

INSTRUCTIONS FOR PERFORMING THE PENSION SURCHARGE SELF-AUDIT

Objective: Verify that all TRS retirees (service and disability) that meet the requirements for the pension surcharge have been included on the **Reporting Entity Pension Surcharge for Reported Retirees Report** and that the pension surcharge amount reported for these retirees is correct in accordance with TRS Laws and Rules, TRS Employer Payroll Manual, and any supplemental instructions given by TRS.

The pension surcharge is triggered for those retirees meeting the following requirements:

- who retired after **September 1, 2005**, and
 - who worked or received paid leave for more than the equivalent of 4 clock hours for every work day in that calendar month, **or**
 - who combined substitute employment and any other TRS-covered employment in any amount in the same calendar month and worked more than one half the number of work days in that calendar month

Here is the summary of the steps (detail of each step is on the following pages) you will follow in accomplishing the self-audit objective:

Step 1

Review the retirees you have reported through **Reporting Entity Pension Surcharge for Reported Retirees Report**. Determine if your calculation of the pension surcharge reported to TRS is correct.

Step 2

Determine if any retirees on the **Employment of Retired Members Report** should have been reported on the pension surcharge report but were not and calculate the pension surcharge.

Step 3

Determine if TRS retiree(s) providing services to you as an independent contractor are correctly categorized as an independent contractor or should have been categorized as an employee for TRS purposes; if the retiree should have been categorized as an employee and reported to TRS, determine if the retiree(s) should have been reported on the pension surcharge report and calculate the pension surcharge.

Step 4

Determine that all TRS retirees working for a third party entity are categorized as employees and reported correctly, and then determine whether these retirees should have been reported on the pension surcharge report and calculate the pension surcharge.

INSTRUCTIONS FOR PERFORMING THE PENSION SURCHARGE SELF-AUDIT

STEP 1 – USE INFORMATION FROM PENSION SURCHARGE REPORT

Open the [Pension Surcharge Self-Audit Excel Worksheet](#) and do a “Save As” to your local network before you begin. When you open the worksheet, you will see two tabs, one is labeled “Pension Surcharge Self-Audit” which you will use to enter your data, and the second tab is an “example” worksheet for information.

Populate the worksheet with all retirees whose pension surcharge is reported through **Reporting Entity Pension Surcharge for Reported Retirees Report**. The detail file you are required to maintain for this report along with the supporting documentation will assist you in this step.

1A: Enter the following into the worksheet as indicated by the column headings:

- Last name
- First name
- Last 4 digits of SSN or unique identifier issued by TRS and used in TRS reporting
- Retirement Date - use (mm/dd/yyyy) exact format when entering this date; the retirement date cell will automatically highlight if the date you have entered is prior to September 1, 2005
- Monthly gross compensation (enter decimal point when entering amount, e.g. 1865.79)
- Pension surcharge reported dollar amount (enter decimal point when entering amount, e.g. 269.00, 278.54)

1B: The worksheet will automatically calculate, using the current pension surcharge rate, and populate the pension surcharge amount in the worksheet cell once you enter the monthly gross compensation. The amount will appear in the cell under the “calculated pension surcharge” column.

1C: The worksheet will automatically calculate and populate the difference in the worksheet cell, if any, between the calculated pension surcharge and the reported pension surcharge, once you enter the reported pension surcharge. The difference will appear in the “Difference (under)/over payment” column.

1D: In the worksheet, for those that there is a difference between the calculated and reported amount that is greater than .10, the difference cell will automatically highlight for final review later in the process.

1E: If you know the retiree is subject to the TRS-Care Surcharge and you have verified this in **TRAQS “VIEW EMPLOYEE INFORMATION”**, then go to “TRS-Care Surcharge Applies” column in the worksheet and click on the cell and choose “yes” from the drop down box. Otherwise, click “no” from the drop down box. This will assist you in performing the **TRS-Care Surcharge Self-Audit** which is a separate self-audit tool available.

INSTRUCTIONS FOR PERFORMING THE PENSION SURCHARGE SELF-AUDIT

STEP 2 – REVIEW RETIREES ON EMPLOYMENT OF RETIRED MEMBERS REPORT

2A: Review the retirees you have included on *Employment of Retired Members Report* including the retirees with a retirement date before January 1, 2011 that are reported only in the signature component of the report. For the purposes of this review, exclude those retirees who worked exclusively as a substitute (a substitute is a retiree serving in the place of a current employee, not a vacant position, and paid at the daily rate of pay established by the reporting entity).

Review the supporting data for this report, the payroll register of all employees, and the payroll and personnel files of retirees to identify any retirees whose pension surcharges are not being reported to TRS.

Question: *Are there any retirees that were not reported on the pension surcharge report who:*

- *retired after September 1, 2005 and*
 - *who worked or received paid leave for more than the equivalent of 4 clock hours for every work day in that calendar month or*
 - *who combined substitute employment and other TRS-covered employment in any amount in the same calendar month and worked more than one half the work days that month? See **Note #1** below.*

NOTE #1: If substitute service is combined with other TRS-covered employment in any amount in that calendar month and the work exceeded one-half the number of work days in that month, the surcharge is owed by the employer on all compensation earned, including compensation for the substitute service.

Make sure you have identified all retired employees providing services to your reporting entity and use the retirement date to identify all retirees who retired after September 1, 2005. Include retirees who retired after September 1, 2005 but before January 1, 2011 even though they do not appear on the Employment After Retirement detail file. Make sure you have excluded those retirees that were working exclusively as substitutes.

If you are not sure the individual is a retiree subject to the pension surcharge, then go to **TRAQS “VIEW EMPLOYEE INFORMATION”** and enter their SSN. This screen will display whether the employee is a retiree, the retirement date, and whether the retiree is subject to the TRS Pension Surcharge. If you need more information and training on “View Employee Information”, then click on the following link:

http://www.trs.state.tx.us/traqs/documents/traqs_enhanced_functions.pdf

INSTRUCTIONS FOR PERFORMING THE PENSION SURCHARGE SELF-AUDIT

2B: Add any newly identified individuals (retirees) to the worksheet. FOLLOW STEPS 1A THROUGH 1E ABOVE. Go to column “Newly Identified Retiree” and click on the cell and from the drop down box choose “Step 2 Report Review” in order to identify the reason and source for the added retiree. Include in the comments section of the worksheet any supporting information that might be useful.

STEP 3 – REVIEW TRS RETIREES WORKING AS INDEPENDENT CONTRACTORS

If a TRS retiree is working for you as an independent contractor, then the retiree is not reported to TRS and the retiree’s monthly annuity is not affected. However, it is important to verify that the retiree is an independent contractor and not an employee to be reported to TRS. The guidelines and steps below will assist you in determining if the retiree is an independent contractor or an employee for TRS purposes. If the retiree is an employee and has not been reported on the pension surcharge report, then you will have to determine if the retiree meets the requirement of the pension surcharge and calculate the pension surcharge. **DO NOT SKIP THIS STEP.**

3A: Review the list of independent contractors to determine those who are TRS retirees. This information can be derived from reviewing the latest 1099s issued for professional services, as well as the accounts payable for professional services for the period under review. Review the payroll and personnel files of retirees and identify those independent contractors who are TRS retirees who would be subject to the pension surcharge. Review the contract for services with this individual to assist you in addressing the guidelines below.

If you are not sure the individual is a retiree subject to the pension surcharge, then go to **TRAQS “VIEW EMPLOYEE INFORMATION”** and enter their SSN. This screen will display whether the employee is a retiree, the retirement date, and whether the retiree is subject to the TRS Pension Surcharge.

Here are some *guidelines* to assist you in determining whether the retiree is an independent contractor or actually an employee that must be reported to TRS. Also, see **NOTE #2** on the following page.

The following questions pertain to conditions in which the individual is not an independent contractor and is an employee for TRS purposes, and must be reviewed to determine if the pension surcharges should be applied for that individual:

- Does the individual hold job as superintendent, teacher, administrator, coach, administrative support personnel, or principal/assistant principal? If “yes”, then individual is not an independent contractor.

INSTRUCTIONS FOR PERFORMING THE PENSION SURCHARGE SELF-AUDIT

- Is the individual required to comply with the employer's policies in performing the contracted services or otherwise under the control of the reporting entity? If "yes", then individual is **not** an independent contractor.

The following questions pertain to conditions in which the individual is not *likely* an independent contractor and require closer scrutiny to make the final determination:

- Is the individual required to provide the services during set times or to keep certain office hours? If yes, this individual may not be an independent contractor.
- Does the individual use the reporting entity's facilities, equipment, or materials to perform the services? If yes, this individual may not be an independent contractor.
- Does the individual only market services to your reporting entity? If yes, this individual may not be an independent contractor.
- Was the last individual that performed the services an employee or the retiree? If "yes", then the individual may not be an independent contractor.

NOTE #2: TRS recommends that the reporting entity and the retiree consult with their respective attorneys about the requirements for independent contractor status and understand all aspects of the arrangement, including tax consequences, before deciding to contract for the services of the retiree as an independent contractor or shareholder. However, if there is any doubt or if disagreement, TRS is authorized by state law to make the final determination of whether the retiree is an employee of the reporting entity or an independent contractor. If the employment arrangement does not meet the legal tests for independent contractor, the retiree is considered an employee of the TRS-covered employer. If you have questions regarding the agreement, contact TRS before the retiree begins work. **If the retiree is an early age retiree do not contract for the retiree's services before at least one full calendar month following the retiree's effective date of retirement with TRS.**

3B: Add newly identified individuals (retirees) who you have now determined to be an employee to the worksheet. FOLLOW STEPS 1A THROUGH 1E ABOVE. Go to column "Newly Identified Retiree" and click on the cell and from the drop down box choose "Step 3 Ind. Contractor" in order to identify the reason and source for the added retiree. Include in the comments section of the worksheet any supporting information that might be useful.

INSTRUCTIONS FOR PERFORMING THE PENSION SURCHARGE SELF-AUDIT

STEP 4 – REVIEW TRS RETIREES WORKING FOR THIRD PARTY ENTITIES

TRS Retirees employed by a third party entity (See **Note #3** below) and working for a TRS-covered employer are considered employees of the TRS-covered employer and must be reported to TRS on the *Employment of Retired Members Report* including the retirees with a retirement date before January 1, 2011 that should be reported only in the signature component of the report. Any applicable surcharges must also be paid. **DO NOT SKIP THIS STEP.**

If the retiree has not been reported on the pension surcharge report, then you will have to determine if the retiree meets the requirement of the pension surcharge and calculate the pension surcharge.

NOTE #3: A third party entity is an entity or company retained by the TRS-covered employer to provide personnel that perform duties or provide services that employees of the TRS-covered employer would otherwise perform. An example of a third party entity is **Educational Independent Contractors (EIC), L.L.C. and JR3**. Please refer to the *February 2013 TRS Update* publication regarding Educational Independent Contractors (EIC), L.L.C. In this publication, there are specific instructions regarding TRS retirees hired by EIC that have not been reported to TRS that you must follow. If you have any questions as to what constitutes a third party entity, please contact TRS.

Retirees who were first employed by the third party entity prior to May 24, 2003 are excluded from this requirement.

4A: Identify third party entities you are contracting with to provide personnel. Review employees working for the third party entities providing services to you. Determine if any are TRS retirees and whether or not they have been reported to TRS. Review the payroll and personnel files of these retirees and determine if the retiree(s) meets the requirements of the pension surcharge.

If you are not sure the individual is a retiree and also subject to the pension surcharge, then go to **TRAQS “VIEW EMPLOYEE INFORMATION”** enter their SSN. This screen will display whether the employee is a retiree, the retirement date, and whether the retiree is subject to the TRS Pension Surcharge.

4B: Add newly identified individuals (retirees) as a result of this self-audit to the worksheet. FOLLOW STEPS 1A THROUGH 1E ABOVE. Go to column “Newly Identified Retiree” and click on the cell and from the drop down box choose “Step 4 3rd Party Entity” in order to identify

INSTRUCTIONS FOR PERFORMING THE PENSION SURCHARGE SELF-AUDIT

the reason and source for the added retiree. Include in the comments section of the worksheet any supporting information that might be useful.

STEP 5 - REVIEW FINAL RESULTS

After completing all steps above and entering all the required data into the worksheet, review the final results. If any fields are highlighted in red, please complete those fields before reviewing final results.

5A: If there are no differences in the difference column on the worksheet, then congratulations! Retain your worksheet to support your reported Pension surcharges you have reviewed. **Do not submit the worksheet to TRS unless requested by TRS staff.**

5B: If there are differences in the difference column, then you need to report **ADJUSTMENTS THROUGH TRAQS. YOU MUST SUBMIT ADJUSTMENTS THROUGH TRAQS FOR THE FOLLOWING:**

- Retirees identified for whom a pension surcharge has not been previously reported but should have been
- Retirees identified for whom an incorrect pension surcharge has been reported
- Retirees for whom no pension surcharge should have been reported

IF YOU NEED ASSISTANCE SUBMITTING ADJUSTMENTS THROUGH TRAQS OR IF YOU WANT TO MAKE SURE AN ADJUSTMENT IS NEEDED, PLEASE CONTACT YOUR TRAQS COACH.

5C: Retain your worksheet as supporting documentation for any adjustments you submit through TRAQS. **Do not submit the worksheet to TRS unless requested by TRS staff.**

CONGRATULATIONS

You have completed the **Pension Surcharge Self-Audit**. Thank you for participating!

Please complete the [TRS Employer Self-Audit Feedback Form](#) and send to [Employer Audits](#).

QUESTIONS? If you have any questions about the self-audit, please send your questions to [Employer Audits](#). Please contact your TRAQS coach for assistance regarding any questions you may have regarding TRAQS adjustments you have identified through the self-audit.