

**EMPLOYER CONTRIBUTION COLLECTION POLICY**

1. **Delinquencies.** Employer contributions shall be due in the Trust's Bank Depository (lock box) on or before the due date specified in the Collective Bargaining Agreement. An Employer is delinquent with respect to a contribution if the correct amount of the Employer contribution and the appropriate remittance reports are not received by the Bank Depository established for the Trust by such date. If the Employer pays by the due date, but the amount is less than what is required, the delinquency is the difference between the amount due and the amount paid.

An Employer's delinquency may result in the loss of eligibility for the respective employees.

2. **Notice of Delinquency.** After the first calendar day of each month, the Fund Office shall identify each Employer who remains delinquent as of such day. The Fund Office shall notify each delinquent Employer of its delinquency and of the accrual of interest charges and the assessment of liquidated damages. If the building serviced by the delinquent Employer belongs to any Building Manager's Association, the Fund Office may also inform the Association. The Fund Office may notify the applicable Management Association and Union of all delinquencies in summary form. A summary notice may also be sent to the Local Union Representative and to the Board of Trustees. The failure of the Fund Office to send notice or the Employer's failure to receive notice as provided in this paragraph shall not relieve the Employer of its liability for contributions and related interest and liquidated damages.

3. **Interest and Liquidated Damages.** Interest and liquidated damages will be imposed on all delinquent contributions identified by the Fund Office in the manner described in paragraph 2 at the rates specified in the Trust Agreement, except as provided below. Interest and liquidated damages will be determined from the date the contribution was due to the date payment is recorded as received by the designated bank depository.

If the delinquency arises because the Employer failed to make a payment, interest and liquidated damages will be imposed on the total amount due. If the Employer makes a payment by the due date, but pays less than the required amount, interest and liquidated damages will be imposed on the unpaid balance of the required contribution.

Interest and liquidated damages will accrue from the due date in the Collective Bargaining Agreement until the delinquencies have been corrected. The accrual of interest and liquidated damages will be calculated on a daily basis. Provisions in Collective Bargaining Agreements, that credit Employer contributions to the earliest period when the delinquent contributions are owed irrespective of the allocation shown on the Employers' remittance report apply only to the issue of the plan coverage for the affected employees and do not affect the calculation of interest and liquidated damages as set forth in this collection policy.

SEIU Local 1 & Participating Employers *Pension Trust*

Interest and the assessment of liquidated damages may be waived by the Trustees if a waiver is consistent with the Trustees' fiduciary duties under ERISA and does not result in a prohibited transaction under ERISA Section 406, provided that (a) the Employer has not been delinquent during the previous 12 months (but interest and liquidated damages may be reimposed if the Employer again becomes delinquent during the subsequent 12 months); (b) the delinquency was isolated or inadvertent; (c) the delinquency remained uncorrected for less than 30 days and resulted from a failure of data processing equipment that was beyond the control of the Employer. Under these waiver provisions, the Trustees may waive either interest or liquidated damages or both. Interest and liquidated damages will not be waived in the event of the bankruptcy of the Employer.

4. Referrals to Fund Counsel. If a payment of a delinquency is not received within 60 days or is in excess of \$10,000; the delinquency and any interest and liquidated damages attributable to such delinquency are not received within 14 days after the mailing to the Employer of the notice described in paragraph 2 above, the amounts due shall be referred to Fund Counsel for collection; provided, however, that any delinquency of less than \$10,000 shall be referred to Fund Counsel in those cases in which the Employer has been repeatedly delinquent, or in other cases, when deemed in the Trust's best interest by the Trustees or the Fund Manager. By such referral, Fund Counsel will be authorized to demand from the delinquent Employer all amounts due and to file suit to collect such amount. Attorney's fees and costs incurred by the Trust with respect to any such referral shall be assessed against the delinquent Employer and added to the total delinquent amount due. Once a matter has been referred to Fund Counsel for collection, no Trustee or Fund Office representative shall negotiate payment terms with the Employer. If any Employer shall initiate or become the subject of a petition for bankruptcy, reorganization or liquidation, then any amounts then due from such Employer shall immediately be deemed delinquent and immediately payable and the account shall be immediately referred to Fund Counsel for collection.

5. Expired CBA. In the event a delinquency which would otherwise be referable to Fund Counsel under this Collection Policy shall arise out of employment which takes place after the expiration of the applicable collective bargaining agreement, but before an impasse in bargaining for a renewal of the collective bargaining agreement has occurred, the Fund Manager, in addition to referring the matter to Fund Counsel, may file with the National Labor Relations Board an unfair labor practice charge ("ULP charge") against the delinquent Employer, alleging a unilateral change in terms and conditions of employment. If this Trust is determined to have no standing to file such a ULP charge, the Fund Manager shall, in lieu of filing the ULP charge, notify the Local Union of the existence of the delinquency and request the Local Union to file the ULP charge.

6. Assignment. If the Fund Manager determines that an Employer is delinquent for three months (whether or not consecutive) the Trustees hereby direct the Fund Manager to seek payment of the full monthly contributions for each subsequent month directly from the building manager or managers that engage the Employer, provided the Employer has made an assignment of such future contributions to the Trust pursuant to the Collective Bargaining Agreement covering such Employer's employees. Direct payments will continue until the delinquencies for the three months have been paid by the Employer, along with any applicable interest and liquidated damages.

SEIU Local 1 & Participating Employers *Pension Trust*

7. Compliance Audit. A compliance audit program of contributing Employers will be conducted in the following manner.

a. Unless the Trustees decide otherwise, all contributing Employers will be audited at least once over a six-year period. The Trustees will select certain large Employers to be audited on a random basis once every three years.

b. Each Employer will be audited for not less than a one calendar quarter period to ascertain compliance with the terms of the Collective Bargaining Agreements. The audit period will be expanded if noncompliance is determined to be significant.

c. The Employers to be audited will be determined from the population of Employers contributing for the fiscal year October 1st through September 30th. The Employers will be randomly selected. Employers who have been audited as a result of random selection process shall not be randomly audited more frequently than once every two years.

d. Any Employer audit that results in a deficiency in excess of \$5,000.00 or 3% of its reported contributions may be subject to audit on an annual basis.

The payroll audit procedures will be those procedures established by the Trusts' independent certified public accountants.

Nothing in the aforementioned selection process will prevent payroll audits, for cause, at any time on any contributing Employer. The following criteria shall be considered cause for performing payroll audits:

- 1) The Employer's name appears as delinquent on multiple occasions;
- 2) The Employer is suspected of not reporting accurately;
- 3) The Employer files a bankruptcy petition or an assignment for the benefit of creditors;
- 4) The Employer ceases to have an obligation to contribute to the Trusts.

The Trust will pay the cost of payroll audits unless any such audit discloses an amount due from an Employer in excess of 2% of the reported contributions for the period audited in which event the Employer shall be responsible for and shall be assessed with the cost of the audit.

When a payroll audit discloses that an Employer has not made all required contributions, the auditor shall advise the Employer of the amount found to be due and the basis for the amounts owed, including interest and liquidated damages. Interest and liquidated damages will be calculated from the date the deficiency arose to the date of the audit report for purposes of notifying the Employer of the delinquency and will continue to accrue until all amounts are paid. If the amounts due are not paid within 14 days of the Employer's receipt of such a notice, the Trustees shall refer the matter to Fund Counsel for collection. In the event of a referral to counsel, the Employer shall be responsible for attorney's fees and any further costs incurred in collecting the delinquent amounts, interest and liquidated damages.

8. Dates. In the event of any inconsistency between due dates in this Policy and an applicable Collective Bargaining Agreement, the Collective Bargaining Agreement will control.