

# Chicago Regional Council of Carpenters Supplemental Retirement Plan

## Administrative Procedures for Processing Qualified Domestic Relations Orders (the "QDRO Procedures") Effective January 1, 2013

### Introduction

By adopting these Qualified Domestic Relations Order ("QDRO") procedures, the Board of Trustees of the Chicago Regional Council of Carpenters Supplemental Retirement Fund (the "Plan") revokes all previous rules and regulations relating to QDROs. The Board of Trustees also allocates to the Plan Administrative Manager and/or Plan legal counsel the ministerial duties and responsibilities for implementing and maintaining these procedures, reviewing domestic relations orders and processing QDROs according to these procedures. This allocation is made pursuant to and in accordance with the provisions of the Plan. The Board of Trustees, however, retains the final authority regarding these QDRO procedures, the review of domestic relations orders and the processing of QDROs.

The Plan is a defined contribution plan, qualified under Internal Revenue Code ("Code") section 401(a), and administered by the Board of Trustees consisting of five Employer Trustees and five Union Trustees. All contributions made by the participating employers are 100% vested and non-forfeitable. Participants are not allowed to make pretax or after-tax contributions; but may roll over or transfer assets from another eligible retirement plan into the Plan.

In order to satisfy statutory requirements and maintain tax qualified status, the Plan provides that a participant's benefits are not subject to assignment or alienation, whether voluntary or involuntary. However, with respect to divorces and certain other domestic relations orders, there is an exception for benefits paid to an "Alternate Payee" pursuant to a QDRO. The Employee Retirement Income Security Act ("ERISA") [29 U.S.C. § 1056(d)] and the Code [26 U.S.C. § 414(p)], as amended from time to time, contain the federal statutory requirements for a QDRO.

The Plan will comply with the terms of a domestic relations order only if the order meets the requirements for a QDRO, as established by law and explained in these procedures. Parties seeking a QDRO may not rely on the Plan, or any Plan delegates, for advice on which type or form of QDRO is most appropriate under any particular factual situation. The Plan will provide only factual information concerning the participant's benefits and the terms of the Plan. The parties should consult with their legal counsel regarding specific legal requirements for a QDRO.

**Important Note:** These procedures assume that the parties will follow a separate interest approach whereby the participant's account is divided and all or a portion of the account is awarded to the Alternate Payee outright. However, if the Participant has commenced distributions in a form other than a single lump sum, then the QDRO must be in the form of a shared payment (*i.e.*, an assignment to an Alternate Payee of a right to payment out of a stream of payments otherwise made to the Participant). If the QDRO must be in the form of a shared payment, please see the supplement that appears at the end of these procedures.

## **Requirements for a QDRO**

A domestic relations order is an order, decree, or judgment, including a court approved property settlement agreement that relates to the provision of child support, alimony payments or marital property rights and is issued under state domestic relations law ("Executed Order"). To constitute a QDRO, the Executed Order must create or recognize an Alternate Payee's right to receive directly all or a portion of the benefits otherwise payable to a participant under the Plan (the "Participant"). Each Alternate Payee must be the Participant's spouse, former spouse, child or other dependent. A state authority, usually a court of law, must issue and certify the Executed Order. In addition, the Executed Order must answer the following questions:

1. Which plan will pay? The Executed Order must specifically and accurately name the plan to which it applies. If the Participant has accrued benefits under more than one plan, a separate Executed Order should be prepared for each plan under which benefits are to be divided.
2. To whom will benefits be paid? The Executed Order must indicate the name and last known mailing address (including zip code) of the Participant and the Alternate Payee. For purposes of administration and benefit distribution, the Executed Order should also contain the dates of birth and social security numbers for the Participant and the Alternate Payee. The parties may, however, provide their social security numbers and dates of birth in a separate writing for privacy purposes. The Executed Order should identify its purpose (*i.e.*, alimony, child support or marital property) as well as the relationship of the Alternate Payee to the Participant, not only for proper determination as to whether the Executed Order is qualified, but also for tax purposes.
3. How much will be paid? The Executed Order must clearly specify the amount or percentage of benefits payable from the Plan to the Alternate Payee or the exact manner in which such part of the benefit is to be determined. Reference to benefit division formulas set forth in named court cases is not sufficient. Specific details must be given regarding the proposed division. If the formula is based on benefits accrued during marriage, the Executed Order should specify the date of marriage and the date of divorce.

The Plan will allocate assets from the Participant's account, on a pro-rata basis, from all contribution sources and all investment options attributable to the Participant's account as of the assignment date specified by the Executed Order. The Plan also will value the Participant's total account as of the Plan's valuation date coincident with or immediately preceding the Executed Order's assignment date.

The Executed Order cannot require the Plan to provide increased benefits, nor can it require any type of benefit or option not otherwise provided by the Plan. In addition, the Executed Order must not require payments to an Alternate Payee that were previously awarded to another Alternate Payee under an earlier QDRO.

4. When will the benefit be paid? The Executed Order must specify when the Alternate Payee may elect to receive the awarded benefit. The Alternate Payee may file an application to elect a distribution as soon as administratively feasible after the Plan issues a determination that the Executed Order is a QDRO. The Alternate Payee must elect to receive benefits no later than the required beginning date specified by the Code. However, if the Alternate Payee fails to make an election and the Plan's rules for mandatory cashout of small accounts apply, the Plan will automatically

initiate a lump sum distribution of the Alternate Payee's benefits. Any applicable review period (see "Request for Review" section on page 6 of these procedures) must either expire or be waived by the parties before the Plan can distribute the Alternate Payee's benefits.

5. In what form will the benefit be paid? The Executed Order must specify in what form the Plan will distribute the benefits to the Alternate Payee. Generally, the Alternate Payee may elect to receive a distribution in any form permitted under the Plan for Alternate Payees (except in the form of a joint and survivor annuity with a subsequent spouse). However, if the Plan's rules for mandatory cashout of small accounts apply, the Plan will initiate an automatic lump sum distribution of the Alternate Payee's benefits. The Executed Order cannot require any type or form of payment not otherwise provided under the Plan.
  
6. What happens if the Participant or Alternate Payee Dies? The Executed Order must specify what happens when the Participant or Alternate Payee dies. Generally, under a separate interest approach, the Alternate Payee's death will not affect the Participant's remaining benefit. If the Alternate Payee fails to properly designate a beneficiary, the Plan will distribute the Alternate Payee's benefits according to the Plan's provisions for Participants who do not have a valid beneficiary designation in effect at death. Furthermore, once the Alternate Payee commences payment, the right to change a beneficiary designation depends on the form of benefit elected and the terms of the Plan.  
  
The Participant's death will not affect the Alternate Payee's awarded benefit.
  
7. What happens to the Participant's existing beneficiary designation? The Participant's designation of his or her (former) spouse as a beneficiary is automatically void upon legal termination of marriage (e.g., divorce). The Participant may re-designate his or her (former) spouse as his or her beneficiary or name a different beneficiary after the date the marriage legally terminates by completing a new beneficiary designation form with the Fund Office.

In summary, the Executed Order should address all contingencies as comprehensively as possible. The summary plan description, which is furnished to all Participants and which is available upon request to prospective Alternate Payees, and is available on the Plan's website at [www.crccbenefits.org](http://www.crccbenefits.org), should assist in preparing an Executed Order. In addition, either party may request (free of charge) a copy of the Plan's model QDRO from the Plan. The model QDRO is also available on the Plan's website at [www.crccbenefits.org](http://www.crccbenefits.org) and is provided as a guideline to facilitate the process of securing a QDRO, but its use is not required. There may be specific fact situations that would require revisions to the model language in order to create a QDRO.

### **Draft Orders or Written Notice of an Anticipated Executed Order**

The Plan suggests that parties submit a Draft Order for review prior to obtaining an Executed Order. A Draft Order is an order that the parties intend to constitute a QDRO, but has not been executed by the court. The Plan has the discretion to take action as necessary (e.g., place a hold on the Participant's benefits) after reviewing a Draft Order to protect the Alternate Payee's potential benefits pending receipt of an Executed Order provided the Participant is not already in pay status. The Plan also may take such actions if it receives written notice that a Participant's benefits may be subject to an Executed Order. The Plan will revoke any such action if it does not receive an Executed Order within a reasonable

period of time (generally no longer than 60 days) after it receives the Draft Order or written notice.

When the Plan receives a Draft Order, the Plan will provide comments to the designated legal counsel or party submitting the Draft Order. The Plan will explain whether the Draft Order would or would not qualify as a QDRO if entered by the court. However, the Plan cannot make a final determination regarding whether a Draft Order constitutes a QDRO until it receives an Executed Order.

If the Participant is already in pay status at the time a Draft Order is received, benefits to the Alternate Payee may be awarded only on a prospective basis following the date the Plan receives an Executed Order.

### **Administrative Procedures for Determination of Qualified Status**

The Plan will follow these administrative procedures when it receives an Executed Order:

1. Place a "Hold" on Participant's Account. The Plan shall place a "hold" on the Participant's account, which shall suspend the Participant's distribution rights.
2. Acknowledge Receipt. The Plan will notify the Participant and Alternate Payee (with copies to any respective legal counsel) when it receives an Executed Order. The Plan also will send a copy of these procedures to the parties or to legal counsel on the parties' behalf. These steps may be combined with the Plan's determination as to the Executed Order's qualified status.
3. Determine Qualified Status. The determination period begins when the Plan receives an Executed Order and ends no later than 18 months from that date. Within a reasonable time, the Plan will determine whether the Executed Order is a QDRO. The Plan may request that the Plan's legal counsel review the Executed Order.
  - (a) Executed Order is a QDRO. If the Plan determines that the Executed Order satisfies all of the requirements for a QDRO, the Plan will:
    - (i) Notify the Participant, Alternate Payee and respective legal counsel that the Executed Order is a QDRO;
    - (ii) Notify the Participant, Alternate Payee and respective legal counsel with regard to the procedure to request a review of the determination;
    - (iii) Take such steps as are necessary to see that the QDRO is enforced, subject to the review period and procedure described below; and
    - (iv) Release any applicable payments to the proper party as soon as administratively feasible after the review period expires and the party is entitled to take (or elects to take) a distribution.

The Alternate Payee should contact the Plan as soon as possible to provide any information and complete any forms necessary to process the Alternate Payee's benefits.

- (b) Executed Order is not a QDRO. If the Plan determines that the Executed Order is not a QDRO, the Plan will notify the Participant, the Alternate Payee and respective legal counsel, in writing. This notice will explain why the Executed Order is not qualified. In addition, the Plan will provide the parties with the procedure to request a review of the determination.

If the Plan determines that an Executed Order is not a QDRO, the Participant and Alternate Payee shall have 60 days, or such longer period as granted by the Plan and communicated in writing to the parties, to provide a revised Executed Order which constitutes a QDRO. If the Plan does not receive a revised Executed Order within such period, or any written notice that the parties are pursuing a revised Executed Order, the Plan's determination of the Executed Order as not qualified will stand. The Plan will release any hold on the Participant's account. The Plan also shall release any applicable payments to the proper party.

If the parties revise and resubmit the Executed Order to the Plan after the applicable period, the Plan will treat the revised Executed Order as a new Executed Order subject to these administrative procedures.

- (c) Determination After 18 Months. If, at the end of the 18-month period, the issue as to whether the Executed Order is a QDRO is not resolved, the Plan will release any hold on the Participant's account, and all amounts will be paid to the proper party had there been no Executed Order, in accordance with the provisions of the Plan and applicable law. If the Plan determines that an Executed Order is a QDRO more than 18 months after the determination period has begun, the Executed Order will apply prospectively.
- (d) Trustee Ratification. The Board of Trustees will ratify all actions taken under these procedures at its scheduled meetings.

### **Plan Administrative Procedures Upon Qualification Of Executed Order**

Once the Plan determines that an Executed Order is a QDRO, the Plan will:

1. Segregate the Alternate Payee's Benefit. The Plan will direct the formal separation of the Alternative Payee's benefit into a separate Plan account according to the terms of the QDRO and the Plan. The Alternate Payee's account will be maintained in the same manner as other Plan accounts. As a beneficiary of the Plan, the Alternate Payee will generally be accorded the same rights and privileges as a Participant, except that the Alternate Payee shall not receive any additional contributions and the Alternate Payee cannot elect a joint and survivor annuity with a subsequent spouse. The Alternate Payee's account remains subject to the minimum distribution requirements under federal law.
2. Distribute the Alternate Payee's Benefit. If the Alternate Payee's benefit is subject to the Plan's rules for mandatory cashout of small accounts, the Plan will automatically initiate a lump sum distribution to the Alternate Payee after the QDRO review period expires. Otherwise, the Alternate Payee may elect to receive a distribution as soon as administratively feasible after the 30 day QDRO review period expires. The parties can agree in a notarized writing to waive the review period. The Alternate

Payee must request a distribution no later than the required beginning date specified by the Code.

### **Request for Review of Determination**

If any interested party disputes the determination that an Executed Order is or is not a QDRO, such person should file a written request for review with the Plan within 30 days of the date of the determination letter. The request for review should:

1. State the ground(s) for the request for review;
2. Refer to the pertinent provision(s) of the Plan, ERISA or the Code on which the request for review is based;
3. State the argument(s) and authority (if any) supporting each ground for the request for review; and
4. Declare any other pertinent documents or comments which the person desires to submit in support of the request for review.

The requesting party must provide a copy of his or her request for review to the other party. The Plan will also notify any additional interested parties of the review within a reasonable time after it receives the request for review. The Plan may request that the Plan's legal counsel review the party's request for review. The Plan will render a decision within 60 days after it receives the request for review, unless special circumstances require an extension of time for processing the request. In such circumstances, the Plan will make a decision not later than 120 days after the request for review. The Plan will communicate the decision upon review in writing to all interested parties and will include the specific reasons for the decision and references to the appropriate provisions of the Plan, ERISA, or the Code.

No Participant or Alternate Payee may commence legal action to challenge the determination of the status of an Executed Order, the interpretation of an Executed Order or the amount of benefits payable under the terms of the Executed Order, until (s)he has exhausted the review procedure provided in this section.

### **For More Information**

Parties should direct any inquiries and submit an Executed Order or Draft Order for review to the following address:

QDRO Administrator  
Chicago Regional Council of Carpenters Supplemental Retirement Fund  
12 East Erie Street, 8<sup>th</sup> Floor  
Chicago IL 60611

**Supplement to  
Administrative Procedures for Processing  
Qualified Domestic Relations Orders  
Under the  
Chicago Regional Council of Carpenters  
Supplemental Retirement Plan  
(Defined Contribution Plan)**

**Shared Payment Approach**

This Supplement to the Plan's Administrative Procedures for Processing Qualified Domestic Relations Orders ("QDRO Procedures") and its additional provisions apply to an Executed Order that follows the shared payment approach. Otherwise, the provisions of the Plan's QDRO Procedures apply. The parties must use the shared payment approach to award benefits to the Alternate Payee if the Participant is receiving installment payments.

**QDRO Requirements**

1. When will the benefit be paid? A "shared payment" QDRO is one under which the Participant elects the timing and form of benefit. The Alternate Payee does not have a separate election right. The Executed Order must specify when payments to the Alternate Payee begin and end. Benefits cannot begin before the later of: (a) the commencement of distributions to the Participant, or (b) the first practicable payment date following the date the Plan receives an Executed Order that is determined to be a QDRO. Any applicable review period (see "Request for Review" section on page 6 of these procedures) must either expire or be waived by the parties before the Plan can distribute the Alternate Payee's benefits.
2. How will the benefit be paid? Under the shared payment approach, the Participant elects the form of benefit. The Alternate Payee shares a portion of the distribution or of each payment (such as when the Participant receives an installment payment).
3. What happens if the Participant or Alternate Payee Dies? The Participant's benefits will end when the Participant dies, subject to applicable death benefits. The Alternate Payee will not receive any further payments after the Participant's death unless the Executed Order specifically designates the Alternate Payee as the Participant's beneficiary or unless the Participant re-designated the Alternate Payee as his or her beneficiary after the date the marriage legally terminated.

If the Alternate Payee dies, his or her benefit payments will end. The Alternate Payee cannot name a beneficiary to receive his or her share of an installment payment. The Alternate Payee's benefits will be restored to the Participant as soon as administratively feasible after the Alternate Payee's death, even if the Participant is receiving benefits.

**Draft Orders of Written Notice of an Anticipated Executed Order**

If a Participant is in pay status when the Plan receive a Draft Order, benefits to the Alternate Payee may be awarded only on a prospective basis following the date the Plan receives an Executed Order.

### **Administrative Procedures for Determination of Qualified Status**

During the determination period of an Executed Order, the Plan shall suspend and separately account for any benefits which would have been payable to the Alternate Payee. These payments shall be released to the Alternate Payee once the Executed Order is determined to be a QDRO and either the 60 day review period expires or is waived by the parties. If an Executed Order is determined not to be a QDRO and the parties do not submit a revised Executed Order during the period specified by the Plan and the QDRO Procedures, the Plan shall release any withheld payments to the Participant.