



NORTH DAKOTA
PUBLIC EMPLOYEES
RETIREMENT SYSTEM

Board Meeting Agenda

Location: ND Association of Counties, 1661 Capitol Way, Bismarck ND
By phone: 701.328.0950 **Conference ID:** 366 752 182#
Date: Tuesday, October 25, 2022
Time: 8:30 A.M.

I. SPECIAL BOARD ELECTION RESULTS

- A. Election Subcommittee Report – Committee Chair and Scott (Board Action)

II. MINUTES

- A. September 13, 2022

III. PRESENTATIONS

- A. Actuarial Valuation Presentation – Bonnie Wurst, GRS
- B. Annual Investment Report – Scott Anderson, RIO

IV. RETIREMENT

- A. Retirement Plan Contribution Increases – Scott (Board Action)
- B. Public Safety Employer Contribution Rate – Scott (Board Action)
- C. Job Service COLA – MaryJo (Board Action)
- D. Medical Consulting Contract with Mid Dakota Clinic/Essentia Health– Scott (Board Action)

V. DEFERRED COMPENSATION / FLEXCOMP

- A. 457 Deferred Compensation Provider Processes – Scott (Board Action)

***EXECUTIVE SESSION**

- 1. Waddell & Reed/ Fiduciary Trust Company of New Hampshire (FTC)

VI. GROUP INSURANCE

- A. Medicare Part D Contract Amendment – Rebecca (Board Action)
- B. Life Insurance Request For Proposal – Rebecca (Board Action)

VII. MISCELLANEOUS

- A. Legislative Relations/Update – Scott (Information)
- B. Contracts Under \$10,000 – Scott (Information)
- C. Quarterly Consultant Fees – Derrick (Information)
- D. Board Self-Evaluation – Scott (Information)

VIII. MEMBER **EXECUTIVE SESSION

- A. Retirement Benefit Appeal Case #764 – Scott (Board Action)
- B. Retirement Benefit Appeal Case #769 – MaryJo (Board Action)

*Executive Session pursuant to N.D.C.C. § 44-04-19.1(9) and § 44-04-19.2 to discuss negotiating strategy or provide negotiating instructions to its attorney or other negotiator.

**Executive Session pursuant to N.D.C.C. §44-04-19.2, §44-04-19.2(1), and/or §54-52-26 to discuss confidential records or confidential member information.



**North Dakota
Public Employees Retirement System**
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Memorandum

TO: NDPERS Board

FROM: Board Election Committee

DATE: October 24, 2022

SUBJECT: Board Election Results

The Election Subcommittee met on Monday, October 24 to view the Election Results report.

There were 947 votes cast including 25 write-ins. Candidate Jason Grueneich received 917 votes.

The committee acknowledged the results of the election and recognized Jason Grueneich as the elected active member to the Board.

Attached is the summary of the electronic votes.

Board Action Requested

Formally accept the results as reported by the Election Subcommittee.

Active NDPERS Board Member Election Report

ELECTION ID	AUDIENCE	TERM START DATE	TERM END DATE
2	Active Member	10-25-2022	06-30-2023

VOTES CAST	CANDIDATE NAME
917	Jason Grueneich
3	John Gourde
3	Riley Akervik
2	Rachel Kriege
1	Allen Anderson
1	Allison Wegner
1	anyone else
1	Benjamin Hixson
1	Christin Fine
1	Dustin Offerdahl
1	Eric Haas
1	Jason Krein
1	Jeremy Enquist
1	Jill Schwab
1	Jodi Larson
1	John Gourd
1	Kenneth Kates
1	Kyle Forster
1	LeeAnn Oliver
1	Michael D Miller
1	Michelle Curtis
1	Ross Munns
1	Russell Baughman
1	Skip Fryling

ELECTION ID	AUDIENCE	TERM START DATE	TERM END DATE
2	Active Member	10-25-2022	06-30-2023
1	Suzy Begay		
1	Tom Fox		



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Memorandum

TO: NDPERS Board

FROM: Scott

DATE: October 25, 2022

SUBJECT: Actuarial Valuation Presentation

Bonnie Wurst, our actuary from GRS, will provide the results of our July 1, 2022 actuarial valuations.



North Dakota Public Employees Retirement System Presentation of July 1, 2022 Actuarial Valuation Results

October 25, 2022

Bonnie Wurst, ASA, EA, MAAA, FCA

Abra Hill, ASA, MAAA, FCA

October 2022 Board Book Page 6 of 159



Agenda

- GRS Actuarial Valuation Methodology and Approach
- Demographic Data
- Funded Ratio Results
- Contribution Rate Results
- Reconciliation of Unfunded Liability, Actuarial Contribution Rate and Funded Ratio
- Actuarial Valuation Results Recommendations
- Projections
- Summary of Board Action on Actuarial-Related Issues
- Actuarial Standards of Practice No. 4
- Questions
- Appendix





GRS Actuarial Valuation Methodology and Approach

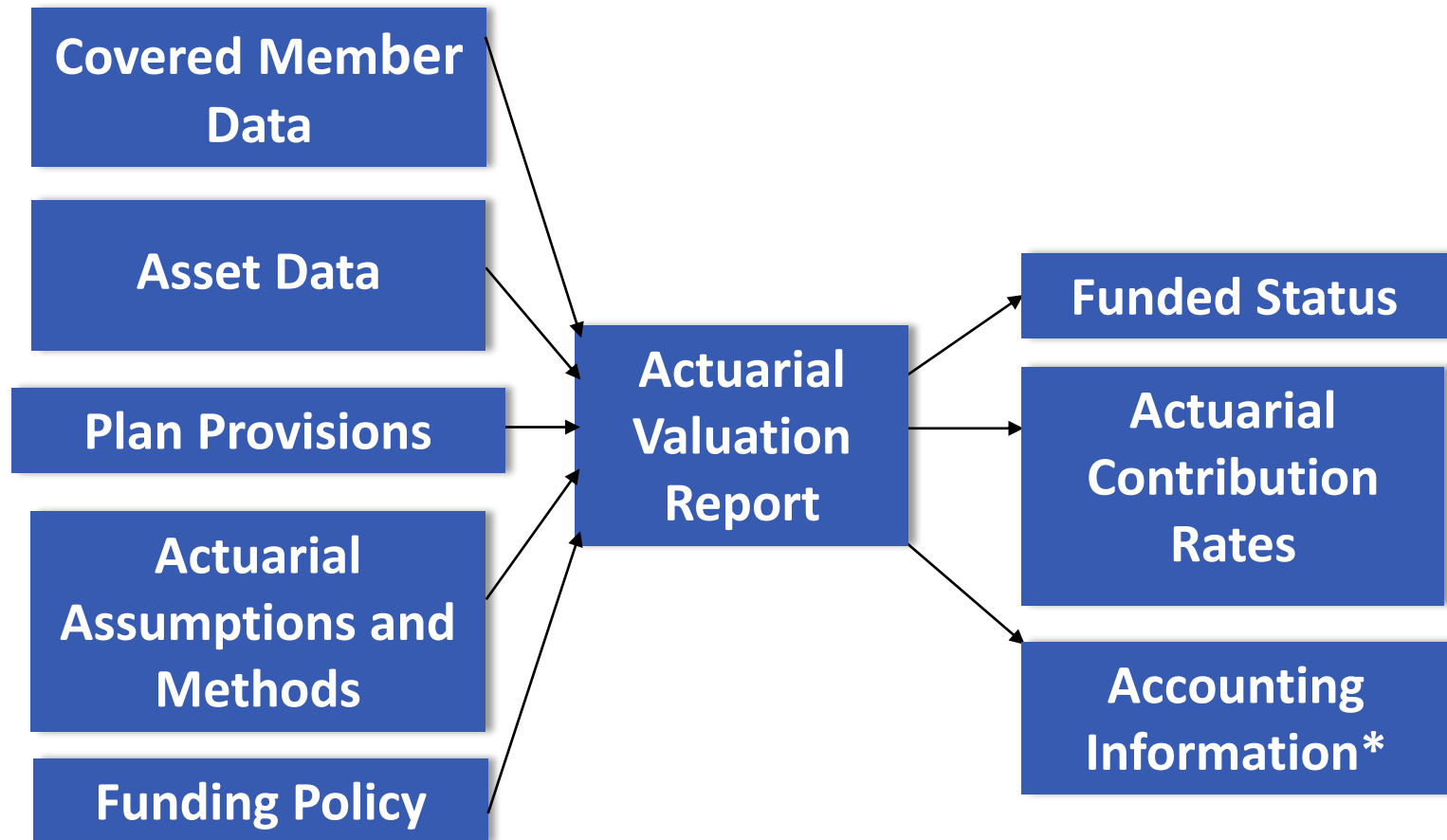


Purpose of the Actuarial Valuation

- Determine Funding Status
- Develop Actuarial Contribution Rates and Compare to Statutory Rates
- Provide Accounting and Other Data
 - Under the current accounting standards, a separate accounting actuarial valuation is performed



Actuarial Valuation Process



** Under the current accounting requirements, GASB 67/68 and GASB 74/75, a separate accounting actuarial valuation report is issued.*

Plan Provisions

- Main System will potentially receive future Legacy Fund earnings
 - This potential source of revenue has no immediate actuarial impact
- Highway Patrol Employee and Employer Contributions
 - The statutory employee and employer contributions will each increase by 0.5% of pay every year from January 1, 2022 to January 1, 2025, ultimately increasing both by 2.00% of pay
- The following provisions continue to apply to new members
 - RHIC is closed to members first enrolled in the Main System and Defined Contribution Retirement System on or after January 1, 2020
 - Employer contribution of 1.14% of pay for RHIC is contributed to the Main System for Main System members and to the DC System for DC System members
 - The benefit accrual rate for members first enrolled on or after January 1, 2020 in the Main and Public Safety Systems is 1.75% (compared to 2.00% for members enrolled before January 1, 2020)
 - The calculation of Final Average Salary was changed for members who terminate after December 31, 2019
 - Later retirement eligibility conditions for members enrolled in the Main System after December 31, 2015

Selection of Actuarial Assumptions

What

Economic

- Investment Return
 - Payroll Growth Rates
 - Population Growth Rate
- (Usually, a constant population size is assumed)

Demographic

- Retirement Rates
- Promotional/Step Pay Increases
- Disability
- Turnover
- Mortality

Actuarial Assumptions

Actuarial assumptions should be reviewed periodically (at least every three to five years) to ensure they continue to reasonably represent past and expected future experience

- Section 54-52-04.4 of the North Dakota Century Code requires an experience study once every five years
- In 2020, GRS performed an experience study covering the period July 1, 2014 through July 1, 2019
- Recommended updated assumptions were adopted by the NDPERS Board in April 2020

Actuarial Assumptions - Investment Return Assumption

- In July 2022, NDPERS adopted GRS recommendations to lower investment return assumptions, based on decline in capital market assumptions
 - Decrease investment return assumption for PERS and Highway Patrol, from 7.00% to 6.50%
 - Decrease investment return assumption for Job Service, from 3.75% to 3.00%
 - Decrease investment return assumption for RHIC, from 6.50% to 5.75%
- Future de-risking for RHIC may lead to a lower assumed return
- Investment return assumptions will continue to be monitored for reasonability



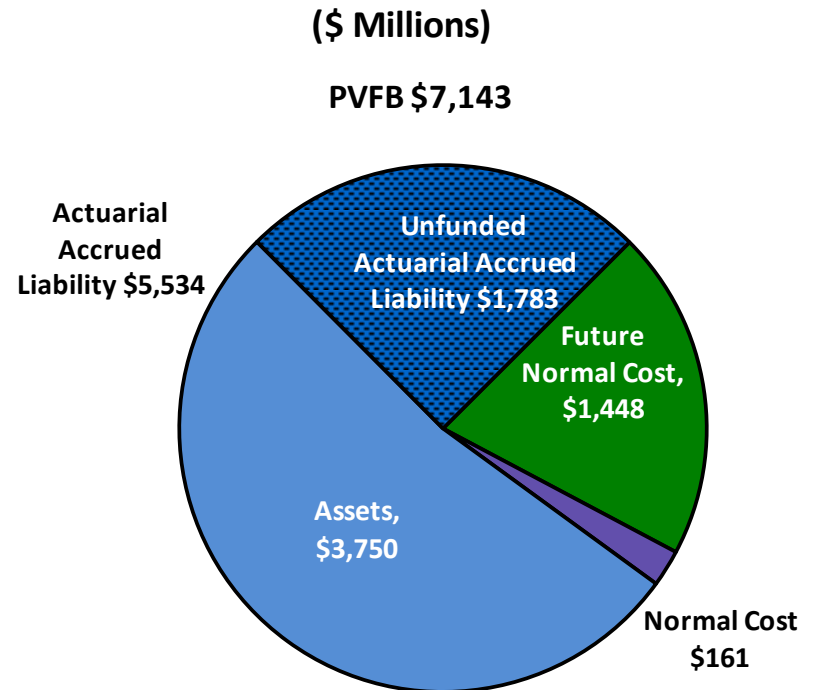
Actuarial Cost Method

Plan	Actuarial Cost Method
Main System	Entry Age Normal
Judges	Entry Age Normal
Public Safety	Entry Age Normal
Highway Patrol	Entry Age Normal
Job Service	Aggregate
RHIC	Modified Aggregate*

**Cost Method changed from Entry Age Normal to a Modified Aggregate method effective with the actuarial valuation as of July 1, 2019 for purposes of calculating the actuarial contribution rate. Entry Age Normal is required to be used for accounting purposes under the Governmental Accounting Standards Board for all Systems.*

Actuarial Cost Method

- **Present value of future benefits** – present value of all future benefits (PVFB) payable to current participants (active, retired, terminated vested)
- **Actuarial accrued liability** – portion of PVFB allocated to prior years (equal to unfunded actuarial accrued liability plus assets)
- **Normal cost** – portion of PVFB allocated to current year
- **Future normal costs** – portion of PVFB allocated to future years
- **Unfunded actuarial accrued liability** – difference between the actuarial accrued liability and assets



Investment Return Experience

System	Estimated Rates of Investment Return							
	Market Value				Actuarial Value			
	2019	2020	2021	2022	2019	2020	2021	2022
Main System	5.41%	3.29%	27.00%	-6.53%	8.64%	7.26%	10.38%	7.43%
Judges	5.41%	3.29%	27.00%	-6.53%	8.64%	7.26%	10.38%	7.43%
Public Safety with Prior*	5.41%	3.29%	27.00%	-6.53%	8.64%	7.26%	10.38%	7.43%
Public Safety without Prior*	5.41%	3.29%	27.00%	-6.53%	8.64%	7.26%	10.38%	7.43%
Highway Patrol	5.45%	3.31%	24.15%	-6.55%	8.72%	7.34%	9.90%	6.87%
Job Service	6.68%	2.76%	6.48%	-5.90%	4.18%	3.89%	3.78%	1.73%
RHIC	6.36%	5.00%	25.07%	-14.72%	7.85%	7.02%	9.81%	5.20%

- *Public Safety with prior Main System service and Public Safety without prior Main System service.*

Investment Return Assumption Changes:

From 8.00% to 7.75% as of July 1, 2017, from 7.75% to 7.50% as of July 1, 2019, from 7.50% to 7.00% as of July 1, 2020, and from 7.00% to 6.50% as of July 1, 2022 for PERS and Highway Patrol.

From 8.00% to 7.50% as of July 1, 2017, from 7.50% to 7.25% as of July 1, 2019, from 7.25% to 6.50% as of July 1, 2020, and from 6.50% to 5.75% as of July 1, 2022 for RHIC.

From 8.00% to 5.70% as of July 1, 2017, from 5.70% to 4.75% as of July 1, 2018, from 4.75% to 4.25% as of July 1, 2020, and from 4.25% to 3.75% as of July 1, 2021, and from 3.75% to 3.00% as of July 1, 2022 for Job Service.

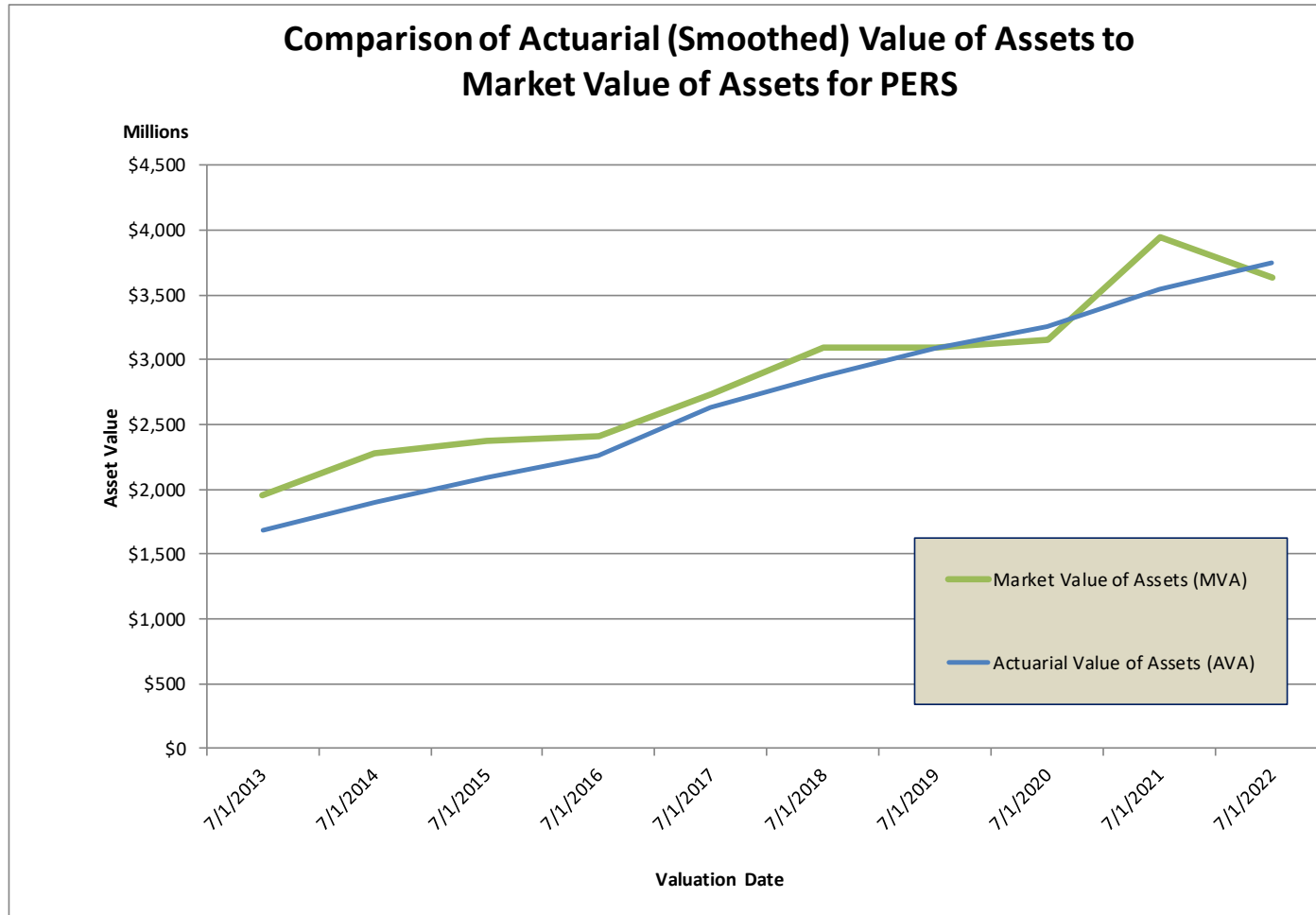


Actuarial Value of Assets

Asset Smoothing

- Actuarial Value of Assets (AVA or Smoothed Value of Assets)
 - Method was changed beginning with the actuarial valuation as of July 1, 2017
 - Net deferred asset gains and losses attributable to fiscal years 2016 and prior were fully recognized as of July 2017
 - Beginning with fiscal year 2017, total investment gains and losses compared to the investment return assumption are recognized over a five-year period

Actuarial Value of Assets



Causes of Unfunded Liability

- Not contributing at least Normal Cost + Interest on the Unfunded Liability.
- Actual experience which is less favorable than assumed. Examples:
 - Lower rates of investment earnings;
 - Higher salary increases;
 - Earlier retirement date(s); and
 - Lower rates of non-death terminations.
- Granting initial benefits or granting benefit increases for service already rendered.

Current Funding Policy

- Employer/employee contribution rates are based on fixed rates set by Statute

Plan	Employer Rate	Employee Rate	Total Rate	Total Actuarial Rate
Main System ^d	7.35%	7.00%	14.35%	21.70%
Judges	17.52%	8.00%	25.52%	19.90%
Public Safety With ^a	9.81%	5.50% ^b	15.31%	16.94%
Public Safety Without ^a	7.93%	5.50%	13.43%	14.66%
Highway Patrol ^c	20.20%	13.80%	34.00%	53.15%
RHIC ^d	1.14%	0.00%	1.14%	1.35%
Job Service	0.00%	7.00%	7.00%	NA

^a Public Safety with and without prior Main System service.

^b Employee rate for BCI members of Public Safety with prior Main System service is 6.00%.

^c Highway Patrol employer and employee statutory contribution rates are to increase by 0.5 percentage points annually beginning on January 1, 2022, with the last increase occurring January 1, 2025.

^d RHIC rate for members first enrolled on or after January 1, 2020 is made to the Main System for Main System members and to the DC System for DC System members. Main System employer rate of 7.35% is a blend of 7.12% for pre-2020 enrollees and 8.26% for members first enrolled in 2020 or later.



Current Funding Policy – Excluding RHIC

- Actuarial employer contribution rate equals
 - Employer Normal Cost, plus
 - Amortization of Unfunded Liability
 - Level percent of pay amortization
 - Payment increases as a dollar amount and remains level as a percentage of pay
 - Payroll is assumed to increase by 3.50% each year (3.00% for Judges)
 - Amortization Period
 - 20-year open period (Main System, Judges, Public Safety, Highway Patrol)
 - Not currently applicable for Job Service due to large surplus and Aggregate cost method

Current Funding Policy – RHIC

- Actuarial employer contribution rate equals
 - The rate needed to pay off the unfunded liability and future Normal Cost contributions at the end of 20 years as a level percent of closed group (decreasing) payroll



Demographic Data



Demographic Data

PERS Plans

	PERS						
	Statistics as of July 1						
	2022					2021	Total
	Main System	Judges	Public Safety		Total PERS	Total PERS	% Change
			With Prior Main	Without Prior Main			
Membership Counts							
Active Members	23,487	57	990	245	24,779	24,594	0.8%
Retired Members	13,977	64	148	15	14,204	13,575	4.6%
Inactive Vested and Non-Vested Members	15,711	2	424	146	16,283	14,971	8.8%
Total	53,175	123	1,562	406	55,266	53,140	4.0%
Average Age (Active)	46.1	56.9	36.7	38.2	45.7	45.7	0.0
Average Ben Service (Active)	9.3	10.0	6.8	4.6	9.1	9.3	(0.2)
Total Base Payroll	\$1,160,836,487	\$8,729,372	\$64,746,118	\$13,995,584	\$1,248,307,560	\$1,213,675,937	2.9%
Average Pay	49,425	153,147	65,400	57,125	50,378	49,348	2.1%
Total Retiree Benefits	\$233,423,378	\$3,685,840	\$3,271,877	\$145,675	\$240,526,769	\$222,049,800	8.3%
Average Annual Benefit	16,701	57,591	22,107	9,712	16,934	16,357	3.5%



Demographic Data

Highway Patrol, Job Service, RHIC

	Highway Patrol			Job Service			RHIC		
	Statistics as of July 1		% Change	Statistics as of July 1		% Change	Statistics as of July 1		% Change
	2022	2021		2022	2021		2022	2021	
Membership Counts									
Active Members	151	151	0.0%	1	3	-66.7%	19,018	21,067	-9.7%
Retired Members	135	135	0.0%	175	177	-1.1%	14,290	13,697	4.3%
Inactive Vested and Non-Vested Members	55	49	12.2%	1	-		7,639	7,112	7.4%
Total	341	335	1.8%	177	180	-1.7%	40,947	41,876	-2.2%
Average Age (Active)	38.2	38.0	0.2	66.7	65.9	0.8	47.9	47.2	0.7
Average Ben Service (Active)	11.5	11.1	0.4	47.3	44.5	2.8	11.7	10.8	0.9
Total Base Payroll	\$12,267,230	\$11,516,196	6.5%	\$61,332	\$175,176	-65.0%	\$1,032,405,030	\$1,090,257,793	-5.3%
Average Pay	81,240	76,266	6.5%	61,332	58,392	5.0%	54,286	51,752	4.9%
Total Retiree Benefits	\$5,834,859	\$5,814,082	0.4%	\$4,969,094	\$4,657,369	6.7%	\$15,435,776	\$14,693,892	5.0%
Average Annual Benefit	43,221	43,067	0.4%	28,395	26,313	7.9%	1,080	1,073	0.7%

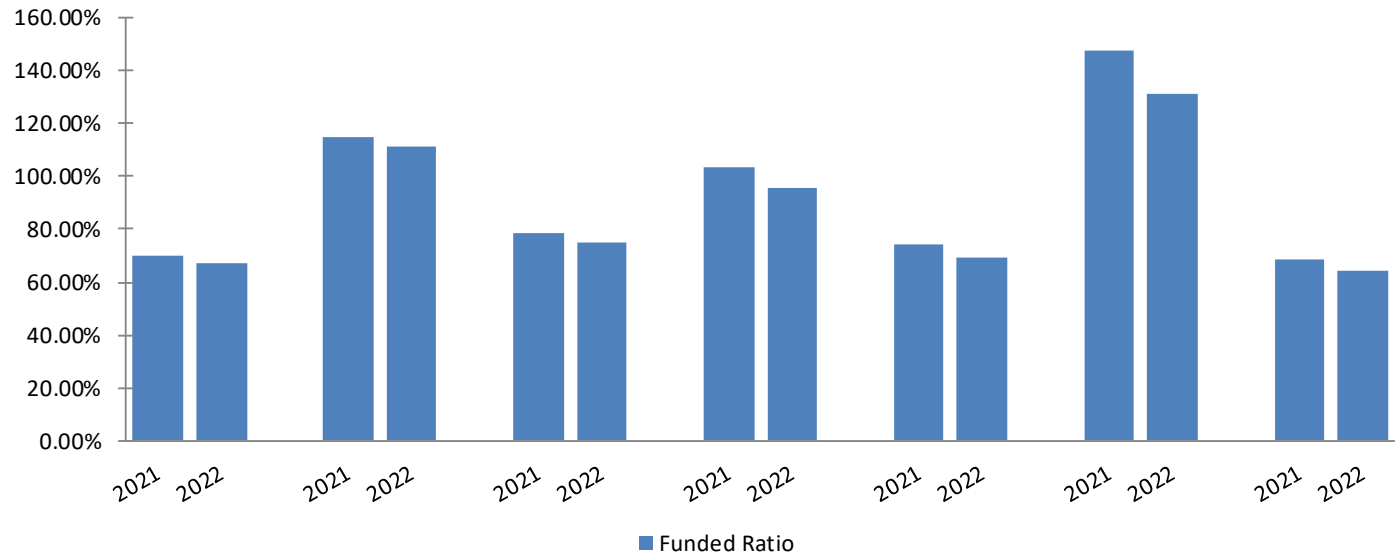
Retiree benefit amounts for Job Service exclude the portion of the total benefit amount paid by the insurer.

Funded Ratio Results



Funded Ratio Results

All Plans – Actuarial Value of Assets



Valuation Results	Main System	Judges	Public Safety		Highway Patrol	Job Service	RHIC
			With Prior Main	Without Prior Main			
Actuarial Accrued Liability	\$ 5,304,187,804	\$ 57,849,997	\$ 152,922,819	\$ 18,618,555	\$ 139,681,064	\$ 70,507,858	\$ 263,968,385
Actuarial Value of Assets	3,553,539,588	64,571,296	114,490,260	17,758,522	96,442,893	92,595,085	170,644,833
2022 Unfunded Actuarial Liability	1,750,648,216	(6,721,299)	38,432,559	860,033	43,238,171	(22,087,227)	93,323,552
UAL as Percent of Payroll	151%	-77%	59%	6%	352%	-36013%	9%
2021 Unfunded Actuarial Liability	\$ 1,425,110,399	\$ (7,869,497)	\$ 27,985,885	\$ (504,268)	\$ 31,925,416	\$ (30,942,632)	\$ 74,673,124
2022 Funded Ratio	67.0%	111.6%	74.9%	95.4%	69.0%	131.3%	64.6%
2021 Funded Ratio	70.3%	114.7%	78.2%	103.5%	74.1%	147.7%	68.6%

Funded Ratio Results

All Plans – Actuarial/Market Value



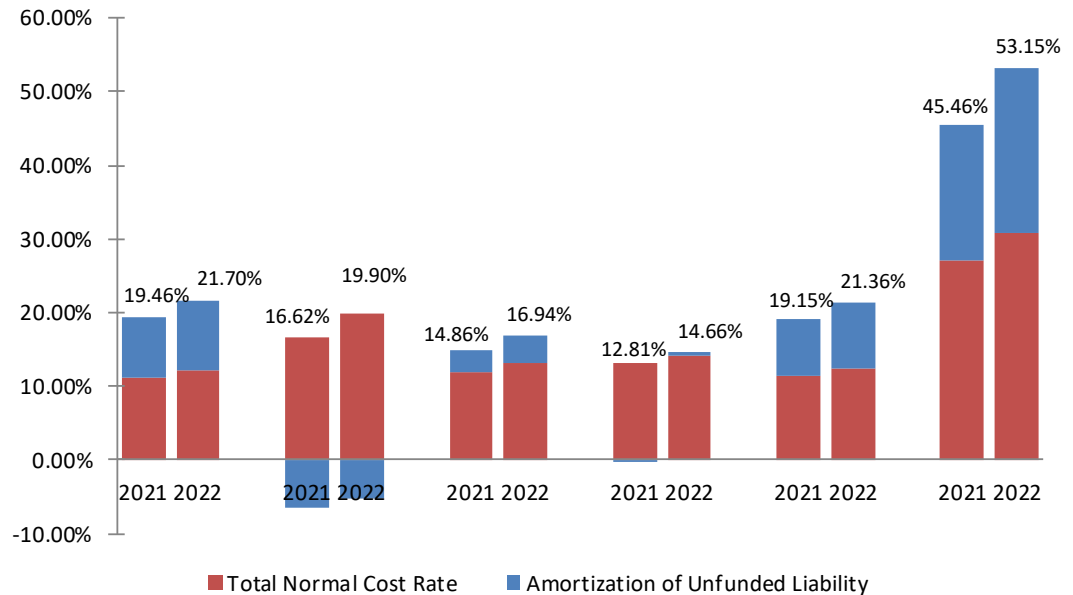
Valuation Results	Main System	Judges	Public Safety		Highway Patrol	Job Service	RHIC
			With Prior Main	Without Prior Main			
2022 Unfunded Actuarial Liability (AVA)	\$ 1,750,648,216	\$ (6,721,299)	\$ 38,432,559	\$ 860,033	\$ 43,238,171	\$ (22,087,227)	\$ 93,323,552
2021 Unfunded Actuarial Liability (AVA)	1,425,110,399	(7,869,497)	27,985,885	(504,268)	31,925,416	(30,942,632)	74,673,124
2022 Unfunded Actuarial Liability (MVA)	1,859,222,378	(4,748,400)	41,930,672	1,402,623	47,356,567	(15,669,612)	109,485,313
2021 Unfunded Actuarial Liability (MVA)	1,042,300,546	(14,832,186)	16,571,509	(2,219,572)	23,295,192	(31,689,426)	55,617,289
2022 Funded Ratio (AVA)	67.0%	111.6%	74.9%	95.4%	69.0%	131.3%	64.6%
2021 Funded Ratio (AVA)	70.3%	114.7%	78.2%	103.5%	74.1%	147.7%	68.6%
2022 Funded Ratio (MVA)	64.9%	108.2%	72.6%	92.5%	66.1%	122.2%	58.5%
2021 Funded Ratio (MVA)	78.3%	127.8%	87.1%	115.2%	81.1%	148.8%	76.6%

Contribution Rate Results



Contribution Rate Results

Actuarial Contribution Rate (including employee rate)



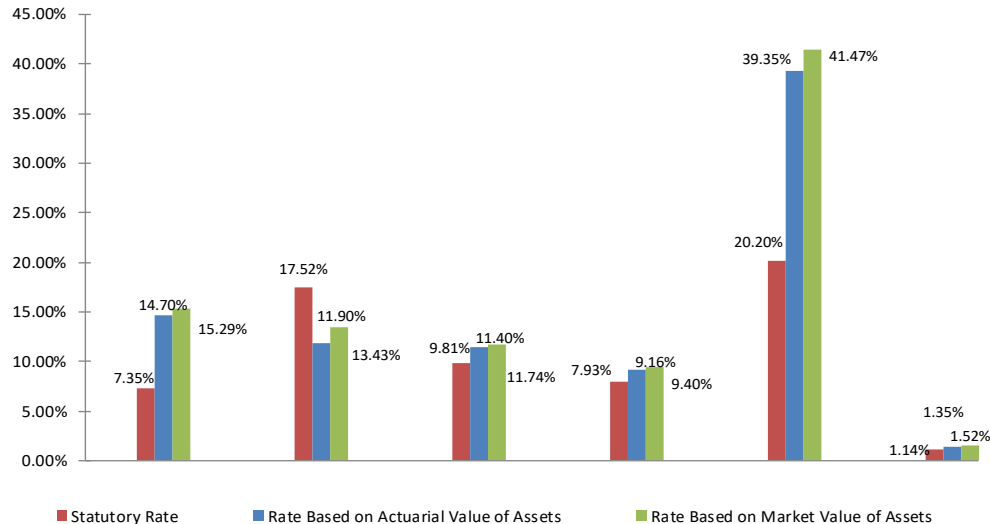
	Public Safety					
	Main System	Judges	With Prior Main	Without Prior Main	Total PERS	Highway Patrol
Total Normal Cost Rates						
FY 2023 (2022 Valuation)	12.20%	25.10%	13.26%	14.28%	12.37%	30.90%
FY 2022 (2021 Valuation)	11.19%	23.02%	11.92%	13.10%	11.33%	27.22%
Amortization of Unfunded Liability Rates						
FY 2023 (2022 Valuation)	9.50%	-5.20%	3.68%	0.38%	8.99%	22.25%
FY 2022 (2021 Valuation)	8.27%	-6.40%	2.94%	-0.29%	7.82%	18.24%

Amount shown in graph for Judges and Public Safety without Prior Main is the total normal cost rate net of the unfunded liability contribution.

RHIC normal cost rate for FY 2022 is 0.39% and for FY 2023 is 0.45% and the amortization of the unfunded liability rate for FY 2022 is 0.69% and for FY 2023 is 0.90% of pay.

Contribution Rate Results

Comparison of Statutory and Actuarial Contribution Rates



Valuation Results	Main System	Judges	Public Safety		Highway Patrol	RHIC
			With Prior Main	Without Prior Main		
Statutory Contribution Rate	14.35%	25.52%	15.35%	13.43%	34.00%	1.14%
Actuarial Contribution Rate (AVA)	21.70%	19.90%	16.94%	14.66%	53.15%	1.35%
Statutory Rate Excess/(Deficiency)	-7.35%	5.62%	-1.59%	-1.23%	-19.15%	-0.21%
Actuarial Contribution Rate (MVA)	22.29%	21.43%	17.28%	14.90%	55.27%	1.52%
Statutory Rate Excess/(Deficiency)	-7.94%	4.09%	-1.93%	-1.47%	-21.27%	-0.38%

Due to the overfunded status of Job Service, no employer contributions are required.

Main System Members hired on or after 1/1/2020 contribute an additional 1.14% of pay.

Highway Patrol employer and employee statutory contribution rates are to increase by 0.5 percentage points annually beginning on January 1, 2022, with the last increase occurring January 1, 2025.

A young man with dark hair, wearing a red and blue plaid shirt, and a woman with blonde hair, wearing a light blue sweater over a white collared shirt, are sitting at a table in a library. They are both looking down at some papers on the table. Bookshelves filled with books are visible in the background.

Reconciliation of Unfunded Liability, Actuarial Contribution Rate and Funded Ratio

FY 2022 Experience

System	Assets (AVA)	Salary [^]	Other (Demographic)	Statutory Contributions	Assumption Changes	Difference in Funded Ratio	Difference in Actuarial Contribution Rate
Main System	Gain	Gain	Loss	Loss	Increase UAL	-3.3%	2.24%
Judges	Gain	Gain	Loss	Gain	Increase UAL	-3.1%	3.28%
Public Safety with Prior*	Gain	Gain	Loss	Gain	Increase UAL	-3.3%	2.07%
Public Safety without Prior*	Loss	Loss	Loss	Gain	Increase UAL	-8.1%	1.85%
Highway Patrol	Loss	Loss	Loss	Loss	Increase UAL	-5.1%	7.19%
Job Service	Loss	Gain	Loss	Gain	Increase UAL	-16.4%	NA
RHIC	Loss	NA	Loss	Gain	Increase UAL	-4.0%	0.27%

[^]Plans had salary gains which reduced the unfunded liability. Lower than expected salary increases reduce the payroll base (in addition to decreases in the number of total active members) which increases the actuarial contribution rate.

* Public Safety with prior Main System service and Public Safety without prior Main System service.

Unfunded Liability Reconciliation

Based on Actuarial Value of Assets – All Plans

	Main System	Judges	Public Safety		Highway Patrol	Job Service	RHIC
			With Prior*	Without Prior*			
Unfunded liability at previous valuation	\$ 1,425,110,399	\$ (7,869,497)	\$ 27,985,885	\$ (504,268)	\$ 31,925,416	\$ (30,942,632)	\$ 74,673,124
<u>Expected unfunded liability at current valuation</u>							
Normal cost for plan year	134,286,848	2,052,452	7,905,234	1,579,743	3,318,876	-	4,443,361
Interest on unfunded liability and normal cost	104,378,276	(480,244)	2,231,016	19,057	2,348,975	(1,160,349)	4,995,889
Contributions using actuarial rate with interest	<u>241,580,898</u>	<u>1,532,787</u>	<u>10,193,509</u>	<u>1,597,768</u>	<u>5,733,171</u>	<u>7,857</u>	<u>12,810,559</u>
Total expected change in unfunded liability	(2,915,774)	39,421	(57,259)	1,032	(65,320)	(1,168,206)	(3,371,309)
Total expected unfunded liability at current valuation	1,422,194,625	(7,830,076)	27,928,626	(503,236)	31,860,096	(32,110,838)	71,301,815
Change due to:							
Amount of contributions and expenses**	63,456,522	(971,126)	(342,743)	(208,009)	1,094,051	(1,009)	(227,708)
Recognition of asset (gains)/losses	(14,814,497)	(231,431)	(87,836)	2,091	119,830	1,891,152	2,116,998
Salary experience	(31,844,566)	(289,591)	(727,008)	13,429	1,258,266	(69,565)	-
Demographic and other experience	24,913,917	162,511	606,873	262,449	421,029	3,482,336	144,647
Change in actuarial assumptions	286,742,215	2,438,414	11,054,647	1,293,309	8,484,899	4,720,697	19,987,800
Changes in plan provisions	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total change	328,453,591	1,108,777	10,503,933	1,363,269	11,378,075	10,023,611	22,021,737
Unfunded liability at current valuation	\$ 1,750,648,216	\$ (6,721,299)	\$ 38,432,559	\$ 860,033	\$ 43,238,171	\$ (22,087,227)	\$ 93,323,552

* Public Safety with prior Main System service and Public Safety without prior Main System service.

** Change due to difference between actual contributions based on statutory rate and contributions using actuarial rate.



Funded Ratio Reconciliation

Based on Actuarial Value of Assets – All Plans

	Main System	Judges	Public Safety		Highway Patrol	Job Service	RHIC
			With Prior*	Without Prior*			
July 1, 2021 Funded Ratio (AVA)	70.3%	114.7%	78.2%	103.5%	74.1%	147.7%	68.6%
Expected July 1, 2022 Funded Ratio (AVA)	71.6%	114.1%	80.3%	103.0%	75.4%	151.4%	70.7%
Change due to:							
Amount of contributions and expenses**	-1.3%	1.8%	0.3%	1.2%	-0.8%	0.0%	0.1%
Recognition of asset (gains)/losses	0.3%	0.4%	0.1%	0.0%	-0.1%	-3.0%	-0.9%
Salary experience	0.5%	0.6%	0.4%	-0.1%	-0.7%	0.2%	0.0%
Demographic and other experience	-0.3%	-0.3%	-0.3%	-1.6%	-0.2%	-7.8%	0.0%
Change in actuarial assumptions	-3.8%	-4.9%	-5.8%	-7.1%	-4.5%	-9.4%	-5.3%
Changes in plan provisions	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Total change	-4.6%	-2.5%	-5.4%	-7.6%	-6.3%	-20.1%	-6.1%
July 1, 2022 Funded Ratio (AVA)	67.0%	111.6%	74.9%	95.4%	69.0%	131.3%	64.6%

* *Public Safety with prior Main System service and Public Safety without prior Main System service.*

** *Expected funded ratio is based on contributions using the actuarial rate. The change due to amount and timing of contributions is based on the statutory contributions that were made compared to the actuarial contributions.*

Numbers may not add due to rounding.



Actuarial Contribution Rate Reconciliation

Based on Actuarial Value of Assets – All Plans

	Main System	Judges	Public Safety		Highway Patrol	RHIC
			With Prior*	Without Prior*		
FY 2022 Actuarial Employer Contribution	12.46%	8.62%	9.33%	7.31%	32.16%	1.08%
Expected FY 2023 Employer Contribution	12.17%	8.84%	9.22%	7.32%	31.00%	1.08%
Expected FY 2023 Employer Contribution with New Pay Base	12.16%	8.67%	9.11%	7.16%	30.57%	1.18%
Change due to:						
Amount of contributions and expenses**	0.33%	-0.80%	-0.05%	-0.08%	0.81%	0.00%
Recognition of asset (gains)/losses	-0.08%	-0.18%	-0.01%	0.00%	0.06%	0.02%
Salary experience	-0.18%	-0.24%	-0.08%	0.01%	0.67%	0.00%
Demographic and other experience	0.14%	0.13%	0.07%	0.12%	0.25%	0.00%
Change in actuarial assumptions	2.33%	4.32%	2.36%	1.95%	6.99%	0.15%
Changes in plan provisions	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Total change	2.54%	3.23%	2.29%	2.00%	8.78%	0.17%
FY 2023 Actuarial Employer Contribution	14.70%	11.90%	11.40%	9.16%	39.35%	1.35%

Excludes Job Service due to Job Service being in a surplus position with no required contributions.

* *Public Safety with prior Main System service and Public Safety without prior Main System service.*

** *Expected actuarial contribution rate is based on contributions using the actuarial rate. The change due to amount and timing of contributions is based on the statutory contributions that were made compared to the actuarial contributions.*

Numbers may not add due to rounding.



Summary of Change in Results

All Plans

	Main System	Judges	Public Safety		Highway Patrol	Job Service	RHIC
			With Prior*	Without Prior*			
Unfunded Liability							
Based on Actuarial Value of Assets (AVA)							
Unfunded liability at previous valuation	\$ 1,425,110,399	\$ (7,869,497)	\$ 27,985,885	\$ (504,268)	\$ 31,925,416	\$ (30,942,632)	\$ 74,673,124
Unfunded liability at current valuation	1,750,648,216	(6,721,299)	38,432,559	860,033	43,238,171	(22,087,227)	93,323,552
Change	325,537,817	1,148,198	10,446,674	1,364,301	11,312,755	8,855,405	18,650,428
Based on Market Value of Assets (MVA)							
Unfunded liability at previous valuation	\$ 1,042,300,546	\$ (14,832,186)	\$ 16,571,509	\$ (2,219,572)	\$ 23,295,192	\$ (31,689,426)	\$ 55,617,289
Unfunded liability at current valuation	1,859,222,378	(4,748,400)	41,930,672	1,402,623	47,356,567	(15,669,612)	109,485,313
Change	816,921,832	10,083,786	25,359,163	3,622,195	24,061,375	16,019,814	53,868,024
Actuarial Employer Contribution Rate							
Based on Actuarial Value of Assets (AVA)							
FY 2022 Actuarial Employer Contribution	12.46%	8.62%	9.33%	7.31%	32.16%	NA	1.08%
FY 2023 Actuarial Employer Contribution	14.70%	11.90%	11.40%	9.16%	39.35%	NA	1.35%
Difference in Actuarial Contribution Rate	2.24%	3.28%	2.07%	1.85%	7.19%	NA	0.27%
Based on Market Value of Assets (MVA)							
FY 2022 Actuarial Employer Contribution	10.24%	2.95%	8.13%	6.32%	27.23%	NA	0.89%
FY 2023 Actuarial Employer Contribution	15.29%	13.43%	11.74%	9.40%	41.47%	NA	1.52%
Difference in Actuarial Contribution Rate	5.05%	10.48%	3.61%	3.08%	14.24%	NA	0.63%
Funded Ratio							
Based on Actuarial Value of Assets (AVA)							
2021 Funded Ratio	70.3%	114.7%	78.2%	103.5%	74.1%	147.7%	68.6%
2022 Funded Ratio	67.0%	111.6%	74.9%	95.4%	69.0%	131.3%	64.6%
Difference in Funded Ratio	-3.3%	-3.1%	-3.3%	-8.1%	-5.1%	-16.4%	-4.0%
Based on Market Value of Assets (MVA)							
2021 Funded Ratio	78.3%	127.8%	87.1%	115.2%	81.1%	148.8%	76.6%
2022 Funded Ratio	64.9%	108.2%	72.6%	92.5%	66.1%	122.2%	58.5%
Difference in Funded Ratio	-13.3%	-19.6%	-14.5%	-22.7%	-15.0%	-26.6%	-18.1%

Job Service is in a surplus position with no required contributions.

**Public Safety with prior Main System service and Public Safety without prior Main System service.*

Numbers may not add due to rounding



Summary of Key Actuarial Valuation Results

All Plans

	Main System	Judges	Public Safety		Highway Patrol	Job Service**	RHIC
			With Prior*	Without Prior*			
Membership Information							
Active Members	23,487	57	990	245	151	1	19,018
Retired Members	13,977	64	148	15	135	175	14,290
Vested Former Members	15,711	2	424	146	55	1	7,639
Total Members	53,175	123	1,562	406	341	177	40,947
Total Base Payroll	\$1,160,836,487	\$8,729,372	\$64,746,118	\$13,995,584	\$12,267,230	\$61,332	\$1,032,405,030
Employee Contribution Rate							
Statutory Employer Contribution Rate	7.00%	8.00%	5.54%	5.50%	13.80%	0.00%	0.00%
	7.35%	17.52%	9.81%	7.93%	20.20%	NA	1.14%
Actuarial Valuation Results (AVA)							
	Based on Actuarial Value of Assets						
Actuarial Accrued Liability (AAL)	\$5,304,187,804	\$57,849,997	\$152,922,819	\$18,618,555	\$139,681,064	\$70,507,858	\$263,968,385
Actuarial Value of Assets	3,553,539,588	64,571,296	114,490,260	17,758,522	96,442,893	92,595,085	170,644,833
Unfunded Actuarial Liability	1,750,648,216	(6,721,299)	38,432,559	860,033	43,238,171	(22,087,227)	93,323,552
Funded Ratio	67.0%	111.6%	74.9%	95.4%	69.0%	131.3%	64.6%
FY 2022 Estimated Investment Return (AVA)	7.43%	7.43%	7.43%	7.43%	6.87%	1.73%	5.20%
Employer Normal Cost Rate	5.20%	17.10%	7.72%	8.78%	17.10%	NA	0.45%
Actuarial Employer Contribution Rate	14.70%	11.90%	11.40%	9.16%	39.35%	NA	1.35%
Amortization Period from Statutory Rate (Years)***	100+	None	50.8	100+	100+	NA	60+
Statutory Contribution Deficit/(Surplus)***	7.35%	-5.62%	1.59%	1.23%	19.15%	NA	0.21%
Actuarial Valuation Results (MVA)							
	Based on Market Value of Assets						
Market Value of Assets	\$3,444,965,426	\$62,598,397	\$110,992,147	\$17,215,932	\$92,324,497	\$86,177,470	\$154,483,072
Unfunded Actuarial Liability	1,859,222,378	(4,748,400)	41,930,672	1,402,623	47,356,567	(15,669,612)	109,485,313
Funded Ratio	64.9%	108.2%	72.6%	92.5%	66.1%	122.2%	58.5%
FY 2022 Estimated Investment Return (AVA)	-6.53%	-6.53%	-6.53%	-6.53%	-6.55%	-5.90%	-14.72%
Actuarial Employer Contribution Rate	15.29%	13.43%	11.74%	9.40%	41.47%	NA	1.52%
Amortization Period from Statutory Rate (Years)	100+	None	63.2	100+	100+	NA	60+
Statutory Contribution Deficit/(Surplus)***	7.94%	-4.09%	1.93%	1.47%	21.27%	NA	0.38%

* Public Safety with prior Main System service and Public Safety without prior Main System service.

** Job Service is in a surplus position with no required contributions. AAL shown for Job Service is equal to the Present Value of Future Benefits.

*** Contribution Deficits and Amortization Period from Statutory Rate are based on current normal cost and contribution rates. For the Main System, new hires with lower costs and higher contributions will slowly improve the plan's funding status. Highway Patrol employer and employee statutory contribution rates are to increase by 0.5 percentage points annually beginning on January 1, 2022, with the last increase occurring January 1, 2025.

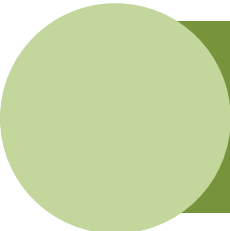


A group of five business professionals in a modern office setting. A man in a dark suit stands with his back to the camera, facing a group of four people seated around a white table. The group includes a woman in a beige vest, a man with a grey beard, a man in a dark suit, and a woman in a grey blazer. They are all looking towards the standing man. The office has large windows in the background, showing a view of a city and a green space.

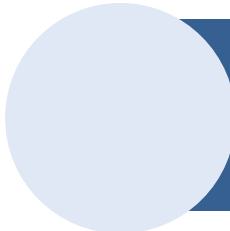
Actuarial Valuation Results Recommendations

Actuarial Valuation Results

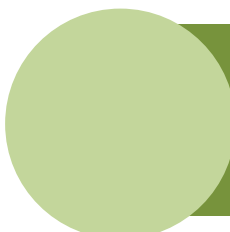
Recommendations



The statutory employer contribution rates are significantly lower than the actuarial employer contribution rates for the Main System and Highway Patrol, and are not expected to ever amortize the unfunded liabilities.



Highway Patrol contributions will increase by an additional 3.0% of pay in the future, which will partially reduce the deficit.



The statutory employer contribution rate is significantly higher than the actuarial employer contribution rate for the Judges plan and the funded ratio is currently over 111% (over 108% based on the market value of assets)

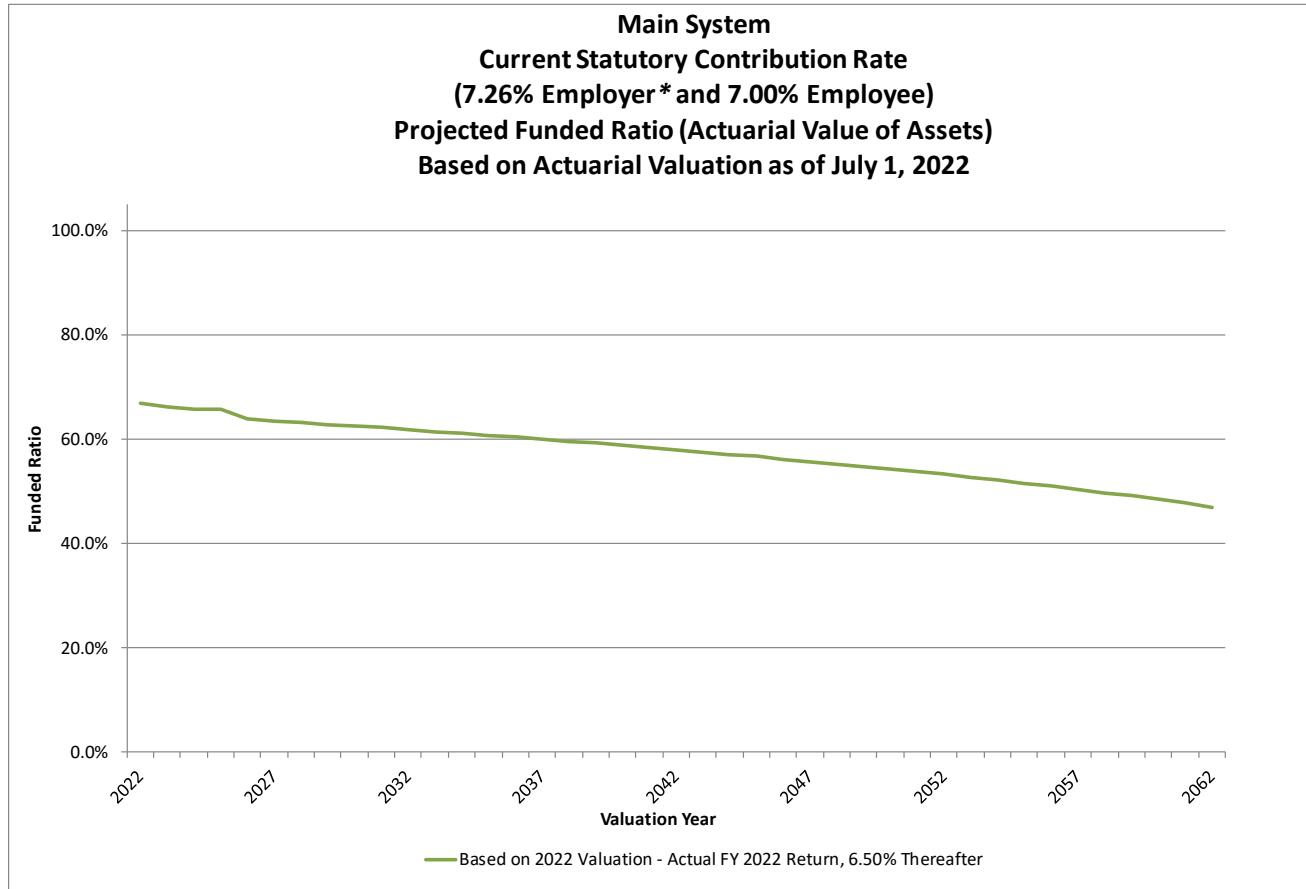


Changes to the statutory contribution rates may be appropriate.

[illegible]

Actuarial Projections

PERS – Main System

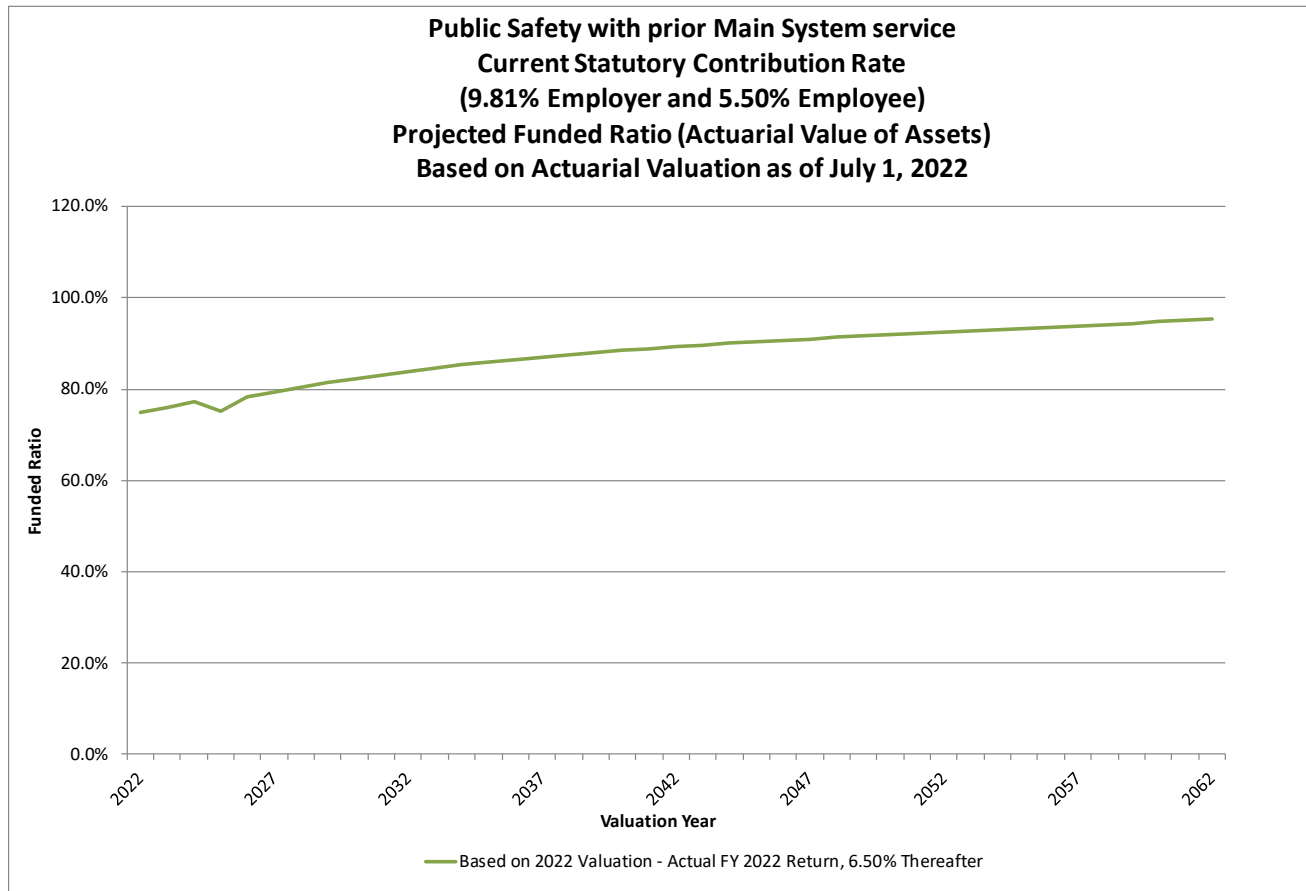


**Employer contributions include an additional 1.14% of pay for members first enrolled on or after January 1, 2020.*



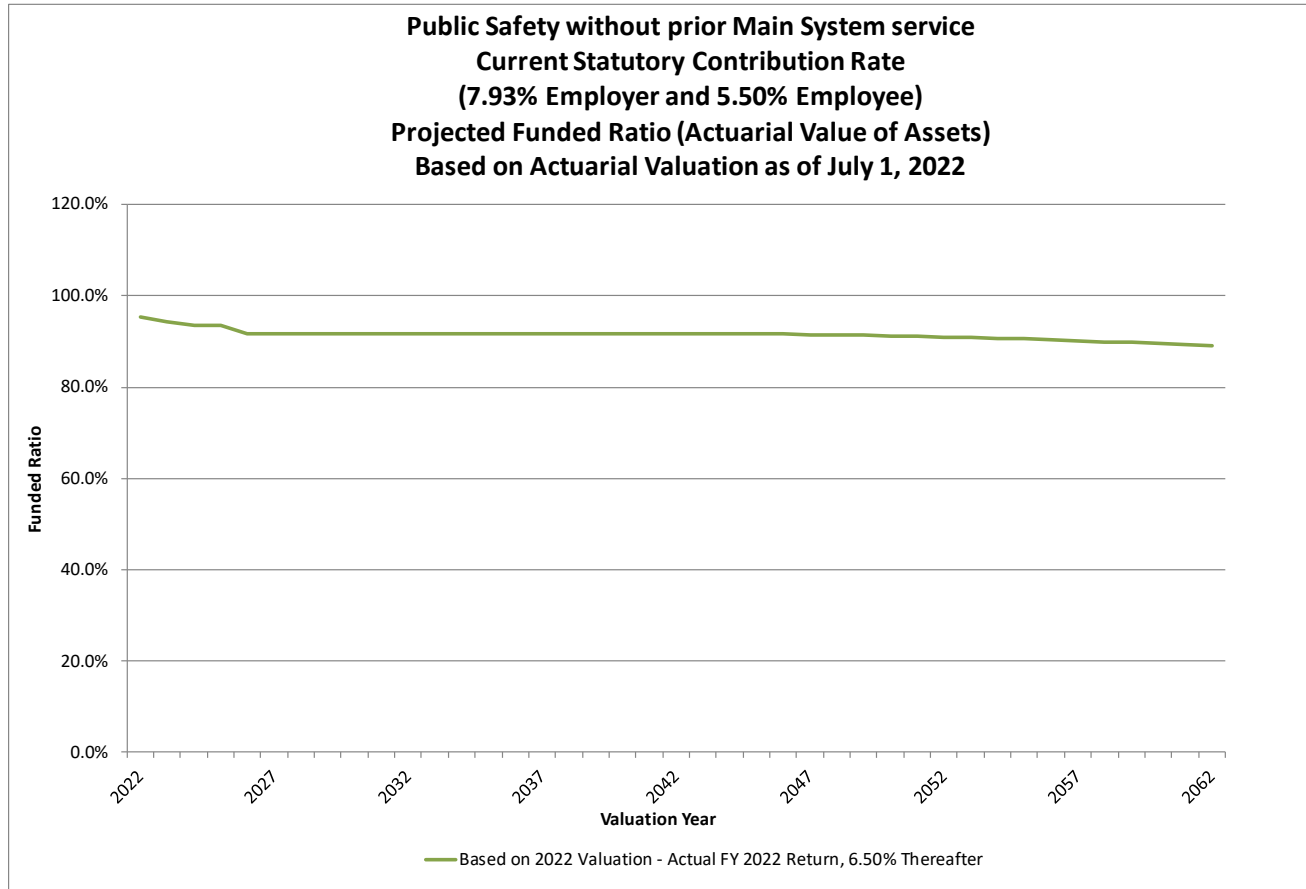
Actuarial Projections

PERS – Public Safety with Prior Main System Service



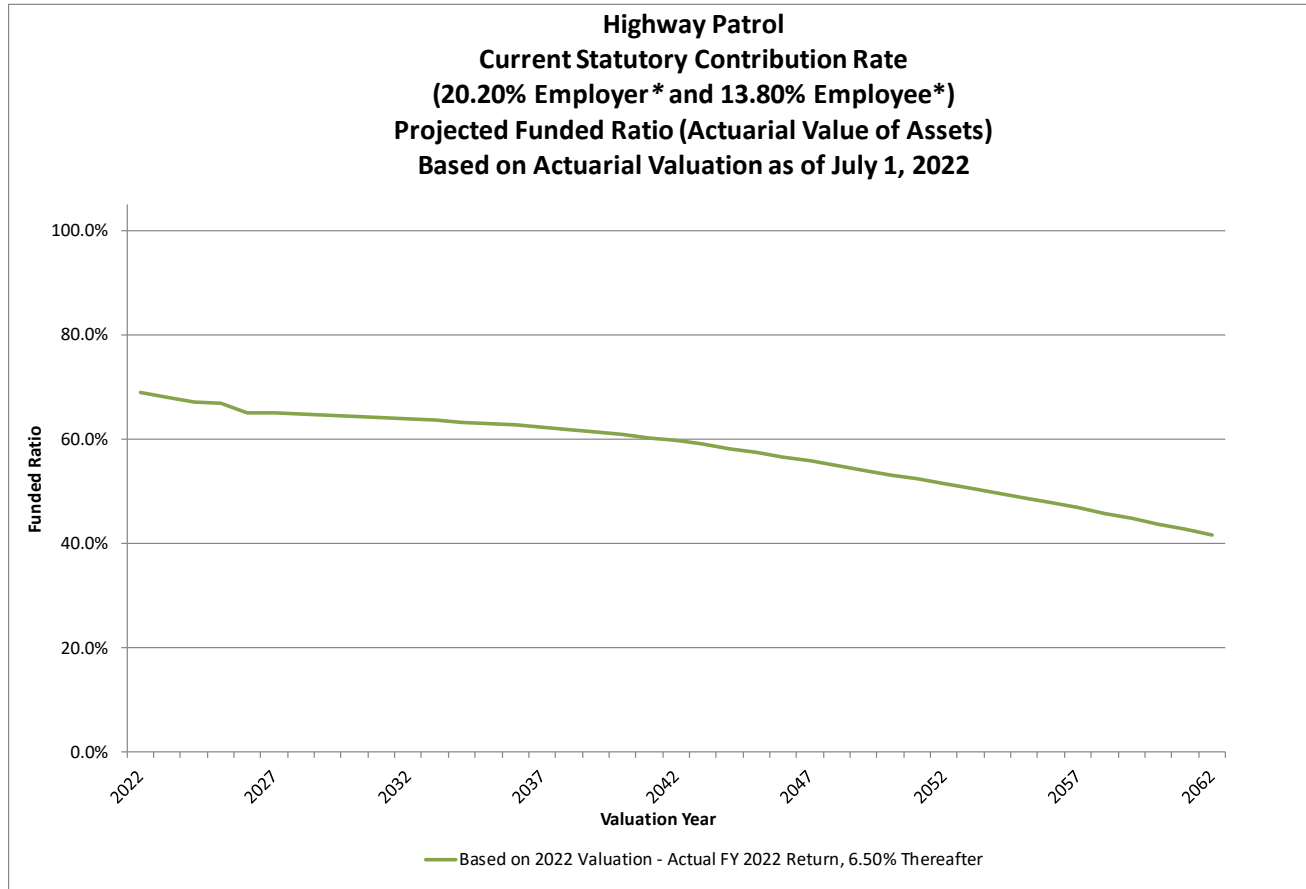
Actuarial Projections

PERS – Public Safety without Prior Main System Service



Actuarial Projections

Highway Patrol



* The statutory employee and employer contributions will each increase by 0.5% of pay every year from January 1, 2023 to January 1, 2025, ultimately increasing both by an additional 1.50% of pay.

Projection Results

- The funded ratio of the Public Safety with prior Main System service plan is projected to steadily improve
- Statutory rates for the PERS Main System, Public Safety without prior Main System service, and Highway Patrol plans are not sufficient to improve funded ratios
- Projections assume stable active member population (i.e., terminating and retiring members are assumed to be replaced with new members)

Projection Results – GASB Accounting Purposes

- Last year, primarily due to strong investment returns during the past fiscal year, a discount rate of 7% was used for PERS and the Highway Patrol Plan (assets were not expected to be depleted)
- This year, the PERS, RHIC, and the Highway Patrol Plan were subject to lower discount rates (and higher liabilities) for GASB accounting purposes, because assets were projected to be depleted
- **GASB discount rates are extremely volatile**

A woman with long brown hair and glasses is looking down at a newspaper she is holding. The newspaper has some text and a table visible. The background is a plain, light-colored wall.

Summary of Board Actions on Actuarial-Related Issues

Summary of Board Actions on Actuarial-Related Issues

1

Updated assumptions first used in actuarial valuations as of July 1, 2017, July 1, 2019, July 1, 2020, July 1, 2021 and July 1, 2022

2

Adopted updated actuarial equivalence factors, most recently effective January 1, 2021 and January 1, 2023

3

Adopted updated service purchase methodology which incorporated updated assumptions

4

Adopted Return to Work methodology

5

Adopted Employer Withdrawal Liability methodology





Actuarial Standards of Practice No. 4

What is ASOP No. 4?

- *Measuring Pension Obligations and Determining Pension Plan Costs or Contributions*
- Revised standards adopted in December 2021; effective for measurement dates on or after February 15, 2023
- Requires actuary to apply certain standards for:
 - Selecting actuarial assumptions or methods
 - Developing or modifying a cost or contribution allocation procedure
- Requires disclosures in actuarial reports
 - Most controversial is the addition of calculations using a “Low-Default-Risk Obligation Measure”

Significant Changes to ASOP No. 4

- Assess Implications of Funding Policy on expected future contributions and funded status
 - Estimate how long before contributions are expected to exceed the normal cost, plus interest on the unfunded liability (UAAL)
 - Estimate when plan is expected to be fully funded
 - Assess whether the funding policy will result in asset depletion or benefit payment default
- Requires disclosure of a Reasonable Actuarially Determined Contribution (ADC)
 - Perpetual negative amortization is not reasonable
- Requires disclosure of a “Low-Default-Risk Obligation Measure”

Low-Default-Risk Obligation Measure (LDROM)

- Discount rate “derived from low-default-risk fixed income securities whose cash flows are reasonably consistent with the pattern of benefits expected to be paid in the future”
- Examples include:
 - U.S. treasury yields
 - Rates implicit in settlement of pension obligations (including payment of lump sums and purchases of annuities from insurance companies)
 - Non-stabilized ERISA funding rates for single employer plans
 - Multi-employer current liability rates
- The LDROM and the methods and assumptions used are required to be disclosed in the actuarial report, including any commentary on the significance of the LDROM

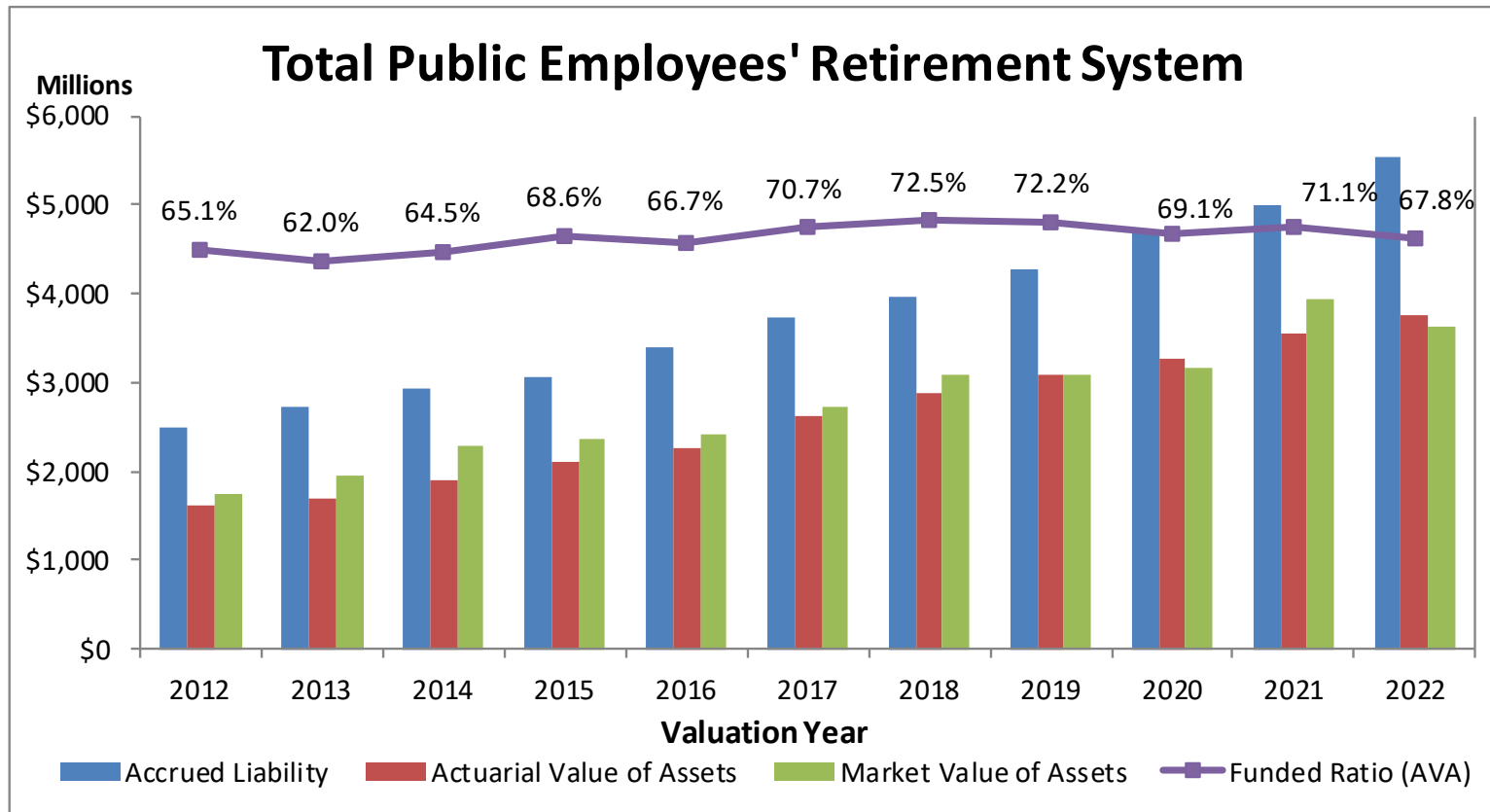


Questions?

APPENDIX

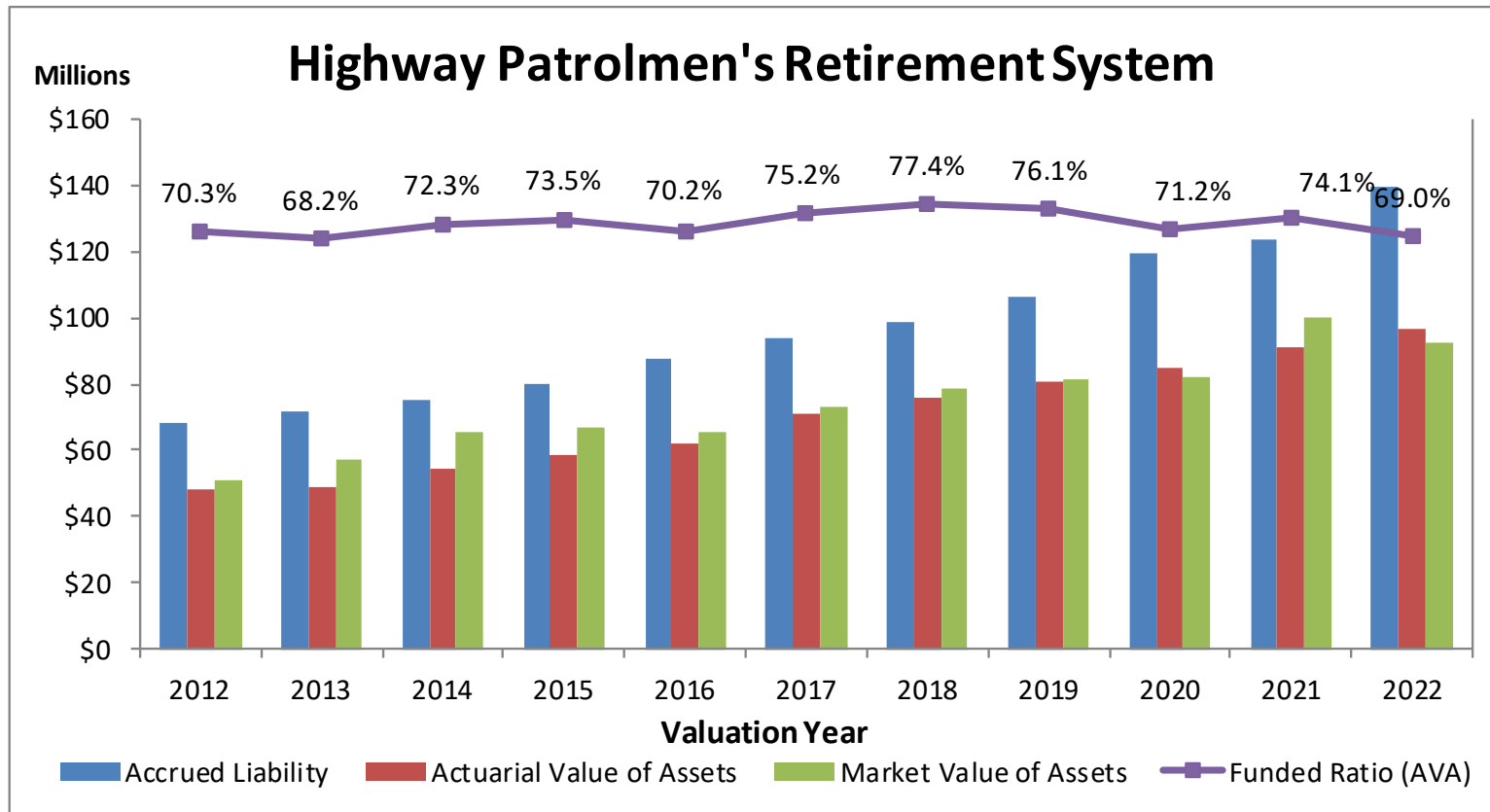
Historical Trends

Change in Funded Status



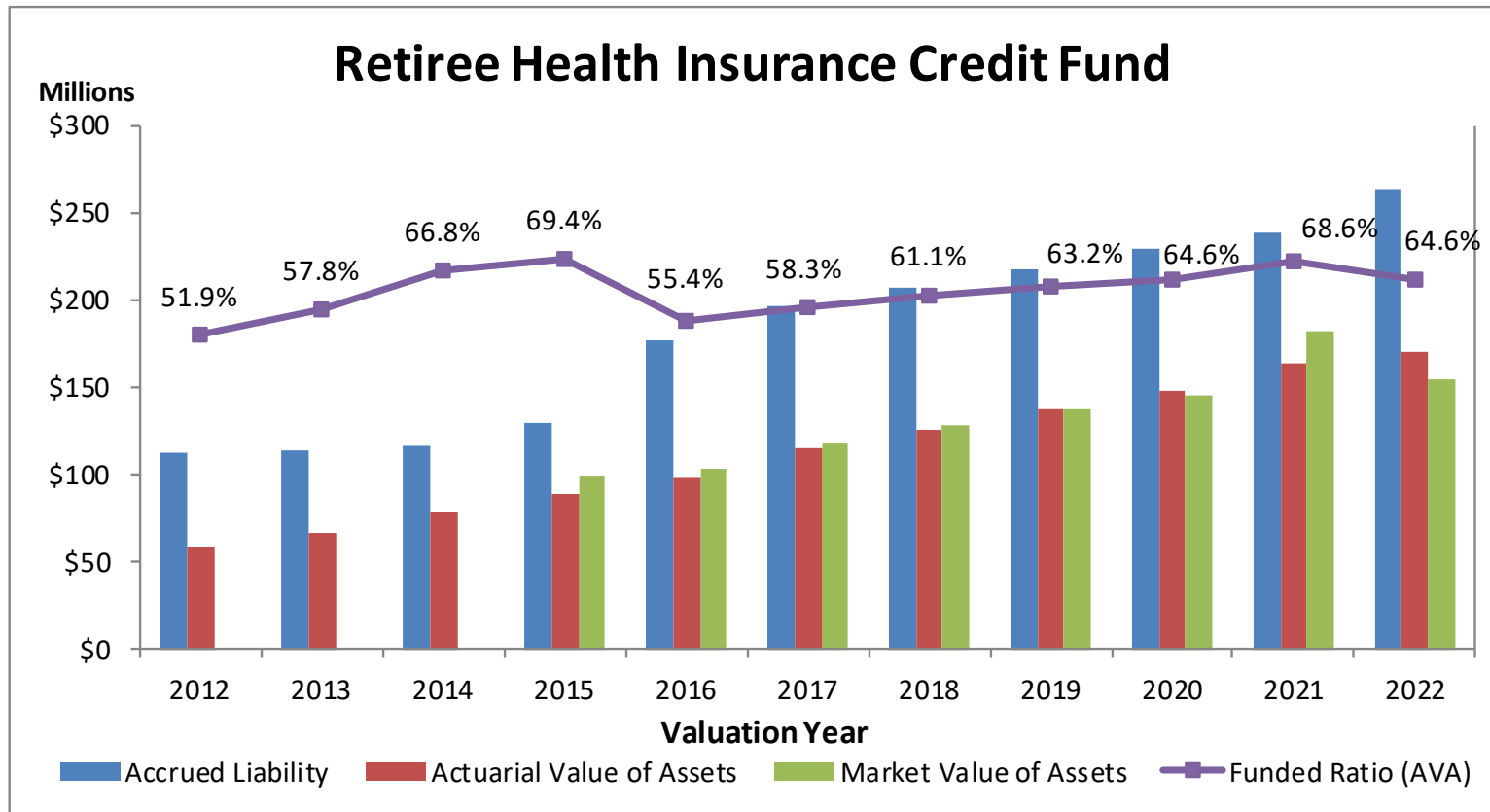
Historical Trends

Change in Funded Status



Historical Trends

Change in Funded Status



Disclosures

- This presentation shall not be construed to provide tax advice, legal advice or investment advice.
- The actuaries submitting this presentation (Bonita Wurst and Abra Hill) are Members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.
- The purposes of the actuarial valuation are to measure the financial position of the North Dakota Public Employees Retirement System, calculate the actuarial employer contribution rates and provide actuarial reporting and disclosure information for financial reporting.
- The assumptions used in the calculation of the July 1, 2022 actuarial valuation results are based on an experience study for the five year period ending June 30, 2019 as well as an analysis of investment return assumptions dated July 1, 2022, and were provided by, and are the responsibility of, the NDPERS Board.

Disclosures

- Future actuarial measurements may differ significantly from the current and projected measurements presented in this presentation due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law.
- This is one of multiple documents comprising the actuarial reports for the NDPERS Plans. Additional information regarding actuarial assumptions and methods and important additional disclosures are provided in the Actuarial Valuation Reports as of July 1, 2022.
- If you need additional information to make an informed decision about the contents of this presentation, or if anything appears to be missing or incomplete, please contact us before relying on this presentation.



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Scott A. Miller
Executive Director
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Memorandum

TO: NDPERS Board

FROM: Scott

DATE: October 25, 2022

SUBJECT: Annual Investment Report

Scott Anderson from the Retirement and Investment Office will provide the investment report for fiscal year 21-22.



Attachment

PUBLIC EMPLOYEE RETIREMENT SYSTEM

Scott M Anderson, CFA
October 25, 2022

NORTH
Dakota
Be Legendary.

Retirement & Investment

PERFORMANCE – BENCHMARK INDICES



AS OF JUNE 30, 2022

Benchmark Indices (% change, annualized)	YTD	1 Yr	5 Yr	10 Yr	10 Yr Volatility
Russell 1000	-20.9%	-13.0%	11.0%	12.8%	17.1%
Russell 2000	-23.4%	-25.2%	5.2%	9.2%	21.6%
S&P 500	-20.0%	-10.6%	11.3%	12.9%	17.0%
MSCI ACWI IMI Net	-20.4%	-16.5%	6.7%	8.7%	13.8%
MSCI World ex US	-18.8%	-16.8%	2.7%	5.3%	14.0%
MSCI Emerging Markets	-17.6%	-25.3%	2.2%	3.0%	15.4%
Bloomberg Aggregate	-10.3%	-10.3%	0.9%	1.5%	3.7%
Bloomberg Gov/Credit	-11.0%	-10.9%	1.0%	1.6%	4.2%
Bloomberg US High Yield	-14.2%	-12.8%	2.1%	4.4%	4.8%
NCREIF Property Index (6/30/2022)	8.7%	21.5%	8.9%	9.66%	2.5%

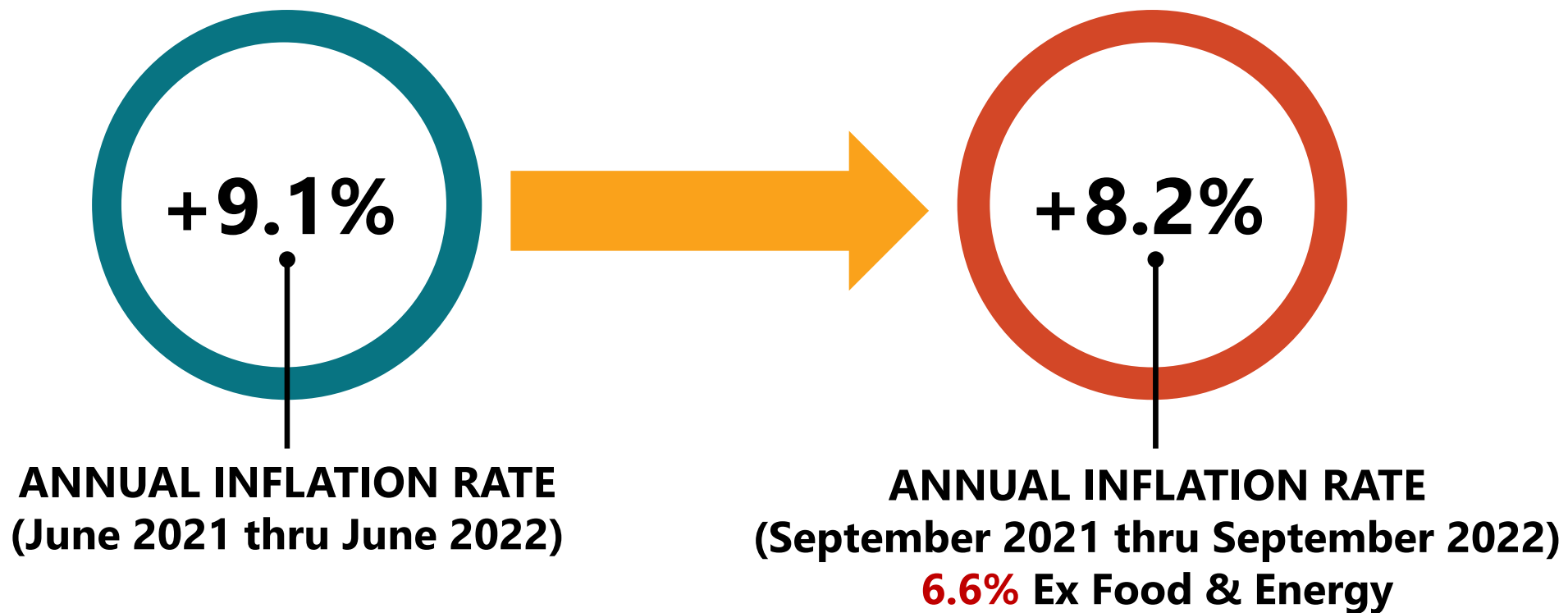
Source: Callan, Bloomberg

PERFORMANCE – BENCHMARK INDICES

Summary of Returns August 31, 2022					
Benchmark Indices (% change, annualized)	YTD	1 Yr	5 Yr	10 Yr	10 Yr Volatility
PERS Policy Benchmark	-9.9%	-6.9%	6.9%	7.5%	7.7%
Russell 1000	-16.9%	-13.0%	11.6%	13.0%	17.3%
Russell 2000	-17.2%	-17.9%	6.9%	10.0%	21.7%
S&P 500	-16.1%	-11.2%	11.8%	13.1%	17.2%
MSCI ACWI IMI Net	-17.8%	-16.2%	6.7%	8.7%	13.8%
MSCI World ex US	-18.7%	-18.6%	2.1%	4.9%	14.0%
MSCI Emerging Markets	-17.5%	-21.8%	0.6%	2.9%	15.4%
Bloomberg Aggregate	-10.8%	-11.5%	0.5%	1.4%	3.8%
Bloomberg Gov/Credit	-11.5%	-12.3%	0.7%	1.4%	4.3%
Bloomberg US High Yield	-11.2%	-10.6%	2.6%	4.5%	4.9%
NCREIF Property Index (06/30/2022)	8.7%	21.5%	8.9%	9.66%	2.5%

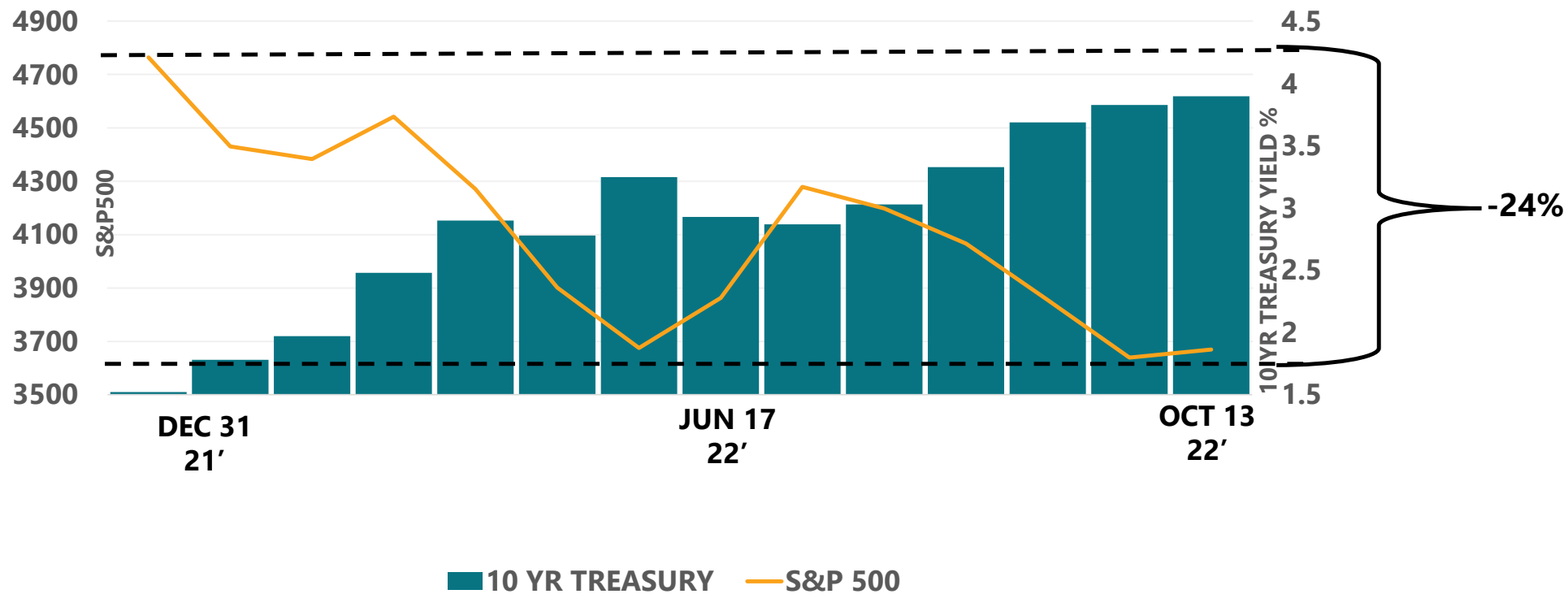
Source: Callan, Bloomberg

HAS INFLATION PEAKED?¹



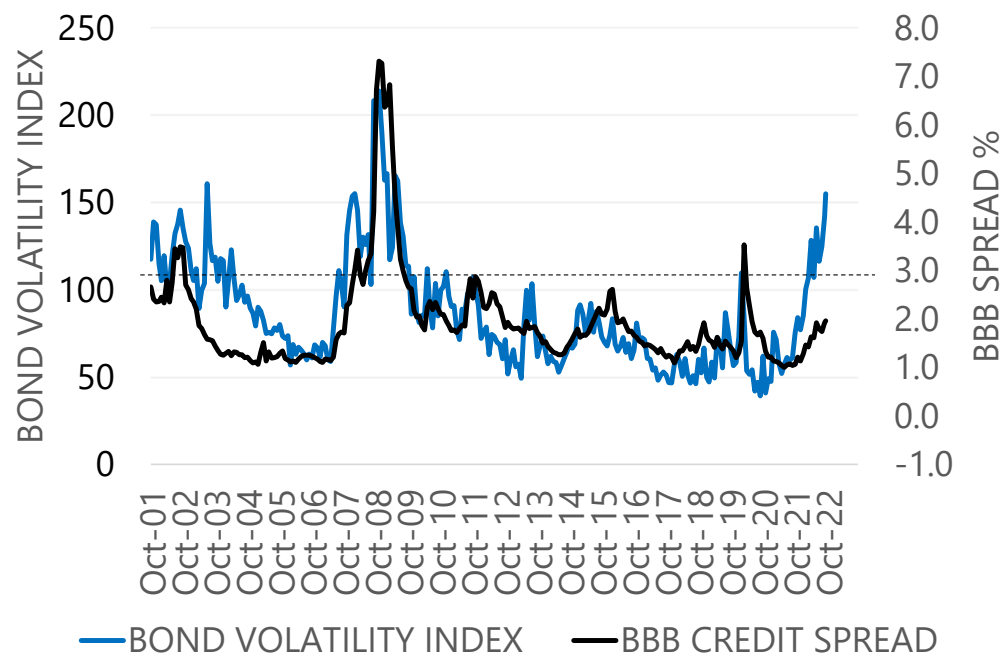
1. Bureau of Labor Statistics

THE S&P500 HAS TRACKED INFLATION EXPECTATIONS¹



1. FRED (Federal Reserve Bank of St. Louis)

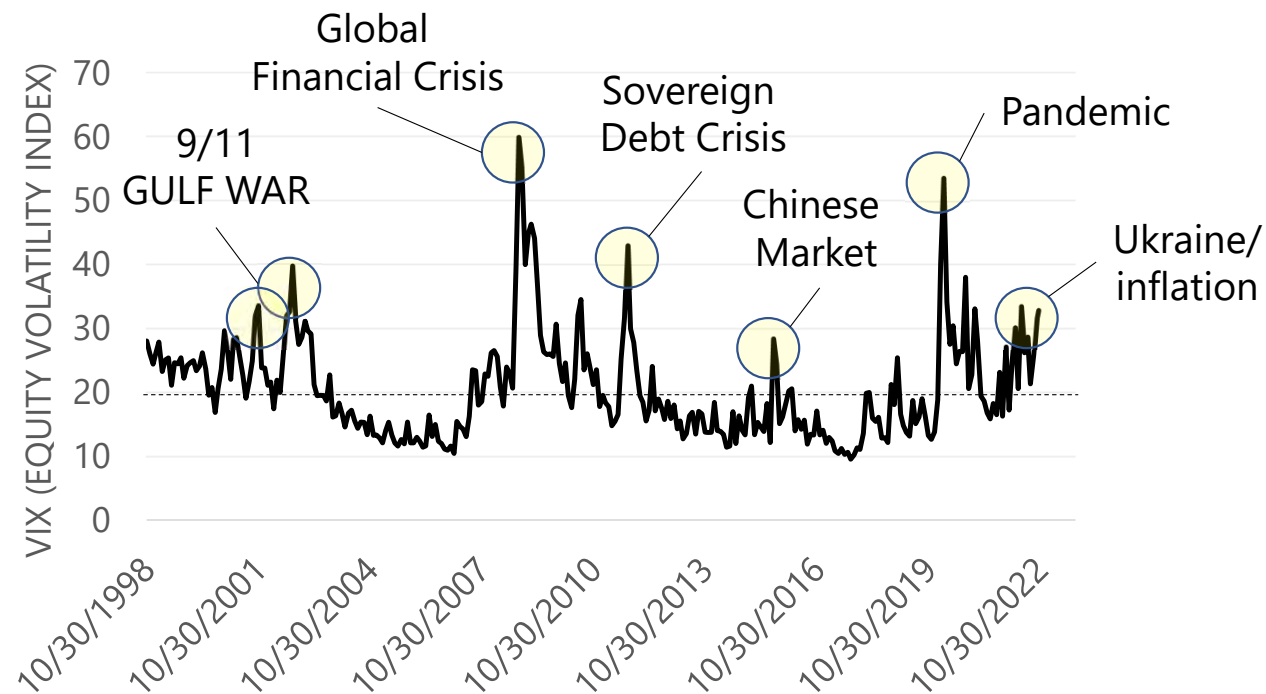
BOND VOLATILITY HIGH¹



- TREASURY MARKET LESS LIQUID
- TREASURIES ARE AN IMPORTANT SOURCES OF LIQUIDITY
- FUTURES OFTEN BOUGHT AND SOLD VERSUS OFF THE RUN PHYSICAL TREASURIES TO RAISE CASH AND TO PROFIT FROM MIS-PRICINGS

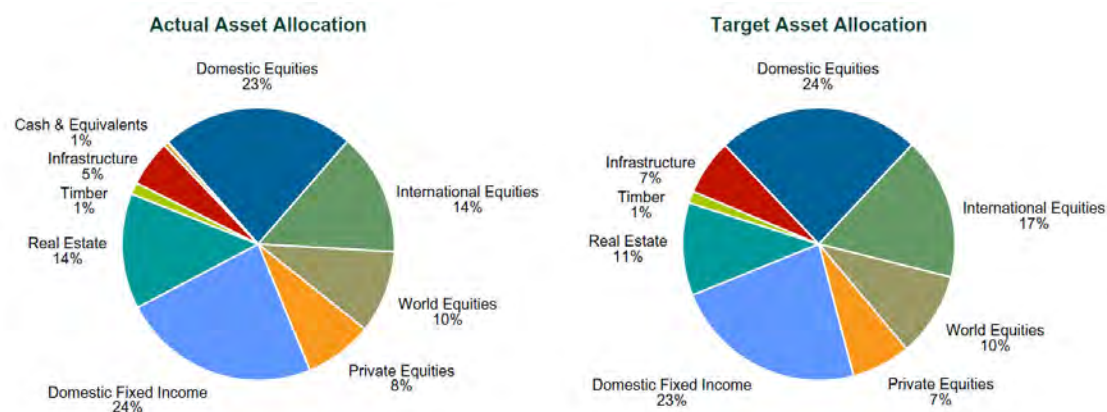
1. Ice BofA Bond Market Option Volatility Index; Bloomberg BBB Credit OAS

EQUITY VOLATILITY HIGH¹



1. CBOE equity volatility index

ASSET ALLOCATION – PERS (JUNE 2022)



Asset Class	\$000s Actual	Weight Actual	Target	Percent Difference	\$000s Difference
Domestic Equities	847,751	22.9%	24.1%	(1.2%)	(44,539)
International Equities	535,542	14.5%	16.9%	(2.4%)	(89,056)
World Equities	364,349	9.8%	10.0%	(0.2%)	(5,626)
Private Equities	300,283	8.1%	7.0%	1.1%	41,300
Domestic Fixed Income	870,557	23.5%	23.0%	0.5%	19,616
Real Estate	507,289	13.7%	11.0%	2.7%	100,317
Timber	50,739	1.4%	1.4%	(0.0%)	0
Infrastructure	203,272	5.5%	6.6%	(1.1%)	(41,969)
Cash & Equivalents	19,964	0.5%	0.0%	0.5%	19,964
Total	3,699,747	100.0%	100.0%		

PERFORMANCE – PERS¹

AS OF JUNE 30, 2022

PERS (\$3.7 BILLION)	YEAR TO DATE	1 YEAR	3 YEAR	5 YEAR	RISK (5 YEAR)
TOTAL FUND RETURN	-11.6%	-6.7%	7.1%	7.2%	9.4%
POLICY BENCHMARK	-12.0%	-7.0%	6.5%	6.7%	9.2%
TOTAL RELATIVE RETURN	0.4%	0.3%	0.6%	0.5%	

1. After fees performance

PERFORMANCE – PERS¹

AS OF AUGUST 31, 2022

PERS (\$3.7 BILLION)	YEAR TO DATE	1 YEAR	3 YEAR	5 YEAR	RISK (5 YEAR)
TOTAL FUND RETURN	-10.4%	-7.6%	7.8%	7.0%	9.6%
POLICY BENCHMARK	-9.9%	-6.9%	7.5%	6.9%	9.5%
TOTAL RELATIVE RETURN	-0.5%	-0.7%	0.3%	0.1%	

1. After fees performance



**North Dakota
Public Employees Retirement System**
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Scott A. Miller
Executive Director
(701) 328-3900
1-800-803-7377

Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Scott

DATE: October 25, 2022

SUBJECT: Retirement Plan Contribution Increases

Given the valuation results provided by GRS, the Board may want to consider drafting legislation to increase contributions for the Main PERS plan, the Highway Patrol plan, and the Retiree Health Insurance Credit plan. Although the deadline to submit bills to the Employee Benefits Programs Committee was April 1, we could ask for an exception to that deadline at the Committee meeting tomorrow.

Bonnie Wurst from GRS will be available to provide her recommendations and insight.

Board Action Requested: Determine whether to draft appropriate contribution increase bills for submission to the 2023 Legislative Assembly.



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Memorandum

TO: NDPERS Board

FROM: Scott

DATE: October 25, 2022

SUBJECT: Public Safety Plans Employer Contribution Rates

Most of the retirement plan contribution rates are set in statute by the Legislative Assembly. The two exceptions to that general rule are for our political subdivision Public Safety Plan (which is split into two plans, one for members with prior PERS service and one for members without) and our Bureau of Criminal Investigation/National Guard Public Safety plan. The employer contribution amounts for those plans is set by the Board at “an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17.” NDCC sections 54-52-06.3 (Political Subdivision Public Safety) and 54-52-06.4 (BCI/National Guard Public Safety).

Those amounts were originally set in 2015 and 2016, and have not needed adjustment since that time. However, in the draft valuation materials we received from GRS for the 7/1/22 valuation, it appears the employer contribution amount will need to be increased. While we will get the final numbers during the meeting, the draft materials indicate the employer contributions need to go up to 11.40% for the BCI/National Guard plan and the Public Safety with prior service plan (up from the current 9.81%), and up to 9.16% for the Public Safety without prior service plan (up from the current 7.93%).

Section 71-02-06-07 of the North Dakota Administrative Code provides guidance on the timeline for the Board to set these contributions: “The board shall set the employer's contribution rate on a biennial basis, but may adjust that rate if it is actuarially necessary to maintain appropriate funding levels.” The Attorney General's office will need to obtain the budgetary authority to pay these increased contributions for its BCI agents. As such, the earliest we could make the increase effective is July 1, 2023. However, because of Federal restrictions on contributions, it would be preferable to have any increase effective on January 1, 2024.

Board Action Requested: Approve the proposed increases for the three plans effective January 1, 2024.



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Memorandum

TO: NDPERS Board

FROM: MaryJo Anderson

DATE: October 25, 2022

SUBJECT: Job Service COLA

According to Article VII(3) of the plan document for the Retirement Plan for Employees of Job Service North Dakota, "effective each December 1 of any year, the monthly amount of each retirement annuity, death benefit, or disability benefit then payable shall be increased by the percent increase, if any, in the Consumer Price Index." It further states, "no increase in retirement allowance granted under the Plan, or the date for commencement of such increase, will become effective unless the same increase has been authorized for the Civil Service Retirement System, and unless the increase has been authorized by the NDPERS Board." This provision for a COLA increase was authorized by the United States Department of Labor as part of a larger agreement reached with the USDOL in the late 1970's. Since that time, the Plan practice has been to provide COLAs consistent with the Federal Civil Service Plan. The plan assumes a post-retirement COLA of 2.25%.

This year the COLA index for the Federal Civil Service Plan is 8.7%. Therefore, a 8.7% COLA increase is indicated for the Job Service retirees paid by NDPERS as well as for the Job Service retirees paid by MetLife/Brighthouse. The increase would be effective December 1, 2022. The last increase for annuitants in this system was 5.9% effective December 1, 2021.

The actuarial assumption used in the annual valuation for the COLA is 2.25% per year; therefore, the 8.7% increase represents a loss to the system.

Board Action Requested

Determine whether to approve the 8.7% COLA increase for Job Service annuitants.



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Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Scott

DATE: October 25, 2022

SUBJECT: Medical Consulting Contract

NDPERS has contracted with Mid-Dakota Clinic for Medical Consulting services related to disability determinations for our retirement plans. Innovis Health (an affiliate of Essentia Health) has purchased Mid-Dakota Clinic. Innovis has requested that we sign the attached agreement consenting to the transfer of rights and responsibilities under our consulting contract from Mid-Dakota Clinic to Innovis. Dean has reviewed and approved the agreement.

We also believe we will need a Business Associate Agreement (BAA) with Innovis in order to share confidential member medical information. The proposed BAA is attached. Dean was reviewing the proposed BAA when the Board book went out.

If the Board declines to approve the agreement, we will need to issue a Request for Proposals (RFP) very quickly to obtain these services.

Board Action Requested: Approve the proposed agreement or direct staff to go out for a RFP for these services.



MID DAKOTA CLINIC
The doctors you know and trust.®

September 23, 2022

Via Certified Mail, Return Receipt Requested

State of North Dakota
Public Employees Retirement System
PO Box 1657
Bismarck, ND 58502-1657

RECEIVED
SEP 30 2022
ND PERS

Re: Notice of Proposed Assignment and Request for Consent

Ladies and Gentlemen:

This letter is in regard to the Medical Consulting Agreement between your organization and Mid Dakota Clinic, P.C. (the “**Clinic**”), dated July 1, 2021, together with any and all of its exhibits, attachments, amendments, and addenda (the “**Agreement**”). The Clinic, the Clinic’s shareholders, and Innovis Health, LLC (“**Innovis**”), an affiliate of Essentia Health, have entered into a Stock Purchase Agreement dated September 16, 2022, pursuant to which Innovis intends to acquire the stock of the Clinic, effective as of October 1, 2022, or such other date on which the closing of the Transaction is effective, immediately after which Innovis will transfer substantially all of the assets of the Clinic to Innovis (collectively, the “**Transaction**”). This letter provides you with notice of the proposed assignment of the Agreement to Innovis upon and subject to the closing of the Transaction.

We request that you consent to the assignment of the Agreement to Innovis by signing and returning the attached Assignment, Assumption and Consent Agreement (the “**Assignment**”) at your earliest opportunity, but in any case no later than **September 30, 2022**. You may email your executed Assignment to Dawn LaPointe at Dawn.LaPointe@EssentiaHealth.org, or mail it to the address set forth at the bottom of the Assignment. If the Transaction does not close, this Assignment will be null and void and the assignment of the Agreement will not occur. If the closing date changes, we will promptly notify you in writing.

If you have any questions regarding this request, please contact Dawn LaPointe by email at the email address above or by telephone at (218) 786-8340.

Thank you for your prompt attention to this matter.

Sincerely,

Sophie Y. Morgan, JD, CHC
Chief Legal and Compliance Officer

cc: Dawn LaPointe, Essentia Health

ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT

THIS ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT (this “**Assignment**”) is made and entered into effective as of the date on which the closing of the Transaction (as defined below) occurs (the “**Effective Date**”), by and among Mid Dakota Clinic, P.C. (“**Assignor**”), Innovis Health, LLC (“**Assignee**”), and State of North Dakota, Public Employees Retirement System (“**Consenting Party**”).

RECITALS

WHEREAS, Assignor and Consenting Party entered into that certain Medical Consulting Agreement, dated July 1, 2021, together with any and all of its exhibits, attachments, amendments, and addenda (the “**Agreement**”); and

WHEREAS, in connection with a proposed transaction between Assignor and Assignee pursuant to which Assignee will acquire Assignor’s business, including the Agreement (the “**Transaction**”), Assignor desires to assign to Assignee all of Assignor’s rights, title, and interests in and under the Agreement, and Assignee desires to assume all of Assignor’s duties under the Agreement; and

WHEREAS, subject to and upon the occurrence of the closing of the Transaction, Consenting Party desires to consent to the assignment of the Agreement from Assignor to Assignee, release Assignor from its obligations under the Agreement, and substitute Assignee for Assignor as a party to the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment, Assumption and Consent.

1.1 Assignment. Effective as of the Effective Date, Assignor hereby grants, sells, transfers, conveys, assigns, and delivers to Assignee all of Assignor’s rights, title, and interests in and under the Agreement.

1.2 Assumption. Effective as of the Effective Date, Assignee hereby accepts the foregoing assignment and assumes all of Assignor’s duties under the Agreement and agrees to perform all of such duties accruing on and after the Effective Date.

1.3 Consent. Effective as of the Effective Date, Consenting Party hereby (a) consents to the transfer, conveyance, assignment, and delivery from Assignor to Assignee of all of Assignor’s rights, title, and interests in and under the Agreement; (b) waives any and all restrictions on such transfer, conveyance, assignment, and delivery that may be contained in the Agreement; (c) releases Assignor from its duties under the Agreement accruing on and after the Effective Date; and (d) substitutes Assignee for Assignor as a party to the Agreement.

2. Notices. Commencing as of the Effective Date, all notices to Assignee shall be sent to:

Innovis Health, LLC
Attn: President
3000 32nd Avenue SW
Fargo, ND 58103


With a copy to:
Essentia Health
Attn: Chief Legal Officer
502 East 2nd Street
Duluth, MN 55805

3. Authorization. Each party certifies that this Assignment has been duly authorized, executed, and delivered by it.

IN WITNESS WHEREOF, the parties have executed this Assignment to be effective as of the Effective Date.

“Assignee”

INNOVIS HEALTH, LLC

By:  _____

Name: Al Hurley
Title: COO – West

“Assignor”

MID DAKOTA CLINIC, P.C.

By:  _____

Name: Sophie Y. Morgan, JD, CHC
Title: Chief Legal and Compliance Officer

“Consenting Party”

State of North Dakota, Public Employees Retirement System

By: _____

Printed Name: _____

Its: _____

This signed Assignment, Assumption, and Consent Agreement should be sent to Essentia Health as follows:

IF BY MAIL: Essentia Health
 Corporate Office | MDMC120
 Attn: Dawn LaPointe
 502 E. 2nd Street
 Duluth, MN 55805

IF BY EMAIL: Dawn.LaPointe@EssentiaHealth.org

Business Associate Agreement

This Business Associate Agreement, which is an addendum to the underlying contract, is entered into by and between, the North Dakota Public Employees Retirement System ("NDPERS") and the **ENTER BUSINESS ASSOCIATE NAME, ADDRESS OF ASSOCIATE.**

1. Definitions

- a. Terms used, but not otherwise defined, in this Agreement have the same meaning as those terms in the HIPAA Privacy Rule, 45 C.F.R. Part 160 and Part 164, Subparts A and E, and the HIPAA Security rule, 45 C.F.R., pt. 164, subpart C.
- b. Business Associate. "Business Associate" means the **ENTER BUSINESS ASSOCIATE NAME.**
- c. Covered Entity. "Covered Entity" means the **North Dakota Public Employees Retirement System Health Plans.**
- d. PHI and ePHI. "PHI" means Protected Health Information; "ePHI" means Electronic Protected Health Information.

2. Obligations of Business Associate.

2.1. The Business Associate agrees:

- a. To use or disclose PHI and ePHI only as permitted or required by this Agreement or as Required by Law.
- b. To use appropriate safeguards and security measures to prevent use or disclosure of the PHI and ePHI other than as provided for by this Agreement, and to comply with all security requirements of the HIPAA Security rule.
- c. To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that it creates, receives, maintains or transmits on behalf of the Covered Entity as required by the HIPAA Security rule.
- d. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI or ePHI by Business Associate in violation of the requirements of this Agreement.
- e. To report to Covered Entity (1) any use or disclosure of the PHI not provided for by this Agreement, and (2) any "security incident" as defined in 45 C.F.R. § 164.304 involving ePHI, of which it becomes aware without unreasonable delay and in any case within thirty (30) days from the date after discovery and provide the Covered Entity with a written notification that complies with 45 C.F.R. § 164.410 which shall include the following information:
 - i. to the extent possible, the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed during the breach;
 - ii. a brief description of what happened;
 - iii. the date of discovery of the breach and date of the breach;
 - iv. the nature of the Protected Health Information that was involved;
 - v. identify of any person who received the non-permitted Protected Health Information;

- vi. any steps individuals should take to protect themselves from potential harm resulting from the breach;
 - vii. a brief description of what the Business Associate is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and
 - viii. any other available information that the Covered Entity is required to include in notification to an individual under 45 C.F.R. § 164.404(c) at the time of the notification to the State required by this subsection or promptly thereafter as information becomes available.
- f. With respect to any use or disclosure of Unsecured Protected Health Information not permitted by the Privacy Rule that is caused by the Business Associate's failure to comply with one or more of its obligations under this Agreement, the Business Associate agrees to pay its reasonable share of cost-based fees associated with activities the Covered Entity must undertake to meet its notification obligations under the HIPAA Rules and any other security breach notification laws;
 - g. Ensure that any agent or subcontractor that creates, receives, maintains, or transmits electronic PHI on behalf of the Business Associate agree to comply with the same restrictions and conditions that apply through this Agreement to the Business Associate.
 - h. To make available to the Secretary of Health and Human Services the Business Associate's internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI and ePHI received from, or created or received by Business Associate on behalf of Covered Entity, for the purpose of determining the Covered Entity's compliance with the HIPAA Privacy Rule, subject to any applicable legal privileges.
 - i. To document the disclosure of PHI related to any disclosure of PHI as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
 - j. To provide to Covered Entity within 15 days of a written notice from Covered Entity, information necessary to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
 - k. To provide, within 10 days of receiving a written request, information necessary for the Covered Entity to respond to an Individual's request for access to PHI about himself or herself, in the event that PHI in the Business Associate's possession constitutes a Designated Record Set.
 - l. Make amendments(s) to PHI in a designated record set as directed or agreed by the Covered Entity pursuant to 45 C.F.R. § 164.526 or take other measures as necessary to satisfy the covered entity's obligations under that section of law.

3. Permitted Uses and Disclosures by Business Associate

3.1. General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may Use or Disclose PHI and ePHI to perform functions, activities, or services for, or on behalf of, Covered Entity, specifically, insurance membership data to conduct RFP vendor searches – provided that such use or disclosure would not violate the Privacy Rule or the Security Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

3.2. Specific Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may use PHI and ePHI:

- a. For the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- b. To provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B), but Business Associate may not disclose the PHI or ePHI of the Covered Entity to any other client of the Business Associate without the written authorization of the covered entity Covered Entity.
- c. To report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §§ 164.304 and 164.502(j)(1).

4. Obligations of Covered Entity

4.1. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

Covered Entity shall notify Business Associate of:

- a. Any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that any such limitation may affect Business Associate's use or disclosure of PHI.
- b. Any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that any such changes may affect Business Associate's use or disclosure of PHI.
- c. Any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that any such restriction may affect Business Associate's use or disclosure of PHI.

4.2. Additional Obligations of Covered Entity. Covered Entity agrees that it:

- a. Has included, and will include, in the Covered Entity's Notice of Privacy Practices required by the Privacy Rule that the Covered Entity may disclose PHI for Health Care Operations purposes.
- b. Has obtained, and will obtain, from Individuals any consents, authorizations and other permissions necessary or required by laws applicable to the Covered Entity for Business Associate and the Covered Entity to fulfill their obligations under the Underlying Agreement and this Agreement.
- c. Will promptly notify Business Associate in writing of any restrictions on the Use and Disclosure of PHI about Individuals that the Covered Entity has agreed to that may affect Business Associate's ability to perform its obligations under the Underlying Agreement or this Agreement.
- d. Will promptly notify Business Associate in writing of any change in, or revocation of, permission by an Individual to Use or Disclose PHI, if the change or revocation may affect Business Associate's ability to perform its obligations under the Underlying Agreement or this Agreement.

4.3. Permissible Requests by Covered Entity

Covered Entity may not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule or the Security Rule if done by Covered Entity, except that the Business Associate may use or disclose PHI and ePHI for management and administrative activities of Business Associate.

5. Term and Termination

- a. Term. The Term of this Agreement shall be effective as of 11/01/2022, and shall terminate when all of the PHI and ePHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI and ePHI, protections are extended to any such information, in accordance with the termination provisions in this Section.
- b. Automatic Termination. This Agreement will automatically terminate upon the termination or expiration of the Underlying Agreement.
- c. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Underlying Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 2. Immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- d. Effect of Termination.
 1. Except as provided in paragraph (2) of this subsection, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI and ePHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI or ePHI.
 2. In the event that Business Associate determines that returning or destroying the PHI or ePHI is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon explicit written agreement of Covered Entity that return or destruction of PHI or ePHI is not feasible, Business Associate shall extend the protections of this Agreement to that PHI and ePHI and limit further uses and disclosures of any such PHI and ePHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains that PHI or ePHI.

6. Miscellaneous

- a. Regulatory References. A reference in this Agreement to a section in the HIPAA Privacy or Security Rule means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Rule, and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

- c. Survival. The respective rights and obligations of Business Associate under Section 5.c, related to “Effect of Termination,” of this Agreement shall survive the termination of this Agreement.
- d. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.
- e. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything this Agreement confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. Applicable Law and Venue. This Business Associate Agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action commenced to enforce this Contract must be brought in the District Court of Burleigh County, North Dakota.
- g. Business Associate agrees to comply with all the requirements imposed on a business associate under Title XIII of the American Recovery and Reinvestment Act of 2009, the Health Information Technology for Economic and Clinical Health (HI-TECH) Act, and, at the request of NDPERS, to agree to any reasonable modification of this agreement required to conform the agreement to any Model Business Associate Agreement published by the Department of Health and Human Services.

7. Entire Agreement

This Agreement contains all of the agreements and understandings between the parties with respect to the subject matter of this Agreement. No agreement or other understanding in any way modifying the terms of this Agreement will be binding unless made in writing as a modification or amendment to this Agreement and executed by both parties.

IN WITNESS OF THIS, **NDPERS** [CE] and **ENTER BUSINESS ASSOCIATE NAME** [BA] agree to and intend to be legally bound by all terms and conditions set forth above and hereby execute this Agreement as of the effective date set forth above.

For Covered Entity:

For Business Associate:

 Scott Miller, Executive Director
 ND Public Employees Retirement System

 Signature

 Printed Name

 Title

 Date

 Date



**North Dakota
Public Employees Retirement System**
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Scott A. Miller
Executive Director
(701) 328-3900
1-800-803-7377

Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

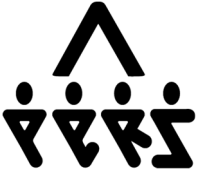
FROM: Scott

DATE: October 25, 2022

SUBJECT: 457 Deferred Compensation Provider Processes

We have been trying to work through issues with Waddell & Reed/FTC for two months; the memos for the past two months are attached. At the September Board meeting, the Board passed a motion terminating them as an active provider. The Board directed staff to bring the topic back to the October meeting with an update on our progress and consider whether to terminate them as a provider for our plan. Staff will provide the Board with an update at the meeting for the Board's consideration in its decision-making.

Board Action Requested: Determine how to proceed with this provider.



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Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Scott

DATE: September 13, 2022

SUBJECT: 457 Deferred Compensation Provider Processes

Waddell & Reed/FTC

At last month's Board meeting, I brought forward issues we've been having with Waddell & Reed/FTC. That memo and its attachment are attached. The issues have been:

- 1) Failure to provide a single point of contact for NDPERS;
- 2) Failure to provide accurate reports in a format we can use;
- 3) The unexplained split of our plan into 12-15 different plans;
- 4) Failure to timely process employee contributions.

Just prior to last month's Board meeting we had a phone conference with FTC representatives, who assured us these issues were either fixed or would be shortly. As of the time I am writing this memo, that is decidedly not the case. In fact, none of the issues have been corrected.

Given that more than 30 days have elapsed since I notified FTC of the issues, which have gone unresolved, it may be prudent to exercise the rights provided in NDAC section 71-04-06-11: "If the provider fails to deliver the required report within the thirty-day period, the provider is in violation of the administrative agreement and shall lose active provider status as described under subsection 1 of section 71-04-04-09." We will discuss at the meeting whether FTC's failures warrant termination of its provider status, as allowed by NDAC section 71-04-06-11:

If the provider has not filed the report within ninety days after the end of the reporting period, the provider shall lose provider status as described under subsection 2 of section 71-04-04-09. Loss of provider status results in all current contributions of active participants being suspended effective in the

next payroll cycle. The board will notify all participants of the company's failure to deliver the required reports. Current participants will be required to either select a new provider for future contributions, or have their account go into a dormant status with the company losing provider status. The board will then terminate the agreement with the provider.

There are currently 89 members actively contributing to this provider, and 71 who are no longer actively contributing but still have funds in a provider account.

Lincoln Financial

Lincoln has also had it's share of problems in 2022, which is documented in the non-compliance letter I sent to them (attached). Initially, we do not have a direct contact with them, which makes working through these issues even more difficult. However, they did respond back to us and have stated they have been working to resolve our issues. We are still working through the problems with the 3/31/22 statement, although we have resolved our issues with the 6/30/22 statement. Hopefully we will have more information at the Board meeting.

This is a non-active provider (they did not sign the fiduciary amendment). As such, the 90-day termination of contract is the only recourse we have. They have nine members actively contributing and 45 inactive members.

Board Action Requested: Determine how to proceed with these providers.



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August 1, 2022

Fiduciary Trust Company of New Hampshire (FTC)
PO Box 219638
Kansas City, MO 64121-9638
Fax – 816-218-0421

Dear Sirs:

This is to notify you that NDPERS has repeatedly had issues with Waddell & Reed delivering accurate quarterly reports to NDPERS as required by Section II(C) of the signed Provider Administrative Agreement. Pursuant to section II(C) of the agreement, the provider is required to provide reports – accurately – within thirty days of the end of each reporting period. You are now in violation of that agreement.

Since Waddell & Reed transitioned to Fiduciary Trust Company of New Hampshire (FTC) in 2022, the quarterly statement reporting issues encountered previously have continued. The FTC statements also appear to have 12-15 different plans shown rather than being consolidated into one. In addition, FTC has failed at processing employee contributions timely. To our knowledge, participant contributions have not been deposited into accounts in over 10 weeks.

Given that you have failed to provide accurate reporting and timely posting of participant contributions, you are now in material breach of our agreement. The Retirement Board's remedy for your material breach is to inform the participants using your services of the breach and that the Board is commencing termination of its agreement with you as provided in Section II(C). This means you will no longer be eligible to supply services under the State of North Dakota Deferred Compensation Program and the participants will no longer be allowed to contribute to the program using you as their provider.

We will take this situation to the Board for its consideration at the August 16, 2022 Board meeting. If we do not have a designated point of contact for FTC (formerly Waddell & Reed) or you have otherwise failed to correct this situation by this meeting, I will recommend that the Board exercise its remedy and terminate this agreement. I suggest you make plans to attend this meeting, virtually or in person, to explain to the Board why you seem to have problems with basic reporting requirements and responding to our requests for information in a timely manner.

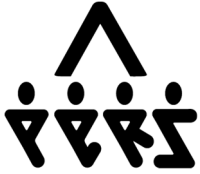
If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Miller', is written over a light blue horizontal line.

Scott Miller
Executive Director

Certified Mail: 7021 0350 0001 1030 5228



**North Dakota
Public Employees Retirement System**
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Scott A. Miller
Executive Director
(701) 328-3900
1-800-803-7377

Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Scott

DATE: August 16, 2022

SUBJECT: Waddell & Reed Reporting

Waddell & Reed has been a deferred compensation provider since at least 1998. They were one of the few providers that agreed to signing our fiduciary amendment, and so they are an active provider.

Unfortunately, their recent acquisition by the Fiduciary Trust Company of New Hampshire (FTC) has not resulted in positive changes, at least from NDPERS' perspective. Attached you will find a letter we sent to FTC on August 1st advising them of the myriad of problems we have recently had. The letter constitutes our 30-day notice of breach of the agreement.

As of the time I wrote this memo, we have not been contacted by FTC. I will let you know at the Board meeting whether I hear from them, and whether they will virtually attend the meeting to explain how they intend to remedy the various problems we currently face with their provision of services.

Board Action Requested: Determine whether to terminate the agreement with Waddell & Reed/FTC.



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Fax: (701) 328-3920 Email ndpers-info@nd.gov Website <https://ndpers.nd.gov>

August 1, 2022

Fiduciary Trust Company of New Hampshire (FTC)
PO Box 219638
Kansas City, MO 64121-9638
Fax – 816-218-0421

Dear Sirs:

This is to notify you that NDPERS has repeatedly had issues with Waddell & Reed delivering accurate quarterly reports to NDPERS as required by Section II(C) of the signed Provider Administrative Agreement. Pursuant to section II(C) of the agreement, the provider is required to provide reports – accurately – within thirty days of the end of each reporting period. You are now in violation of that agreement.

Since Waddell & Reed transitioned to Fiduciary Trust Company of New Hampshire (FTC) in 2022, the quarterly statement reporting issues encountered previously have continued. The FTC statements also appear to have 12-15 different plans shown rather than being consolidated into one. In addition, FTC has failed at processing employee contributions timely. To our knowledge, participant contributions have not been deposited into accounts in over 10 weeks.

Given that you have failed to provide accurate reporting and timely posting of participant contributions, you are now in material breach of our agreement. The Retirement Board's remedy for your material breach is to inform the participants using your services of the breach and that the Board is commencing termination of its agreement with you as provided in Section II(C). This means you will no longer be eligible to supply services under the State of North Dakota Deferred Compensation Program and the participants will no longer be allowed to contribute to the program using you as their provider.

We will take this situation to the Board for its consideration at the August 16, 2022 Board meeting. If we do not have a designated point of contact for FTC (formerly Waddell & Reed) or you have otherwise failed to correct this situation by this meeting, I will recommend that the Board exercise its remedy and terminate this agreement. I suggest you make plans to attend this meeting, virtually or in person, to explain to the Board why you seem to have problems with basic reporting requirements and responding to our requests for information in a timely manner.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Miller", is written over a light blue horizontal line.

Scott Miller
Executive Director

Certified Mail: 7021 0350 0001 1030 5228



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Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: October 25, 2022

SUBJECT: Medicare Part D Contract Amendment

At the August meeting, the Board approved renewing the NDPERS Medicare Part D Plan with Humana for the 2023 calendar year. Attached is the contract amendment prepared by NDPERS legal counsel and signed by Humana.

Board Action Requested

Approve the contract amendment for the NDPERS Medicare Part D Plan for the 2023 calendar year for signature by Chairperson Rindy.

First Amendment to Medicare Part D Employer Sponsored Group Waiver Plan Prescription Drug Services Agreement

This First Amendment is between the State of North Dakota, acting through its North Dakota Public Employees Retirement System (Group), and Humana Medical Advantage Organization (MAO).

GROUP and MAO entered into an Agreement for Medicare Part D Employer Sponsored Group Waiver Plan Prescription Drug Services (Agreement) on September 21, 2021. The initial plan year is from January 1, 2022, until December 31, 2022. The Agreement provides Group may renew the Agreement for successive January 1 to December 31 periods (renewal plan years).

In July 2022, MAO proposed renewal terms for the January 1, 2023, to December 31, 2023, plan year, incorporated into this Amendment as Attachments A, B, and C. Group reviewed the renewal terms, considered the matter, and passed a motion to renew the Agreement for the January 1, 2023, to December 31, 2023, plan year.

Group and MAO therefore agree:

- 1) Pursuant to Article IV, Section 4.2 of the Agreement, to renew the Agreement for one year. The amended renewal plan year is January 1, 2023, until December 31, 2023.
- 2) To incorporate the amended terms in Attachments A, B, and C into the Agreement.

Attachment A – Humana Medicare Employer PDP Plan - 2023 PDP for NDPERS
Plan 037 Option 161

Attachment B – Humana Medicare Employer Plan – Premium Information (2023)

Attachment C – 2023 Group Medicare Performance Standards for PDP Only

- 3) All other terms of the Agreement remain in effect.

This First Amendment is effective, on the date of the most recent signature, when executed by both Parties.

HUMANA

State of North Dakota through NDPERS

Signature: 

Printed: Steve McCulley

Title: SVP

Date: October 12, 2022

Signature: _____

Printed: _____

Title: _____

Date: _____

ATTACHMENT A

Please see the attachment labeled
'Humana Medicare Employer PDP Plan – 2023 PDP for NDPERS Plan 037 Option 161'
for the schedule of benefits being administered for contract year
January 1, 2023 through December 31, 2023.

HUMANA MEDICARE EMPLOYER PDP PLAN
2023 PDP for North Dakota Public Employees Retirement System Plan 037 Option 161
Group Plus Formulary - PDG 49
With Package(s): 2 (Cough/Cold) & 7 (Erectile Dysfunction)
Effective Date: 01/01/2023 - 12/31/2023

30 Day Supplies

PDP Option Number	30 Day Standard Retail from \$0 to ICL (1)				30 Day Standard Retail from ICL to Catastrophic (2) "Coverage Gap"				30 Day Standard Retail Cost Sharing from Catastrophic to Unlimited	Out-of-Pocket that triggers Catastrophic	30 Day Standard Retail Home Infusion Drugs (3)			
	Tier 1*	Tier 2	Tier 3	Tier 4	Tier 1*	Tier 2	Tier 3	Tier 4			Tier 1*	Tier 2	Tier 3	Tier 4
PDP 157	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	Member pays the greater of \$4.15 for generic/preferred multi-source drugs/biosimilars and \$10.35 for all other drugs; OR 5% coinsurance	\$7,400	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share

PDP Option Number	30 Day Standard Mail Order from \$0 to ICL (1)				30 Day Standard Mail Order from ICL to Catastrophic (2) "Coverage Gap"				30 Day Standard Mail Order Cost Sharing from Catastrophic to Unlimited	Out-of-Pocket that triggers Catastrophic	30 Day Standard Mail Order Home Infusion Drugs (3)			
	Tier 1*	Tier 2	Tier 3	Tier 4	Tier 1*	Tier 2	Tier 3	Tier 4			Tier 1*	Tier 2	Tier 3	Tier 4
PDP 157	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	Member pays the greater of \$4.15 for generic/preferred multi-source drugs/biosimilars and \$10.35 for all other drugs; OR 5% coinsurance	\$7,400	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share

*Tier 1: Generic or Preferred Generic - Generic or brand drugs that are available at the lowest cost share for this plan.
Tier 2: Preferred Brand - Generic or brand drugs that Humana offers at a lower cost than Tier 3 Non-Preferred Drug.
Tier 3: Non-Preferred Drug - Generic or brand drugs that Humana offered at a higher cost than Tier 2 Preferred Brand drugs.
Tier 4: Specialty Tier - Some injectables and other higher-cost drugs.

90 Day Supplies

PDP Option Number	90 Day Standard Retail (4) from \$0 to ICL (1)				90 Day Standard Retail from ICL to Catastrophic (2) "Coverage Gap"				90 Day Standard Retail Cost Sharing from Catastrophic to Unlimited	Out-of-Pocket that triggers Catastrophic	90 Day Standard Retail Home Infusion Drugs (3)			
	Tier 1*	Tier 2	Tier 3	Tier 4	Tier 1*	Tier 2	Tier 3	Tier 4			Tier 1*	Tier 2	Tier 3	Tier 4
PDP 157	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remainnig cost share	N/A	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	N/A	Member pays the greater of \$4.15 for generic/preferred multi-source drugs/biosimilars and \$10.35 for all other drugs; OR 5% coinsurance	\$7,400	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	N/A

PDP Option Number	90 Day Standard Mail Order (4) from \$0 to ICL (1)				90 Day Standard Mail Order from ICL to Catastrophic (2) "Coverage Gap"				90 Day Standard Mail Order Cost Sharing from Catastrophic to Unlimited	Out-of-Pocket that triggers Catastrophic	90 Day Standard Mail Order Home Infusion Drugs (3)			
	Tier 1*	Tier 2	Tier 3	Tier 4	Tier 1*	Tier 2	Tier 3	Tier 4			Tier 1*	Tier 2	Tier 3	Tier 4
PDP 157	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 50% coinsurance of remaining cost share	N/A	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	N/A	Member pays the greater of \$4.15 for generic/preferred multi-source drugs/biosimilars and \$10.35 for all other drugs; OR 5% coinsurance	\$7,400	\$5 copayment; 15% coinsurance of remaining cost share	\$15 copayment; 25% coinsurance of remaining cost share	\$25 copayment; 25% coinsurance of remaining cost share	N/A

Footnotes:
1 ICL (Initial Coverage Limit): When total drug cost (the amount the member pays plus the amount Humana pays) reaches \$4,660.
2 Catastrophic: When a member's True Out-of-Pocket (TrOOP) cost reaches \$7,400.
3 Home Infusion Drugs: After the deductible has been met, these drugs will be covered at the specified cost shares in the Coverage Gap.
4 Retail and Mail Order: The benefit for a 90-day supply is limited to Rx formulary Tiers 1-2 and most drugs on Tier 3. Regardless of tier placement, Specialty drugs are limited to a 30-day supply.

Out of Network: Emergency Situations
When a member purchases a drug at an out-of-network pharmacy in an emergency situation:
a. the member will pay the same coinsurance as would have applied at a network pharmacy, but at the out-of-network pharmacy price, and/or,
b. the member will pay the same copayment as would have applied at a network pharmacy, plus the difference between the out-of-network pharmacy price and the network pharmacy price.

Extra Services

The benefit and discount information presented here are current as of the date of this document. If a change should occur prior to implementation, Humana will clarify any change and notify the group sponsor. The products and services described below are neither offered nor guaranteed under our contract with the Medicare program. In addition, they are not subject to the Medicare appeals process. Any disputes regarding these products and services should be addressed with Customer Care by calling the number on the back of the member's Humana membership card. CMS does not permit discussing the below services with potential enrollees prior to enrollment.

• Complementary and Alternative Medicine and Weight Management - Not available in Puerto Rico	Discounts for complementary and alternative medicine services including chiropractic, acupuncture, massage therapy and nutrition. Services must be received from participating designated providers.
• Dental Discount (Florida GoldPlus) - Available in Florida only	Discounts on dental services. Services must be received from participating Florida GoldPlus providers.
• Dental Discount (HumanaDental) - Not available in Florida or Puerto Rico	Discounts on dental services. Services must be received from participating HumanaDental providers.
• Healthy Hearing Discount (HearUSA) - Available in Florida only	Discounts on hearing aids, accessories and hearing assistance products.
• Hearing Discount (TruHearing) - Not available in Florida or Puerto Rico	Discounts on hearing aids. Services must be received at a TruHearing hearing center.
• Lifeline® Medical Alert Systems	Lifeline may help members live independently with a peace of mind. Personal emergency response services connect members to caregivers and emergency services when an incident occurs. Wireless or landline options available.
• Meal Delivery Discount (Freshly) - Not available in Alaska, Hawaii or Puerto Rico	Discounts on home delivered meals to help support nutritional needs. Purchases may be placed online at Freshly.com or via the app or by calling or texting 1-844-373-7459 (available 24/7).
• Meal Delivery Discount (Mom's Meals)	Discounts on home delivered meals to help support nutritional needs. Purchases may be placed online at MomsMeals.com/welldine or by calling 1-877-347-3438.
• Prescription Medication Discount	Members show their Humana member ID card at participating pharmacies when they buy non-covered prescription medicines to receive any available discounts. Depending on the medicine purchased, quantity limits may apply.
• Bill Management Service (Silver Bills)	Discount on bill management services for recurring and/or one-time bills. To learn more visit: silverbills.com or call 1-800-825-1924 anytime, (TTY: 711).
• EyeMed Vision Discount	Discounts from participating EyeMed Vision Care Select network providers on routine vision services such as: Exam, contact lens fitting and follow-up, lenses, frames and laser vision correction. Discounts are taken at point of sale. Discount and funded benefits cannot be utilized within the same transaction.

This information is not a complete description of benefits. Contact the plan for more information. Limitations, copayments and restrictions may apply. Benefits, premiums and/or member cost-share may change each year. The formulary and pharmacy network may change at any time. The member will receive notice when necessary. Please refer to the Evidence of Coverage for additional information regarding covered services and limitations or any other contractual conditions. For a complete description of benefits, exclusions and limitations please refer to the actual Evidence of Coverage. If a discrepancy arises between this information and the actual Evidence of Coverage, the Evidence of Coverage will prevail in all instances.

Humana is a Medicare Employer Prescription Drug plan with a Medicare contract. Enrollment in this Humana plan depends on contract renewal.

ATTACHMENT B
Premium Information

Please see the attachment labeled
'Humana Medicare Employer Plan – Premium Information (2023)'
for the rate being billed for enrolled members in the Custom PDP plan for contract year
January 1, 2023 through December 31, 2023.



Humana Medicare Employer Plan – Premium Information

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM - PDP

BAFO

Date: 7/25/2022
Humana Medicare Employer Plan
Plan Names: Custom Rx
Rx Formulary: Group Plus Formulary - 23800
Additional Packages: Coughs and Colds, EDs Enhanced

Plan Year	Final Billed Premium (Per Member Per Month)
1/1/2023 - 12/31/2023	\$69.72

PDP No Medical Coverage Rx Benefit Overview

Prescription Drugs (Retail 30 day supply)

Custom Rx \$5 copay plus 15% coinsurance/\$15 copay plus 25% coinsurance/\$25 copay plus 50% coinsurance/\$25 copay plus 50% coinsurance from \$0 to ICL; \$5 copay plus 15% coinsurance/\$15 copay plus 25% coinsurance/\$25 copay plus 25% coinsurance/\$25 copay plus 25% coinsurance from ICL to Catastrophic

See attached sheet for rating assumptions and stipulations. The benefits presented above are a high-level summary. Please consult the Plan Design Exhibit for a more detailed list of covered services, member cost shares, services subject to deductibles and any plan limitations.



Humana Medicare Employer Plan – Rating Assumptions and Stipulations

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

Proposal Terms

The benefits presented on the previous page are a high-level summary. Please consult the Plan Design Exhibit for a more detailed outline of the benefits proposed. Final benefits may differ due to annual changes in CMS benefit requirements.

For members with End Stage Renal Disease (ESRD), the Humana Group Medicare Advantage Plan is only offered to eligible members who are diagnosed and enrolled in a manner that is consistent with applicable Medicare secondary laws, and the rules and regulations set forth by CMS.

The rates provided do not reflect any potential premium adjustments provided by Center for Medicare and Medicaid Services (CMS) or federal regulations based on a Medicare beneficiary's income.

Humana will hold the proposed rate(s) unless there are material changes to existing or implementation of new federal regulations or requirements, and/or any unforeseen/unusual circumstances (i.e. pandemic) that would impact Group Medicare.

Humana will hold the proposed rates, assuming all of the information provided is accurate, and could be subject to change should any of the following differ:

All members are retired and enrolled in Medicare Part A and/or Part B.

Based on historical enrollment and participation levels, Humana is waiving the employer contribution requirement and allowing the requested custom drug plan designs. We reserve the right to annually review selection risk related to plan funding.

Enrolled membership should not change from current, or differ from the information provided, by more than 10% per year. This proposal assumes 9,119 currently enrolled members.

Part D, administered by Humana Pharmacy Solutions, will utilize Humana's Group Plus formulary and include utilization management programs such as: quantity limits, prior authorization, and step therapy. Humana continually updates its drug list and quantity limits, and ensures these updates are in accordance with CMS regulations.

This quote is on an incurred basis. Humana will be responsible for all eligible claims incurred on or after the effective date through the end of the contract period.

Benefits, deductibles, maximum out of pocket accumulators, and any applicable pharmacy TrOOP accumulators will be reset on January 1 each year.

CMS does not allow members to purchase an individual MA Plan with the use of this product.

The quoted rates are based on Humana's plan being the only Group PDP option.

We are pleased to present this Humana Group Medicare Advantage proposal to you and assume all information provided is accurate with the understanding if there is a material change from the current offering environment, Humana has the right to revise or rescind the quote.

ATTACHMENT C
Performance Standards

Please see the attachment labeled
'2023 Group Medicare Performance Standards for PDP Only '
for the performance guarantees being administered for the Custom PDP plan for contract year
January 1, 2023 through December 31, 2023.

North Dakota Public Employees Retirement Systems



2023 Group Medicare Performance Standards for PDP Only

Effective January 1, 2023 through December 31, 2023

Minimum Annual Average Membership Requirement: None

PG#	Category	Target	Standard & Measurement Criteria	Amount at Risk
1	Plan Performance Review	Measurement methodology shall be measured from date of delivery of the plan performance review in calendar days	Within ten (10) calendar days following delivery of performance reviews to NDPERS, vendor shall develop and submit a corrective action plan (CAP) of issues identified for approval by NDPERS, and implement such plan within the time prescribed in the approved CAP.	Semi- annually \$1,000 per calendar day beyond the due date
2	Customer Satisfaction Surveys	Vendor will provide annual survey results to confirm compliance with performance standard	Member satisfaction surveys will be designed by the vendor and approved by NDPERS. Vendor will invite a random sample of members to participate in the survey to collect a statistically significant number of completed surveys. Member satisfaction rate will meet 90% or higher using a 1-5 scale of Completely Satisfied, Very Satisfied, Satisfied, Dissatisfied, Very Dissatisfied. Final survey questions and methodology will be agreed upon by vendor and NDPERS.	Annually \$25,000 per year
3	Team Meetings	Compliance to be monitored and assessed by NDPERS	NDPERS requires monthly team meetings to address all planning / implementation, business, financial, clinical / formulary (including new drug review) and operational needs	Monthly \$5,000 for each meeting missed
4	NDPERS board meetings	Compliance to be monitored and assessed by NDPERS	Vendor will participate in quarterly performance reviews to examine operational and financial performance	Quarterly \$5,000 for each quarter missed
5	Electronic Eligibility	Vendor will provide quarterly reports to confirm compliance with performance standard	Eligibility files will be installed in an electronic medium, logged within eight (8) hours and status will be effective within vendor's system within eighteen (18) hours from date of receipt, seven (7) days per week.	Quarterly \$500 for each missed file deadline
6	Manual Eligibility	Vendor will provide quarterly reports to confirm compliance with performance standard	Manual eligibility will be loaded within eight (8) hours upon receipt or notification and must be applied and active in the vendor's system within one (1) business day.	Quarterly \$500 for each missed file deadline
7	Error Reports	Vendor will provide quarterly reports to confirm compliance with performance standard	An error report on all eligibility file updates will be produced within eighteen (18) hours from the update.	Quarterly \$500 for each missed file deadline
8	Data Files	Will be available to NDPERS on request	Monthly data files (membership, medical, pharmacy) will be available by the 15th of the following month.	Monthly \$1,000 for each month not met
9	Claims Financial Accuracy	Claims Financial Accuracy will be 99% or greater, each year of the biennium. Measured as the absolute value of financial errors divided by the total paid value of audited dollars paid based on quarterly internal audit of statistically valid sample.	Vendor will provide annual reports to confirm compliance with performance standard	Annually \$12,500 per year
10	Claims Payment Accuracy	Vendor will provide annual reports to confirm compliance with performance standard	Claims Payment incidence Accuracy will be 98% or greater, each year of the biennium. Measured as the percent of Claims processed without financial payment error.	Annually \$12,500 per year
11	Claims Processing Accuracy	Claims Procedural Accuracy will be 95% or greater, each year of the biennium. Measured as the percent of Claims processed without non-financial error.	Vendor will provide annual reports to confirm compliance with performance standard	Annually \$12,500 per year

North Dakota Public Employees Retirement Systems



2023 Group Medicare Performance Standards for PDP Only

Effective January 1, 2023 through December 31, 2023

Minimum Annual Average Membership Requirement: None

PG#	Category	Target	Standard & Measurement Criteria	Amount at Risk
12	Claim Timeliness	Clean claims processing within 14 calendar days will be 95% or greater, each year of the biennium. Measured from the date the claim is received to the date claim is processed	Vendor will provide annual reports to confirm compliance with performance standard	Annually \$12,500 per year
13	Average Speed of Answer	Vendor will provide semi-annual reports to confirm compliance with performance standard	Average Speed of Answer will be 30 seconds or less, each year of the biennium. Vendor will have an established measurement process that shall be reviewed with NDPERS	Semi-annually \$10,000 per year
14	Call Abandonment	Vendor will provide annual reports to confirm compliance with performance standard	Call Abandonment rate will be 5% or less, each year of the biennium	Annually \$10,000 per year
15.1	Accuracy and Timelines/ First Call Resolution	Vendor must evaluate a statistically valid sample of inquiries with reports provided.	a.) 95% percent of callers receive accurate information. Calls requiring additional research is excluded from the computation of this metric.	15.1 and 15.2 Annually
15.2	Written Inquiry Response Time	Vendor must evaluate a statistically valid sample of inquiries with reports provided.	b.) 95% percent of inquiries must be resolved during the initial call (excluding appeals, billing, errors and escalations).	\$12,500 per year
16	Prescription drug turnaround time – clean prescriptions	Vendor will provide quarterly reports to confirm compliance with performance standard	98% within two (2) business days if no intervention required	Quarterly \$1,000 for each point below standard-
17	Prescription drug mail dispensing accuracy	Vendor will provide annual reports to confirm compliance with performance standard	99.9% Mail service dispensing accuracy rate. Fields measured include member name, drug strength, directions, quantity and prescriber name.	Annually \$12,500 per year
18	Prescription drug home delivery member notifications	Vendor will provide annual reports to confirm compliance with performance standard	Vendor is required to notify a member when a mail service prescription is changed or there is any expected shipping delay and provide reporting details to NDPERS capturing all occurrences by member/DOS/Issue	Annually \$12,500 per year
19	Prescription drug specialty pharmacy delivery	Vendor will provide annual reports to confirm compliance with performance standard	98% of prescriptions will be delivered and received by patients on the specified date of delivery	Annually \$12,500 per year
20	Network Pharmacy Access	Vendor will provide annual reports to confirm compliance with performance standard	Pharmacy network composition will not be reduced by more than 5% in North Dakota compared to the network submitted in the RFP	Annually \$12,500 per year

North Dakota Public Employees Retirement Systems



2023 Group Medicare Performance Standards for PDP Only

Effective January 1, 2023 through December 31, 2023

Minimum Annual Average Membership Requirement: None

PG#	Category	Target	Standard & Measurement Criteria	Amount at Risk
21	Data Systems Availability and Adjudication	Book of business level	Guarantees an annual average 99% system availability of the point-of-sale adjudication system on a book of business basis. This standard excludes downtime attributed to regularly scheduled systems maintenance or systems downtime	Annually \$12,500 per year

Humana agrees to meet the performance standards as outlined above in providing administrative services for North Dakota Public Employees Retirement Systems. This agreement is contingent upon Humana being the only Part D Prescription Drug option for Medicare eligible retirees. The agreement will be for the 12 month contract period beginning January 1, 2023 and ending December 31, 2023. This Performance Guarantee offering is based on a PDP Only plan offering. Performance results will be reported quarterly based upon center results for the member and claims services categories, not client specific results (except where otherwise stated) no sooner than 60 days after the end of the reporting period. Results will be assessed based on the annual results with payment of any penalties due following the end of the plan year. Please note that the performance standards are influenced by key market indicators (including changes in rules and standards from CMS) which could impact our performance standard metrics.

During implementation if significant changes to the Client's Plan, or in the event a benefit change notification is not received from the Client on a timely basis, Humana will not be responsible for performance results or penalty amounts as described within this Agreement.

ACCEPTED AND AGREED:

By: _____ Date: _____

In order for this contract to be binding, signatures are required from the client. This signed exhibit must be returned to the Humana Account Executive prior to implementation and no later than 30 days post effective date.



**North Dakota
Public Employees Retirement System**
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Scott A. Miller
Executive Director
(701) 328-3900
1-800-803-7377

Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Rebecca Fricke

DATE: October 25, 2022

SUBJECT: Group Life Insurance Plan Request For Proposal (RFP)

We have included for your review a draft copy of the Group Life Insurance Plan RFP provided by Buck Consultants. It has been reviewed by staff and our changes are included in the document. Proposers are required to submit a bid to provide for fully insured services for eligible active and retired members.

Following are the key dates for the proposal process:

Date	Activity
November 01, 2022	RFP is issued.
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December 06, 2022	NDPERS posts responses to all questions received.
December 22, 2022	Proposals must be received by 5:00 p.m. (CDT).
February 2023	Begin finalist interviews and Best and Final Offers if deemed necessary by the NDPERS Board.
March 2023	Selection and award of contract by NDPERS.
July 1, 2023	Effective Date of Coverage.

Buck Consultants will analyze the proposals and narrow them down to 3 or 4 for NDPERS to review.

If you have any questions, additions or changes to the Group Life Insurance Plan RFP, we will be available at the NDPERS Board Meeting to discuss.

Board Action Requested

Approve the Group Life Insurance Plan RFP and timeline for the proposal process.



North Dakota Public Employees Retirement System
Request for Proposal

Project Name:
Group Term Basic & Supplemental Life and AD&D Coverages

RFP Issue Date: November 1, 2022

Proposal Due Date: December 23, 2022

Proposed Effective Date: July 1, 2023

1600 E Century Avenue, Suite 2
PO Box 1657
Bismarck, ND 58503
1-800-803-PERS (7377) www.ndpers.nd.gov

TABLE OF CONTENTS

SECTION 1: INTRODUCTION

1.	Background and Objectives.....	4
2.	Definitions.....	5
3.	Mandatory Requirements.....	6
4.	Key Dates in the Proposal Process.....	7
5.	Current Enrollment and Demographics.....	7
6.	General Information on the Life and AD&D Plan.....	8
	6.1. Plan Design.....	8
	6.2. Eligibility Provisions.....	11
	6.3. Contractual Obligation.....	12
	6.4. Compliance.....	12
	6.5. Term of Contract.....	12
	6.6. General.....	13

SECTION 2: ELIGIBILITY AND SELECTION CRITERIA

1.	Minimum Requirements.....	14
2.	Selection Criteria.....	14

SECTION 3: GENERAL INFORMATION

1.	Non-Disclosure Agreement (NDA).....	15
2.	Inquiries Regarding Specifications.....	15
3.	Rules and Regulations.....	16
4.	Confidentiality of Trade Secret, Proprietary, Commercial, and Financial Information (NDCC Section 44-04-18.4(6)).....	16
5.	Addenda, Amendments, and Clarifications to the RFP.....	17
6.	Order of Responses.....	17
7.	Submission of Proposals.....	17
8.	Acceptance of Proposals.....	19
9.	Non-Responsive Proposals.....	19
10.	References.....	19
11.	Certification.....	19
12.	Waiver.....	20
13.	Additional Information from Responding Organizations.....	20
14.	Modification.....	20
15.	Solicitation.....	20
16.	News Release.....	20
17.	Change Required by Statute, Regulation, Court Order, or Program Appropriations.....	20
18.	Financial Background.....	21

SECTION 4: CONTRACT REQUIREMENTS

1.	Introduction	22
2.	Failure to Comply	22
3.	Compliance with ERISA	22
4.	Taxpayer I.D. Number	22
5.	Authorized Signatures	23
6.	Required Contract Provisions	23

SECTION 5: ADMINISTRATIVE SERVICES

1.	Eligibility / Participant Premium Billing Services	24
2.	Reporting	24
3.	Plan Booklets	24
4.	Functional Relationships	24
5.	Applicable Law	24

SECTION 6: FORMAT OF PROPOSAL

1.	Cover Letter	25
2.	Table of Contents	25
3.	Attachment C: Technical Proposal	26
	3.1 Attachment C-1: Minimum Requirements	26
	3.2 Attachment C-2: Offeror Information	26
	3.3 Attachment C-3: Current and Proposed Plan Design	26
	3.4 Attachment C-4: Administrative Requirements	27
	3.5 Attachment C-5: General Questionnaire	27
	3.6 Attachment C-6: Subcontractor Questionnaire	27
	3.7 Attachment C-7: Deviations Page	27
	3.8 Attachment C-8: Signature Page	27
	3.9 Response Attachments	28
4.	Attachment D: Financial Proposal	28
	4.1 Attachment D-1: Instructions	29
	4.2 Attachment D-2: Financial Requirements	29
	4.3 Attachment D-3: Financial Questionnaire	29
	4.4 Attachment D-4: Explanations	29
	4.5 Attachment D-5: Financial Proposal	29
	4.6 Attachment D-6: Premium Breakdown (Retention Exhibit)	29
	4.7 Attachment D-7: Signature Page	30
	4.8 Response Attachments	30

APPENDICES

Appendix A – Agreements	32
Appendix B – Non-Disclosure Agreement	45
Appendix C – Current Life and AD&D Plan Description	47
Appendix D – Premium/Claims Experience History (See page 15)	47
Appendix E – Census September 2022 (See page 15)	47
Appendix F – Sample Group Life Premium Report (See page 15)	47

SECTION I: INTRODUCTION

1. Background and Objectives

The North Dakota Public Employees Retirement System (NDPERS) desires to provide Basic and Supplemental Life and Accidental Death & Dismemberment (AD&D) benefits to all eligible active and retired state, university, and participating political subdivision employees and their eligible dependents. NDPERS is soliciting proposals for an initial coverage period to be effective July 1, 2023 to June 30, 2025. Additionally, NDPERS is requesting two additional renewal periods, each of two years in duration (07/01/2025 – 06/30/2027 and 07/01/2027 – 06/30/2029) for a potential total of six years. The rates for the renewal periods will be negotiated separately at least 10 months in advance of the respective renewal.

NDPERS is seeking fully insured proposals for its group Life and AD&D insurance plans. The current benefit for Basic Life and AD&D is \$7,000. The State pays \$0.28 per eligible active participant per month for this coverage. Retirees pay \$4.32 per eligible participant per month (both early retirees and retirees age 65 and older) for a \$1,300 Basic Life benefit. Supplemental Life and AD&D, Spouse Supplemental Life, and Dependent Supplemental Life are age rated based on the employee's age and are entirely employee paid. All premium rates must be divisible by two and guaranteed for the July 1, 2023 to June 30, 2025 state biennium.

Presently, all coverages are combined on an experience rated, non-participating basis. For purposes of comparison, we are requesting proposals for both participating and non-participating contracts.

Employees can elect to increase coverage during the annual enrollment conducted each fall. During the initial (new hire) enrollment period, there are guaranteed issue amounts for the supplemental coverages. During annual enrollment, increases up to \$25,000 on employee supplemental up to \$200,000 in total coverage are guarantee issue. Employees may increase their supplemental, dependent or supplemental spouse life insurance coverage during the designated Annual Enrollment Season. Increases above \$25,000 will need evidence of insurability which must be approved by the carrier. Also, amounts of total coverage above \$200,000 or enrollments/increases of spouse supplemental life will require evidence of insurability. Any increase, if approved, will be effective the later of the date the coverage is approved or January 1.

Please view general plan information at <https://www.ndpers.nd.gov/active-members/insurance-plans-active-members/life-insurance-active-members> and the Summary Plan Description for more specific details at <https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-life/group-life-plan-handbook.pdf>.

2. **Definitions**

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

- **“Actively at Work”** means the individual is performing the material duties of his/her own occupation at the employer’s usual place of business. The individual is considered actively at work if absence is due to a regularly scheduled day off, holiday or vacation day.
- **“AD&D”** – means Accidental Death and Dismemberment.
- **“BAFO”** means Best and Final Offer; a BAFO may be requested in order to permit written revisions to an Offeror’s initial proposal.
- **“Contractor”** – The Offeror selected pursuant to this RFP will be referred to as this.
- **“Covered Lives”** means each individual enrolled in the plan.
- **“Eligible Dependent”** – a dependent of the Subscriber who qualifies for membership under this Benefit Plan in accordance with the requirements specified below:
 - The Subscriber's lawful spouse.
 - The Subscriber's or the Subscriber's living, covered spouse's unmarried children under the age of 26. Children are considered under age 26 until the end of the month in which the child becomes 26 years of age. The term child or children includes:
 - Children for whom the Subscriber or the Subscriber's living, covered spouse are required by court order to provide health benefits.
 - Children beyond the age of 26 who are incapable of self-sustaining employment by reason of a disabling condition that began before the child attained age 26 and who are primarily dependent on the Subscriber or the Subscriber's spouse for support. Coverage for such a disabled child will continue for as long as the child remains unmarried, disabled and the Subscriber's dependent for federal income tax purposes.
- **“Eligible Employee”** – means every permanent active employee, who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workforce safety and

insurance fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least twenty hours per week and at least twenty weeks each year of employment.

As defined in 54-52-01, eligible employee also includes temporary, retired, and terminated employees who remain eligible to participate in the uniform group insurance program pursuant to applicable state or federal law.

- **"Incumbent"** – the current provider of the services sought through this RFP. (These services are currently being provided by VOYA Financial.)
- **"Eligible Retiree"** – means a retiree who has accepted a periodic distribution from an eligible retirement system under the defined contribution retirement plan pursuant to section 54-52.6 or has accepted a retirement allowance from the public employees retirement system, the highway patrolmen's retirement system, the Teachers' Insurance and Annuity Association (TIAA) for service credit earned while employed by North Dakota institutions of higher education, the retirement system established by job service North Dakota under section 52-11-01, the judges' retirement system established under chapter 27-17, or the teachers' fund for retirement may elect to participate in the uniform group under this chapter.
- **"Offeror"** – an entity responding to this RFP with a proposal to bind coverage.
- **"The Plan"** – means the life and AD&D benefits program pursuant to this RFP.
- **"Waiver of Premium"** – means an insurance provision that waives the payment of the premium and continues insurance coverage during a period of total disability as defined by the insurer.

3. Mandatory Requirements

The proposal that you submit will constitute your unqualified consent to the following mandatory requirements:

- Proposals submitted in response to this request will be considered the only submission; revised proposals will not be allowed after the proposal submission deadline date and time unless requested by NDPERS.
- All proposals must answer all applicable questions in Attachment C: Technical Proposal and Attachment D: Financial Proposal.
- All materials submitted in response to this RFP will become property of NDPERS and upon receipt by NDPERS are subject to the North Dakota public records law (see General Information #4). No bidders/proposers conference is scheduled nor required.

4. Key Dates in the Proposal Process

The following dates will apply during the proposal process. NDPERS reserves the right to waive or modify specific terms and conditions contained in this RFP, and to waive, modify, or extend deadlines specified herein.

Date	Activity
November 01, 2022	RFP is issued.
November 22, 2022	Written questions regarding proposals must be received by NDPERS no later than 5:00 p.m. (CDT).
December 06, 2022	NDPERS posts responses to all questions received.
December 22, 2022	Proposals must be received by 5:00 p.m. (CDT).
February 2023	Begin finalist interviews and Best and Final Offers if deemed necessary by the NDPERS Board.
March 2023	Selection and award of contract by NDPERS.
July 1, 2023	Effective Date of Coverage.

5. Current Enrollment and Demographics

NDPERS provides a fully-insured group Basic and Supplemental Life and AD&D benefit for active employees and retirees (participants) of NDPERS. In addition, eligibility is extended to eligible state and university employees and their dependents, as well as certain political subdivisions eligible to participate in NDPERS.

NDPERS currently offers one plan design for Basic Life and AD&D benefits. Listed below are the number of eligible participants and the number of enrolled participants through August 2022.

Basic Life/AD&D

Eligibility Category	Number of Eligible and Enrolled Participants
Actives	16,847
Retirees	3,693

Supplemental Life/AD&D

Eligibility Category	Number of Eligible Participants	Number of Enrolled Participants - Employee	Number of Enrolled Participants - Spouse	Number of Enrolled Participants - Dependents
Actives	16,847	9,383	4,249	5,977
Retirees	3,693	380	173	219

Annual enrollment for the group Life and AD&D plan is conducted each year from approximately mid-October through mid-November for coverage effective the following January. New hires must elect coverage within 31 days of their start date of eligible employment. Coverage will be effective the first day of the month following their date of employment. If coverage is not elected within 31 days of their start date, application may be made during the next annual enrollment period or within 31 days of a qualifying event, subject to approval by the carrier.

6. General Information on the Life and AD&D Plan

6.1. PLAN DESIGN

Note: Appendix C: Current Life and AD&D Summary Booklet [<https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-life/group-life-plan-handbook.pdf>], will stand as the authority for questions related to current plan design and plan provisions.

The Benefit Plan Year for NDPERS begins on July 1 of each year and concludes on June 30 of the following year.

Currently NDPERS contracts with VOYA Financial to provide its employees Basic Life and AD&D, Supplemental Life and AD&D, Spouse Supplemental and Dependent Life coverages

All eligible active employees are eligible for Basic Life and AD&D, Supplemental Life and AD&D, Spouse Supplemental Life and Dependent Supplemental Life coverage.

The current benefits are described below:

BASIC LIFE & AD&D:

The current Active Employee benefit for Basic Life and AD&D is \$7,000. The State pays \$0.28 per eligible active employee per month. Participation in this coverage is mandatory for this group. A waiver of premium benefit is included for Basic Life and AD&D.

Coverage for eligible retirees is subject to the following:

- The eligible retiree participated in the plan as an active employee.
- There is no lapse in coverage.
- Supplemental coverage may be decreased but not increased.
- The Basic and AD&D coverage is reduced to \$1,300 from \$7,000 with a corresponding adjustment to the premium. The premium for this coverage is \$4.32 per month.
- If under age 65, the supplemental coverage may be retained.

Upon attainment of age 65, the retiree may continue the \$1,300 Basic life and AD&D coverage so long as there is no lapse in coverage. The Supplemental Life and AD&D, Supplemental Dependent Life and Spouse Supplemental life coverage will terminate

at age 65 for retirees enrolled in such coverage. The retiree will have the option to either apply for portability coverage with the carrier or apply to convert the supplemental coverage to an individual policy. Retirees are not eligible to participate in annual enrollment.

The premium for the retiree group is experience rated.

SUPPLEMENTAL LIFE & AD&D:

Eligible Employees may elect to have supplemental coverage in addition to the basic life coverage of \$7,000. The first increment is \$3,000 (\$3,000 + basic of \$7,000 = \$10,000); thereafter, the supplemental increments are \$5,000 up to a maximum of \$400,000. However, amounts of total coverage above \$200,000 will require Evidence of Insurability and approval from the carrier. A waiver of premium benefit is available for Supplemental Life.

SUPPLEMENTAL DEPENDENT LIFE:

Eligible Employees have the option of purchasing dependent life for their Spouse and for their unmarried children from birth until age 26. The employee can choose a \$2,000, \$5,000, \$7,000, or \$10,000 benefit level for a flat fee, regardless of the number of dependents covered. The employee must purchase Supplemental Life to be eligible for this coverage. A waiver of premium benefit is included for Supplemental Dependent Life.

SUPPLEMENTAL SPOUSE LIFE:

Eligible Employees who have elected dependent life insurance coverage are also eligible to purchase supplemental spouse life insurance. This coverage is available in \$5,000 increments and may not exceed 50% of the total employee supplemental coverage or \$200,000, whichever is less. Evidence of Insurability and carrier approval is required on all spouse supplemental life over \$50,000. The employee must purchase Supplemental Dependent Life to be eligible for this coverage. A waiver of premium benefit is included for Supplemental Spouse Life.

ADDITIONAL INFORMATION:

CONVERSION OPTION

Please see Appendix C: Current Life and AD&D Summary Booklet [<https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-life/group-life-plan-handbook.pdf>] for details on the conversion options available.

PORTABILITY OPTION

Please see Appendix C Current Life and AD&D Summary Booklet [<https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-life/group-life-plan-handbook.pdf>] for details on the Portability Rider.

ACCELERATED DEATH BENEFIT

Please see Appendix C Current Life and AD&D Summary Booklet [<https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-life/group-life-plan-handbook.pdf>] for details on the Accelerated Death & Dismemberment Benefit.

LINE OF DUTY

Please see Appendix C Current Life and AD& D Summary Booklet [<https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-life/group-life-plan-handbook.pdf>] for details on the line of duty coverage.

OCCUPATIONAL ASSAULT

Please see Appendix C Current Life and AD& D Summary Booklet [<https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-life/group-life-plan-handbook.pdf>] for details on the occupational assault coverage.

ALTERNATIVE PLAN DESIGN OPTION:

NDPERS is interested in exploring proposals for alternative plan design as described in Attachment C-3: Plan Design.

PREMIUM REQUIREMENTS

Basic Life and AD&D - this premium is set up as a flat amount, not as a rate per thousand, and combines the life and Accidental Death and Dismemberment (AD&D) premium for billing purposes.

1. The sum of the life insurance premium and AD&D premium must be evenly divisible by 2, carried out to no more than 2 decimal places.

Supplemental Life & AD&D – this premium is set up as a rate per thousand and combines the life and AD&D premium for billing purposes.

1. The sum of the life insurance and AD&D premium may not exceed 2 decimal places (example: XX.XX). It is acceptable for the rate per thousand to have 3 decimal places, as long as when the life and AD&D premiums are added together, it results in a number with 2 decimal places, such as $.016 + .044 = .06$ and must be evenly divisible by 2
2. It does not matter if the rate per thousand for this coverage is divisible by 2 as long as the plan design continues to require the first increment of coverage to be \$3,000, instead of \$5,000. This first increment results in premiums not always being evenly divisible by 2, even if the rate per thousand is divisible by 2.

Spouse Supplemental Life – this premium is set up as a rate per thousand

1. The rate per thousand must be evenly divisible by 2, carried out to no more than 2 decimal places.

Dependent Supplemental Life – this premium is set up as a flat amount for each level of coverage (\$2,000, \$5,000, \$7,000, or \$10,000).

1. Rates must be evenly divisible by 2, carried out to no more than 2 decimal places.

6.2. ELIGIBILITY PROVISIONS

The following classifications of employees are eligible:

- State employees or employees of participating Political Subdivisions who are eighteen (18) years of age whose services are not limited in duration, who are filling an approved and regularly funded position, and who are employed at least twenty (20) hours per week and at least twenty weeks each year of employment are eligible to receive benefits. The employer pays for the basic life coverage and the employee must pay for any additional Supplemental Life coverage(s)
- Retirees who were enrolled in the program as an active employee may continue the basic and the Supplemental Life and AD&D, Supplemental Dependent Life and Spouse Supplemental life coverage upon retirement or disability if the

employee is entitled to a retirement allowance from an eligible retirement system and is under age 65. After age 65, only the basic life coverage can be continued.

- Any temporary employee who is employed by the state or a participating political subdivision who are employed for at least 20 hours per week for at least 20 weeks per year. Temporary employees are eligible for Basic Life and AD&D, Supplemental Life and AD&D, Spouse Supplemental Life and Dependent Supplemental Life coverage, EXCEPT employees must pay the premium for all coverage, including the Basic coverage.

6.3. CONTRACTUAL OBLIGATION

The contents of the proposal and any subsequent clarifications submitted by the successful proposers will become part of the contractual obligation and incorporated by reference into the ensuing contract.

6.4. COMPLIANCE

Proposing companies agree to comply with all federal, state, and local laws, ordinances, rules, regulations, and executive orders pertaining to unlawful discrimination on account of race, color, creed, religion, national origin, genetics or physical or mental disability, sex, marital status, status with regard to public assistance, disability, or age.

6.5. TERM OF CONTRACT

The North Dakota Public Employees Retirement System is governed by North Dakota State statute, which includes a requirement to solicit bids for group life coverage for a specified term for a fully-insured arrangement. NDPERS has determined that the specified term for providing such life benefits under a fully insured arrangement shall be six years to include three biennium periods: July 1, 2023 to June 30, 2025; July 1, 2025 to June 30, 2027; and July 1, 2027 to June 30, 2029.

NDPERS and the successful proposer will renegotiate the existing contract during the interim of each biennium without resorting to a formal bidding process. If NDPERS and the successful proposer are unable to reach an agreement during renegotiations, a formal bidding process will be initiated. Renegotiations will begin in August in the final fiscal year of the biennium. NDPERS also reserves the right to terminate any contract awarded pursuant to this bidding process within thirty (30) days' notice.

NDPERS and the Contractor agree and acknowledge that the account services to be provided under this proposal will occur between July 1, 2023 and June 30, 2025. However, NDPERS and the Contractor also agree and acknowledge that there are duties and obligations specified by this proposal to be performed both prior to and after these dates. The parties each agree to perform all such duties and obligations, and all damage provisions included in the Agreement shall thereby be in effect.

6.6. General

Offerors should keep in mind the following considerations as they prepare proposals in response to this RFP.

- The Life and AD&D program is fully insured.
- With respect to this contract and program, no commissions, bonuses or overrides will be paid to any party directly by NDPERS.
- No minimum participation requirements will be allowed by NDPERS.
- The Incumbent vendor will process all claims incurred prior to 7/1/2023.
- The Contractor will process all claims incurred while the contract between NDPERS and the Contractor is in effect. This includes run-out claims incurred during the period of the contract, but processed after the contract has been terminated.

SECTION 2: ELIGIBILITY AND SELECTION CRITERIA

1. *Minimum Requirements*

To be eligible for consideration for this project, the Offeror must meet the Minimum Requirements set forth in Attachment C-1: Minimum Requirements. All Offerors must fill out and submit this exhibit with their proposal.

2. *Selection Criteria*

Proposal information provided in direct response to the Proposal Cost Summary and Questionnaire sections will be relied upon to evaluate all proposals. The ability to meet NDPERS minimum bid requirements is essential. The following criteria will be used:

- Ability to meet NDPERS minimum requirements as outlined in this RFP
- Financial position of the carrier, with special emphasis as to its solvency
- Cost/value of services
- Level/adequacy of services
- Completeness of response to RFP specifications
- Experience/reputation serving large accounts
- Public sector experience/reputation
- Data and reporting capabilities
- Ease of administration
- Flexibility to meet NDPERS needs

Price will not be the sole determinant factor in the decision to award the contract. NDPERS reserves the right to accept or reject any or all proposals. The cost of the proposal will be borne by the respondent.

SECTION 3: GENERAL INFORMATION

1. **Non-Disclosure Agreement (NDA)**

In order to obtain the attachments and confidential data necessary to complete a proposal in response to this RFP, each Offeror must complete and return a signed Non-Disclosure Agreement. NDPERS requests that only those organizations who plan to respond to this RFP should submit the Non-Disclosure Agreement. The Non-Disclosure Agreement must be on the form provided as Appendix B to this RFP. The Non-Disclosure Agreement must be received before any confidential data is released to any Offeror. Please send the completed NDA via email to the attention of:

Rebekah Ferstadt, Consultant Buck Global, LLC Phone: 602-541-5241 E-mail: Rebekah.Ferstadt@buck.com

The information that will be provided to the Offeror after submission of the Non-Disclosure Agreement includes the following:

1. Attachment C – Technical Proposal
2. Attachment D – Financial Proposal
3. Appendix D – Premium/Claims Experience History
4. Appendix E – Census September 2022
5. Appendix F – Sample Group Life Premium Report

In order to obtain this information, an Offeror must first print, sign and return the Non-Disclosure Agreement found at Appendix B, “Non-Disclosure Agreement,” to Rebekah Ferstadt as described above. A scanned copy with the appropriate signature transmitted by e-mail is acceptable. Rebekah Ferstadt’s e-mail address is provided above. Attachments C and D, and Appendices D, E and F will be sent via secure email upon receipt of the Non-Disclosure Agreement.

Note: Failure to complete all fields on Appendix B may slow the processing of the request for Appendices or may cause the request to be rejected. In such instances, Buck will attempt to contact the submitter to resolve the deficiencies.

2. **Inquiries Regarding Specifications**

Offerors will have until 5:00 p.m. (CDT) on November 22, 2022 to submit questions in writing regarding this RFP. All questions shall cite the specific RFP section and paragraph number(s) to which the question refers. Any questions received by NDPERS prior to the date and time above will be answered in a question and answer document issued by NDPERS. Only

answers provided in writing by NDPERS will be considered an official response from NDPERS.

All query submissions must include the identity of the sender, the sender's title, firm name, mailing address, telephone number, and e-mail address.

Questions must be submitted to Rebekah Ferstadt via e-mail using the contact information shown below. Neither NDPERS nor Buck is responsible for questions received after the submittal deadline.

Answers to questions will be made available on the NDPERS Web site at www.ndpers.nd.gov by December 6, 2022 at 5:00 p.m. C.D.T.

Only information in the materials constituting this RFP, including its attachments, exhibits, and forms, the question and answer document, and any RFP addendum shall be binding on NDPERS.

All inquiries regarding these specifications must be in writing and submitted via email to:

<p>Rebekah Ferstadt, Consultant Buck Global, LLC Phone: 602-541-5241 E-mail: Rebekah.Ferstadt@buck.com</p>

3. Rules and Regulations

Any Offeror submitting a proposal must be able to meet and comply with all applicable state and federal statutes and regulations.

4. Confidentiality of Trade Secret, Proprietary, Commercial, and Financial Information (NDCC Section 44-04-18.4(6))

All materials submitted in response to this RFP will become property of NDPERS and upon receipt by NDPERS are subject to the North Dakota public records law. If the Responder submits information in response to this RFP that it believes to be confidential financial, commercial, propriety or trade secret materials the Responder must:

- a. Clearly mark each provision that respondent believes to be confidential in its response at the time the response is submitted,
- b. Include a statement with its response justifying the confidential designation for each provision.
- c. Attest whether the information sought to be protected has ever been previously publicly disclosed, if not whether disclosure would cause the Responder competitive injury, and if so, how.

Responder is put on notice that, except for information that is determined by NDPERS to be confidential or otherwise exempt from the North Dakota public records law, NDPERS must disclose to the public upon request any records it receives from Responder. If NDPERS receives a request for information that Responder has requested be kept confidential, NDPERS will review the above information submitted by Responder and may also contact Responder for additional input regarding the nature of those records, but NDPERS will be solely responsible for making the ultimate determination of whether the materials submitted are open or exempt. All information that has not been clearly identified by Responder as being confidential and which NDPERS has determined constitutes confidential or exempt information under the North Dakota public records law will be disclosed as an open record. NDPERS will not consider the prices submitted by the Responder to be confidential.

5. *Addenda, Amendments, and Clarifications to the RFP*

NDPERS may issue any addenda, amendments or clarifications regarding this RFP that NDPERS determines are necessary. All such addenda, amendments or clarifications issued by NDPERS become part of the RFP. All addenda, amendments or clarifications to the RFP will be issued in writing and added to the posting on <https://www.ndpers.nd.gov/about/bid-opportunities>. NDPERS may also e-mail any addenda, amendments or clarifications to all eligible Offerors that have submitted a Non-Disclosure Agreement that is recorded by NDPERS and that have provided NDPERS with an e-mail address. However, it shall be the responsibility of the Offeror to recheck the RFP posting on <https://www.ndpers.nd.gov/about/bid-opportunities> for any possible addenda prior to submitting a proposal. The Offeror must acknowledge all addenda, amendments, or clarifications by either signing and returning such document(s) or indicating receipt on Attachment C-8: Signature Page, of the Technical proposal. Only written addenda, amendments, and clarifications signed and sent by authorized NDPERS personnel shall be binding. All oral and other interpretations or clarifications have no legal effect.

6. *Order of Responses*

Responses must be made in the same order as provided in the specifications. Unless a variation from the specifications of the RFP is specifically noted in a response, the Offeror is agreeing to meet all requirements, including the required contract provisions, stated in this RFP. No proposed variation is binding on NDPERS unless and until accepted by NDPERS.

7. *Submission of Proposals*

To be considered for award, six (6) printed and bound copies, one (1) unbound copy of the Offeror's proposal, and one (1) electronic, editable, PDF redacted copy of the qualitative proposal on a separate flash drive (note that the electronic redacted copies may not be a picture) must be received by NDPERS on or before 5:00 P.M. (CDT), December 23, 2022. The unbound copy shall bear original signatures and shall be marked as the "Master Copy". The unbound Master

Copy shall contain no divider sheets or tabs, and shall be printed on one side only of 8-1/2 in. x 11 in. white paper to enable copying if needed. Colors must reproduce in a legible manner on a black-and-white copier. The unbound original and one (1) copy of the proposal on a flash drive (in MS WORD and MS Excel formats as appropriate) shall be provided in a sealed envelope.

Vendor acknowledges that NDPERS is subject to the North Dakota Open Records Laws, and the documents submitted pursuant to this RFP may be subject to a public records request. Accordingly, Vendor must identify any material or documents that are confidential and clearly mark those items or documents at the time of submittal. If a request for records is made that includes information Vendor has identified as confidential, NDPERS will make reasonable efforts to contact Vendor in sufficient time to allow Vendor to take appropriate legal steps to protect the information identified as “confidential information” from disclosure. If, as a result of the position taken by Vendor regarding the confidentiality of the information, NDPERS is assessed any damages or fees, Vendor shall indemnify NDPERS for such damages or fees. If no documents or materials are identified and marked by Vendor as confidential, Vendor will be deemed to have consented to the release of the document or material, and to have waived any cause of action against NDPERS resulting from the release of the documents or materials.

Copies of the proposal shall be delivered to:

**Katheryne Korom, Research & Project Manager
NDPERS
1600 East Century Avenue, Suite 2
P.O. Box 1657
Bismarck, ND 58503**

- One additional bound hardcopy of the Offeror’s proposal along with a flash drive version of the proposal in MS WORD and MS Excel formats as appropriate) shall also be sent to:

Rebekah Ferstadt, Consultant
Buck Global, LLC
231 S. Bemiston
Suite 400
St. Louis, MO 63105
Phone: 602-541-5241
E-mail: Rebekah.Ferstadt@Buck.com

- The base contract will be for a two year period of July 1, 2023 through June 30, 2025. All rates and fees must be firm, fixed and valid for the duration of the base period. Additionally, NDPERS is seeking two, two year option periods for a potential total contract period of six years.

- Proposals and any other information submitted by organizations in response to this RFP shall become the property of NDPERS and will not be returned.
- NDPERS will not provide compensation to Offerors for any expenses that they incur as part of the proposal process, including but not limited to expenses incurred for preparing proposals, making demonstrations, responding to inquiries, and attending meetings and negotiations. Offerors submit proposals at their own risk and expense.
- The materials submitted must be enclosed in a sealed envelope, box, or container; the outside of the package must show clearly the submittal deadline, organization name, and the return address of the organization.
- Late proposals may be returned to the organization unopened at the organization's expense. Late proposals will not be considered unless the NDPERS Board determines otherwise.
- Proposals submitted via email or fax will not be accepted.
- Any award is contingent upon a contract acceptable to NDPERS being executed.

8. *Acceptance of Proposals*

NDPERS retains the right to reject all proposals submitted. NDPERS is not required to select the proposal with the lowest fees, but will take into consideration all factors it considers relevant. It is the intent of NDPERS at this time to enter into a contract effective upon execution (with services beginning July 1, 2023) through June 30, 2025. The Board at its discretion may extend the contract for up to two additional two-year periods. The premium and benefit structure of these extensions will be subject to negotiations. NDPERS has the right to discontinue the program if the legislature discontinues the program or for any other reason. The Offeror whose proposal is selected will be chosen with the goal of developing a long-term relationship.

9. *Non-Responsive Proposals*

NDPERS is not required to accept for consideration any proposal that does not comply with the criteria set forth herein.

10. *References*

Each Offeror must provide references from other clients as requested in **Attachment C-2: Offeror Information**. NDPERS or its designated representative may ask these clients to provide information regarding the Offeror's overall record of service in providing services for their members. Providing references in its proposal constitutes the Offeror's permission for NDPERS to contact these clients.

11. *Certification*

An authorized Officer of any Offeror submitting a proposal must certify that the

organization complies with the RFP specifications by signing and returning the Signature Pages included in this RFP as **Attachment C-1, Attachment C-8, Attachment D-2 and Attachment D-7**. An authorized Officer must also sign **Attachment C-7: Deviations** and **Attachment D-4: Explanations**, even if the Offeror is not claiming any deviations.

12. Waiver

By submitting a proposal, the Offeror submitting the proposal agrees to waive any claim it has or may have against NDPERS, NDPERS employees, NDPERS agents, and NDPERS attorneys, arising out of or in connection with (1) the administration, evaluation or recommendation of any proposal; (2) waiver of any requirement under this RFP; (3) acceptance or rejection of any proposal; and (4) award of the contract.

13. Additional Information from Responding Organizations

NDPERS reserves the right to request additional documentation from responding organizations, and such information may vary by Offeror.

14. Modification

No proposal may be changed after the deadline for submissions of proposals unless language within the proposal is clarified at NDPERS' request.

15. Solicitation

The selected Offeror shall not use lists of covered employees and other data for any purpose except to provide services to participants. Neither the selected Offeror nor its employees may disclose such information to any other party unless specifically authorized in writing in advance by NDPERS.

16. News Release

Written approval by NDPERS will be required for any news releases or other communications regarding a contract awarded to an Offeror.

17. Change Required by Statute, Regulation, Court Order, or Program Appropriations

NDPERS recognizes that there are factors that could cause a change of condition with regard to NDPERS benefits and administration that are beyond the control of NDPERS or the Offeror submitting a proposal. Those factors that may affect the program include, but are not limited to:

- Federal and state statutes, regulations, court decisions, and administrative rulings
- Funding appropriated by the North Dakota Legislature

- Opinions of the Attorney General of the State of North Dakota

NDPERS expects a good faith effort on the part of the Offeror that is selected to comply with additional responsibilities imposed by federal or state law without requiring mid-year fee increases. NDPERS reserves the right to negotiate with the Offeror as needed to comply with any changes required by statute, regulation, court order, administrative order, or official interpretation.

18. *Financial Background*

Appendix D illustrates historical premium and claim information history.

SECTION 4: CONTRACT REQUIREMENTS

1. Introduction

The Agreement between NDPERS and the Contractor will include the RFP as finally amended and/or clarified, the Contractor's proposal as amended or clarified, if applicable, and any other information the Contractor may be required to provide.

The contract documents are intended as the complete and exclusive statement of the agreement between NDPERS and the Contractor and supersede all prior or contemporaneous agreements, negotiations, course of prior dealings, or oral representations relating to the Agreement subject matter.

The terms and conditions of any agreements, amendments, modifications, or other documents submitted by the Offeror that conflict with or in any way purport to amend or add to any of the terms and conditions of the Agreement are specifically objected to by NDPERS and are of no force or effect.

The Agreement may be amended within the contract period by mutual consent of the parties. No modification or amendment to the Agreement shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to the Agreement must be forwarded to NDPERS for prior review and approval.

The contracting organization agrees that it shall not publicize this Contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of NDPERS' or participating entities' employees or use NDPERS' name in connection with any sales promotion or publicity event without the prior express written approval of NDPERS.

2. Failure to Comply

Failure to comply with the procedures required by NDPERS or any other applicable guidelines shall be cause for the immediate imposition of liquidated damages and/or immediate cancellation of the Agreement, at NDPERS's option. Liquidated damages and/or cancellation shall remain in effect until NDPERS has been satisfied that circumstances resulting in liquidated damages and/or cancellation have been corrected.

3. Compliance with ERISA

As a governmental entity, NDPERS is not directly subject to the provisions of ERISA.

4. Taxpayer I.D. Number

The Contractor must obtain a Vendor Identification Number in order to receive payments issued through NDPERS. The Contractor will be required to complete a Payment Identification Form (W-9) and submit it to NDPERS in order to receive payment.

5. *Authorized Signatures*

An authorized officer of the Offeror must sign the Minimum Requirements (Attachment C-1), the Signature Page (Attachment C-8), the Deviations page (Attachment C-7), the Financial Requirements page (Attachment D-2) and the Explanations (Attachment D-4), which are part of this RFP. Offeror shall include a copy of the documents granting the signing officer authority to bind the Offeror to the agreements and representations made in the Offeror's proposal. These documents shall be labeled as **Response Attachment C-8: Authorization Documentation** and **Response Attachment D-7: Authorization Documentation**.

6. *Required Contract Provisions*

The selected Offeror will enter into a written agreement between it and NDPERS. The contract shall be in a form satisfactory to NDPERS.

SECTION 5: ADMINISTRATIVE SERVICES

1. Eligibility / Participant Premium Billing Services

NDPERS self-administers the plan which includes responsibility for determining eligibility, collecting and maintaining enrollment information, billing and premium collection. Each month, NDPERS pays the carrier the premiums for the current month on approximately the 20th of that month and also provides the carrier with a Group Life Premium Report as shown in Appendix F.

The first \$50,000 of Basic & Employee Supplemental life premiums will be eligible for salary reduction on a pre-tax basis, through IRC Section 125.

2. Reporting

Reporting is received on an ad hoc basis and at renewal.

3. Plan Booklets

An electronic copy is published at <https://www.ndpers.nd.gov/>.

4. Functional Relationships

It is expected that the successful Contractor will interact with the following people at NDPERS:

General Account Management Contact:

Rebecca Fricke, Chief Benefits Officer NDPERS
--

Secondary Contact:

Lindsay Schaf, Insurance Manager NDPERS
--

5. Applicable Law

54-52.1-02. Uniform group insurance program created – Formation into subgroups. In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade men and women to enter and remain in the service of state employment, there is hereby created a uniform group insurance program. The uniform group must be composed of eligible and retired employees and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this chapter.

SECTION 6: FORMAT OF PROPOSAL

Offeror shall submit their proposal in accordance with the requirements of Section III.7, Submission of Proposals. Regarding the proposal, Offerors are hereby advised of the following:

- Each proposal shall be prepared simply and economically, providing a straightforward, concise description of the organization's ability to meet the requirements of this RFP. Emphasis should be on completeness, clarity of content, responsiveness to the requirements and an understanding of NDPERS's needs.
- Proposals that are qualified with conditional clauses, alterations, items not called for in the RFP documents, or irregularities of any kind are subject to disqualification by NDPERS, at its option.
- Representations made within the proposal will be binding on the responding organizations. NDPERS will not be bound to act by any previous communication or proposal submitted by the organization other than this RFP and any proposal submitted in response to this RFP.
- Any pages or information which the Offeror wishes to claim as confidential shall be clearly marked within the proposal. Additionally, the Offeror shall provide a brief summary page after the Table of Contents explaining the confidential nature of any marked pages.

The proposal shall include the following sections in the order in which they appear below. Each of the attachments described in this section must be completed in the MS Excel format in which it is provided.

1. Cover Letter

A transmittal letter shall be bound with the Offeror's proposal. The letter should bear the name and address of the Offeror. The purpose of this letter is to transmit the proposal(s) and acknowledge the receipt of any addenda. The transmittal letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP.

2. Table of Contents

The proposal shall include a Table of Contents that lists page number references. The Table of Contents should be in sufficient detail to facilitate easy reference to the sections of the proposal and separate attachments (which shall be included in the main Table of Contents). If supplemental materials are included with the proposal, each copy of the proposal must include such supplemental materials. Supplemental information and attachments included by the organization (i.e., not required) should be clearly identified in the Table of Contents and provided as a separate section.

Information which is claimed to be confidential is to be identified on a separate sheet(s) after the Table of Contents in the Offeror's proposal.

Such indication shall include the section(s) and page number(s) and a brief explanation for each claim of confidentiality shall be included as described in General Information #4.

3. Attachment C: Technical Proposal

The Offeror shall complete each of the tabs in Attachment C according to the instructions described below and any additional instructions included at the top of each worksheet.

Cells which have been highlighted in yellow require a response from the Offeror. Response types throughout the documents include selecting from a pre-set drop down menu, entering a numerical value and/or writing a brief narrative. If the cell includes a drop down menu, the Offeror shall not provide a response that is not provided in the drop down list.

Microsoft Excel will only print the first 1,024 characters in each cell. Therefore, please limit the length of your response to 1,024 characters. Additional space has been provided in Attachments C-5b: Additional Answers to Questionnaire for the Offeror to continue a response from Attachment C-5a (General Questionnaire and Attachment appropriate).

In addition, the unlocked cells will automatically lock if the Offeror pastes an answer into a cell. This will prohibit the user from editing the cell(s) at a later time. The Offeror can use the Undo function to unlock the cell only if changes have not been saved since the paste occurred.

3.1. Attachment C-1: Minimum Requirements

The Offeror shall complete Attachment C-1 as requested. The Offeror shall state how they specifically meet or exceed each requirement.

The Offeror's Legal Name entered in Attachment C-1 will automatically be used to populate the Attachment C-8: Signature Page in addition to other areas of the MS Excel attachments.

3.2. Attachment C-2: Offeror Information

The Offeror shall complete each section of Attachment C-2 as requested. References provided shall include at least one reference for which the proposed account manager currently provides service.

The Offeror's Legal Name entered in Attachment C-2 will automatically be used to populate Attachment C-7: Deviations, in addition to other areas of the MS Excel attachments.

3.3. Attachment C-3: Current and Proposed Plan Design

This is reference document provided to the Offerors. It is not necessary to respond anywhere on Attachment C-3.

3.4. Attachment C-4: Administrative Requirements

The Offeror shall complete the exhibit by selecting either “Agree” or “Disagree” from the drop down list next to each administrative requirement. For each requirement for which the Offeror selects “Disagree”, an explanation must be provided in Attachment C-7: Deviations.

3.5. Attachment C-5: General Questionnaire

The Offeror shall answer each question in C-5a: General Questionnaire completely/briefly in the space provided. If additional space is needed, the response can be continued in Attachment C-5b: Additional Answers to Questionnaire. Continued responses should be labeled clearly with both the Section number (C-5a) and the corresponding question number.

If a drop down list is available, the Offeror shall select a response from the list provided.

3.6. Attachment C-6: Subcontractor Questionnaire

The Offeror shall complete a Subcontractor Questionnaire for each subcontractor proposed to perform any of the administrative requirements of this contract.

3.7. Attachment C-7: Deviations Page

The Offeror shall complete this attachment regardless of whether or not deviations from the administrative requirements or performance guarantees are proposed.

The top right of the worksheet includes macros that the Offeror can use to indicate whether or not deviations are included in the table below the signature line.

Prior to printing the final proposal, the Offeror shall ensure that the print area of this document is set appropriately. If no deviations are claimed, then the print area shall end following the title of the individual signing the document. Otherwise, the print area shall end following the last deviation described in the table.

3.8. Attachment C-8: Signature Page

The Offeror shall complete this attachment and provide documentation granting authorization for the signing officer to bind the Offeror to the agreements and representations made in the Offeror’s proposal. Label the documentation as **Response Attachment C-8: Authorization Documentation.**

3.9. *Response Attachments*

The following response attachments shall be included in the following order:

- Response Attachment C-5: Insurance Certificate – Workers' Compensation
- Response Attachment C-5: Insurance Certificate – E&O Insurance
- Response Attachment C-5: Insurance Certificate – Commercial General Liability
- Response Attachment C-5: Annual Reports
- Response Attachment C-5: Financial Statements
- Response Attachment C-5: Financial Ratings
- Response Attachment C-5: Conflict of Interest List
- Response Attachment C-5: List of Exclusions
- Response Attachment C-5: Claim Forms
- Response Attachment C-5: Sample Application and Health Statement Forms
- Response Attachment C-5: Sample Communications Materials
- Response Attachment C-5: Communication Plan
- Response Attachment C-5: Sample Benefit Booklet
- Response Attachment C-5: Standard Reports
- Response Attachment C-5: Implementation Team Organizational Chart
- Response Attachment C-5: Preliminary Implementation Plan
- Response Attachment C-5: Account Management Team Organizational Chart
- Response Attachment C-5: Account Management Support
- Response Attachment C-5: Account Team Biographies
- Response Attachment C-8: Authorization Documentation

4. *Attachment D: Financial Proposal*

The Offeror shall complete each of the tabs in Attachment D according to the instructions described below and any additional instructions included at the top of each worksheet.

Cells which have been highlighted in yellow require a response from the Offeror. Response types throughout the documents include selecting from a pre-set drop down menu, entering a numerical value and/or writing a brief narrative. If the cell includes a drop down menu, the Offeror shall not provide a response that is not provided in the drop down list (Please refer to D-1 Instructions in the Financial Proposal).

4.1. Attachment D-1: Instructions

4.2. Attachment D-2: Financial Requirements

The Offeror shall complete Attachment D-2 as requested. The Offeror shall state how they specifically meet or exceed each requirement.

4.3. Attachment D-3: Financial Questionnaire

The Offeror shall answer each question in D-3a: Financial Questionnaire completely/briefly in the space provided. If additional space is needed, the response can be continued in Attachment D-3b: Additional Answers to Questionnaire. Continued responses should be labeled clearly with both the Section number (D-3a) and the corresponding question number.

If a drop down list is available, the Offeror shall select a response from the list provided.

4.4. Attachment D-4: Explanations

The Offeror shall complete this attachment regardless of whether or not explanations from the financial requirements are proposed. The top right of the worksheet includes macros that the Offeror can use to indicate whether or not explanations are included in the table below the signature line.

Prior to printing the final proposal, the Offeror shall ensure that the print area of this document is set appropriately. If no explanations are claimed, then the print area shall end following the title of the individual signing the document.

Otherwise, the print area shall end following the last deviation described in the table.

4.5. Attachment D-5 Financial Proposal

Complete the charts on this tab with the applicable benefits information and/or premium rates required that will be offered to NDPERS participants.

4.6. Attachment D-6 Premium Breakdown (Retention Exhibit)

It is the intent of NDPERS that the items listed below be included within the premiums offered in Attachment D-5: Financial Proposal. In the table provided, please enter the applicable percentage of the total premium

attributable to the component of the premium listed. For any item for which the Offeror enters 0%, it will be assumed that the service is included in the premium; however, the Offeror is unable to provide a separate percentage attributable to that item. Percentages should add up to a total of 100%.

In addition, percentages shown below will be consistent regardless of the aggregate enrollment or the contract year. Offerors should not use this exhibit to propose additional pricing for any component of the premium listed below.

4.7. Attachment D-7: Signature Page

The Offeror shall complete this attachment and provide documentation granting authorization for the signing officer to bind the Offeror to the agreements and representations made in the Offeror's proposal. Label the documentation as **Response Attachment D-7: Authorization Documentation**.

4.8. Response Attachments

The following response attachments shall be included in the following order:

- Response Attachment D-3: Rating Structure for Ported Policies
- Response Attachment D-7: Authorization Documentation

APPENDICES

Appendix A – Agreements
AGREEMENT FOR SERVICES BETWEEN (Name of Contractor)
AND NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

VENDOR (hereinafter CONTRACTOR) has offered to provide services to the State of North Dakota acting through its Public Employees Retirement System (hereinafter NDPERS). The terms of this Contract shall constitute the services agreement (“Agreement”).

CONTRACTOR and NDPERS agree to the following:

- 1) **SCOPE OF SERVICES:** CONTRACTOR agrees to provide the service(s) as specified in the 2022 bid document and VENDOR proposal (attached hereto and incorporated by reference Exhibit A).
- 2) **TERM:** The term of this contract shall commence July 1, 2023.
- 3) **FEES:** NDPERS shall only pay pursuant to the terms in Exhibit A.
- 4) **BILLINGS:** NDPERS will pay for the services provided by CONTRACTOR under this contract pursuant to Exhibit A.
- 5) **TERMINATION:** Either party may terminate this agreement with thirty (30) days written notice mailed to the other party, or as mutually agreed to by the parties. Upon any termination the CONTRACTOR shall be compensated as described in Exhibit A for services performed up to the date of termination.

In addition, NDPERS by written notice to CONTRACTOR may terminate the whole or any part of this Agreement under any of the following conditions:

- 1) If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term.
- 2) If federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement.
- 3) If any license, permit, or certificate required by law or rule, or by the terms of this Agreement, is for any reason denied, revoked, suspended, or not renewed.

Termination of this Agreement under this subsection is without prejudice to any obligations or liabilities of either party already accrued prior to termination. In addition, NDPERS may terminate this Agreement effective upon thirty (30) days prior written notice to CONTRACTOR, or any later date stated in the notice:

- 1) If CONTRACTOR fails to provide services required by this Agreement within the time specified or any extension agreed to by NDPERS; or
- 2) If CONTRACTOR fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms.

The rights and remedies of NDPERS provided in this subsection are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

6) **ASSIGNMENT AND SUBCONTRACTS:**

CONTRACTOR may not assign or otherwise transfer or delegate any right or duty without STATE's express written consent, provided, however, that CONTRACTOR may assign its rights and obligations hereunder in the event of a change of control or sale of all or substantially all of its assets related to this Contract, whether by merger, reorganization, operation of law, or otherwise. Should Assignee be a business or entity with whom STATE is prohibited from conducting business, STATE shall have the right to terminate without cause.

CONTRACTOR may enter into subcontracts provided that any subcontract acknowledges the binding nature of this Contract and incorporates this Contract, including any attachments. CONTRACTOR is solely responsible for the performance of any subcontractor with whom CONTRACTOR contracts. CONTRACTOR does not have authority to contract for or incur obligations on behalf of NDPERS.

- 7) **ACCESS TO RECORDS AND CONFIDENTIALITY:** The parties agree that all participation by NDPERS members and their dependents in programs administered by NDPERS is confidential under North Dakota law. CONTRACTOR may request and NDPERS shall provide directly to CONTRACTOR upon such request, confidential information necessary for CONTRACTOR to provide the services described in Exhibit A. CONTRACTOR shall keep confidential all NDPERS information obtained in the course of delivering services. Failure of CONTRACTOR to maintain the confidentiality of such information may be considered a material breach of the contract and may constitute the basis for additional civil and criminal penalties under North Dakota law. CONTRACTOR has exclusive control over the direction and guidance of the persons rendering services under this Agreement. Upon termination of this Agreement, for any reason, CONTRACTOR shall return or destroy all confidential information received from NDPERS, or created or received by CONTRACTOR on behalf of NDPERS. This provision applies to confidential information that may be in the possession of subcontractors or agents of CONTRACTOR. CONTRACTOR shall retain no copies of the confidential information. In the event that CONTRACTOR asserts that returning or destroying the confidential information is not feasible, CONTRACTOR shall provide to NDPERS notification of the conditions that make return or destruction infeasible. Upon explicit written agreement of NDPERS that return or destruction of confidential information is not feasible, CONTRACTOR shall extend the protections of this Agreement to that confidential information and limit further uses and disclosures of any such confidential information to those purposes that make the return or destruction infeasible, for so long as CONTRACTOR maintains the confidential information. CONTRACTOR shall not use or disclose any information it receives from NDPERS under this Agreement that NDPERS has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by NDPERS. NDPERS shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that NDPERS determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota public records law, N.D.C.C. ch. 44-04. The duty of NDPERS and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Agreement.

CONTRACTOR understands that, except for disclosures prohibited in this Agreement, NDPERS must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records that are obtained or generated by CONTRACTOR under this Agreement, except for records that are confidential under this Agreement, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. CONTRACTOR agrees to contact NDPERS immediately upon receiving a request for information under the public records law and to comply with NDPERS's instructions on how to respond to the request.

- 8) **APPLICABLE LAW AND VENUE:** This Agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.
- 9) **MERGER AND MODIFICATION:** This Agreement, including the following documents, constitutes the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified within this Agreement. This Agreement may not be modified, supplemented or amended, in any manner, except by written agreement signed by both parties.

Notwithstanding anything herein to the contrary, in the event of any inconsistency or conflict among the documents making up this Agreement, the documents must control in this order of precedence: First – the terms of this Agreement, as may be amended and Second - the state's Request for Proposal (attached in Exhibit A) and Third – CONTRACTOR's Proposal (attached in Exhibit A). No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

- 10) **INDEMNITY:** CONTRACTOR agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions. The legal defense provided by CONTRACTOR to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08. CONTRACTOR also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against CONTRACTOR in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Agreement.
- 11) **INSURANCE**
Contractor shall secure and keep in force during the term of this agreement and Contractor shall require all subcontractors, prior to commencement of an agreement between Contractor and the subcontractor, to secure and keep in force

during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 3) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.
- 4) Employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the workers compensation or commercial general liability insurance.
- 5) Professional errors and omissions with minimum limits of \$1,000,000 per claim and in the aggregate, Contractor shall continuously maintain such coverage during the contract period and for three years thereafter. In the event of a change or cancellation of coverage, Contractor shall purchase an extended reporting period to meet the time periods required in this section.

The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor. The amount of any deductible or self-retention is subject to approval by the State.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- 3) The duty to defend, indemnify, and hold harmless the State under this agreement shall not be limited by the insurance required in this agreement.
- 4) The state of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies that shall not be limited to the minimum limits of insurance required by this agreement or by the contractual indemnity obligations of the Contractor.
- 5) A "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State.
- 6) The Contractor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
- 7) Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.
- 8) Contractor shall provide at least 30 day notice of any cancellation or material change to the policies or endorsements. Contractor shall provide on an ongoing basis, current certificates of insurance during the term of the contract. A renewal certificate will be provided 10 days prior to coverage expiration.

- 12) **SEVERABILITY:** If any term in this Agreement is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms must not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the Agreement did not contain that term.
- 13) **INDEPENDENT ENTITY:** CONTRACTOR is an independent entity under this Agreement and is not a State employee for any purpose, including the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the North Dakota Unemployment Compensation Law and the North Dakota Workforce Safety and Insurance Act. CONTRACTOR retains sole and absolute discretion in the manner and means of carrying out CONTRACTOR'S activities and responsibilities under this Agreement, except to the extent specified in this Agreement.
- 14) **NDPERS RESPONSIBILITIES:** NDPERS shall cooperate with the CONTRACTOR hereunder, including, without limitation, providing the CONTRACTOR with reasonable and timely access to data, information and personnel of NDPERS. NDPERS shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of data and information provided to the CONTRACTOR for purposes of the performance of the Services.
- 15) **FORCE MAJEURE:** Neither party shall be held responsible for delay or default caused by fire, riot, terrorism, acts of God or war if the event is beyond the party's reasonable control and the affected party gives notice to the other party immediately upon occurrence of the event causing the delay or default or that is reasonably expected to cause a delay or default.
- 16) **ALTERNATIVE DISPUTE RESOLUTION – JURY TRIAL:** By entering into this Contract, NDPERS does not agree to binding arbitration, mediation, or any other form of mandatory Alternative Dispute Resolution. The parties may enforce the rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.
- 17) **NOTICE:** All notices or other communications required under this contract must be given by registered or certified mail and are complete on the date mailed when addressed to the parties at the following addresses:

NDPERS:

Scott Miller, Executive Director
ND Public Employees Retirement System
1600 East Century Ave, Suite 2
PO Box 1657
Bismarck, ND 58502-1657

CONTRACTOR:

VENDOR

Notice provided under this provision does not meet the notice requirements for monetary claims against the State found at N.D.C.C. § 32-12.2-04.

- 18) **NONDISCRIMINATION AND COMPLIANCE WITH LAWS:** CONTRACTOR agrees to comply with all applicable federal and state laws, rules, and policies, including those relating to nondiscrimination, accessibility and civil rights. (See N.D.C.C. Title 34 – Labor and Employment, specifically N.D.C.C. ch. 34-06.1 Equal Pay for Men and Women.) CONTRACTOR agrees to timely file all required reports, make required payroll deductions, and timely pay all taxes and premiums owed, including sales and use taxes, unemployment compensation and workers' compensation premiums. CONTRACTOR shall have and keep current at all times during the Term of this Contract all licenses and permits required by law.

CONTRACTOR's failure to comply with this section may be deemed a material breach by CONTRACTOR entitling STATE to terminate in accordance with the Termination for Cause section of this Contract.

- 19) **STATE AUDIT:** All records, regardless of physical form, and the accounting practices and procedures of CONTRACTOR relevant to this Contract are subject to examination by the North Dakota State Auditor, the Auditor's designee, or Federal auditors, if required. CONTRACTOR shall maintain all of these records for at least three (3) years following completion of this Contract and be able to provide them upon reasonable notice. STATE, State Auditor, or Auditor's designee shall provide reasonable notice to CONTRACTOR prior to conducting examination.

- 20) **TAXPAYER ID:** CONTRACTOR'S federal employer ID number is:_____.

- 21) **PAYMENT OF TAXES BY STATE:** State is not responsible for and will not pay local, state, or federal taxes. State sales tax exemption number is E-2001, and certificates will be furnished upon request by the NDPERS.

- 22) **EFFECTIVENESS OF CONTRACT:** This Agreement is not effective until fully executed by both parties.

IN WITNESS WHEREOF, CONTRACTOR and NDPERS have executed this Agreement as of the date first written above.

**NORTH DAKOTA PUBLIC
EMPLOYEES RETIREMENT SYSTEM**

CONTRACTOR

Executive Director

ND Public Employees Retirement System

Signature

Printed Name

Title

Date

Date

Business Associate Agreement

This Business Associate Agreement, which is an addendum to the underlying contract, is entered into by and between, the North Dakota Public Employees Retirement System ("NDPERS") and the **ENTER BUSINESS ASSOCIATE NAME, ADDRESS OF ASSOCIATE.**

1. Definitions

- a. Terms used, but not otherwise defined, in this Agreement have the same meaning as those terms in the HIPAA Privacy Rule, 45 C.F.R. Part 160 and Part 164, Subparts A and E, and the HIPAA Security rule, 45 C.F.R., pt. 164, subpart C.
- b. Business Associate. "Business Associate" means the **ENTER BUSINESS ASSOCIATE NAME.**
- c. Covered Entity. "Covered Entity" means the **North Dakota Public Employees Retirement System Health Plans.**
- d. PHI and ePHI. "PHI" means Protected Health Information; "ePHI" means Electronic Protected Health Information.

2. Obligations of Business Associate.

2.1. The Business Associate agrees:

- a. To use or disclose PHI and ePHI only as permitted or required by this Agreement or as Required by Law.
- b. To use appropriate safeguards and security measures to prevent use or disclosure of the PHI and ePHI other than as provided for by this Agreement, and to comply with all security requirements of the HIPAA Security rule.
- c. To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that it creates, receives, maintains or transmits on behalf of the Covered Entity as required by the HIPAA Security rule.
- d. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI or ePHI by Business Associate in violation of the requirements of this Agreement.
- e. To report to Covered Entity (1) any use or disclosure of the PHI not provided for by this Agreement, and (2) any "security incident" as defined in 45 C.F.R. § 164.304 involving ePHI, of which it becomes aware without unreasonable delay and in any case within thirty (30) days from the date after discovery and provide the Covered Entity with a written notification that complies with 45 C.F.R. § 164.410 which shall include the following information:
 - i. to the extent possible, the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed during the breach;
 - ii. a brief description of what happened;
 - iii. the date of discovery of the breach and date of the breach;
 - iv. the nature of the Protected Health Information that was involved;
 - v. identify of any person who received the non-permitted Protected Health Information;

- vi. any steps individuals should take to protect themselves from potential harm resulting from the breach;
 - vii. a brief description of what the Business Associate is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and
 - viii. any other available information that the Covered Entity is required to include in notification to an individual under 45 C.F.R. § 164.404(c) at the time of the notification to the State required by this subsection or promptly thereafter as information becomes available.
- f. With respect to any use or disclosure of Unsecured Protected Health Information not permitted by the Privacy Rule that is caused by the Business Associate's failure to comply with one or more of its obligations under this Agreement, the Business Associate agrees to pay its reasonable share of cost-based fees associated with activities the Covered Entity must undertake to meet its notification obligations under the HIPAA Rules and any other security breach notification laws;
 - g. Ensure that any agent or subcontractor that creates, receives, maintains, or transmits electronic PHI on behalf of the Business Associate agree to comply with the same restrictions and conditions that apply through this Agreement to the Business Associate.
 - h. To make available to the Secretary of Health and Human Services the Business Associate's internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI and ePHI received from, or created or received by Business Associate on behalf of Covered Entity, for the purpose of determining the Covered Entity's compliance with the HIPAA Privacy Rule, subject to any applicable legal privileges.
 - i. To document the disclosure of PHI related to any disclosure of PHI as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
 - j. To provide to Covered Entity within 15 days of a written notice from Covered Entity, information necessary to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
 - k. To provide, within 10 days of receiving a written request, information necessary for the Covered Entity to respond to an Individual's request for access to PHI about himself or herself, in the event that PHI in the Business Associate's possession constitutes a Designated Record Set.
 - l. Make amendments(s) to PHI in a designated record set as directed or agreed by the Covered Entity pursuant to 45 C.F.R. § 164.526 or take other measures as necessary to satisfy the covered entity's obligations under that section of law.

3. Permitted Uses and Disclosures by Business Associate

3.1. General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may Use or Disclose PHI and ePHI to perform functions, activities, or services for, or on behalf of, Covered Entity, specifically, insurance membership data to conduct RFP vendor searches – provided that such use or disclosure would not violate the Privacy Rule or the Security Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

3.2. Specific Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may use PHI and ePHI:

- a. For the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- b. To provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B), but Business Associate may not disclose the PHI or ePHI of the Covered Entity to any other client of the Business Associate without the written authorization of the covered entity Covered Entity.
- c. To report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §§ 164.304 and 164.502(j)(1).

4. Obligations of Covered Entity

4.1. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

Covered Entity shall notify Business Associate of:

- a. Any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that any such limitation may affect Business Associate's use or disclosure of PHI.
- b. Any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that any such changes may affect Business Associate's use or disclosure of PHI.
- c. Any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that any such restriction may affect Business Associate's use or disclosure of PHI.

4.2. Additional Obligations of Covered Entity. Covered Entity agrees that it:

- a. Has included, and will include, in the Covered Entity's Notice of Privacy Practices required by the Privacy Rule that the Covered Entity may disclose PHI for Health Care Operations purposes.
- b. Has obtained, and will obtain, from Individuals any consents, authorizations and other permissions necessary or required by laws applicable to the Covered Entity for Business Associate and the Covered Entity to fulfill their obligations under the Underlying Agreement and this Agreement.
- c. Will promptly notify Business Associate in writing of any restrictions on the Use and Disclosure of PHI about Individuals that the Covered Entity has agreed to that may affect Business Associate's ability to perform its obligations under the Underlying Agreement or this Agreement.
- d. Will promptly notify Business Associate in writing of any change in, or revocation of, permission by an Individual to Use or Disclose PHI, if the change or revocation may

affect Business Associate's ability to perform its obligations under the Underlying Agreement or this Agreement.

4.3. Permissible Requests by Covered Entity

Covered Entity may not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule or the Security Rule if done by Covered Entity, except that the Business Associate may use or disclose PHI and ePHI for management and administrative activities of Business Associate.

5. Term and Termination

- a. Term. The Term of this Agreement shall be effective as of 11/01/2022, and shall terminate when all of the PHI and ePHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI and ePHI, protections are extended to any such information, in accordance with the termination provisions in this Section.
- b. Automatic Termination. This Agreement will automatically terminate upon the termination or expiration of the Underlying Agreement.
- c. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Underlying Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 2. Immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- d. Effect of Termination.
 1. Except as provided in paragraph (2) of this subsection, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI and ePHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI or ePHI.
 2. In the event that Business Associate determines that returning or destroying the PHI or ePHI is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon explicit written agreement of Covered Entity that return or destruction of PHI or ePHI is not feasible, Business Associate shall extend the protections of this Agreement to that PHI and ePHI and limit further uses and disclosures of any such PHI and ePHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains that PHI or ePHI.

6. Miscellaneous

- a. Regulatory References. A reference in this Agreement to a section in the HIPAA Privacy or Security Rule means the section as in effect or as amended.

- b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Rule, and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- c. Survival. The respective rights and obligations of Business Associate under Section 5.c, related to "Effect of Termination," of this Agreement shall survive the termination of this Agreement.
- d. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.
- e. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything this Agreement confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. Applicable Law and Venue. This Business Associate Agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action commenced to enforce this Contract must be brought in the District Court of Burleigh County, North Dakota.
- g. Business Associate agrees to comply with all the requirements imposed on a business associate under Title XIII of the American Recovery and Reinvestment Act of 2009, the Health Information Technology for Economic and Clinical Health (HI-TECH) Act, and, at the request of NDPERS, to agree to any reasonable modification of this agreement required to conform the agreement to any Model Business Associate Agreement published by the Department of Health and Human Services.

7. Entire Agreement

This Agreement contains all of the agreements and understandings between the parties with respect to the subject matter of this Agreement. No agreement or other understanding in any way modifying the terms of this Agreement will be binding unless made in writing as a modification or amendment to this Agreement and executed by both parties.

IN WITNESS OF THIS, **NDPERS** [CE] and **ENTER BUSINESS ASSOCIATE NAME** [BA] agree to and intend to be legally bound by all terms and conditions set forth above and hereby execute this Agreement as of the effective date set forth above.

For Covered Entity:

For Business Associate:

 Scott Miller, Executive Director
 ND Public Employees Retirement System

 Signature

 Printed Name

 Title

 Date

 Date

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM
AND VENDOR
RELATING TO MAINTAINING CONFIDENTIAL INFORMATION**

This Memorandum of Understanding is between the State of North Dakota acting through its North Dakota Public Employees Retirement System (NDPERS) and VENDOR relating to maintenance and destruction of NDPERS Confidential Information held by VENDOR and its subsidiaries.

WHEREAS, NDPERS has previously entered into contracts with VENDOR to provide services related to administration of the NDPERS RFP (Contracts).

WHEREAS, the services provided by VENDOR under these Contracts required the exchange of information between the parties that is confidential under North Dakota Century Code §§ 54-52-26 and 54-52.1-11, 54-52.1-12 (Confidential Information).

WHEREAS, the parties acknowledge that these Contracts, including the Business Associate Agreements between the parties, required VENDOR to return or destroy Confidential Information subsequent to the termination of the applicable Contract, or if return or destruction of this information was infeasible to maintain its confidentiality.

WHEREAS, these Contracts have terminated and VENDOR has asserted and NDPERS agrees that member service, applicable audit, record keeping, and other required functions make the return or destruction of all Confidential Information infeasible at this time.

WHEREAS, VENDOR has provided and NDPERS has reviewed the VENDOR records retention policy (Policy) applicable to the Confidential Information and VENDOR has affirmed that it will maintain the confidentiality of NDPERS information pursuant to this Policy until such time as the information is destroyed in a manner designated by this Policy.

NOW THEREFORE, in consideration of the foregoing premises and in furtherance of the aforementioned contractual obligations, the parties agree as follows:

1. VENDOR shall continue to maintain the confidentiality of Confidential Information which it still possesses, in accordance with its Policy in a manner that is at least as secure and diligent as was done during the term of the applicable Contract, until such time as the Confidential Information is destroyed or returned.
2. Upon the request of NDPERS, VENDOR shall confirm the destruction of Confidential Information under its Policy.
3. Upon the request of NDPERS, VENDOR shall provide NDPERS a copy of any change to the Policy provided NDPERS on DATE.
4. NDPERS agrees these actions are consistent with VENDOR obligations under these Contracts.
5. This Memorandum of Understanding will terminate upon notice to NDPERS by VENDOR that all Confidential Information has either been returned to NDPERS or destroyed, or earlier, upon thirty (30) days' notice by NDPERS to VENDOR if NDPERS determines that the Policy has been modified in a manner that is inconsistent with state or federal law.
6. This Memorandum of Understanding shall be governed by, and construed in accordance with, the laws of the State of North Dakota.

NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM

BY: _____

Executive Director

Date: _____

VENDOR

BY: _____

Its: _____

Date: _____

Attach Contractor Records Retention Policy

Appendix B – Non-Disclosure Agreement

This Non- Disclosure Agreement (the “Agreement”) is made this day of 2022, _

by and between _____ (hereinafter referred to as "the OFFEROR ") and the North Dakota Public Employees Retirement System (hereinafter referred to as "NDPERS").

OFFEROR warrants and represents that it intends to submit a Proposal in response to the NDPERS RFP, the Request for Proposals for Group Life and AD&D Benefits Plan. In order for the OFFEROR to submit a Proposal, it will be necessary for NDPERS to provide the OFFEROR with access to certain information that constitutes confidential information under North Dakota law, including, but not limited to, demographic and identifying information on NDPERS active and retiree population and plan utilization data. All such information provided by NDPERS shall be considered Confidential Information regardless of the form, format, or media upon which or in which such information is contained or provided, regardless of whether it is oral, written, electronic, or any other form, and regardless of whether the information is marked as "Confidential Information." As a condition for its receipt and access to the Confidential Information described in Section III of the RFP, OFFEROR agrees as follows:

1. OFFEROR will not copy, disclose, publish, release, transfer, disseminate or use for any purpose in any form any Confidential Information received under Section III, except in connection with the preparation of its Proposal.
2. The OFFEROR shall agree that all confidential, proprietary or trade secret information of the Incumbent shall be used only for the express purpose of formulating a proposal for NDPERS.
3. Each employee or agent of the OFFEROR who receives or has access to the Confidential Information shall execute a copy of this Agreement and the OFFEROR shall provide originals of such executed Agreements to NDPERS. Each employee or agent of the OFFEROR who signs this Agreement shall be subject to the same terms, conditions, requirements and liabilities set forth herein that are applicable to the OFFEROR and the OFFEROR shall be liable for any violations by any employees or agents who are provided or given access to Confidential Information.
4. OFFEROR shall destroy and confirm such destruction with notice to NDPERS, the Confidential Information, including any copies, remaining in its possession within five business days of NDPERS's notice of a recommended award in connection with this procurement. If the OFFEROR does not submit a Proposal, the OFFEROR shall return the Confidential Information, including any copies, to the NDPERS Purchasing and Contracts Manager identified in the RFP, Section III, on or before the due date for Proposals.
5. OFFEROR acknowledges that the disclosure of the Confidential Information may cause irreparable harm to NDPERS and agrees that NDPERS may obtain an injunction to prevent the disclosure, copying, or other impermissible use of the Confidential Information. NDPERS's rights and remedies hereunder are cumulative and NDPERS expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and/or to seek damages for the OFFEROR'S failure to comply with the requirements of this Agreement.
6. In the event NDPERS suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the OFFEROR or any employee or agent of the OFFEROR to comply with the requirements of this Agreement, OFFEROR and such employees and agents of OFFEROR shall

hold harmless and indemnify NDPERS and the State of North Dakota from and against any such losses, damages, liabilities, expenses, and/or costs.

7. This Agreement shall be governed by the laws of the State of North Dakota. The OFFEROR consents to personal jurisdiction in North Dakota state courts, and exclusive venue shall be in Burleigh County, North Dakota.
8. The individual signing below warrants and represents that they are fully authorized to bind the OFFEROR to the terms and conditions specified in this Agreement. If signed below by an individual employee or agent of the OFFEROR under Section 3 of this Agreement, such individual acknowledges that a failure to comply with the requirements specified in this Agreement may also result in personal liability.

Offeror: _____

By: _____

Print Name _____

Title: _____

Address: _____

**OFFEROR'S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS TO THE
CONFIDENTIAL INFORMATION**

Printed Name and Address of	Employee (E) or	Signature	Date

***Please provide the name and delivery address for the individual who is to receive
Attachment E: Confidential Documents.***

Offeror: _____

Name: _____

Title: _____

Address: _____

Phone Number: _____

Appendix C – Current Life and AD&D Summary Booklet

Details regarding the current life insurance plan available can be found at <https://www.ndpers.nd.gov/sites/www/files/documents/members-additional-information/all-life/group-life-plan-handbook.pdf>

Additional life insurance information for active members can be found at <https://www.ndpers.nd.gov/active-members/insurance-plans-active-members/life-insurance-active-members>.

Additional life insurance information for retired members can be found at <https://www.ndpers.nd.gov/retired-members/insurance-plans-retired-members/life-insurance-retired-members>

Appendix D, E, & F – Confidential Documents

Note to Offerors:

Please see page 15 of this RFP document for information on how to receive the confidential data file(s).



North Dakota
Public Employees Retirement System
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

Scott A. Miller
Executive Director
(701) 328-3900
1-800-803-7377

Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Scott

DATE: October 25, 2022

SUBJECT: Legislative Relations/Update

Both the Retirement Committee and the Health Care Committee met since our last meeting. I'll provide an update on those meetings at the Board meeting.

This is informational.



**North Dakota
Public Employees Retirement System**
1600 East Century Avenue, Suite 2 • PO Box 1657
Bismarck, North Dakota 58502-1657

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Fax (701) 328-3920 Email ndpers-info@nd.gov Website www.ndpers.nd.gov

Memorandum

TO: NDPERS Board

FROM: Scott Miller

DATE: October 25, 2022

SUBJECT: Contracts under \$10,000

Attached is a document that shows the contracts under \$10,000 that I have signed this calendar year. Please let me know if you have any questions on any of these contracts.

This topic is informational only.

Contracts Signed During 2022:

Vendor	Amount	Notes
TIAA	\$ -	MOU to reduce DC participant fees
Inter Office	\$ 1,947.36	Two chairs for our training room
Inter Office	\$ 486.26	Tackboards for IT & Training Room
Inter Office	\$ 1,006.18	Chair for member services
State Treasurer	\$ -	Authorization to pick up checks
Advanced Business Methods	\$ 231.00	Adding fax capability to leases Cannon
Milliman	\$ -	DB closure study
Sanford	\$ -	PBM audit data transfer
Secretary of State	\$ -	Director's ability to use E-Signature
Inter Office	\$ 4,354.50	4 Replacement chairs for staff

New Contracts:

Vendor	Amount	Notes
ND Association of Counties	\$ 125.00	October 2022 Board Meeting
CliftonLarsonAllen	\$ -	Statement of Work for external audit



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Fax: (701) 328-3920 Email ndpers-info@nd.gov Website <https://ndpers.nd.gov>

Memorandum

TO: NDPERS Board

FROM: Derrick Hohbein

DATE: October 25, 2022

SUBJECT: Consultant Fees for the Quarter Ended September 2022

Attached is a quarterly report showing the consulting, investment, and administrative fees paid during the quarter ended September 2022.

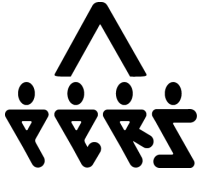
This is informational only.

Attachment

**North Dakota Public Employees Retirement System
Consulting/Investment/Administrative Fees
For the Quarter ended September 30, 2022**

Program/Project		Fee Type	Jul-22	Aug-22	Sep-22	Fees Paid During The Quarter	Fees Paid Fiscal Year-To-Date
Actuary/Consulting Fees:							
Mid Dakota Clinic	Retirement Disability	Time charges		850	500	1,350	\$ 1,350
Ice Miller	Legal fees Employee benefit matters		5,157			5,157	\$ 5,157
Deloitte	Legislative Analysis					-	\$ -
Deloitte	Claims Projections					-	\$ -
Deloitte	Consulting					-	\$ -
State Auditor's Office	PBM Audit	Time charges	16,481		24,675	41,156	\$ 41,156
Buck Consulting	Life/Dental/Vision RFP	Fixed Fee			2,500	2,500	\$ 2,500
Gabriel Roeder Smith & Company	Retirement	Fixed Fee		5,000	11,000	16,000	\$ 16,000
Gabriel Roeder Smith & Company	RHIC	Fixed Fee			2,000	2,000	\$ 2,000
Gabriel Roeder Smith & Company	GASB 67/68	Fixed Fee				-	\$ -
Gabriel Roeder Smith & Company	GASB 74/75	Fixed Fee				-	\$ -
Gabriel Roeder Smith & Company	Actuarial Factor Updates	Fixed Fee		800	6,700	7,500	\$ 7,500
Gabriel Roeder Smith & Company	Projections	Fixed Fee				-	\$ -
Gabriel Roeder Smith & Company	Legislation	Time Charges	8,085	17,595	3,655	29,335	\$ 29,335
Gabriel Roeder Smith & Company	Retirement	Time Charges	2,713	2,700	1,710	7,123	\$ 7,123
Gabriel Roeder Smith & Company	RHIC	Time Charges				-	\$ -
Gabriel Roeder Smith & Company	Deferred Comp	Time Charges				-	\$ -
Gabriel Roeder Smith & Company	Flexcomp	Time Charges				-	\$ -
Callan & Associates	Asset Allocation & Liability Study	Fixed Fee				-	\$ -
Callan & Associates	Investment Consultant Expenses	Fixed Fee	12,450			12,450	\$ 12,450
Callan & Associates	Record Keeper Search	Fixed Fee				-	\$ -
Audit Fees:							
Clifton Larson Allen	Annual Audit Fee	Fixed Fee				-	\$ -
Legal Fees:							
ND Attorney General	Administrative	Time charges	1,536	634	3,185	5,355	\$ 5,355
Investment Fees:							
SIB - Investment Fees	Retirement (DB)	% Allocation	1,883,103	1,799,012	*	3,682,115	\$ 3,682,115
SIB - Investment Fees	Ret Health Credit	% Allocation	136,229	137,473	*	273,702	\$ 273,702
SIB - Investment Fees	Insurance	% Allocation	13,280	13,542	*	26,822	\$ 26,822
SIB - Administrative Fees	Retirement (DB)	% Allocation	116,070	31,211	*	147,281	\$ 147,281
						4,129,920	\$ 4,129,920
Administrative Fee:							
Sanford Health Plan	Health Plan	Fixed fee	1,244,591	1,242,778	*	2,487,369	\$ 2,487,369

* fees not yet available



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Public Employees Retirement System**
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Memorandum

TO: NDPERS Board

FROM: Scott

DATE: October 25, 2022

SUBJECT: Board Self-Evaluation

This is just to serve as a reminder that we will be sending out the Board self-evaluation survey shortly. We'll go over the results at the November meeting, so please complete the survey quickly.

VIII. MEMBER **EXECUTIVE SESSION

- A. **Retirement Benefit Appeal Case #764**
- B. **Retirement Benefit Appeal Case #769**

****Executive Session pursuant to N.D.C.C. §44-04-19.2, §44-04-19.2(1), and/or §54-52-26 to discuss confidential records or confidential member information.**

Materials for the closed session will be sent under separate cover.