

PART 152

DEFINED BENEFIT SERVICE AWARD PROGRAMS FOR VOLUNTEER AMBULANCE WORKERS

(Statutory authority: General Municipal Law, §§ 219-i, 219-p)

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Section 152.1 Scope. Article 11-AAA of the General Municipal Law authorizes the establishment of defined benefit plan service award programs to provide municipally funded, pension-like benefits for volunteer ambulance workers. Paragraph 2 of Section 219-p of Article 11-AAA states that "the State Comptroller shall promulgate rules and regulations, as appropriate, for the service award programs. Such rules shall include, but not be limited to, standards for the selection of service providers, the method and timing of the payments required to be made by the sponsor, reporting requirements, matters relating to the preparation of a plan document, and any other matter relating to the service award programs".

These are the Comptroller's rules and regulations for defined benefit plan service award programs.

Section 152.2 Definitions. (a) Unless otherwise defined, the terms used in this part shall have the same meaning as provided in Article 11-AAA of the General Municipal Law.

(b) In addition, in this part:

- (1) "Benefit" or "benefit amount" means an annual payment of \$60, \$120, \$180 or \$240 for each year of ambulance service, as selected by the sponsor.

- (2) "Comptroller" means the New York State Comptroller

- (3) "Program Actuary" means the actuary designated by the Comptroller to perform the functions required to be performed by an actuary under Article 11-AAA of the General Municipal Law and these rules and regulations, as they may be amended from time to time.

Section 152.3 Adoption of programs. Defined benefit plan service award programs shall be adopted in accordance with Article 11-AAA of the General Municipal Law. Prior to consideration of a resolution authorizing adoption of such a service award program, the governing board of a political subdivision shall obtain from the Program Actuary an estimate of the annual cost of the program. In making such estimate, the Program Actuary shall calculate each separate component and the total estimated cost of a proposed program. In calculating such costs, the Program Actuary may rely upon information provided by the political subdivision and any ambulance company having members who are potential participants in the program and shall use the actuarial methodology and assumptions that shall be or are expected to be used to calculate the estimated annual cost of the proposed program as of the last day of the first calendar year ending after the effective date of the program. The Program Actuary shall disclose to the political subdivision in writing the fee for preparing the estimated annual cost of the program before beginning the cost estimate calculation. If a member of the Comptroller's staff is not the Program Actuary, the fee for preparing the cost estimate shall not exceed the amount which the Program Actuary is permitted to charge for such service pursuant to an agreement between the Program Actuary and the Comptroller. The sponsor shall pay such fee to the Program Actuary after rendition of the service promptly following receipt of the appropriate billing documents.

Section 152.4 Notice of adoption. (a) Within sixty days after the adoption of a defined benefit plan service award program, the chief executive officer of the sponsor shall file with the Office of the State Comptroller in Albany, New York, two copies of a verified notice of adoption which shall contain the following:

- (1) a statement of the date on which the governing board of the sponsor approved the resolution authorizing adoption of the program and the vote thereon, and a certified copy of the resolution;
- (2) a statement of the date on which the electors of the sponsor approved the proposition authorizing adoption of the program and the vote thereon, and a certified copy of the proposition;
- (3) an opinion of legal counsel which shall:
 - (i) be addressed to the sponsor;
 - (ii) expressly provide that the administrator may rely thereon;
 - (iii) state that in his or her capacity as legal counsel to the sponsor, he or she has examined originals or true and complete copies of those records, documents and other instruments necessary to render his or her opinion, including, but not limited to: the provisions of Article 11-AAA of the General Municipal Law and such other statutes as may be relevant; the resolution of the governing board of the sponsor authorizing the adoption of the program; proof of any posting and publication of required notice; the certificate certifying the result of the vote on the proposition authorizing the adoption of the program; and, proof that the estimated annual cost as well as the program cost components disclosed in the proposition were prepared by the Program Actuary; and
 - (iv) express his or her opinion that the sponsor has undertaken all actions and proceedings required by law to adopt the program;
- (4) a statement of the name, address and telephone number of the chief executive officer of the sponsor; and
- (5) a statement of the name, address and telephone number of each ambulance company having volunteer ambulance workers who are potential participants in the program.

(b) Upon receipt of the notice of adoption, the Office of the State Comptroller shall notify the chief executive officer of the name, address and telephone number of the administrator. If the administrator is not the Comptroller, the Office of the State Comptroller shall forward one copy of the notice of the adoption to the administrator.

Section 152.5 Adoption agreement. (a) Within thirty (30) days of receipt of a notice of adoption, the administrator shall send to the chief executive officer of the sponsor a copy of the program agreement, the trust agreement and two copies of a completed adoption agreement for the program.

(b) The adoption agreement shall contain a statement that the sponsor agrees to abide by the provisions of Article 11-AAA of the General Municipal Law, the rules and regulations promulgated thereunder and the program and trust agreements, as amended from time to time. The adoption agreement shall incorporate the following terms of the program as determined by the sponsor:

- (1) the name of the sponsor;
- (2) the name of each volunteer ambulance company having volunteer ambulance workers who are potential program participants;
- (3) the benefit under the program;
- (4) in the case of a defined benefit plan service award program which was not converted from a pre-existing defined contribution plan service award program
 - (i) the date as of which the program shall take effect;
 - (ii) whether the program provides credit for years of ambulance service rendered by a participant during the five calendar years immediately preceding the adoption of the program;
 - (iii) if the program provides credit for years of ambulance service rendered by a Participant during the five calendar years immediately preceding the adoption of the program, a statement setting forth the timing and method of financing the cost of providing such credit; and
 - (iv) if the program is to take effect on a day other than the first day of January, a statement setting forth whether points toward a year of ambulance service shall be granted for activities performed between the immediately preceding first day of January and the effective date of the program;
- (5) in the case of a defined benefit plan service award program which was converted from a Defined contribution plan service award program:
 - (i) the effective date of the original defined contribution plan service award program (which shall be the effective date of the defined benefit plan service award program)
 - (ii) a statement setting forth whether the defined benefit plan service award program provides credit for years of ambulance service rendered by a participant during the five calendar years immediately preceding the effective date of the defined contribution plan program.
 - (iii) if the defined benefit plan program allows credit for years of ambulance service during the five calendar years immediately preceding the effective date of the defined contribution plan service award program, a statement setting forth the timing and method of financing the cost of granting such service credit under the defined benefit plan service award program.

(c) Within thirty (30) days of receipt of the completed adoption agreement from the administrator, the sponsor's legal counsel shall review the adoption agreement for consistency with the resolution authorizing the adoption of the program and the proposition submitted to referendum. Thereafter, the chief executive officer of the sponsor shall execute two originals of the adoption agreement, retain one executed original of the adoption agreement and the program and trust agreements as public records, and file one executed original of the adoption agreement with the administrator. The chief executive officer shall also cause a copy of the adoption agreement and program and trust agreements to be provided to each ambulance company for which the program is adopted.

(d) Upon receipt of one executed original of an adoption agreement, the administrator shall forward a copy of the adoption agreement to the Program Actuary.

(e) The administrator and the Program Actuary shall rely on the terms of the program as set forth in the adoption agreement until the administrator and Program Actuary receive a copy of an amended adoption agreement or notice of termination as provided in Section 152.14 of these rules and regulations.

Section 152.6 Collection of personal information. (a) Except as provided in subdivision (b) of this Section, annually, and at such other times and in such form as the administrator may require, the chief executive officer of the sponsor shall obtain from each ambulance company for which the program is established for submission to the administrator, and each ambulance company shall provide to the chief executive officer for such purpose, the following information for each volunteer ambulance worker of the ambulance company, whether or not such volunteer ambulance worker is a participant in the program:

- (1) name;
- (2) address;
- (3) social security number;
- (4) date of birth;
- (5) name of ambulance company in which he or she is a volunteer ambulance worker; and,
- (6) such other information as the administrator determines necessary for the administration of the program.

(b) In lieu of requiring the chief executive officer of the sponsor to obtain the information specified in subdivision (a) of this section for submission to the administrator, the administrator may request the chief executive officer of an ambulance company to obtain and submit such information to the administrator. In such case, the chief executive officer of the ambulance company shall provide a copy of the information submitted to the administrator to the chief executive officer of the sponsor.

(c) The chief executive officer of the sponsor shall retain a copy of the information obtained pursuant to this section for use solely in connection with the administration of the service award program.

Section 152.7 Service credit. (a) Each ambulance company for which a service award program is adopted shall maintain at all times for each volunteer ambulance worker of the company, whether or not a participant in the program, a record of the activities performed and points granted toward a year of ambulance service credit.

(b) On or before March thirty-first of each year, each ambulance company for which a service award program is adopted shall prepare and submit to the governing board of the sponsor a list of all the volunteer ambulance workers of the company which identifies all those who have earned credit for a year of ambulance service during the preceding calendar year. Such list shall be certified under oath by the president, secretary and chief or comparable officers of the ambulance company and shall be accompanied by such membership records or records of point accumulations as the governing board may require to substantiate the accuracy of the list. Such list shall also identify those volunteer ambulance workers who have waived participation in the service award program as provided in subdivision (g) of this section.

(c) On or before May first of each year, the governing board of the sponsor shall review each such certified list and may delete the name of any person who was not a volunteer ambulance worker during the preceding calendar year or disallow the service credit of any volunteer ambulance worker who did not earn fifty (50) points during the preceding calendar year or whose point accumulation has not been adequately documented. Thereafter, the governing board shall approve each such certified list of volunteer ambulance workers and each volunteer ambulance worker thereon identified as having earned fifty (50) or more points during the preceding calendar year shall be credited with a year of ambulance service. Upon approval, the governing board shall cause a copy of each list to be returned to the appropriate ambulance company and each ambulance company shall, immediately upon receipt, post the list in a conspicuous place at its principal headquarters for at least thirty (30) days and maintain a record of the date on which the list is posted.

(d) Not later than thirty (30) days after the approved list is posted by the ambulance company, any volunteer ambulance worker whose name does not appear on the list as having earned credit for a year of ambulance service may appeal to the governing board of the sponsor to have his or her name added to the list as having earned credit for a Year of ambulance service. The appeal shall be in writing and mailed to the clerk or secretary of the governing board of the sponsor. The governing board shall investigate all appeals and upon finding that such a volunteer ambulance worker has earned a Year of ambulance service credit for the preceding calendar year, shall order the volunteer ambulance worker to be identified as having earned a year of ambulance service credit on the approved list.

(e) On or before July first of each year, the governing board of the sponsor shall cause a certified copy of the approved list to be filed with the administrator accompanied by appropriate documentation supporting any changes to the list made pursuant to subdivision (d) of this section.

(f) The administrator shall retain such list and shall promptly forward a copy of such list to the Program Actuary.

(g) Any volunteer ambulance worker not wishing to participate in the service award program may waive participation by filing with the chief executive officer of the ambulance company, the chief executive officer of the political subdivision and the administrator a written notice of waiver of participation. Such waiver shall remain effective until with-

drawn in the same manner. During the period such a waiver remains effective, a volunteer ambulance worker shall not earn service credit, nor be entitled to a distribution from the program.

(h) If the effective date as of which a volunteer ambulance worker (or the volunteer ambulance worker's beneficiary, if the volunteer ambulance worker is deceased) begins to be paid a service award is other than the last day of a calendar year, the volunteer ambulance worker shall have the opportunity to earn service credit (i.e. points under the point system) up to the day immediately preceding the effective date as of which the Service award payments commence. When preparing this list described in paragraph (b) above, only activities performed by a volunteer ambulance worker up to the day immediately preceding the effective date as of which service award payments commenced to the volunteer shall be considered when determining whether the volunteer earned fifty (50) points during the calendar year in which the service award payments commenced to the volunteer. One Year of service credit shall be awarded to a volunteer ambulance worker only if he or she earned fifty (50) points for activities he or she performed up to the day immediately preceding the effective date as of which the service award payments commenced to the volunteer. When determining the points to be awarded to the volunteer ambulance worker for participation in ambulance company responses up to such day, the volunteer ambulance worker must have responded to the same minimum number of calls for the year that all other volunteer ambulance workers may be required to respond to under the point system adopted by the sponsor. Upon receipt of a certified copy of the approved list by the administrator as set forth in (e) above, the administrator shall promptly direct the Program Trustee to begin paying the volunteer ambulance worker any additional service award to which he or she may be entitled to be paid as of the effective date on which service award payments commenced to the volunteer ambulance worker.

Section 152.8 Prior service costs. (a) In the event that a defined benefit plan service award program provides credit for years of ambulance service during the five calendar years immediately preceding the adoption of a program, each ambulance company for which the program is adopted shall identify on the list created pursuant to Section 152.7 of this Part participants who are entitled to one or more years of prior service credit and the number of years for which each participant who is entitled to such prior service credit. Any participant who is denied prior service credit for one or more years may appeal to the governing board at the same time, in the same manner, and with like effect as provided in Section 152.7 of this Part. Except as otherwise provided in this Section, prior service cost shall be paid to the administrator in a single lump sum in the year next following the first calendar year for which a participant earned credit for a year of ambulance service. Such prior service cost shall be calculated by the Program Actuary.

(b) The governing board of the sponsor may elect to pay initial prior service costs over the five consecutive calendar year period beginning with the calendar year next succeeding the year in which the program takes effect. For this purpose, initial prior service costs means the cost of granting prior service credit to volunteer ambulance workers who become participants as result of having earned a year of ambulance service credit for activities performed in any year during the five consecutive calendar years beginning with the year in which the program takes effect. Initial prior service costs shall be computed annually during such five year period and each annual payment shall equal the level annual payment calculated by the Program Actuary required to amortize the remaining unfunded initial prior service costs over the number of years remaining in such five year period.

(c) The prior service costs of a service award program for the volunteer ambulance workers of a volunteer ambulance company which contracts with the sponsor of a service award program with one or more other political subdivisions

shall be apportioned and paid by such participating political subdivisions in accordance with any agreement between the sponsor and the political subdivision(s); provided, however that unless any such agreement provides otherwise, the portion of the prior service costs of a program allocated to a political subdivision in accordance with such agreement shall be paid in full by a political subdivision even if the political subdivision ceases to contract with the ambulance company after a program is adopted.

(d) In the case of a defined benefit plan service award program converted from a defined contribution plan service award program, the governing board of the sponsor may elect to pay initial prior service costs over the five consecutive calendar year period beginning with the calendar year next succeeding the year in which the conversion takes effect. For purposes of this subdivision, "initial prior service costs" means the cost of granting prior service credit to volunteer ambulance workers who became or become participants as result of having earned a year of ambulance service for activities performed in any calendar year during the period commencing with the calendar year in which the defined contribution plan program took effect and ending with the fourth calendar year next succeeding the year in which the conversion took effect. Initial prior service costs shall be computed annually during such five (5) year period and each annual payment shall equal the level annual payment calculated by the Program Actuary required to amortize the remaining unfunded initial prior service costs over the number of years remaining in such five year period.

(e) In the case of a defined benefit plan service award program which is amended to provide prior service credit, the governing board of the sponsor may elect to pay initial prior service costs over the five consecutive calendar year period beginning with the calendar year next succeeding the year in which such amendment takes effect. For purposes of this subdivision, "initial prior service costs" means the cost of granting prior service credit to volunteer ambulance workers who became or become participants as result of having earned a year of ambulance service for activities performed in any calendar year during the period commencing with the calendar year in which the defined benefit plan program took effect and ending with the fourth calendar year next succeeding the year in which the amendment took effect. Initial prior service costs shall be computed annually during such five year period and each annual payment shall equal the level annual payment calculated by the Program Actuary required to amortize the remaining unfunded initial prior service costs over the number of years remaining in such five year period.

Section 152.9 Sponsor contributions. (a) Within forty-five (45) days of receiving from the administrator a copy of the certified list in accordance with Section 152.7 of this Part, the Program Actuary shall calculate and the administrator shall bill the sponsor for the contribution due for the calendar year ended on the immediately preceding December thirty-first. In addition to the program administration costs for such year, such contribution shall include the actuarially determined normal cost plus any prior service costs associated with the adoption of a program, including the conversion from a defined contribution plan service award program to a defined benefit plan program, or the adoption of an amendment to an existing program. For good cause shown, the Program Actuary may recalculate the contribution, and, in such a case, the Administrator shall issue a corrected bill.

(b) Within sixty (60) days of the invoice date of a bill for sponsor contributions, the sponsor shall pay to the administrator the total amount of the sponsor contribution shown on such invoice.

(c) The actuarial methodology and assumptions used by the Program Actuary to calculate such annual contribution shall be the same for all defined benefit plan service award programs.

(d) The actuarial methodology and assumptions used by the Program Actuary to calculate such annual contribution shall be reviewed beginning with the calendar year 2000 sponsor contribution and for every third program (calendar) year thereafter by an independent enrolled actuary selected and retained by the Program Actuary subject to approval by the Comptroller. Such enrolled actuary shall submit a written report to the Program Actuary and the Comptroller regarding the appropriateness of the actuarial methodology and assumptions used by the Program Actuary in the calculation of the program costs and the funded status of the existing defined benefit plan program as a whole. In addition, the enrolled actuary, on a statistical random sampling basis of sufficient size, shall select a number of specific programs to audit for completeness and correctness of participant data, consistency of actuarial cost calculations with program provisions and correctness of actuarial calculations.

(e) Interest shall accrue and be paid by the sponsor on all contributions due during a calendar year but not received by the administrator within sixty (60) days of the invoice date or the billing statement from the administrator to the sponsor for the amount of annual contribution owed. The interest rate or rates used to calculate such interest shall be the greater of:

- (i) the investment return rate (or rates) assumed by the Program Actuary in the calculation of the normal cost component of such unpaid contribution; or
- (ii) the actual investment return rate earned by the volunteer ambulance workers' defined benefit plan service award program trust fund during the calendar year (or years) in which such unpaid contributions were due to be paid.

(f) The administrator shall notify the Comptroller of any outstanding unpaid contributions after the end of a calendar year during which payment of contributions should have been received by the administrator.

(g) In the event that a sponsor does not submit to the administrator the certified list (with supporting documentation) in accordance with Section 152.7 of these rules and regulations, the administrator shall bill the sponsor for the contribution due during the calendar year in which the list should have been submitted in an amount calculated by the Program Actuary equal to the estimated contribution due during such year. Such estimated contribution shall be calculated by the Program Actuary as if all volunteer ambulance workers on the latest year's certified list received by the administrator continued to be volunteer ambulance workers and all such persons earned a Year of service credit during the calendar year or years for which the list or lists should have been prepared in accordance with Section 152.7 of these rules and regulations. Payment of such contribution shall be made in accordance with subdivisions (b) and (e) of this section as if the Program Actuary's cost calculations were based upon the actual certified listings prepared in accordance with Section 152.7 of these rules and regulations. Upon receipt by the administrator of the actual certified list prepared in accordance with Section 152.7 of these rules and regulations, the Program Actuary shall calculate the actual amount of contributions due for such calendar year. In the event that additional contributions are owed by the sponsor (including any additional administration costs), the administrator shall bill the sponsor for such additional amounts. Interest shall be paid by the sponsor on all additional amounts owed and shall accrue from the due date of the payment of the estimated contribution billed to the sponsor by the administrator with such interest calculated in accordance with paragraph (e) of this section of these rules and regulations. Any excess of the estimated contributions over the actual contributions shall be refunded to the sponsor. The amount of such refund shall be reduced by any re-

lated additional administration costs charged by the administrator or the Program Actuary. The assessment of any extra additional administration charges payable by the sponsor to either the administrator or the Program Actuary because of the failure to comply with Section 152.7 of these rules and regulations shall be in accordance with the contract(s) between the Comptroller and the administrator/Program Actuary.

(h) In the event that two years have elapsed since an inactive volunteer ambulance worker participant or a participant's designated beneficiary becomes eligible to apply for a service award and the administrator does not receive an application for distribution, the administrator, the sponsor and the ambulance company in which the participant was a member shall attempt to notify the person or persons to whom the service award would be paid. In the event that the administrator, in his sole discretion, determines that a reasonable attempt has been made to contact such person or persons without success, the service award payable shall then be considered as forfeited for the purpose of determining future contributions payable by the sponsor. Such forfeiture shall be treated by the Program Actuary as an actuarial gain in the program cost calculations in the same manner as any other forfeiture of a service award. The funds accumulated to pay the participant or the participant's beneficiary shall remain within the service award program trust fund as if such funds were the accumulated funds associated with the forfeiture of a non-vested service award. Should the person to whom service award payments are owed subsequently file an application for payment with the administrator, the administrator shall determine and pay the amount of the service award owed to the person and the actuarial liability for such payments shall be included in subsequent actuarial calculations of the sponsor's funding costs of the program by the Program Actuary.

Section 152.10 Forfeitures. (a) Except in the case of a participant, who, upon application to the administrator is determined by the administrator to be totally and permanently disabled, a participant, who before he or she earned five years of service credit, ceases to be a volunteer ambulance worker of an ambulance company whose volunteer ambulance workers are eligible to participate in the service award program in which such person participates, shall forfeit his or her service credit upon receipt by the administrator of the list described in Section 152.7 of these rules and regulations on which he or she is first indicated as having ceased to be a volunteer ambulance worker during the calendar year for which the list is prepared.

(b) If a person whose service credit was forfeited in accordance with paragraph (a) above, within the five calendar year period beginning immediately after the calendar year in which he or she ceased to be a volunteer ambulance worker, again becomes a volunteer ambulance worker of an ambulance company whose volunteer ambulance workers are eligible to participate in the program in which such person previously participated, such person's forfeited service credit shall be restored as of December thirty-first of the first calendar year in which he or she again earns a year of ambulance service credit and again becomes a participant in the program in which he or she formerly was a participant.

Section 152.11 Distributions. (a) Unless a participant elects to be paid his or her service award in an optional actuarially equivalent form on the written application for distribution he or she files with the administrator, the service award shall be paid to the participant in the form of a monthly payment straight life annuity. The amount of the monthly straight life annuity payment shall be one-twelfth (1/12) of the benefit amount times the years of ambulance service credit earned by the participant as of the effective date of the commencement of payment of his or her service award.

(b) Except as otherwise provided in this section, a participant shall be entitled to apply for and receive distribution of a service award only when the participant has acquired a Nonforfeitable right to a service award and has attained the entitlement age. A written application for distribution must be received by the administrator from a participant before payments shall commence to the participant. The participant shall, on such written application, specify the effective date of payment commencement and shall select the form of payment of his or her service award. The effective date of payment commencement shall be the first day of any month commencing within the ninety (90) day period immediately following the date the written application is received by the administrator. A participant may file a written application within the ninety (90) day period immediately preceding the date on which he or she shall have attained the entitlement age and acquired a nonforfeitable right to a service award and specify an effective date of payment commencement:

- (i) no earlier than the date of attainment of the entitlement age and acquiring a nonforfeitable right to a Service award, and
- (ii) no later than ninety (90) days after the application is filed with the administrator.

(c) The effective date of the commencement of payment of a service award to a participant shall not be on or before the last day of the first calendar year during which a participant earned a year of ambulance service credit.

(d) The administrator shall approve an application for distribution based on the terms of the sponsor's adoption agreement, the records maintained by the administrator and, in the case of disability or death, such additional records or information as the administrator may require. The administrator, in its sole discretion, may require the sponsor, the appropriate ambulance company or the participant to verify or supply any information the administrator deems necessary to determine entitlement to distribution of a service award.

(e) The number and types of optional forms of payments of a service award available under a program shall be at the sole discretion of the administrator subject to the approval of the Comptroller. Program sponsors and ambulance companies whose volunteer ambulance workers participate in a defined benefit plan service award program shall be promptly notified by the administrator in writing of any changes in the optional forms of payment. Participants shall then be promptly notified about such changes by the ambulance company. The optional forms of payment under the program are set forth in Appendix A.

(f) For determining the payments of a service award to a participant under an actuarially equivalent form of payment, the Program Actuary shall use the actuarial assumptions used to calculate the annual program costs payable by the sponsor during the calendar year in which the payments of the service award to the participant or the participant's beneficiary shall commence.

(g) No ambulance service credit may be earned by a participant after the effective date of commencement of payment of a service award to a participant. Only service credit earned before the effective date of commencement of the service award payments to a participant shall be considered when calculating a participant's service award.

(h) In the event that a participant becomes totally and permanently disabled as certified by the workers' compensation board or by any other competent authority approved by the administrator, and the disability prevents the participant from pursuing his or her normal occupation, the participant shall be entitled to apply for and receive distribution of his or her service award regardless of whether the participant has reached the entitlement age or acquired a nonforfeitable right to a service award. The participant may select one of the optional forms of payment available under the service award program in case of disability. The value of the service award shall be determined on the basis of the years of ambulance service credited to the participant as of the effective date of commencement of payment of the service award. The amount of payments shall be calculated so as to be actuarially equivalent to the present value of the payments as if they commenced at the entitlement age.

- (i) In the event of the death of a participant who has acquired a nonforfeitable right to a service award and who has not previously received distribution of any portion of his or her service award, the beneficiaries designated by the participant or, if no beneficiaries have been so designated, the participant's estate, shall be entitled to apply for and receive distribution of the participant's service award. The applicant may select one of the optional forms of payment available under the service award program in case of death. The value of the service award shall be determined on the basis of the years of ambulance service credited to the participant as of the effective date of commencement of payment of the service award. The amount of the payments shall be calculated so as to be actuarially equivalent to the present value of the payments as if they commenced at the entitlement age.

Section 152.12 Program amendment. (a) Once a service award program has been adopted, the sponsor may amend the program in the manner provided by subdivision 9 of section 219-1 of the General Municipal Law. All amendments to a service award program shall take effect on January first next succeeding the completion of the process of adopting the amendment provided by subdivision 9 of Section 219-1.

(b) The resolution authorizing the adoption of an amendment to a service award program shall include:

- (i) the name of each ambulance company having volunteer ambulance workers who are participants in the program;
- (ii) a description of the amendment;
- (iii) except in the case of a change to the activities for which points shall be granted toward a year of ambulance service credit, a statement of the effect if any, as determined by the Program Actuary, that the amendment would have on the annual cost of the program including a statement of the current and estimated future annual cost of the program.
- (iv) except in a case of a change to the activities for which points shall be granted toward a year of ambulance service, the date on which the proposition authorizing the adoption of the amendment shall be submitted to referendum.

(c) The proposition authorizing adoption of an amendment to a service award program shall identify the service award program and shall include;

- (i) a brief description of the amendment;
- (ii) an estimate of the effect, if any, as determined by the Program Actuary, that the amendment would have on the annual cost of the program, including the current and estimated future annual cost of the program; and
- (iii) the portion of any change in the estimated annual cost of the program to be borne by one or more other political subdivisions.

(d) In computing the amount of a service award, an amendment changing the program benefit amount shall be applied only to the service awards payable to participants who earn at least one year of ambulance service credit for activities performed on and after the effective date of such amendment.

Section 152.13 Program termination. (a) A defined benefit plan service award program may be terminated by the sponsor in the manner provided by subdivision 9 of section 219-1 of the General Municipal Law. The termination of a service award program shall take effect on the December thirty-first (31st) next succeeding approval by voters of the proposition to terminate the defined benefit plan service award program.

(b) The resolution authorizing the termination of a service award program shall:

- (i) List the name of each ambulance company having volunteer ambulance workers who are participants in the program to be terminated;
- (ii) the estimated one-time cost of terminating the program, as determined by the program actuary; and
- (iii) indicate the date on which the proposition authorizing the termination shall be submitted to referendum.

(c) The proposition authorizing the termination of a service award program shall identify the program and include:

- (i) a statement that the program shall be terminated; and
- (ii) an estimate of the one-time cost of terminating the program as determined by the Program Actuary.

(d) Upon the termination of a program, all participants including those then receiving payment of their service award, shall be paid a single-sum equal to the actuarial present value of the unpaid balance of their earned service award as of the date of program termination. Payment shall be made within one year of the effective date of termination.

(e) The Program Actuary shall determine the actuarial present value single-sum distributions to participants and beneficiaries using the same actuarial assumptions he or she used to calculate the annual program funding cost payable during the calendar year in which voters approved the proposition to terminate the program.

(f) The one-time cost to terminate the program shall be calculated by the Program Actuary. Such costs shall include the difference between the total cost of the single-sum distributions to participants and beneficiaries calculated by the Program Actuary, and the program assets. Such costs shall also include administrative costs. When the Comptroller is not the administrator, the administrative costs shall be determined in accordance with the service agreement between the Comptroller, the administrator and the Program Actuary. The total one-time cost to terminate the program shall be paid by the Sponsor to the administrator within one-hundred and eighty (180) days of the effective date of termination of the program.

(g) In the event that the program assets exceed the total single-sum distributions to participants and beneficiaries, all or a portion of the administrative costs of terminating the program may be paid, at the discretion of the sponsor, from the program assets.

(h) After payment of the one-time cost to terminate the program, the Program Trustee, upon notification by the administrator, shall transfer the remaining program assets to the sponsor.

(i) A participant or beneficiary may waive payment of any Service award payable to him or her from a terminated program by filing a written waiver of payment with the administrator.

Section 152.14 Notice of amendment or termination. (a) Within thirty (30) days after the amendment of any of the terms of a service award program as set forth in the adoption agreement, or the termination of the sponsor's participation in a service award program, the chief executive officer of the sponsor shall file with the Comptroller in Albany, New York, two copies of a verified notice of amendment or notice of termination which shall contain the following:

- (1) a statement of the date on which the governing board of the sponsor approved the resolution authorizing the amendment or termination of the program and the vote thereon, and a certified copy of the resolution;
- (2) in the case of termination, or if the amendment requires submission of a proposition to the electors of the sponsor, a statement of the date on which the electors approved the proposition authorizing the amendment or termination and the vote thereon, and a certified copy of the proposition; and
- (3) an opinion of legal counsel which shall:
 - (i) be addressed to the sponsor;
 - (ii) expressly provide that the administrator may rely thereon;

- (iii) state that in his or her capacity as legal counsel to the sponsor, he or she has examined originals or true and complete copies of those records, documents and other instruments necessary to render his or her opinion, including, but not limited to: the provisions of Article 11-AAA of the General Municipal Law and such other statutes as may be relevant; the resolution of the governing board of the sponsor authorizing the amendment or termination of the program; proof that the Program Actuary calculated the estimated annual cost of the amended program including administration costs or the additional costs, if any, of terminating a program; proof of any posting and publication of required notice and the certificate certifying the result of the vote on the proposition authorizing the amendment or termination of the program; and
- (iv) express his or her opinion the sponsor has undertaken all actions and proceedings required by law to amend or terminate the program.

(b) Upon receipt of a notice of amendment or a notice of termination, the Office of the State Comptroller shall forward one copy to the administrator and one copy to the Program Actuary. Within thirty (30) days of the receipt of a notice of amendment or a notice of termination, the administrator shall send to the chief executive officer of the sponsor two copies of an amended adoption agreement. The sponsor's legal counsel shall review such adoption agreement for consistency with the resolution of the sponsor's governing body authorizing the amendment and, if applicable, the proposition submitted to electors authorizing the amendment. The chief executive officer shall then execute, retain, file, and provide a copy of the amended agreement to each ambulance company, in the same manner as the original adoption agreement.

Section 152.15 Conversion to defined benefit plan. (a) A defined contribution plan service award program adopted in accordance with Article 11-AA of the General Municipal Law may be converted into a defined benefit plan service award program in accordance with Sections 219-i and 219-l of the General Municipal Law and these rules and regulations.

(b) In addition to the requirements of Section 219-l of the General Municipal Law, the resolution authorizing conversion of a service award program shall include: a statement that the purpose of the resolution is to authorize the conversion of a defined contribution plan service award program into a defined benefit plan service award program;

(c) In addition to the requirements of Section 219-1 of the General Municipal Law, the proposition authorizing the conversion of a service award program shall identify the program and include a statement that the purpose of the proposition is to authorize conversion of a defined contribution plan service award program into a defined benefit plan service award program.

(d) No person who applied for a distribution of a service award under a defined contribution plan service award program before the effective date of the conversion of the program into a defined benefit plan service award program shall be eligible for a distribution under the defined benefit plan service award program. Any distribution to such person shall be made in accordance with the provisions of the defined contribution plan service award program.

(e) All the assets within the defined contribution plan service award program trust fund on the effective date as of which a defined contribution plan service award program is converted to a defined benefit plan service award program shall be transferred to the defined benefit plan service award program trust fund and shall become the initial assets of the replacement defined benefit plan service award program. Any prior service contributions owed to the defined contribution plan service award program trust fund under the provisions of the defined contribution plan service award program by the sponsor shall no longer be payable, shall not be considered as an asset of the defined benefit plan program and shall not be considered as an asset in any calculations by the Program Actuary of the cost or costs of the defined benefit plan service award program. Except for those persons who applied for a distribution of a defined contribution plan service award before the effective date of the conversion to a defined benefit plan, no person shall have any right to payment of a defined contribution plan service award, or any claim whatsoever to the assets held within the defined contribution plan service award program trust fund.

Section 152.16 Administration. (a) Service award programs shall be administered by the State Comptroller unless the Comptroller retains or designates an administrative service agency, financial organization, and/or an actuary to administer the programs.

(b) In the event that there is a change in the identity of the administrator, the Office of the State Comptroller shall notify the chief executive officer of each sponsor of a service award program of the change.

(c) The administrator shall:

- (1) prepare standard forms of a program agreement and adoption agreement which shall be utilized by all program sponsors;
- (2) prepare and distribute all forms and documents necessary for the administration of the program;
- (3) compile and maintain all records required for the administration of the program, including records of participant accrued benefit amounts;
- (4) prepare and distribute to participants, ambulance companies and sponsors, the reports and program summaries as required by these rules and regulations;
- (5) if the Comptroller is not the administrator, prepare and furnish to the Comptroller such reports as the Comptroller may require;
- (6) record and process contributions made by program sponsors;
- (7) cooperate with the Program Actuary, and Program Trustee to ensure the effective and efficient operation of the programs, including the provision in a timely manner of such information as the Program Actuary and Program Trustee may require to exercise and perform their powers and duties.
- (8) approve applications for distributions of service awards;

- (9) record and process distributions of service awards;
- (10) withhold all taxes and prepare all tax reporting forms required by federal, state and local law; and
- (11) perform such other functions as may be required by or pursuant to Article 11-AAA of the General Municipal Law and this part.

Section 152.17 Program Actuary. (a) The Comptroller may designate a member of his staff or contract with an actuary to serve as the Program Actuary.

(b) The Program Actuary shall calculate:

- (i) the estimated annual cost and the components thereof of all proposed defined benefit plan service award programs, including defined benefit plan programs which are converted from defined contribution plan service award programs, and amendments to existing defined benefit plan programs;
- (ii) the estimated costs to terminate a defined benefit plan service award program;
- (iii) for each calendar year during which a defined benefit plan service award program is in effect, the actual cost of the program, including all components of such actual cost;
- (iv) the amount of all actual distributions of service awards, including all amounts payable under actuarially equivalent forms of payment of service awards;
- (v) any other amounts, costs or actuarial present values related to a defined benefit plan service award program requested by the Comptroller, the Program Trustee or required by statute, rule or regulation or by generally accepted actuarial or accounting practices applicable to volunteer ambulance workers' defined benefit plan service award programs.

(c) The Program Actuary shall disclose the actuarial assumptions and actuarial methodology used to calculate the estimated and annual costs of a defined benefit plan service award program to the Comptroller and the Program Trustee. In addition, the Program Actuary shall upon request calculate and/or disclose any other information to the Program Trustee or the Comptroller.

(d) The Program Actuary shall cooperate with the administrator and Program Trustee to ensure the effective and efficient operation of the programs, including the provision in a timely manner of such information as the administrator and Program Trustee may require to exercise and perform their powers and duties.

Section 152.18 Program Trustee. (a) The Comptroller may designate himself or herself as Program Trustee or the Comptroller may contract with a financial organization or administrative service agency to serve as Program Trustee.

(b) The Program Trustee shall:

- (i) hold the assets of the programs in trust;
- (ii) receive and process contributions to the trust in a timely manner;
- (iii) invest the assets of the trust;
- (iv) determine the fair market value of the trust estate as of each valuation date as defined in the program agreement, commencing with December 31, 2000.
- (v) make payments approved by the administrator to program participants and their beneficiaries, and other approved disbursements from the trust fund.
- (vi) provide the administrator and Program Actuary with such information as may be necessary to enable the administrator and Program Actuary to prepare the annual reports for sponsors and annual participant statements provided for in these rules and regulations and program agreement, including the reports and statements required for calendar year 2000;
- (vii) provide the administrator and Program Actuary with such information as may be necessary to enable the administrator and Program Actuary to withhold all appropriate taxes and prepare and file all tax reporting forms required by federal, state and local law; and
- (viii) cooperate with the administrator, Program Actuary and the Comptroller to ensure the effective and efficient operation of the programs. In furtherance of this purpose, the Program Trustee shall provide in a timely manner such information as the administrator and Program Actuary may require to exercise and perform its powers and duties under the General Municipal Law, these rules and regulations and the program agreement. The Program Trustee shall also provide in a timely manner such information as the Comptroller may require to monitor the operation of the programs.

Section 152.19 Program document. (a) The administrator shall provide the chief executive officer of each sponsor with a copy of the defined benefit plan service award program document. Such program document shall consist of a copy of the program agreement, the trust agreement, and adoption agreement, as amended.

(b) The administrator shall prepare, maintain and may amend the program agreement. The program agreement shall set forth the rights and obligations of sponsors, volunteer ambulance workers, participants and beneficiaries of participants, and procedures for the administration of programs. The program agreement and any amendments thereto shall be consistent with the provisions of Article 11-AAA of the General Municipal Law and the provisions of these rules and regulations, as amended. If the program agreement is prepared by an administrative service agency or a financial organization, the program agreement and any amendments thereto shall not take effect until approved by the Comptroller.

(c) The Comptroller shall prepare and/or amend the trust agreement pursuant to subdivision 4 of Section 219-p of the General Municipal Law. The Comptroller may, however, direct the Program Trustee to prepare and/or amend the trust agreement subject to review and approval by the Comptroller. The Comptroller shall provide to the administrator a copy of the trust agreement and any amendments thereto.

(d) The adoption agreement shall be prepared by the administrator and the sponsor as provided in Section 152.5 of these rules and regulations.

Section 152.20 Reports. (a) On or before September thirtieth (30th) of each year, the administrator shall provide to each sponsor a report which shall include, but not be limited to, the following information for the sponsor for the preceding calendar year:

- (1) the total value of program assets as of January first (1st);
- (2) the total amount contributed to the program by the sponsor;
- (3) the total amount of trustee expenses charged against program assets;
- (4) the total amount of administrative expenses charged against program assets;
- (5) the total amount of interest and investment earnings credited to program assets;
- (6) the total amount of investment losses charged to program assets;
- (7) the total amount of distributions;
- (8) the total value of program assets as of December thirty-first (31st);
- (9) the actuarially determined normal cost and prior service cost for the preceding calendar which is payable by the sponsor in the current calendar year;
- (10) the administration costs payable in the current calendar year;
- (11) the names of persons paid service awards during the preceding calendar year as well as the amount paid to each person during such year;
- (12) the names and earned service credit of all persons who were participants in the program, including those in pay status or pending pay status, as of December thirty-first of such preceding calendar year along with a statement setting forth of each person's status in the program as of such date;

- (13) the names of those active volunteer ambulance workers who were not participants as of December thirty-first of such preceding calendar year; and
- (14) the projected annual program costs for each year within the five calendar year period next following the current calendar year.

(b) On or before September thirtieth (30th) of each year, the administrator shall provide to each ambulance company, and immediately thereafter each ambulance company shall provide to each participant who is a member of the company, a confidential statement for the preceding calendar year which shall include, but shall not be limited to, the following information for the participant:

- (1) name;
- (2) address;
- (3) social security number;
- (4) date of birth;
- (5) number of years of ambulance service credited as of December thirty-first (31st);
- (6) the amount of any death or disability benefit payable as of December thirty-first (31st) to the participant or the participant's beneficiary;
- (7) whether the participant had a nonforfeitable right to a service award as of December thirty-first;
- (8) a statement as to the number of years of ambulance service required for the participant to acquire a nonforfeitable right to a service award.
- (9) name(s) of the beneficiaries designated by the participant;
- (10) a description of the sponsor report;
- (11) the name and address of the person to whom the sponsor report was mailed from whom they may obtain a copy of such report;
- (12) the name of the person in the ambulance company who submitted information about the participant to the administrator;
- (13) the procedure for correcting information shown on the statement.

Section 152.21 Disclosure. (a) Not later than six months after a volunteer ambulance worker becomes a participant in a service award program, the administrator shall provide to the ambulance company of which the participant is a member, and promptly thereafter the Ambulance company shall provide to the participant, a summary of the program's provisions as adopted by the sponsor of the program.

(b) In the event that a service award program is amended, the administrator shall provide to each ambulance company a copy of the amendment and a written non-technical explanation of such amendment within six (6) months after the date on which the amendment takes effect and promptly thereafter each ambulance company shall provide a copy of the amendment and explanation to each participant who is a volunteer ambulance worker of the ambulance company.

Section 152.22 Standards for selecting service providers. (a) When selecting an administrative service agency or financial organization to serve as administrator, the following standards shall be utilized:

- (1) the entity's experience with defined benefit plans and/or service award programs;
- (2) the entity's ability to perform the required duties; and
- (3) the cost of services to be provided by the entity.

(b) When selecting an administrative service agency or financial organization to serve as Program Trustee or a financial organization to invest program funds, the following standards shall be utilized:

- (1) the standards set forth in subdivision (a) of this section;
- (2) the entity's investment expertise;
- (3) the capitalization of the entity;
- (4) the entity's creditworthiness.

(c) When selecting the Program Actuary, the following standards shall apply:

- (1) the standards set forth in subdivision (a) of this section;
- (2) the professional credentials of the person applying to be retained as the Program Actuary.

Section 152.23 Acknowledgment. (a) Each actuary, administrative service agency or financial organization selected to provide services in connection with service award programs shall contractually agree to discharge its duties as a fiduciary to service award programs. In addition, when a financial organization is selected to perform duties in connec-

tion with investment matters, it shall contractually agree to discharge its duties as a fiduciary in accordance with the prudent expert standard of care.

Section 152.24 Solicitation, education and confidentiality. (a) No financial organization, administrative service agency or actuary, nor any of their agents, shall solicit a volunteer ambulance worker to purchase any products made available by such financial organization, administrative service agency or actuary other than in connection with the program, nor use information obtained by reason of its appointment as a financial organization, administrative service agency, or actuary to solicit volunteer ambulance workers with respect to such other products.

(b) Educational materials designed to acquaint volunteer ambulance workers with the benefits of the program may be provided by the financial organization, administrative service agency, or actuary upon prior approval by the Office of the State Comptroller. In addition, at the time of distribution of a service award, an administrative service agency, financial organization, or actuary may include with the distribution written information concerning the potential tax consequences of the distribution and generic categories of investment options. Such information may contain a statement indicating that additional information may be obtained from the administrative service agency, financial organization, or actuary or their agents and from other financial institutions, but in all cases such information shall also contain a clear and prominent statement that the Office of the State Comptroller does not review, approve, endorse or recommend, and is not in any way involved with, any financial instrument, product or service offered by or acquired through, an administrative service agency, financial organization, or actuary or their agents, or any other financial institution.

(c) Except as otherwise provided by law, all information obtained under the program by the sponsor, an ambulance company, an administrative service agency, financial organization, or actuary shall be confidential and shall be used exclusively for purposes relating to the program.

Section 152.25 Auditing. (a) The program records held by the administrator and the Program Trustee shall be audited by an independent certified public accounting firm selected and retained by the Comptroller of recognized standing in the industry. The frequency of the audits shall be at the discretion of the Comptroller; provided however, the Comptroller shall have an audit performed at least once in every five consecutive calendar year period beginning with the five year period commencing in calendar year 2000. Financial statements shall include the status of investments, a valuation of each investment and a valuation of investment holdings in the aggregate. The audit shall be performed in accordance with generally accepted auditing standards and financial statements shall be prepared in accordance with generally accepted accounting principles. Marketable securities shall be valued at market value.

APPENDIX A

Optional Forms of Payment of Service Awards

1. There shall be two forms available for payment of Service Awards commencing on or after attainment of the entitlement age:
 - (a) a monthly payment straight life annuity (standard form).
 - (b) a five or ten (10) year continuous and certain monthly payment life annuity which is actuarially equivalent to the monthly payment straight life annuity (standard form).
2. There shall be two forms available for payment to participants who upon application to the administrator have been determined by the administrator to be totally and permanently disabled:
 - (a) monthly payment straight life annuity; or
 - (b) a single lump sum.

Both forms of payment shall be actuarially equivalent to the monthly straight life annuity (standard) form of payment that would have commenced to the participant on the first day of the month following or coinciding with the participant's sixty-fifth (65) birthday.

3. Forms available for payment of service awards to beneficiaries of deceased participants:
 - (a) If the beneficiary is the participant's estate, payment shall be a single lump-sum which shall be actuarially equivalent to the monthly straight life annuity (standard) form of payment that would have commenced to the participant on the first day of the month following or coinciding with the participant's sixty-fifth (65) birthday or actuarially equivalent to any continuing payments to the participant's designated beneficiary had the participant been being paid a service award at the time of his or her death and had the participant designated a person (or persons) to be his or her beneficiary.
 - (b) If the participant died before the effective date of the commencement of payment of his or her service award, the payments to the participant's designated beneficiary, which shall be actuarially equivalent to the monthly straight life annuity (standard) form of payment that would have commenced to the participant on the first day of the month following or coinciding with the later of the participant's sixty-fifth (65) birthday or the participant's date of death, shall be in one of the following forms:
 - (i) monthly payment straight life annuity; or
 - (ii) a single, lump sum.

- (c) If the participant died after the effective date of the commencement of payment of his or her service award, the participant's designated beneficiary shall have the option to be paid:
 - (i) the remaining monthly service award payments due to the designated beneficiary under the optional form of payment selected by the participant; or
 - (ii) a single, lump-sum which is actuarially equivalent to the remaining monthly service award payments due to the designated beneficiary under the optional form of payment selected by the participant.
- 4. In all cases where the monthly payments to a participant or a beneficiary under a monthly payment straight life annuity form of payment option shall be less than \$50, payment shall be made in an actuarially equivalent single, lump-sum to the participant or the participant's designated beneficiary (applies to 1, 2, and 3 above).
- 5. In any case where a deceased participant's designated beneficiary dies before having received all service award payments that would have been made to such designated beneficiary had he or she survived, the remaining payments shall be made to the estate of such designated beneficiary in an actuarially equivalent lump-sum.