order, no final determination has been made that the Order is a QDRO, the Plan Administrator shall notify all Interested Parties in writing of such fact. If separate accounting has been maintained for an alternate payee pursuant to Section

1(b) above, the Plan Administrator shall either authorize distribution of such segregated amounts (including earnings thereon) to commence, or be made, to the person or persons who would be entitled to receive such amounts in the absence of the Order, or, if such person or persons is/are not yet in pay status under the terms of the Plan, restore such amounts to the Plan's trust fund. If it is subsequently determined that the Order (as modified, if applicable) is a QDRO, then the QDRO shall be applied prospectively only.

### **Description of a Qualified Domestic Relations Order**

#### **A Qualified Domestic Relations Order is a divorce decree or order which:**

1. Assigns rights to an alternate Payee\* to receive all or a portion of benefits payable to a Participant under the Plan;
2. Provides for child support, alimony or marital property rights to a Participant's dependent(s);
3. Is made subject to a State's domestic relations law, within the proper court jurisdiction;
4. Specifies clearly:
  - a. the names and last known mailing addresses of the Participant and alternate payee. Please include the parties' Social Security numbers as well;
  - b. the amount or percentage of the Participant's benefit to be paid to any alternate payee, or the manner in which the amount or percentage is to be determined;
  - c. the number of payments or the period to which the order applies; and
  - d. the Building Trades United Pension Trust Fund - Milwaukee & Vicinity as the plan to which the order relates.
5. Does not alter the amount or form of Plan benefit or options under which benefits are payable. The non-Participant spouse is able to take the benefit payable under any option available, except the Automatic J&S or the Pop-Up J&S with respect to the alternate payee and their spouse;
6. Does not require payment of benefits to an alternate payee that have already been assigned to another alternate payee under a prior Qualified Domestic Relations Order; and
7. Clearly states the formula on which the benefit is to be payable to the alternate payee. If the court reserves the questions of the amount of benefit payable the alternate payee to some future date, the order is not qualified; only the subsequent order stating the amount of benefit is qualified.

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\* An alternate payee may be a spouse, former spouse, child or other dependent of the Participant named in the domestic relations order.

## **A Qualified Domestic Relations Order may also:**

1. Remain in effect with respect to a successor plan of the same employer or a plan of a successor employer; and
2. Permit payment to the alternate payee prior to the time the Participant actually retires; i.e., at or after the Participant attains the earliest retirement age under the plan.

## **Assignment of Benefits under a Qualified Domestic Relations Order (QDRO)**

To assist you in drafting a QDRO, the following are guidelines approved by the Board of Trustees for assignment of benefits from this plan under QDRO's.

### **Methods for Assigning Benefits**

All Regular, Early, Deferred or Disability Pensions and any Death Benefits are assignable under QDRO's. The basic method by which QDRO's may assign benefits to alternate payees is described below. *See also the attached draft of a Domestic Relations Order.* Other proposals of the parties will be considered.

#### **1. Percentage of Accrued Vested Benefits Awarded the Alternate Payee Payable in Monthly Installments for her Life**

Under this approach, the alternate payee is awarded a percentage of the actuarial equivalent of the Participant's accrued credit in the Plan as of the first of the month prior to divorce (the "accrual date"), which amount shall be paid the alternate payee in a monthly amount for life.

**Note:** Because of the way in which Fund records are maintained, the accrual date must be the first of a month.

The alternate payee may make application for benefits effective the earliest date the Participant could be eligible for benefits. Once the Participant becomes eligible for a distribution of benefits, the Alternate Payee may apply for commencement of benefits.

If the alternate payee commences benefits before the Participant attains Normal Retirement Age, the alternate payee's benefits will be actuarially reduced by a true actuarial reduction. If the Participant subsequently retires with a subsidized early retirement benefit, the amount payable to the Alternate Payee will be recalculated so that the Alternate Payee also receives a share of the subsidized benefit to which the Participant is entitled.

Should the alternate payee die prior to receipt of benefits and prior to the Participant's Normal Retirement Age, all benefits awarded revert to the Participant, unless the Alternate Payee is entitled to a Death Benefit.

All options available to the Participant, except for the automatic J&S or the Pop-up J&S as it applies to a subsequent spouse, are available to the alternate payee.

Vesting credit earned by the Participant after the accrual date would apply to the alternate payee's credit.

Death Benefits may be applicable to the life of the Participant or the Alternate Payee. If death benefits are awarded to the alternate payee, they are payable on the alternate payee's death. Benefits paid the alternate payee shall reduce any death benefit to a beneficiary named by the alternate payee. In the absence of specific language naming the alternate payee as the death benefit beneficiary, the Participant may name any person as the death benefit beneficiary.

### **Other Provisions with Regard to Assignment of Benefits**

#### **1. Naming Alternate Payee as Surviving Spouse for Post-Retirement Survivor Annuity Benefits**

The alternate payee will not need to be assigned Pre- or Post-Retirement Survivor Annuity Benefits because the alternate payee's benefit is not affected by the Participant's death either before or after the Participant's retirement date.

#### **2. Benefit Improvements**

Benefit accrual increase are not shared with the alternate payee.