AMERICAN ACADEMY of ACTUARIES

March 31, 2014

The Honorable Harry Reid
Senate Majority Leader
United State Senate
S-221 Capitol Building
Washington, DC 20510

The Honorable John Boehner
Speaker of the House
United States House of Representatives
H-232 Capitol Building
Washington, DC 20515

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
S-230 Capitol Building
Washington, DC 20510

The Honorable Nancy Pelosi
House Minority Leader
H-204 Capitol Building
Washington, DC 20515

RE: Multiemployer Defined Benefit Pension Plan Challenges

Dear Majority Leader Reid, Minority Leader McConnell, Speaker Boehner, and Minority Leader Pelosi:

On behalf of the American Academy of Actuaries[1] Pension Practice Council, I am writing to you regarding challenges currently facing the multiemployer defined benefit pension system, and the need for congressional action.

The financial turbulence of the past 15 years has created unfunded benefit obligations in multiemployer plans that jeopardize both participant benefit security and the competitiveness of the contributing employers. Multiemployer pension plans are funded by contributing employers, many of which are too small to sponsor their own retirement programs. Over 10 million participants are covered by multiemployer defined-benefit pension plans maintained through collective bargaining agreements between employers and unions. Plans are administered by a joint board of trustees that include an equal number of employee and employer representatives.

While the Pension Protection Act of 2006 (PPA) provided many tools and stricter funding requirements that have helped multiemployer pension plans meet these challenges, the experience over the past several years has proven that there is still much room for improvement.

[1]The American Academy of Actuaries is an 18,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

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At the same time, the uncertainty associated with the upcoming “sunset” of certain multiemployer funding provisions of the PPA places further stress on the system. The Pension Practice Council urges Congress to act before adjourning sine die at the end of 2014 to address the uncertainties and funding issues faced by multiemployer plans and the Pension Benefit Guaranty Corporation (PBGC) multiemployer program.

The detrimental effects of allowing PPA to sunset vary depending on a plan’s status at the time of the sunset. For the majority of plans that currently have strong funding outlooks, the PPA sunset would remove a valuable safety net. The trustees of these plans would lose access to the PPA funding improvement tools and excise tax protections that could be vital in the event of future adverse experience. In contrast, plans that are already operating under PPA recovery programs would continue to have access to these tools and restrictions after sunset. However, it is unclear which provisions of PPA will continue for these plans. For example, the ability of these plans to adjust their funding improvement and rehabilitation programs based on changing circumstances is uncertain, as is the continuation of PPA funding deficiency rules and excise tax protection. These uncertainties are of concern to plan trustees as well as contributing employers, many of which are considering exiting the system in part due to these issues.

Merely extending the current PPA provisions is not enough. Certain plans, small in number but covering a large number of participants, are severely underfunded and will fully exhaust their assets in the future. Upon plan insolvency, benefits will be reduced to the maximum level guaranteed by the PBGC. Before a plan becomes insolvent, participating employers will likely exit, but the withdrawal liability assessments may put the employers’ financial viability at risk. The looming insolvency of many multiemployer plans and PBGC’s current deficit also places the PBGC’s multiemployer insurance program in jeopardy. If the PBGC multiemployer program fund were depleted, the PBGC would no longer be able to provide the current modest level of benefit guarantees to potentially as many as 1.5 million participants. In its 2013 report “Timely Action Needed to Address Impending Multiemployer Plan Insolvencies,” the U.S. Government Accountability Office concluded that after the PBGC depletes its assets, participants in these plans could see their benefits reduced to less than $125 per month.

Various multiemployer plan stakeholders have offered ideas to preserve participant benefits, protect contributing employers, and strengthen the system as a whole. The House Education and Workforce Committee held a hearing titled "Strengthening the Multiemployer Pension System: How Will Proposed Reforms Affect Employers, Workers, and Retirees?" on Oct. 29, 2013, where some of these ideas were discussed in depth. One conclusion that all stakeholders in the system share is that inaction is not a viable option.

In summary, the disruptions that would arise from a sunset of PPA at the end of 2014 would further strain the system, and increase the risk to plan participants, contributing employers, and the PBGC. However, merely extending PPA does not address the difficult issues surrounding the plans that are likely to become insolvent. Delaying reforms for these plans will severely exacerbate the magnitude of remedies needed to resolve both their financial problems and those of PBGC’s multiemployer program.

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The Pension Practice Council is available to assist as Congress further evaluates these ideas and develops legislative reform that is urgently needed to address the challenges facing multiemployer pension plans. Please contact David Goldfarb, the Academy's pension policy analyst (202-223-8196, goldfarb@actuary.org) if you have any questions or would like to arrange to discuss this topic further.

Sincerely,

Eli Greenblum, MAAA, FSA, FCA, EA
Chairperson, Pension Practice Council
American Academy of Actuaries

CC: The Honorable Tom Harkin, Chairman, Senate Committee on Health, Education, Labor and Pensions; the Honorable Ron Wyden, Chairman, Senate Committee on Finance; the Honorable John Kline, Chairman, House Education and Workforce Committee; the Honorable Dave Camp, Chairman, House Ways and Means Committee.