



**Southern California Pipe Trades  
Retirement Fund, Health and Welfare Fund, Defined Contribution Fund,  
Vacation and Holiday Fund, and Christmas Bonus Fund, Plumbers and  
Pipefitters National Pension Fund, and the International Training Fund**

**Joint Collection Policy & Procedures**

(Last Revised August 17, 2005)

The Southern California Pipe Trades Administrative Corporation (“Fund Office”) collects required contributions from employers who are signatory to a collective bargaining agreement with Southern California Pipe Trades District Council No. 16 of the United Association. The Joint Delinquency Committee of the Boards of Trustees oversees the collection of delinquent employer contributions in accordance with the following procedures. Contributions due to the Plumbers and Pipefitters National Pension Fund and the International Training Fund are also collected by the Fund Office in accordance with these procedures from employers who are obligated to make contributions to both the Southern California Pipe Trades Funds and to the Plumbers and Pipefitters National Pension Fund and/or the International Training Fund based on the same hours worked by their employees.

**Contributions**

Contributions to each of the funds shall be due and payable on the 10<sup>th</sup> day of each month covering the hours worked by each employee through the last payroll period in the prior calendar month. Each employer shall also submit to the Fund Office at the same time a monthly remittance report on the form established by the Fund Office, and such report shall be submitted regardless of whether the employer has employed any employees.

The reporting date for determining delinquency in making payments and filing reports is 12:00 midnight on the 15<sup>th</sup> day of the month following the work month, except for employers who have posted special bonds for a 25<sup>th</sup> reporting date (whose deadline will be 12:00 midnight on the 25<sup>th</sup> day of the month following the work month). (In accordance with Department of Labor regulations, the special 25<sup>th</sup> reporting date is not available for the payment of elective deferrals into the Defined Contribution Fund.) If the delinquency date falls on a weekend or holiday, this delinquency date will become the first following business day. All payments and reports must be postmarked or hand delivered by the delinquency date (no metered postage is acceptable for payments and reports received after the delinquency date).

**Delinquency**

Any employer that fails to pay contributions to the Fund Office before the delinquency date, or who issues a non-sufficient funds check, will be considered delinquent and subject to the following:

- The employer will be assessed liquidated damages in the amount of 10% of the contributions owed. This amount shall be paid by the employer in addition to the contributions owed.
- If the remittance report form of employees and hours has not been submitted by the delinquency date, the employer will also be assessed a \$200 late filing fee.
- The employer will also be assessed interest at the annual rate of 18% from the date of the delinquency until the date of payment.
- The Joint Delinquency Committee may also require that the employer make contributions and file reports semimonthly on the first and fifteenth day of each month, and shall be considered delinquent if payments and reports are not mailed within seven days of these reporting dates.
- The Joint Delinquency Committee may also assess additional surcharge liquidated damages against employers who it determines are chronically delinquent; but in no case will the total liquidated damages be greater than 20%.
- If a lawsuit is filed to collect the delinquent contributions, the amount of liquidated damages will be 20%.
- For the Defined Contribution Fund, the employer must also pay lost earnings on all elective deferrals received after the 15<sup>th</sup> day of the month following the work month.

### Delinquency Notices

Following the close of the accounting month, the Fund Office will send a letter to every employer that failed to report to the Fund Office, or who reported but did not pay contributions, regarding their delinquency. The Fund Office will also notify in writing the last reported employees of the delinquent employer, request that they keep a copy of their paycheck stubs and record of the hours worked on specific jobs for lien purposes, and provide a declaration of hours form to the employees. The Fund Office will follow up with phone calls to the employers to collect the delinquent contributions. The Fund Office will notify the employers in writing on a monthly basis of their status until all contributions are paid in full.

District Council 16, the applicable local unions, the Plumbers and Pipefitters National Pension Fund and the International Training Fund will be notified of the delinquent employers by the Fund Office or legal counsel. The union shall be provided with such other information as may be requested about the delinquency, including but not limited to, information needed to remove the employees from employment with the employer.

Written monthly reports on delinquencies will be issued by the Fund Office to the Trustees, including information about non-reporting employers and current delinquency balances.

At the direction of the Joint Delinquency Committee, the Fund Office shall, in accordance with Section C.4.6 of the Master Labor Agreement, notify the Local Unions by registered mail (copy to District Council 16) to remove employees from a delinquent employer within forty-eight (48) hours of receipt of the notice. The notice will be sent by the Fund Office if the employer becomes more than forty-five (45) days delinquent, or as otherwise directed, by the Joint Delinquency Committee. The Joint Arbitration Board has given the Joint Delinquency Committee the blanket authority to direct the Fund Office to send these notices.

#### Waiver of Liquidated Damages and Interest

The assessment of liquidated damages and the \$200 late fee will be waived automatically once each calendar year provided the employer has not been delinquent in any of the three reporting months preceding the waiver month. The employer must apply for any other waivers of liquidated damages and any waivers of interest in writing. All such written requests will be reviewed and decided by the Joint Delinquency Committee.

#### Owners Under Sections C.1 Through C.4 of the Master Agreement

If an employer becomes delinquent more than forty-five (45) days, anyone covered by the fringe benefit funds as an Owner or Corporate Officer under Sections C.1 through C.4 of the collective bargaining agreement will be no longer eligible to participate in the fringe benefit funds as an Owner or Officer, and all benefits under the funds will be forfeited except for vested pension benefits and vacation and holiday contributions. This means that after becoming more than forty-five (45) days delinquent, even if the employer later pays the contributions and becomes current, the Owner or Corporate Officer will be permanently unable to obtain coverage under the fringe benefit funds as an Owner or Corporate Officer. In advance of the forty-fifth (45<sup>th</sup>) day of the delinquency, the Fund Office will mail a written notice to the Owner or Corporate Officer of the delinquency and of the possible forfeiture of coverage. If the coverage is subsequently lost because of the delinquency, the Fund Office will notify the Owner or Corporate Officer in writing as soon as possible after the loss of coverage. In accordance with Section C.1.3.4 of the collective bargaining agreement, the loss of coverage will not apply if the employer goes out of business, or the individual becomes unemployed, and the individual makes himself available for covered employment by immediately signing the Local Union's out of work list.

These procedures under Sections C.1 through C.4 of the Master Agreement shall also apply to coverage under the Plumbers and Pipefitters National Pension Fund; but otherwise, the rules of the Plumbers and Pipefitters National Pension Fund shall apply in determining coverage under, and the obligation to contribute to, that Fund on behalf of Owners and Corporate Officers.

#### Actions by Counsel

If the employer is delinquent for more than thirty (30) days, or if the employer's total delinquency is more than \$25,000.00, or upon notice of a delinquency by the Fund Office, legal counsel will immediately send a demand letter and commence all other appropriate actions short of litigation to collect the amounts due. These actions may include, but are not limited to, assistance with joint check agreements arranged with general contractors, stop notices filed,

Miller Act claims filed, and liens filed. Legal counsel may also institute a lawsuit against the delinquent employer or other parties to collect the amounts owed, plus liquidated damages, interest, costs, and attorney fees. However, legal counsel shall obtain the approval of the Plumbers and Pipefitters National Pension Fund and/or the International Training Fund before including those Funds as a party in any lawsuit.

### Joint Delinquency Committee

The Joint Delinquency Committee will meet at least quarterly to review the status of all delinquent employers. At each meeting, the Fund Office will present a written report about the delinquent employers, and legal counsel will also present a written report about the matters he or she is working on. Minutes will be kept of the meetings and submitted to the full Board of Trustees for review and approval. All reports and other meeting materials must be provided promptly to the Plumbers and Pipefitters National Pension Fund and International Training Fund for review and ratification. The Trustees of the Plumbers and Pipefitters National Pension Fund and/or the Trustees of the International Training Fund, or their designee, may attend each meeting of the Joint Collection Committee in person, via telephone, or via video conference.

Employers may request in writing that a delinquency be placed on a payment plan. The Fund Office staff and/or legal counsel will review the request and make a recommendation regarding approval. The Joint Delinquency Committee or the Chair and Co-Chair of the Joint Delinquency Committee may approve a payment plan. The following conditions must be included in a payment plan agreement: the agreement must state the amount of the delinquency, the period of time of the payment plan, the agreed payment structure; assessed liquidated damages; interest prorated over the term of the payment plan, the total of which is calculated and included in the payment structure. In addition, and if possible, the employer and owners of the company must sign either a letter agreement or a stipulation for judgment on behalf of the company and on behalf of the owners individually and personally whereby both the employer and owners agree to pay timely pursuant to the terms of the payment plan, as well as agree to pay all future contributions timely and any failure to meet any of the agreed upon conditions may result in a default of the payment plan.

The Joint Delinquency Committee has the authority to compromise any claim or to enter into written settlement agreements with delinquent employers on the terms it deems appropriate. The Joint Delinquency Committee also has the authority to write-off amounts past due when it is convinced that the costs of additional collection efforts will outweigh the potential recovery.

Any payment plan or settlement agreement involving more than \$10,000.00 in unpaid contributions owed to the Plumbers and Pipefitters National Pension Fund and/or the International Training Fund, shall also be approved by those funds.

In addition, final write-offs for the Plumbers and Pipefitters National Pension Fund or International Training Fund must be approved by the Trustees of those Funds.

### Payroll Audit Program

The Trustees have hired an accounting firm to conduct periodic audits of the contributions of the employers. These audits follow agreed upon procedures that test whether contributions have been made on behalf of all covered employees in the correct amounts. The firm periodically reports the results of its audits in writing, and these reports are reviewed by the Joint Delinquency Committee. If contributions are due, the employer will be assessed liquidated damages and will be required to pay the cost of the audit. Whenever appropriate, collection procedures will be instituted against the employer. Audits may be required of any employer at any time at the discretion on the Joint Delinquency Committee.

### Applying Payments

When a partial payment for a contribution month is received (not including minor shortages), it will be held until payment in full has been collected and then applied. If payment in full is not collected, then the partial payment will be prorated across the entire delinquency, for all hours and all funds for that month.

When several months are delinquent and a payment is received it will be applied to the oldest delinquency unless otherwise directed by the Joint Delinquency Committee. However, payments from a third party covering specific hours or jobs may be applied to those hours or jobs, unless otherwise directed by the Joint Delinquency Committee.

### Statements to Participants

The Defined Contribution Fund sends the employees quarterly statements reflecting contributions received since the last statements. The Fund Office sends the employees quarterly statements reflecting hours reported since the last statement and contributions received for Health & Welfare and Vacation & Holiday. The Fund Office will research inquiries from the employees of missing hours or contributions, and whenever appropriate, collection procedures will be instituted against the employers.

### Crediting Hours

Amounts for the eligibility bank in the Health & Welfare Fund will not be credited unless received. Amounts to the Defined Contribution Fund (which legally is a profit sharing plan) will also not be credited unless received by the Fund Office. However, hours for delinquent employers will be credited to the Retirement Fund when the final action writing off the delinquency is taken. Regardless, if the participant can prove that he worked hours in covered employment that required contributions to the Retirement Fund for which no contributions are received to the Retirement Fund at the time he is applying for a pension, he will be given credit for those hours. Hours for delinquent employers will be credited to the Plumbers and Pipefitters National Pension Fund and the International Training Fund in accordance with those Funds' policies and procedures.