

**LABORERS LOCAL NO. 265 PENSION PLAN**  
**2012 NOTICE OF CRITICAL STATUS**  
*February 2013*

This is to inform you that on January 28, 2013, the Plan actuary for the Laborers Local No. 265 Pension Plan ("Plan") certified to the United States Department of the Treasury, and also to the Plan Sponsor ("the Board of Trustees"), that the Plan is in critical status for the 2012 Plan Year. The 2012 Plan Year began on November 1, 2012 and ends October 31, 2013. Federal law requires that you receive this Notice.

**Critical Status**

The Plan is considered to be in critical status because it has funding or liquidity problems, or both. The 2009 Plan Year was the first year that the Plan was certified to be in critical status. This was because as of the Plan's 2009 PPA certification date the Plan's actuary determined that the Plan was projected to have an accumulated funding deficiency for the 2016 Plan Year. A funding deficiency means that expected contributions to the Plan will not be sufficient to meet the government's minimum contribution requirements for funding purposes. It does not mean that the Plan is insolvent.

The Plan continues to be in critical status for the 2012 Plan Year because the Plan's actuary has determined that the Plan has not passed the "Emergence Test" that would enable it to come out of critical status. In order to pass the Emergence Test, the Plan's actuary must certify that the Plan is not projected to have an accumulated funding deficiency for the current Plan Year or any of the nine succeeding Plan Years.

On March 31, 2010 the Board of Trustees adopted a rehabilitation plan as required by the *Pension Protection Act of 2006* and the Plan is operating under this rehabilitation plan. The Plan's actuary has certified that the Plan is making scheduled progress as required under its rehabilitation plan.

**Rehabilitation Plan**

Federal law requires that pension plans in critical status adopt a rehabilitation plan aimed at restoring the financial health of the plan. A rehabilitation plan may include: (1) the reduction or even the elimination of future benefit accruals, (2) the reduction or elimination of "adjustable benefits", and/or (3) increases in the hourly contribution rate. Federal law also requires that pension plans in critical status are not allowed to pay "restricted benefits".

On February 26, 2010, you were notified that the Plan is not allowed to pay any lump sum benefits, including lump sum disability benefits or lump sum death benefits, or any other payment in excess of the monthly amount paid under a single life annuity while the Plan is in critical status. The Plan is not allowed to pay these benefits since they are considered "restricted benefits" under Federal law.

On March 31, 2010, the Board of Trustees adopted a rehabilitation plan that includes scheduled increases in the Plan's hourly contribution rate. Under the rehabilitation plan, the hourly contribution rate will be increased by at least 40¢ per hour for each Plan Year until 2019. This means that the total hourly contribution rate for a Journeyman Laborer will increase by \$4.00 over a ten-year period, from \$2.50 per hour on June 1, 2009 to \$6.50 per hour by June 1, 2019.

### **Adjustable Benefits**

If it is ever determined that the Plan's rehabilitation plan needs to be amended, federal law permits pension plans in critical status to reduce or eliminate "adjustable benefits". The Plan offers the following "adjustable benefits" which could be reduced or eliminated as an amendment to the rehabilitation plan:

- Subsidized Early Retirement benefits;
- Unreduced Early Retirement benefits;
- Total and Permanent Disability benefits (if not yet in pay status);
- Trade Disability benefits (if not yet in pay status); and
- Pre-Retirement Death benefits.

If the Board of Trustees of the Plan ever determines that any benefit reductions are necessary, you would receive a separate Notice identifying the reductions and explaining their effect. Any reduction of "adjustable benefits" will not reduce the level of your basic benefit payable at your normal retirement age. In addition, the reductions will only apply to participants and beneficiaries whose benefit commencement date is on or after February 26, 2010.

### **Where to Get More Information**

For more information about this Notice, you can contact the Laborers Local No. 265 Pension Plan at 205 West Fourth Street, Suite 225, Cincinnati, Ohio 45202, or by calling (513) 381-6886. For identification purposes, the official Plan Number is 001 and the Plan Sponsor's Employer Identification Number, or "EIN", is 31-6127282. You have the right to request a copy of the rehabilitation plan from the Plan.