braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: December 10, 2015.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2015–31567 Filed 12–10–15; 4:15 pm]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Approval of Exemption From the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer Who Contributes to a Multiemployer Plan; Harrington Air Systems, LLC and J.C. Cannistraro, LLC

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of approval.

SUMMARY: The Pension Benefit Guaranty Corporation has approved a request from Harrington Air Systems, LLC, and its sister company J.C. Cannistraro, LLC, for an exemption from the bond/escrow requirement of section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Sheet Metal Workers National Pension Fund. A notice of the request for exemption was published on June 24, 2015 (80 FR 36366). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESSES: The non-confidential portions of the request for a variance and any PBGC response to the request may be obtained by writing to the Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026 or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Bruce Perlin (*Perlin.Bruce@PBGC.gov*), 202–326–4020, ext. 6818 or Jon Chatalian (*Chatalian.Jon@PBGC.gov*), ext. 6757, Office of the Chief Counsel, Suite 340, 1200 K Street NW., Washington, DC 20005–4026; (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4020.)

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (''ERISA'' or ''the Act''), provides that a complete or partial withdrawal of an employer from a multiemployer plan does not occur solely because, as a result of a bona fide arm's-length sale of assets to an unrelated party, the seller ceases covered operations or ceases to have an obligation to contribute for such operations, if the following conditions under section 4204(a)(1)(A)–(C), are met:

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contributions base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) the contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale. Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation (''PBGC'') to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the asset sale rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S.1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under PBGC's regulation on variances or exemptions from the requirements of section 4204(a)(1)(B) with respect to sales of assets (29 CFR part 4204), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (sections 4204.12 or 4204.13) must first be made to the plan in question. PBGC will consider a waiver request only if the plan denies the request because it does not satisfy the conditions of the regulatory tests or the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of ''Exemption Four'' of the Freedom of Information Act, 5 U.S.C. § 552(b)(4).

Under section 4204.22 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, based on the following reasons:

(1) The approval of a variance/exemption would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) the approval of a variance/exemption would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 4204.22(b) of the regulation require PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption. PBGC received no comments in response to notice of Harrington Air Systems, LLC and J.C. Cannistraro, LLC's request for an exemption of the bond/escrow requirement.

The Decision

On June 23, 2015, PBGC published a notice of the pendency of a request by Harrington Air Systems, LLC (''HAS'') and its sister company J.C. Cannistraro, LLC (''JCC'', and collectively with HAS, the ''Buyer'') for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to the purchase of Harrington Brothers Corporation (''HBC'' or the ''Seller''). According to the request, the Seller was obligated to contribute to the Sheet Metal Workers National Pension Fund (the ''Fund''), a multiemployer defined benefit pension plan. According to the Buyer's representations, the Buyer acquired under an asset sale agreement effective February 24, 2014, most of the business assets of the Seller. The parties structured the transaction to comply with section 4204 of ERISA. HAS is an entity set up by JCC to effectuate the purchase of HBC's assets. In the request, the Buyer represents that HAS and JCC are businesses under common control pursuant to 26 CFR § 1.414(c)–2 and therefore treated as one employer under ERISA. Additionally, the Buyer represents, among other things, that:

1. Under the terms of the asset purchase agreement, the Buyer paid the Seller approximately $5.1 million in the form of an unsecured promissory note that may be adjusted post-closing based on the performance of certain construction contracts in place at the time of the transaction.
2. The Buyer is obligated to contribute to the Fund for the purchased operations for substantially the same contribution base units for which the Seller had an obligation to contribute.
3. The Seller has agreed to be secondarily liable for any withdrawal liability it would have had with regard to the sold operations (if not for § 4204) should the Buyer withdraw from the Fund within the five plan years following the sale and fail to pay withdrawal liability.
4. The estimated amount of unfunded vested benefits allocable to the Seller with respect to the operations sold is about $23.4 million.
5. The amount of the bond/escrow required under § 4204(a)(1)(B) is $1.68 million.
6. After the close of the transaction, the Buyer requested that the trustees of the Fund waive the bond/escrow requirements of ERISA § 4204. The Fund denied the request on the grounds that the Buyer did not satisfy the net income or net tangible assets tests under PBGC's regulations for an exemption from the bond/escrow requirement of § 4204(a)(1)(B).
7. To satisfy the net income test under 29 CFR 4204.13(a)(1), the Fund determined that the average annual net income required for the three-year period prior to the transaction needed to be approximately $440,000 greater than the amount reported.
8. The Buyer asserts that the three-year average net income of JCC was lowered due to an ''aberrantly poor year'' in the construction industry in Massachusetts in 2011. The Buyer states that JCC's average annual net income for the years between 2011–2014 was approximately $1 million more than what was required to meet the net income test under 29 CFR 4204.13(a)(1), and that its net income for the 3 years between 2012–2014 was approximately $1.5 million more than what was required.
9. The Buyer further asserts that, in denying the Buyer's request for a waiver, the Fund looked only at the average net income of JCC. It contends that aggregating the net incomes of JCC and HAS, two businesses under common control under 26 CFR 1.414(c)–2, shows that there ''can be no serious argument that a waiver will create risk for the Fund, let alone substantial risk.''
10. The Buyer's request additionally states that a variance of the bond/escrow requirement in this instance furthers the purposes of Title IV of ERISA because Congress, in enacting Title IV, sought to minimize intrusions into normal business operations while protecting plans. The Buyer asserts that HBC had previously been a ''struggling enterprise'' and that the transaction has ''resulted in a more stable and financially secure contributing employer to the Fund.''

Based on the facts of this case and the representations and statements made in connection with the request for an exemption, including JCC's updated 2014 financial information, PBGC has determined that an exemption from the bond/escrow requirement of section 4204(a)(1)(B) is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the Plan. Therefore, the PBGC hereby grants the request for an exemption from the bond/escrow requirement.

The granting of a variance or an exemption from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the Plan sponsor.

Issued in Washington, DC, on this 8th day of December 2015.

W. Thomas Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–31357 Filed 12–11–15; 8:45 am]

BILLING CODE 7709–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2016–28 and CP2016–34; Order No. 2858]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning the addition of Parcel Select Contract 11 negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 16, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Parcel Select Contract 11 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. Request, Attachment B.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2016–28 and CP2016–34 to consider the Request pertaining to the proposed Parcel Select Contract 11 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in

[1] Request of the United States Postal Service to Add Parcel Select Contract 11 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 8, 2015 (Request).