

**WESTERN STATES INSULATORS & ALLIED WORKERS' PENSION PLAN
WESTERN STATES INSULATORS & ALLIED WORKERS'
INDIVIDUAL ACCOUNT PLAN
WESTERN STATES INSULATORS & ALLIED WORKERS' HEALTH PLAN
LOCAL AREA HEALTH & WELFARE PLAN**

Collection Procedures

I. Delinquent Contributions

A. Date for Payment. The Trust Agreements provide that contributions are due by the 10th day of each month and delinquent if not received by the 20th of the month. Each monthly payment shall include contributions as required by the Collective Bargaining Agreement, or other written agreement for work performed during the previous month.

1. Liquidated damages equal to 10% of the unpaid amount (or \$25, if greater) are assessed on delinquent contributions. Interest is payable at the rate of 7% per annum on delinquent contributions from the delinquent date to the date payment is made.

Exception: If a delinquent payment is received by the 24th of the month, liquidated damages are not assessed.

2. If the delinquent payment is not received by the 20th day of the month following the month in which it was due, the matter is referred to counsel for collection.

3. If a lawsuit is filed to recover delinquent contributions, liquidated damages increase to 20%, and interest at 7% per annum is payable.

B. Periodic Review. The contract administrator and an auditor shall review actual expenses from time to time to determine whether the liquidated damages charge is an accurate estimate of the increased cost occasioned by a delinquency and shall notify the Board of its findings.

C. Application of Payments Received. All payments received are applied to the earliest month of contributions owed by the employer on a pro-rata basis for all delinquent funds, then to liquidated damages after all delinquent contributions have been paid. If the amount of liquidated damages is paid at the applicable minimum of \$25, those liquidated damages shall apply to the Health & Welfare Fund only.

II. Administrative Procedures

A. Notice of Delinquency. The contract administrator for the Local Area Health & Welfare Plan, Western States Insulators & Allied Workers' Pension Plan, Individual Account Plan and Health Plan (Western States Insulators & Allied Workers' Plans) sends a written notice to any employer who fails to pay the

required contribution to any or all of the Plans by the 20th day of the month in which the payment is due. The notice includes a statement that liquidated damages of 10% are due, pursuant to paragraph A.1. This initial notice of delinquency is sent no later than the first business day of the month following the month in which the payment was due.

2. Second Notice. If payment is not received by the 10th day of the month after the month in which it was due, the contract administrator sends a second notice, informing the employer that if payment is not made by the 20th of that month, the matter will be referred to counsel for collection.

3. Referral to Collection Counsel. If payment is not received by the 20th of the month following the month it was due, it shall be referred to collection counsel.

B. Waiver of Liquidated Damages. The contract administrator shall have the authority to waive liquidated damages if the employer was not delinquent for any month during the preceding twelve (12) months, and the employer provides a reasonable explanation why it was delinquent. If an employer is delinquent more than once during a 12-month period, any request to waive the liquidated damages owed must be reviewed by the Board of Trustees or the Board's authorized delegate.

C. Demand Letters by Collection Counsel. On receipt of the referral, collection counsel shall send a letter demanding payment of the unpaid contributions, liquidated damages and interest. If payment is not received or a satisfactory payment schedule proposed within 10 days of the date the demand letter is sent, counsel shall send a final demand letter stating that if payment is not received, a lawsuit may be filed and that such lawsuit will seek interest and attorneys fees in addition to the unpaid contributions and liquidated damages.

D. Litigation. If payment is not received within 10 days after the second demand letter, a lawsuit shall be filed in the U.S. District Court for the Northern District of California, unless it is determined that:

1. the payment is not collectible,
2. another method of collection would be more effective, or
3. suit in another court would be more convenient for the Plans.

III. Underpayments Identified Through Payroll Audits

A. Regular Audit Program. The Plans shall conduct payroll audits (field testing of employer payroll and accounting records) or shall cause such audits to be conducted in sufficient numbers in each area to enable the Plans' certified public accountants to consider providing an unqualified opinion on each Plan's financial statements. Each Board shall engage a firm to perform such audits on its behalf in accordance with a uniform procedure and to provide reports in a

uniform format to the administrator of the Western States Insulators and Allied Workers' Plans.

B. Audit Expenses and Attorneys' Fees. In the event that it is determined, as a result of the audit, that the employer has failed to make all payments required of him or it, then said employer, in addition to immediately paying all amounts found to be due and owing as a result of said audit, shall, if so ordered by the Board of Trustees, pay all costs incurred by the Trust Fund for the audit, in addition to the amounts found to be due, if the shortage of contributions for the audit period is greater than 5%. Further, in the event the Trustees in their discretion find it necessary to file suit in order to compel the production of the employer's books and records necessary for the examination, the employer shall pay all costs incurred by the Trust Fund in connection with the examination, including attorneys' fees and costs in the filing and prosecution of the action to compel said examination.

C. Employer Comment and Referral of Disputed Amounts to Board. The results of each payroll audit shall be provided to the employer by the auditor, with an opportunity for comment. If the employer disagrees with the audit results, the employer must explain its position in writing, and the matter shall be presented to the Board of Trustees or its designated representative (i.e. Collection Committee) for resolution. The Board may but is not required to refer matters concerning the interpretation of the applicable collective bargaining agreement to the appropriate bargaining parties.

D. Billing of Amounts Shown to Be Due. Any amount which is undisputed and any disputed amount which the Board or its delegated Committee declines to waive shall be billed by the contract administrator. If the employer does not object to the audit, the bill shall be sent within 10 days after the period for the employer's response has expired and the administrator receives the final report from the auditor, or the employer confirms that there is no dispute, whichever occurs first. Disputed amounts shall be billed within 10 days after the Board or its designated representative makes a determination that the amount is owed and should be collected.

E. Referral to Collection Counsel. If payment is not received by the 20th of the of the following month after the bill is sent, the matter shall be referred to legal counsel for collection.

IV. Coordination with Local Area Health Plans

The Board of Trustees of the Western States Insulators and Allied Workers' Plans have determined that in certain geographic areas it is cost effective to allow the local area health plan to pursue collection of unpaid employer contributions, because the local area Trustees have more immediate and detailed knowledge of the employer and its financial condition. Therefore, the Board will allow these local area health plans to pursue collection of delinquent contributions and to design and conduct the payroll audit program for their respective areas and the Western States Insulators & Allied Workers'

Plans will share in the cost of such collection procedures subject to the following rules and restrictions:

A. Referral to Collection Counsel. Counsel for the Local Area Health & Welfare Plan shall provide written reports to the Boards of Trustees of the Western States Insulators and Allied Workers' Plans on a quarterly basis regarding the status of the collection efforts.

B. Local Area Payroll Audit Program. The payroll audit program for each local area must be sufficient to allow the certified public accountant for the Western States Insulators & Workers' Plans to issue unqualified opinion letters for the Plans' financial statements. If the local area program is insufficient, supplemental audits shall be performed in accordance with Section II above.

C. Local Area Trustee Coordination. The Board of Trustees of the Western States Insulators and Allied Workers' Plans recognizes that in general the Trustees of each Local Area Health & Welfare Plan can more efficiently and effectively investigate the circumstances of delinquent employers operating in their respective areas, and are consequently better able to determine whether or not a particular delinquency is collectible and, if so, the most favorable terms for such collection. The Board of Trustees of the Pension, IAP and Health Plans therefore have authorized the local area Trustees to enter into installment payment agreements with delinquent employers on behalf of the Western States Insulators & Allied Workers' Plans and/or to waive contributions, liquidated damages and interest otherwise due from employers to the Western States Insulators & Allied Workers' Plans, subject to the following conditions:

1. Any installment payment agreement or waiver shall comply with the requirements of Department of Labor Prohibited Transaction Class Exemption 76-1.

2. Any agreement to waive contributions, liquidated damages and/or interest due to the Western States Insulators & Allied Workers' Plans must be approved by the Board of Trustees of the Western States Insulators & Allied Workers' Plans, unless the total amount of such waiver is less than \$2,000.

3. To simplify the task of obtaining Board approval, the Board has authorized a subcommittee to act on its behalf on matters arising between regular Board meetings. The Collection Committee for each Local Area Health & Welfare Plan is comprised of the management Trustee employed by WICA, plus the labor Trustee from the particular area. The names, addresses and telephone numbers of the appropriate subcommittee members are available from the contract administrator's office.

In making decisions about collections on behalf of the Western States Insulators & Allied Workers' Plans within the above guidelines, local area Trustees may utilize their own established procedures, and may delegate

decision making authority to a subcommittee or to their local area collection counsel.

E. Independent Collection Efforts. The Western States Insulators & Allied Workers' Plans will conduct their own independent collection efforts as described in Sections I and II in the following areas: Colorado (Local 28), Utah (Local 69), Arizona (Local 73) and New Mexico (Local 76); unless a collaborate arrangement can be made with the Local Area Health & Welfare Plans in those respective local unions. This arrangement will be reevaluated if the local area plans in those areas develop active collection procedures.

V. Staff Coordination and Reports to the Board

A. Reports to the Board. The contract administrator for the Local Area Health & Welfare Plan shall provide regular reports to the Board of Trustees of the Western States Insulators & Allied Workers' Plans detailing the status of each pending collection matter. To facilitate preparation of the contract administrator's reports, each local area collection counsel shall submit a written report on all pending matters to the contract administrator prior to each regular meeting of the Board. The contract administrator will coordinate as necessary with the administrator of each local area health plan and with any collection counsel or payroll audit firm employed by such local area plan to ensure that such reports are up to date.

B. Staff Coordination. The Contract Administrator, Counsel, and Payroll Audit firm employed by the Western States Insulators & Allied Workers' Plans and the Local Area Health & Welfare Plan who is involved in any specific collection matter shall immediately inform one another of any communication received from the employer. The contract administrator shall promptly inform collection counsel of any payment made by the employer and of any additional month of delinquency after the matter has been referred to counsel. Counsel shall immediately report and remit any payments received directly from the employer.

VI. Bonding

A. The contract administrator shall maintain a record of all surety bonds in place for all employers based upon the language within the collective bargaining agreements.

B. The Local Area Health & Welfare Plan collection counsel will have the authority to exercise the bonds for delinquent employers, unless the Board of Trustees directs them not to do so.