

SERIAL 12011 RFP EMPLOYEE BENEFITS CONSULTING SERVICES

DATE OF LAST REVISION: March 13, 2013 CONTRACT END DATE: March 31, 2018

CONTRACT PERIOD THROUGH MARCH 31, 2018

TO: All Departments
FROM: Office of Procurement Services
SUBJECT: Contract for **EMPLOYEE BENEFITS CONSULTING SERVICES**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **March 13, 2013**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Chief Procurement Officer
Office of Procurement Services

SD/mm
Attach

Copy to: Office of Procurement Services
Meg Blankenship, Business Strategies and Health Care
Chris Bradley, Business Strategies and Health Care

(Please remove Serial 05146-RFP from your contract notebooks)

EXHIBIT A

PRICING

SERIAL 12011-RFP
 PRICING SHEET NIGP CODE 91840

BIDDER NAME:	<u>Mercer Health & Benefits LLC</u>
VENDOR #:	<u>20110021700</u>
BIDDER ADDRESS:	<u>2325 E. Camelback Rd., #600, Phoenix, AZ 85016</u>
P.O. ADDRESS:	<u>P.O. Box 100260, Pasadena, CA 91189-0260</u>
BIDDER PHONE #:	<u>602-522-6488</u>
BIDDER FAX #:	<u>602-522-6499</u>
COMPANY WEB SITE:	<u>www.mercer.com</u>
COMPANY CONTACT (REP):	<u>Patricia A. Cole, Principal</u>
E-MAIL ADDRESS (REP):	<u>patricia.a.cole@mercercor.com</u>

ACCEPT PROCUREMENT CARD: YES

PAYMENT TERMS: NET 30

1.0 PRICING:

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
1.1 ALL INCLUSIVE YEARLY RETAINER FOR ALL SERVICES PROPOSED IN SECTION 2.1 THROUGH AND INCLUDING 2.15	<u>\$170,000</u>	<u>\$176,000</u>	<u>\$182,000</u>	<u>\$188,000</u>	<u>\$194,000</u>

RATE CAPS FOR YEARS 6-10

1.2 RATE CAPS FOR ALL INCLUSIVE YEARLY RETAINER FOR ALL SERVICES PROPOSED IN SECTION 2.1 THROUGH AND INCLUDING 2.15	3%	3%	3%	3%	3%
1.3 HOURLY RATES FOR WORK OUTSIDE RETAINER	<u>\$ 470</u>	<u>\$ 484</u>	<u>\$ 499</u>	<u>\$ 514</u>	<u>\$ 829</u>
1.3.1 DIRECTOR OF CONSULTING	<u>\$ 440</u>	<u>\$ 454</u>	<u>\$ 467</u>	<u>\$ 481</u>	<u>\$ 625</u>
1.3.2 SENIOR CONSULTANT	<u>\$ 375</u>	<u>\$ 386</u>	<u>\$ 398</u>	<u>\$ 517</u>	<u>\$ 533</u>
1.3.3 CONSULTANT	<u>\$ 325</u>	<u>\$ 335</u>	<u>\$ 345</u>	<u>\$ 355</u>	<u>\$ 366</u>
1.3.4 ASSOCIATE	<u>\$ 250</u>	<u>\$ 258</u>	<u>\$ 265</u>	<u>\$ 345</u>	<u>\$ 355</u>
1.3.5 ANALYST	<u>\$ 175</u>	<u>\$ 180</u>	<u>\$ 185</u>	<u>\$ 190</u>	<u>\$ 195</u>

1.2.6 ADMINISTRATIVE SUPPORT	<u>\$ 80</u>	<u>\$ 82</u>	<u>\$ 85</u>	<u>\$ 87</u>	<u>\$ 90</u>
1.4 RATE CAPS ON HOURLY RATES	RATE CAPS FOR YEARS 6-10				
	3%	3%	3%	3%	3%
OPTIONAL					
1.5 PRICE FOR LICENSED BENEFIT CONSULTING, PER 30 MINUTE APPOINTMENT	\$TBD	PER APPOINTMENT			
1.6 DATA WAREHOUSE SERVICES					
1.6.1 IMPLEMENTATION	\$71,000.00				
1.6.2 IMPLEMENTATION OF COHORT DATABASE	\$8,000				
1.6.3 IMPLEMENTATION FOR ADDITIONAL COHORT FEEDS	\$1,000				
1.6.4 ANNUAL FEES	\$115,000.00	\$115,000.00	\$115,000.00	\$115,000.00	\$115,000.00
1.6.5 ACCESS TO NET EFFECT TOOL	\$17,000				

PRICING SHEET: NIGP CODE 91840

Vendor Number: 2011002170 0

Certificates of Insurance Required

Contract Period: To cover the period ending **March 31, 2018.**



CONTRACT PURSUANT TO RFP

SERIAL 12011-RFP

This Contract is entered into this 13th day of March, 2013 by and between Maricopa County ("County"), a political subdivision of the State of Arizona, and Mercer Health & Benefits LLC, an Arizona corporation ("Contractor") for the purchase of various consulting services.

1.0 CONTRACT TERM:

- 1.1 This Contract is for a term of Five (5) years, beginning on the 13th day of March, 2013 and ending the 31st day of March, 2018.
- 1.2 The County may, at its option and with the agreement of the Contractor, renew the term of this Contract for additional terms up to a maximum of Five (5) years, (or at the County's sole discretion, extend the contract on a month-to-month bases for a maximum of six (6) months after expiration). The County shall notify the Contractor in writing of its intent to extend the Contract term at least thirty (30) calendar days prior to the expiration of the original contract term, or any additional term thereafter.

2.0 PAYMENTS:

- 2.1 As consideration for performance of the duties described herein, County shall pay Contractor the sum(s) stated in Exhibit "A."
- 2.2 Payment shall be made upon the County's receipt of a properly completed invoice.

2.3 INVOICES:

2.3.1 The Contractor shall submit one (1) legible copy of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract serial number
- County purchase order number
- Invoice number and date
- Payment terms
- Date of services
- Quantity
- Contract Item number(s)
- Description of service provided
- Pricing per unit of service
- Extended price
- Total Amount Due

- 2.3.2 Problems regarding billing or invoicing shall be directed to the County as listed on the Purchase Order.
- 2.3.3 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (E7FT) process. After Contract Award the Contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration Web Site (<http://www.maricopa.gov/Finance/Vendors.aspx>).
- 2.3.4 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

3.0 AVAILABILITY OF FUNDS:

- 3.1 The provisions of this Contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor as herein provided are actually available to County for disbursement. The County shall be the sole judge and authority in determining the availability of funds under this Contract. County shall keep the Contractor fully informed as to the availability of funds.
- 3.2 If any action is taken by any state agency, Federal department or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this Contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this Contract. In the event of termination, County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this Contract. County shall give written notice of the effective date of any suspension, amendment, or termination under this Section, at least ten (10) days in advance.

4.0 DUTIES:

- 4.1 The Contractor shall perform all duties stated in Exhibit "B", or as otherwise directed in writing by the Procurement Officer.
- 4.2 During the Contract term, County shall provide Contractor's personnel with adequate workspace for consultants and such other related facilities as may be required by Contractor to carry out its contractual obligations.

5.0 TERMS and CONDITIONS:

5.1 INDEMNIFICATION AND LIMITATION OF LIABILITY:

- 5.1.1 To the fullest extent permitted by law, each party ("Indemnifying Party") shall defend, indemnify, and hold harmless the other party, its agents, representatives, officers, directors, officials, and employees ("Indemnitees") from and against all claims, actions and proceedings ("Claims"), and any resulting settlement amounts, damages, costs, losses and expenses, including, but not limited to, reasonable attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, ("Claim Costs"), for any death, bodily injury or tangible, physical property damage to the extent relating to, arising out of, or alleged to have resulted from the negligent or intentionally wrongful acts errors, omissions, mistakes or malfeasance of the Indemnifying Party, as well as any person or entity Indemnitee may be legally liable relating to the performance of this Contract. Contractor's duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, caused by any negligent acts, errors, omissions or mistakes in the performance

of this Contract by the Contractor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.

- 5.1.2 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.
- 5.1.3 The scope of this indemnification does not extend to any negligence or willful misconduct of any Indemnatee..
- 5.1.4 Notwithstanding anything else herein to the contrary, the liability of the Contractor on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Contract or any Purchase Order issued thereunder shall be limited to the amount of fees paid or owing to Contractor under the Contract or Purchase Order giving rise to the actions(s), damage(s), claim(s), liability(ies), cost(s), expenses(s), and/or loss(es). In no event shall Contractor be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs). This section shall apply regardless of the form of action, damage, claim, liability, cost, expense or loss asserted, whether in contract, statute, tort (including but not limited to negligence) or otherwise.

5.2 INSURANCE REQUIREMENTS:

- 5.2.1 Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of A-, VII or higher. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.
- 5.2.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed in accordance with the contract and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.
- 5.2.3 Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.
- 5.2.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.
- 5.2.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- 5.2.6 County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance certificates. County shall not be obligated to review policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.

5.2.7 The insurance policies required by this Contract, except Workers' Compensation, and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

5.2.8 The policies required hereunder, except Workers' Compensation, and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.

5.2.9 Commercial General Liability.

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

5.2.10 Automobile Liability.

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.

5.2.11 Workers' Compensation.

5.2.11.1 Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

5.2.11.2 Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract.

5.2.12 Certificates of Insurance.

Prior to commencing work or services under this Contract, Contractor shall have insurance in effect as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall be made available to the County upon 48 hours notice. BY SIGNING THE AGREEMENT PAGE THE CONTRACTOR AGREES TO THIS REQUIREMENT AND UNDERSTANDS THAT FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF THIS CONTRACT.

5.2.12.1 In the event any insurance policy (ies) required by this Contract is (are) written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

5.2.12.2 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

5.2.13 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

5.3 WARRANTY OF SERVICES:

5.3.1 The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications and attachments made a part of this Contract. County's acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.

5.3.2 In addition to its other remedies, County may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished hereunder.

5.4 INSPECTION OF SERVICES:

5.4.1 The Contractor shall provide and maintain an inspection system acceptable to County covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to County during contract performance and for as long afterwards as the Contract requires.

5.4.2 County has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. County shall perform inspections and tests in a manner that will not unduly delay the work.

5.4.3 If any of the services do not conform with Contract requirements, County may require the Contractor to perform the services again in conformity with Contract requirements, at an increase in Contract amount. When the defects in services cannot be corrected by re-performance, County may:

5.4.3.1 Require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; and

5.4.3.2 Reduce the Contract price to reflect the reduced value of the services performed.

5.4.4 If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, County may:

5.4.4.1 By Contract or otherwise, perform the services and charge to the Contractor any cost incurred by County that is directly related to the performance of such service; or

5.4.4.2 Terminate the Contract for default.

5.5 NOTICES:

All notices given pursuant to the terms of this Contract shall be addressed to:

For County:

Maricopa County
Office of Procurement Services
ATTN: Contract Administration
320 West Lincoln Street
Phoenix, Arizona 85003-2494

For Contractor:

Mercer Health & Benefits LLC
2325 E. Camelback Road, #600
Phoenix, AZ 85016

5.6 TERMINATION FOR CONVENIENCE:

The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the County without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the County. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

5.7 TERMINATION FOR DEFAULT:

5.7.1 In addition to the rights reserved in the Contract, the County may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

5.7.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County on demand.

5.7.3 The County may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the County for any excess costs incurred by the County in procuring materials or services in substitution for those due from the Contractor.

5.7.4 The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

5.8 TERMINATION BY THE COUNTY:

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate the Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of a substantial violation of any provision of this Contract, then the County may terminate the Contract. Prior to termination of the Contract, the County shall give the Contractor fifteen- (15) calendar day's written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

5.9 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. §38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S §38-511 the County may recoup any fee or commission paid or due to any person

significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

5.10 OFFSET FOR DAMAGES;

In addition to all other remedies at law or equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this contract.

5.11 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete products and/or services provided under this Contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If additional services and/or products are required from this Contract, prices for such additions will be negotiated between the Contractor and the County.

5.12 RELATIONSHIPS:

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the District and the Contractor.

5.13 SUBCONTRACTING:

The Contractor may not assign this Contract or subcontract to another party for performance of the terms and conditions hereof without the written consent of the County, which shall not be unreasonably withheld. All correspondence authorizing subcontracting must reference the Proposal Serial Number and identify the job project.

5.14 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

5.15 ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:

5.15.1 In accordance with section MCI 367 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

5.15.2 If the Contractor's books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

5.16 AUDIT DISALLOWANCES:

If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to

adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

5.17 ALTERNATIVE DISPUTE RESOLUTION:

5.17.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such arbitration is not binding and the parties are entitled to pursue the matter in state or federal court sitting in Maricopa County for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure. Within ten (10) days of the completion of the hearing the arbitrator(s) shall:

5.17.1.1 Render a decision;

5.17.1.2 Notify the parties that the exhibits are available for retrieval; and

5.17.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).

5.17.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.

5.17.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

5.18 SEVERABILITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

5.19 RIGHTS IN DATA:

The County shall own have the use of all data and reports resulting from this Contract without additional cost or other restriction except as provided by law. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

5.20 INTEGRATION:

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

5.21 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

5.21.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.

5.21.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 5.21.1 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

5.22 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.06 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN:

5.22.1 By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract.

5.22.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

5.23 CONTRACTOR LICENSE REQUIREMENT:

5.23.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both Office of Procurement Services and the using agency of any and all changes concerning permits, insurance or licenses.

5.24 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

5.24.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

5.24.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

5.24.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

5.24.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

5.24.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

5.24.2 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contact.

5.24.3 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

5.25 PRICES:

Contractor warrants that prices extended to County under this Contract are no higher than those paid by any other customer for these or similar services.

5.26 MISCELLANEOUS CONTRACTOR REQUIREMENTS:

5.26.1 Hourly rates are to be all inclusive to include general office supplies, faxes, local travel expenses and general administrative functions. Local travel is defined as a 50 mile radius within the address of 301 W. Jefferson St., Phoenix, Arizona 85003.

5.26.2 Unless previously approved in writing by the County, no payment shall be made for miscellaneous charges for ordinary and customary services (i.e., copying, printing, mileage, parking, courier charges, telephone or fax charges). Such charges are considered overhead and are part of the hourly rates agreed to,. (See attachment A).

5.26.3 All costs over \$500.00 must be pre-approved.

5.27 GOVERNING LAW:

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona

5.28 ORDER OF PRECEDENCE:

In the event of a conflict in the provisions of this Contract and Contractor's license agreement, if applicable, the terms of this Contract shall prevail.

5.29 INFLUENCE

As prescribed in MC1-1202 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct, may be grounds for Disbarment or Suspension under MC1-902.

An attempt to influence includes, but is not limited to:

5.29.1 A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,

5.29.2 That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.

If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

5.30 INCORPORATION OF DOCUMENTS:

The following are to be attached to and made part of this Contract:

5.30.1 Exhibit A, Pricing;(See second page)

5.30.2 Exhibit B, Scope of Work, Consulting Services;

5.30.3 Exhibit B-1, Scope of Services data Warehouse Services

5.30.4 Exhibit C, HIPAA Agreement

IN WITNESS WHEREOF, this Contract is executed on the date set forth above.

CONTRACTOR

Patricia Cole
AUTHORIZED SIGNATURE

Patricia Cole, Principal
PRINTED NAME AND TITLE

2325 E. Camelback Rd. Phoenix, AZ
ADDRESS

3/12/13
DATE

MARICOPA COUNTY

[Signature]
CHAIRMAN, BOARD OF SUPERVISORS

MAR 25 2013
DATE

ATTESTED:

[Signature]
CLERK OF THE BOARD 03/13/13

MAR 25 2013
DATE

APPROVED AS TO FORM:

[Signature]
LEGAL COUNSEL

3/20/13
DATE

DEPUTY MARICOPA COUNTY ATTORNEY

EXHIBIT B

SCOPE OF WORK, CONSULTING SERVICES

1.0 Intent:

To provide Maricopa County with a contract with a national employee-benefit consulting firm for a broad range of consulting services, in the management of its employee health and welfare benefits programs..

2.0 SCOPE OF WORK: (all services in sections 2.1 through 2.15 shall be all inclusive on a fixed annual fee).

2.1 Consultants will be expected to provide services in the following areas:

- Benefit plan designs and complimentary benefit programs for active and retired employees
- Benefit actuarial services/pricing, projections & reserving
- Local, State, and Federal regulatory interpretation
- Claims experience and utilization reviews
- Advise on contracting and compliance
- Insurance design, risk retention, funding methods and vehicles
- All Benefit Plan Modeling as requested by County.
- Input and assistance in drafting Solicitations and assistance in the analysis of proposals.
- Employee benefit and related employee communications.

Agreed. As the County’s current consultant, Mercer has been providing the above services. The following response will provide more detail on our approach for delivering our Scope of Services.

2.2 Attend monthly, semi monthly or weekly meetings with various vendors under County contract on County’s behalf at the County’s request.

Agreed. Mercer will attend monthly, semimonthly or weekly meetings with vendors under the County contract on the County’s behalf at the County’s request. More importantly, Mercer will assist the County in managing its vendor relationships. The current Mercer Account Management team has worked collaboratively with the County, proactively managing vendor deliverables, timely resolution of ongoing claims and member service issues, and requiring Senior Management accountability for overall service levels to the County.

2.3 Provide editorial and compliance review of County-produced benefit communications.

Agreed. Mercer will provide editorial, technical and compliance review of County produced benefit communications as part of our basic communication support services.

However, development of a comprehensive employee communications strategy and branding, drafting of new employee communication materials (including benefit brochures and summary plan descriptions) and the services of a Mercer “expert” to lead or speak at employee presentations, would be priced as project work outside of core services depending on the extent of the County’s needs for these communication services and number of employee meetings.

2.4 Advise the County on short-term and long-term direction of benefits plan design and funding.

Agreed

The process used included the following:

Benefit strategy and planning

- Facilitating discussions on emerging trends and potential impact to the County
- Identifying key issues, objectives and critical success factors
- Identifying major constraints and obstacles to attaining objectives (e.g., budget, service delivery model, systems, etc.)
- Providing competitive benchmarking information
- Assessing administrative and technological resources to support benefit plans

Financial and data analysis

- Performing self-funded cost projections and renewal rate calculations
- Performing retention (expense) analysis
- Conducting actuarial claim lag studies
- Calculating incurred but not reported (IBNR), waiver of premium and disabled claim reserves

Plan design and pricing

- Identifying “best-fit” plan options, including a review of consumer-driven options
- Pricing benefit modifications
- Modeling employee contributions
- Analyzing employee demographics

Reviewing other types of carve-out health programs, such as behavioral health, health and productivity, and pharmacy benefit manager (PBM)

2.5 Identify competitive plan features through benchmarking of local and regional employers among which the County competes for labor, based on counties request.

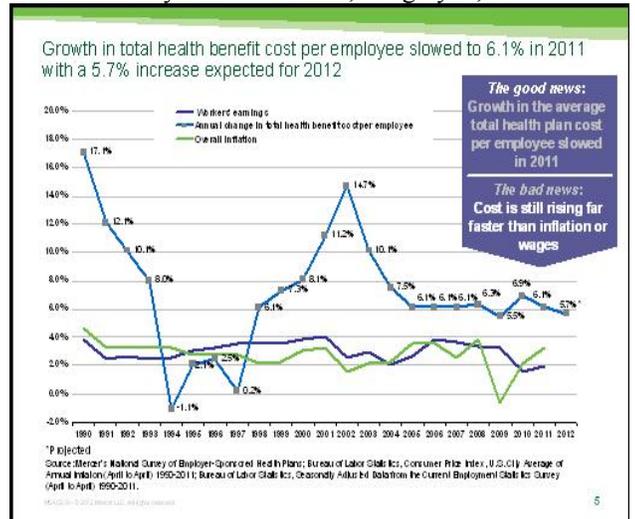
Agreed. As a key part of developing your strategy, Mercer has extensive resources and tools to assist the County in assessing and benchmarking its plans relative to the market and its competitors. Because Mercer has access to data from a wide range of clients and deep knowledge of particular industries, our capacity to benchmark benefit programs is exceptional. Our databases and surveys include benefit plan information from leading companies throughout the United States (US) and the world. Following are some of the key databases and tools we have used to benchmark your plans.

Mercer National Survey of Employer-Sponsored Health Plans

Mercer’s annual National Survey of Employer-Sponsored Health Plans is the premier source of health benefit data for employers and the health care industry alike. In 2011, roughly 3,000

employers participated in the survey. The survey focuses on medical benefits, including prescription drugs. It also contains competitive information on dental, retiree medical, wellness and health management best practices and strategic approaches being considered by employers of all sizes.

A member of the Mercer core team for the County will complete the survey on the County’s behalf, which will enable us to provide customized reports based on selected cuts of data. Mercer’s Benchmark Wizard uses survey data to create custom health care cost benchmarks that reflect multiple employer and plan attributes.



Survey on Health, Productivity and Absence Management

With the growing recognition that workforce health is inextricably linked to productivity and absence, Human Resource (HR) professionals are exploring more integrated approaches to managing health, absence and disability programs. The Survey on Health, Productivity and Absence Management sheds light on the growing use of program management initiatives and plan integration – and resulting improvements in administrative efficiency and cost control. It is the largest and most comprehensive survey on the topic.

Client Pulse Survey



Mercer Pulse surveys give us the ability to tell clients what other Mercer clients are doing to manage their health care benefits program. This up-to-the-minute data makes the Client Pulse survey a valuable supplement to the National Survey of Employer-Sponsored Health Plans in that they look ahead to the upcoming plan year, focusing on employer actions, while the National Survey describes the plan year in which it was conducted. Unlike the National Survey, which uses a probability sample and represents all employer health plan sponsors in the US, the Pulse survey summarizes the activity of over 800 Mercer clients.

Ongoing Special or Targeted Surveys

Mercer is continually helping its clients leverage our size to provide timely survey data through emerging technologies. Online surveys, the availability of “conjoint analysis” preference research tools and health reform custom surveys targeted at certain industries are just a few recent examples of our ongoing commitment to leading-edge benchmarking resources.

Additionally, through our national resources, we have access to a large library of survey and benchmarking information covering all aspects of human resources, including the annual US Chamber of Commerce Survey, which is useful for reviewing benefits as a percentage of payroll. We have dedicated research staff that provide survey and benchmark information for us to answer ad hoc questions from clients on a variety of HR- and benefits-related issues.

2.6 Provide actuarial cost projections for various plan feature changes and improvements.

Agreed. Mercer employs 450 actuarial and financial consultants – 105 of whom are credentialed actuaries. Over 15 actuaries are located in the Phoenix office. Our actuaries and financial specialists provide best-in-industry approaches to evaluating the impact of plan design and pricing changes; projecting annual and multi-year cost trends; tracking results against budget; and setting reserves. Their knowledge helps us determine whether carriers are providing the right assumptions for renewing medical, life, disability and specialized coverages, such as stop-loss coverage. Their experience is also helpful for identifying major cost drivers and validating the impact of new innovations.

Mercer Actuarial Financial Group (AFG) – All of Mercer’s actuarial consulting is supported on a national level by the AFG, a group staffed by Mercer’s most senior actuaries. They issue guidance and standards of practice for application by all Mercer staff in their client work.

The AFG ensures that Mercer’s actuarial advice is reflective of current actuarial practices; adheres to standards outlined by the American Academy of Actuaries; reflects Mercer’s best thinking; and undergoes appropriate peer review. The AFG is ultimately responsible for the development of proprietary financial tools for the use of the actuaries in each office. Actuarial services will be provided to the County by Ann Marie Janusek and Kevin Russell.

When performing the critical actuarial work for the County, Mercer and the County have created reports, such as the IBNR Reserve Report, in the County’s prescribed format to assist the County in monitoring the overall financial health of the employee benefit program. The format for this report is not industry standard for employers and is much more research and data intensive. However, due to the County’s history of overseeing the management of a health plan that had undesirable financial outcomes and consequences, this report has been specifically requested by the County. Please note: this report is provided on an annual basis to the County.

2.7 Provide advice and interpretation on all local, state, and federal benefit regulations.

Agreed. While Mercer is not a law firm and cannot offer legal advice, we take great pride in our team of compliance professionals who monitor and advise our clients on key state and federal legislation and regulations, as well as key judicial and other legal developments. Our services are grounded in the advice we receive from our Washington Resource Group (WRG) and Information Research Center (IRC), a national legal resource group of more than 30 lawyers and a number of other legal professionals and information specialists who continually monitor developing legislative issues and communicates the potential impact on benefit programs.

Mercer’s WRG produces several information services to help Mercer consultants and clients stay current on major legal and legislative issues. These services are highlighted below.

Mercer Select. News, reports and analyses of legislative, regulatory and judicial developments and issues affecting retirement, health care, compensation, employment and other HR programs.

Alerts. Notifies clients and prospects about important breaking news and developments. These are delivered within hours of breaking news. Short summaries of developments on important business-specific issues, Alerts are published quickly as an event occurs or issue emerges.

GRIST. GRIST is a family of products published by WRG lawyers and technical experts covering major legislative, regulatory and judicial issues and developments affecting employee benefits, compensation and HR issues. GRIST provides notification and analysis in three forms depending on the complexity and urgency of the material. GRIST Alerts are short summaries published quickly as an event occurs or an issue emerges; GRIST Reports are overviews of an issue or event; and GRIST InDepths provide detailed analysis. Mercer Select members receive GRIST via email according to areas of interest.

Perspectives. Provides clients and prospects with value-added analyses and viewpoints on benefit policy and business issues. Topics are connected to major business and consulting issues. Mercer businesses each prepare and publish Perspectives as developments warrant – generally four to six times per year.

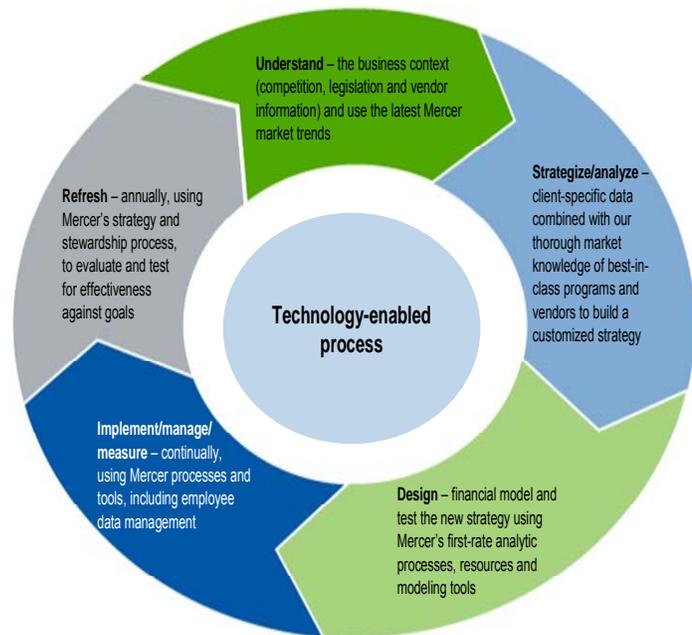
Updates. Provides clients and prospects with additional information – summaries, implications and Mercer’s perspectives – on recent health and benefit developments. Updates will be distributed as soon as possible, but usually within 2–10 days of the driving event.

Today’s Headlines. For members of Mercer Select, Today’s Headlines provides access to benefit, compensation and HR articles published in major newspapers, periodicals, wire services and websites. Articles are selected from national newspapers and magazines and also contain articles from benefit industry organizations.

2.8 Advise the County in establishing strategic goals with respect to employee benefits and wellness, develop strategies to achieve strategic goals, and measure performance, including results (outcomes). Assist in ongoing management of vendor contract compliance.

Agreed. Mercer applies a Five-Step Consulting Process to all strategic client engagements. Comprising of proprietary and proven guidelines, tools and resources, this process enables our consultants to work more efficiently, ensures that no essential information is overlooked, establishes consistency in our approach and documentation, and ultimately gives clients a higher return on the dollars they invest in our services.

The guidelines, tools and resources used throughout the five steps are all unique to Mercer. The Five-Step Consulting Process includes:



Step 1: Understand – uses Mercer’s latest market trend information in addition to information gathered from a facilitated session with the County team to establish understanding of the business context, including competition, legislation and vendor information

Step 2: Strategize/Analyze – combines client-specific data with Mercer’s thorough market knowledge to build a customized strategy

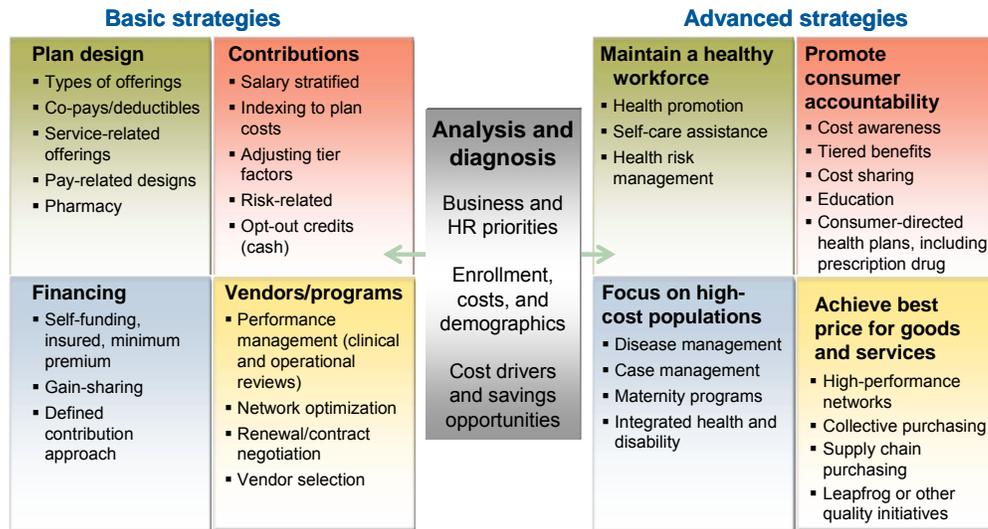
Step 3: Design – uses Mercer’s analytic processes, resources and tools to model and test the strategy

Step 4: Implement/ Manage/ Measure – builds the implementation action plan, including vendor strategies, ongoing audit approaches and an integrated data approach to analytics and measurement

Step 5: Refresh – conducted annually using Mercer’s strategy and stewardship process to evaluate effectiveness against goals

2.9 Provide advice and consultation on trends and strategies to improve overall health of employee populations and manage cost efficiency and effectiveness.

Agreed. Health care strategy is a core Mercer strength. Based on the County’s unique situation and the existing knowledge exchange through our current relationship, we can continue to evaluate basic and advanced approaches, such as applying Total Health Management (Wellness) capabilities to maximize short-and long-term health care cost savings, as well as benefit quality and service priorities.



The resulting strategy becomes the foundation for a three to five year action plan that incorporates a broad, comprehensive look at your overall benefit delivery objectives in the context of your specific environment and financial constraints. We use that strategy as the baseline for delivering core services, as well as for developing advanced, innovative solutions for your organization.

2.10 Assist the County in drafting Scopes of Work and solicitations including Service Level Agreements.

Agreed. Mercer agrees to review scopes of work and service level agreements drafted by County resources.

2.11 Provide assistance as required in the evaluation of solicitations.

Agreed. Mercer agrees to review the evaluation of solicitations drafted by County resources.

2.12 Provide assistance as required in price analysis and contract negotiations.

Agreed. Mercer agrees to review the price analysis developed by the County and participate in contract negotiations as needed.

2.13 Provide assistance in assessing market trends.

Agreed. Mercer provides an annual Benchmarking Report to the County, which summarizes market trends, employer strategies, health management programs along with comparing the County’s plan design, plan costs and employer contributions to both local and national government groups.

2.14 Provide assistance in developing and analyzing employee satisfaction surveys for various plans as well as competitive benefits surveys of benchmarked companies.

Agreed. As part of our “Core” services, we provide input into the County’s development of employee satisfaction surveys. In addition, results from your employee satisfaction surveys will be considered as part of the strategy and program management process we will utilize with the County.

As shown in answer 2.5 above, Mercer has extensive resources and tools to assist the County in assessing and benchmarking its plans relative to the marketplace and its competitors.

2.15 Provide assistance identifying best practices with benefits plans, complimentary and discount programs and administration.
Agreed.

2.16 Service Provided on a Project Fee Basis

2.16.1 Medical Claims Audits

Claims Review

A variety of claims sampling methodologies – statistical and judgment (non-statistical) – are available. The methodology selected depends on the County’s objectives. All of the methods are designed to measure claims processing quality and the timeliness of processing. The audit results will be compared to acceptable industry standards, established norms and the County’s performance guarantee arrangements, if applicable. Mercer can offer the County various claims sampling methodologies. The most common approach is the combined financial stratified/attribute sampling approach. This approach provides a sample of claims that are representative of the claims administrator’s actual claim payment pattern over the audit period and allows Mercer to extrapolate the audit results for financial dollar accuracy, claims processing accuracy and payment incidence accuracy to the universe of claims from which the sample was selected. Claims samples are typically selected at random from claims history data furnished by the claims administrator for a recent six- to 12-month period, using accepted audit techniques.

Each claim selected for audit will be reviewed to confirm that:

- The claimant was eligible for benefits at the time the services were incurred
- Claims data was accurately entered in the system, including dates of service, charges, provider, claimant and procedure codes
- Authorizations were on file for all claims (where appropriate) and non-compliance
- Penalties were applied to those claims where the appropriate authorization was not obtained
- Negotiated or contract rates were applied and calculated accurately
- Other insurance was investigated and benefits coordinated accurately, where appropriate
- Duplicate claims submissions were identified and denied as such
- The claim was processed correctly under the terms of the applicable plan, including covered expenses, limitations or exclusions, and consistency with the Plans’ Master Plan Document
- Benefits payments were calculated accurately (e.g., deductible, coinsurance or copayment and plan maximums)
- Benefits were paid to the correct party
- Claims were professionally reviewed for medical necessity, where appropriate
- The processed claim was supported by adequate documentation (i.e., an itemized bill from the provider)
- The timeliness of claims processing
- Interaction with external vendors (e.g., network, utilization management, third-party liability, hospital bill audit)

2.16.2 Prescription Claims Audits

Electronic Claims Audit (Re-pricing and Rebate Audit)

With the relatively large number of transactions processed by your PBM, even minor errors can result in significant additional costs. The focus of our electronic claims review is not only to confirm compliance with contractual terms and plan provisions, but also to identify opportunities to improve the claim adjudication process going forward. Additionally, we would expect that the upfront Program Evaluation will be useful in identifying potential areas of non-compliance with contractual terms. Clients the size of Maricopa County desiring for due diligence have engaged Mercer in designing an audit to meet the following objectives:

1. Validate that claims are being processed in compliance with your plan provisions (e.g., member copays, dispensing limitations, excluded drugs and drug utilization review and prior authorization requirements)
2. Verify the accuracy of the application of the contractual financial arrangement, including ingredient cost discounts and dispensing fees
3. Determine that formulary rebate payments meet contractual obligations.

Our approach begins with determining your needs and objectives, and then developing an audit plan to meet your goals. We would then request the necessary information, conduct the audit and evaluate the results. After the audit is complete, we would prepare and present a written report of our findings, conclusions, and recommendations.

The following is a more detailed description of our recommended approach, which we can easily narrow or broaden based upon further discussions.

Electronic Claims Review (Re-pricing) – this approach will provide a comprehensive review of all claims processed by your PBM under the plan.

Formulary Rebate Review – this approach will assess whether formulary rebates paid satisfy contractual obligations.

Electronic Claims Review

The electronic claims review will enable verification of whether your PBM processed pharmacy claims in compliance with plan provisions and verification of the accuracy of pricing claims in accordance with contracted terms and adherence to financial guarantees. We recommend that this review focus on claims processed during the most recent 12-month period. Our review can include:

Analyze the current PBM contracts and re-price all pharmacy claims according to the contracted financial arrangements

Identify any paid claims for drugs that should have been excluded from coverage

Validate that Maricopa County plan provisions are being adjudicated correctly

Identify duplicate paid claims and possible refill-too-soon issues

Compare the discounted Average Wholesale Price (AWP) per unit of identical generic drugs dispensed at retail versus mail order (this comparison looks at a sample of the top 100 generic drugs dispensed at a single point in time at retail and mail order to measure the value of your PBM's generic Maximum Allowable Cost (MAC) pricing at retail versus discounted AWP pricing at mail order)

Compare the AWP per unit of a sample of the top 100 drugs dispensed at mail order with the published AWP per unit for the largest available package size (this comparison will measure the extent to which your PBM is earning additional revenue based on the difference in AWP pricing for fixed package sizes of 100s or pints and actual package size)

Analyze results and prepare a report of our findings and conclusions for presentation to Maricopa County

Formulary Rebate Review

The formulary rebate review will determine if your PBM is complying with the contractual terms related to formulary rebates and if Maricopa County has received the guaranteed rebate amounts. The project scope includes the following key work steps:

Review Maricopa County's contract with its PBM for the financial terms related to formulary rebates

Request and review quarterly rebate reports and the annual reconciliation report for the most recent 12-month period. These reports should include the following data elements separately for retail and mail order:

Number of Rx's

Number of formulary brand Rx's

Formulary rebates paid

Verify that the formulary rebates were equal to or greater than the guaranteed rebate amounts and that the Rx data provided in the formulary rebate reports are consistent with Rx data on the claims tapes and/or your PBM's summary cost and utilization reports

Verify that the reported earned rebates were actually received by Maricopa County for the time period specified in the contract

Pre or Post Implementation Audit

The pre or post PBM implementation review process provides clients with subject matter experts in PBM claims and customer service administration to verify that a new PBM vendor being implemented has in fact adequately prepared for accurate and timely administration of the County's pharmacy plan. Gaping holes in the transition process or inaccuracies in plan materials or system plan set-up are identified, so that the vendor can take additional steps to correct inaccurate information or address preparation gaps before or immediately after the effective date. While Mercer does not maintain return on investment (ROI) on this type of audit, the implementation review helps to ensure a successful outcome and frees up the client to focus on its end of the transition, including effectively communicating the change with its workforce.

The expected timing for the implementation review is about one week. This consists of one to one and a half day onsite at the PBM and documentation of the issues found. Mercer will continue to follow up with outstanding issues to ensure that they are corrected with the PBM. The timing on the follow up is dependent upon the degree of inaccuracies found at the onsite visit.

2.16.3 Compliance Audits

Mercer's compliance professionals can conduct compliance reviews of the County's health and welfare benefits. A compliance review can encompass all welfare benefits sponsored by the County, or can be limited to particular benefit plans. In addition, the scope of the review may vary depending upon the County's budget and specific priorities. Although each review is different, and the scope can be customized for the County's needs, some examples of the types of standard reviews conducted by Mercer are described below:

Document Compliance Review

Mercer will perform a diagnostic regulatory compliance review of County-sponsored health and welfare plans to ensure compliance in all areas of governing legislation and applicable benefits policy (e.g., ERISA, COBRA, HIPAA, FMLA, EGTRRA). Materials reviewed for each of the benefit plans include (a) plan documents (including any amendments and resolutions or plan governance materials); (b) summary plan descriptions (including any summaries of material modification); (c) written communication materials provided to employees and plan participants (including electronic communication material), such as benefits summaries, orientation materials, and policies; (d) contracts or agreements with vendors outlining service requirements and standards; and (e) benefit plan annual reports, Form 5500s and Summary Annual Reports.

Operational Review

Mercer will conduct a review to ensure that the provisions in the governing plan documentation are accurately being carried out in practice. The review will determine whether the procedures that are in place and occur operationally are consistent with the written communication and are, in fact, carried out appropriately.

Limited Diagnostic Review

Mercer will conduct a review to determine the “hot spots” in plan administration and develop solutions to resolve them. The assessment is designed to help the County determine if the plan’s operations are generally in compliance with the more critical and visible requirements of ERISA, COBRA, HIPAA and other federal and local rules and regulations, and to determine if the operating documents are up-to-date, including the plan document, SPD, enrollment materials, forms, administration manuals, etc.

HIPAA Portability Review

Mercer will conduct a review of procedures, documentation, notices and materials regarding special enrollment, preexisting condition requirements, creditable coverage rules, MHPA, WHCRA, NMHPA and health plan nondiscrimination rules.

HIPAA Administrative Simplification Review (Privacy and Security)

Mercer will conduct a review of the adequacy of existing policies and procedures under the security and privacy requirements for handling individually identifiable health information.

Cafeteria Plan Review

Mercer will conduct a review of the cafeteria plan documentation and administration, including a review of the plan documents, administrative materials and processes relating to the cafeteria plan; employee communications and election forms; mid-year election change procedures; health- and dependent-care FSA administrative procedures; sample FSA claims and transactions; and non-discrimination requirements.

COBRA Review

Mercer will conduct a review of procedures, documentation, notices and materials regarding COBRA compliance.

Plan Governance Review

Mercer will conduct a review to ensure that the plan sponsor’s governance procedures are rigorous enough to ensure that the benefit plans are maintained appropriately and to minimize claims of fiduciary duty violations. The client’s current procedures will be measured against “best practices” for complying with ERISA’s fiduciary requirements and similar regulatory obligations.

2.16.4 Administrative systems consulting

Mercer has a specialty unit dedicated to assisting employers with technology and operations. Our services include:

- HR, payroll and benefits administration redesign
 - HR measures and metrics development
 - HR service delivery model development and transition assistance
 - HR systems and information system strategy development
 - Out-sourcing/In-sourcing/Co-sourcing assessment
 - Employee service center design and implementation
- Some additional areas of review include:

Customer Service Evaluation

An administrator’s customer service operation can heavily influence a plan member’s perception of the administrator’s overall capabilities. Poorly administered customer service can rapidly increase the noise level from plan members. There are two components to Mercer’s typical customer service evaluation:

1. An operational review of key components of customer service administration, including staffing, reporting, workflow management, training, call documentation, IVR and web capabilities, and quality assurance processes

2. The evaluation of live or recorded client-specific calls from plan members and providers, focused on areas like call management techniques, technical accuracy and communication skills

Appeals Review

Mercer's appeals review is an in-depth examination of the adequacy of the administrator's procedures and controls for handling of claims appeals, including compliance with regulatory requirements. The appeals review also includes examination of a sample of 10 recent appeals for compliance with internal procedures and federal and state regulations, as well as the quality and timeliness of resolution of the appeal. An appeals review is particularly valuable for those clients that have delegated fiduciary responsibility to the claims administrator.

Audit Follow Up

Mercer has enjoyed great success in partnering with its clients and claims administrators to effect improvements following the conclusion of a claim audit and operational review. We work closely with the client and claims administrator to develop an action plan. We find more can be accomplished in terms of meaningful improvements through our continued involvement in periodic conference calls with the client and claims administrator to review the action plan. In this way, the claims administrator remains focused on the client and on continuous quality improvement.

2.16.5 Retirement and Investment consulting

Mercer recognizes that, in many ways, public sector defined contribution plans are different from those in the private sector. They have different legal rules, are not subject to ERISA, and exist in an open forum. For these reasons, Mercer created a national public sector consulting practice – a group of consultants who specialize in public sector defined contribution plans and understand the unique processes and demands these programs face. The members of this group, including Beverly Orth in our Portland office, consult to public sector defined contribution plans across the country, including the plans of 26 states and many of the largest cities and counties in the US. We have contacts throughout the plan sponsor and vendor community, which enable us to keep abreast of emerging trends. We have experience in related fields, such as governance of public retirement plans, investments and asset custody, legal and plan compliance, and the administration and operation of the largest retirement plans in the US and the world. We would appreciate the opportunity to apply our expertise to your issues and to learn from the challenges that face the County and its defined contribution plan.

Retirement

Mercer provides a full portfolio of retirement services and solutions. Our services include:

- Plan Management
- Plan Design and transformation
- Plan mergers
- Defined contribution and defined benefit plan design
- Defined contribution and defined benefit plan trends
- Financial management
- Cost and liability management
- Cash-flow (ERISA) valuation
- Pension expense valuation
- Budget projection
- Ongoing review and planning
- Compliance support and reporting
- Government filings
- Non-discrimination testing
- Audit response
- Financial statement disclosures
- Legal and regulatory updates

Administration

We deliver an integrated platform of products, tools and services configured to your plan, including self-service technology to improve efficiency, productivity and employee satisfaction. Our flexible and adaptable technology makes it easy to support legislative and regulatory updates, as well as plan design changes. In addition, our plan sponsor website is fully integrated with our recordkeeping system and provides an array of data query and plan/demographic reporting options. Our services for defined contribution and defined benefit plans include plan administration, compliance, recordkeeping, transaction processing and pension estimates and final benefit calculations.

Investment Consulting

Mercer Investment Consulting, Inc. (Mercer IC) is a global provider of investment consulting services and offers customized guidance at each stage of the investment decision, risk management and investment monitoring process. We are dedicated to meeting clients' needs for more than 30 years and have worked with the fiduciaries of pension funds, foundations, endowments and other investors in more than 35 countries.

We help clients obtain the highest possible long-term returns at the lowest cost and level of acceptable risk, by leveraging our worldwide expertise. In the US, we combine a bottom up/top down approach, using local expertise to seek solutions to local problems. Meanwhile, our regional consultants can draw upon our global intellectual capital, systems and networks – so we can provide state-of-the-art consulting services to clients locally.

We offer services in:

Fund governance	Defined contribution program consulting
Investment philosophy and principles	Custodian selection and management
Retirement financial management	Multi-national coordination
Strategic asset allocation and risk management	Socially responsible investing
Portfolio structuring	Stable value funds
Manager selection	Annuity settlement
Ongoing investment and risk monitoring	Foreign exchange audits

2.16.6 Value Index relative value studies

Mercer has available a tool to assist with benefits valuation. The Benefits Valuation Report (BVR) is a comprehensive value index relative value tool that will allow the County to make fact-based decisions that will be based on the objective, quantifiable comparison of its benefit plans versus other selected employers.

Plans

The BVR organizes benefit plans into three major categories. Mercer's benefit valuation process not only compares the competitiveness of each of the three main categories, but also provides a competitive analysis of each of the component plans, within the primary categories, separately.

Time Loss (vacation, holiday, personal leave, sick days, short-term disability and long-term disability)

Retirement/Savings (defined benefit, defined contribution, stock purchase)

Health/Group (medical, post-retirement medical, dental, life and flexible spending accounts)

The BVR report provides an overall competitive analysis and the means to evaluate the relative value of your plans from the perspective of 11 "sample demographics". The BVR also has the ability to allow you to design 11 custom demographic profiles that might more closely match the County's demographic groups. The 11 predefined employee profiles are summarized below:

Salary	Age	Years of Service	Family Status	
\$25,000	35	10	M	} Vary by Salary
50,000	35	10	M	
75,000	35	10	M	
100,000	35	10	M	
45,000	30	5	M	} Vary by Age and Service
45,000	40	5	M	
45,000	40	10	M	
45,000	50	15	M	
45,000	35	10	S	} Vary by Family Status
45,000	35	10	M	
45,000	35	10	Family	

Presentation of Results

Contained in the final BVR report will be these key components:

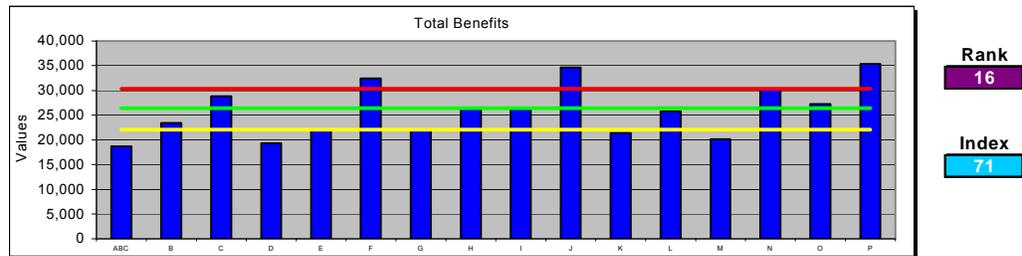
Plan Value Comparisons – compares your plan values to the values of the benefits that are being offered by other employers in your selected peer group. The report provides three “statistical comparisons” of the County’s benefits versus the comparator groups. These specific statistical comparisons include:

Rank – shows where your values are positioned relative to other companies

Index value – shows the percentage relationship of your values to the median values of the comparator groups

Distribution of peer group values – shows where the comparator groups’ values break by quartile

Plan Value Comparisons **Benefit Plan Groupings**



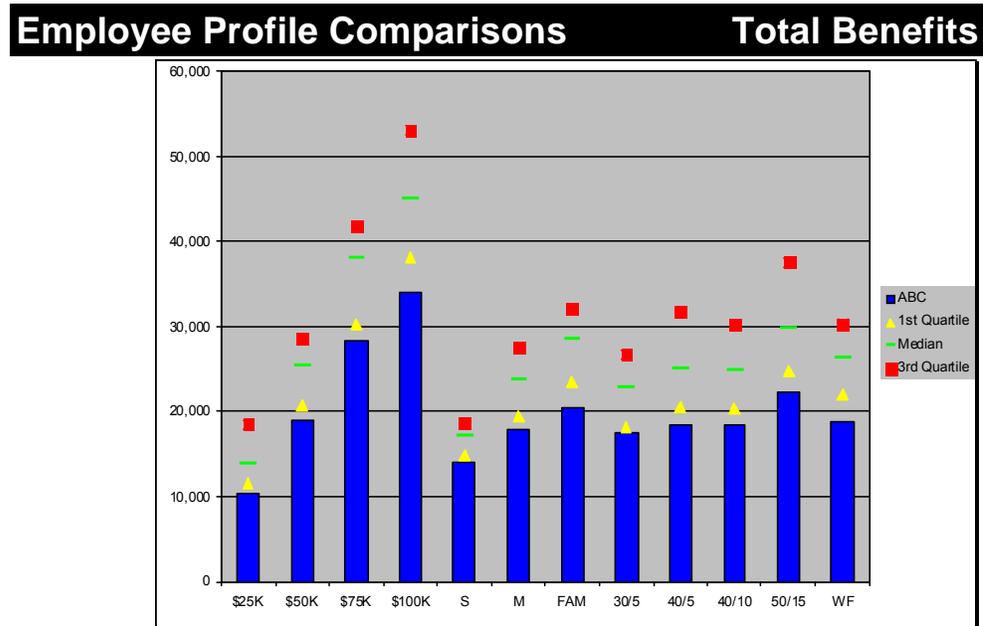
Your organization's Ranking: Rank 1 is the highest

Your organization's Index: % of the median value for the Peer Group



Employee Profile Comparisons – illustrate the effect of varying demographics on competitive positioning of your plans relative to the comparator groups. This allows you

to explore specific plan adjustments to address any inequities or competitive disadvantages for any specific demographic group.



Summary of Plan Features – provides a complete detailed summary of the individual features of each benefit plan being valued, presented in a matrix format for easy comparison from one organization to another. This level of precise detail is helpful when examining specific plan provisions.

Methodology – Details the actuarial methods and specific assumptions used to value the benefit plans as shown in the Plan Value Comparisons and Employee Profile Comparisons.

Executive Summary (Optional) – analyzes the differences among the values of your plans and those of the comparator groups, and pinpoints the individual plan features that drive your position relative to the comparator groups. The Summary is presented in a power point format for presentations to your management teams.

2.17 Scope of services for licensed Benefit Counselors:

2.17.1 Shall be appropriate licensed in Arizona for both Property Causality and Health and Welfare Sales.

Agreed. Several national enrollment firms serve as sub-contractors to Mercer. Benefit Counselors are typically paid through commissions generated on Voluntary Benefit enrollment, but can be used for education only on a per appointment fee.

2.17.2 Consulting and enrollment may involve both Core Benefits and Voluntary Benefits.

Agreed. Benefit Counselors are trained to educate employees on both core and voluntary benefits through a train-the-trainer process.

2.18 USAGE REPORT: The Contractor shall furnish the County a quarterly usage report delineating the acquisition activity governed by the Contract. The format of the report shall be approved by the County and shall disclose the quantity and dollar value of each contract item by individual unit.

Agreed. Mercer currently provides the County with monthly reports outlining the work that has been completed during the prior month. This report includes details on billable hours along with credit for any commissions received against the monthly retainer.

2.18.1 Provide annual report of tasks conducted and objectives met during past 12 month's performance.

Agreed. Mercer provides the County with an annual Stewardship Report. The Stewardship Report provides the following: Market Outlook, Legislative Update, Benefit Strategies and Tactics, Key Accomplishments from the prior year, Financial Accomplishments, and Program Management Accomplishments.

2.19 TAX: No tax shall be levied against labor. It is the responsibility of the Contractor to determine any and all taxes and include the same in proposal price.

Agreed.

2.20 DELIVERY: It shall be the Contractor's responsibility to meet the proposed delivery requirements. Maricopa County reserves the right to obtain services on the open market in the event the Contractor fails to make delivery and any price differential will be charged against the Contractor.

Agreed.

2.21 Consultant shall operate as broker of record and collect any commissions in those contracts that have commission built in to the price, so that the County may use these fees to offset consulting fees under this contract. This includes all contracts that the County Benefits department holds (i.e. Property and Casualty and Health/wellness contracts)

Agreed for Health/Wellness contracts only. Mercer can accept health/wellness commissions as full or partial compensation for our services with the knowledge and explicit approval of our clients. Mercer cannot accept Property and Casualty commissions to be used to offset health & benefit consulting services. P&C coverage is not a benefit that may be included in an ERISA plan. P&C commissions must only be used for servicing the P&C insurance policy giving rise to the commissions. Using P&C commissions to offset the County's retainer would be considered rebating, which is in violation of Arizona state law.

2.22 Individuals (consultants) shall be employees of the consulting firm.

Agreed.

EXHIBIT B-1

SCOPE OF SERVICES DATA WAREHOUSE SERVICES

1.0 Intent:

To provide Maricopa County with analytic and data management services.

2.0 Scope of Services

Mercer will provide the following services (“Services”):

2.1 Mercer FOCUS Data Management Services

2.1.1 Design and develop a Client database using the standard Mercer Focus data model.

2.1.2 The database is updated monthly with claims and enrollment files.

2.1.3 The database contains eight standard eligibility slicers, and up to three custom eligibility slicers will be built at the direction of The County.

2.1.4 Up to 39 months of paid claims will be maintained in the warehouse

2.1.5 All core methodologies/enhancements are applied to the scrubbed data, including DCGs (Diagnostic Cost Groups), MEGs (Medical Episode Groupers) and Clinical Compliance Rules.

2.1.6 The database is built and maintained by Mercer’s subcontractor, Truven Health Analytics.

2.1.7 The County’s data is stored in a multi-client database.

2.1.8 The County’s data is directly accessible only to The County’s consulting team.

2.1.9 Implement and maintain only those formats from the data suppliers (each a “Data Supplier and collectively the “Data Suppliers”) listed under “Data Sources” below. Denied claims due to lack of eligibility, non-eligible providers or duplicate claim payments are not included in the standard database design.

2.1.10 Review and process no more than two submissions of test data per Data Supplier. Test data will match the data layout and dictionary documentation provided by the Data Suppliers.

2.1.11 Create and maintain demographic fields from the data provided on the eligibility file only. Demographic fields will not be created from any non-eligibility source listed in “Data Sources” below.

2.1.12 Test, build, and produce the Client database in the Mercer Focus data warehouse.

2.2 Mercer FOCUS Deliverables:

2.2.1 Measurement Strategy Development/Analytic Calendar

2.2.1.1 A review of current reporting along with a Mercer facilitated working session to develop a strawman for The County’s Measurement Strategy.

2.2.1.2 A fully populated and “live” analytic calendar

2.2.1.3 Development of a metrics map that serves as the “core” for ongoing reporting; map includes specifications on methodologies, timing and data sources

2.2.2 Annual Performance Review (APR) – design and produce

2.2.2.1 Mercer will provide The County to design a prototype of a Baseline and Annual Performance Review, which will be generated annually by Mercer. We leverage our core health care performance portfolio from which we build an APR/BPR

customized to the County's ongoing reporting needs. This deliverable includes one call and one additional meeting to review the prototype, in addition to the Measurement Strategy meeting described above.

2.2.2.2 Mercer will provide the County with key observations from the portfolio information along with the Semi-annual Special Topic calls (described below).

2.2.3 Special Topics

Twice per year, Mercer will provide the County with a list of three to five new/fresh analytic topics that we think are relevant or important to examine. Mercer will be responsible for producing two analyses per year, including observations and recommendations. The County and Mercer will have a call twice per year to review the topic and plan what actions should follow from the analysis.

2.2.4 Ad-hoc Reporting

Included in the fees is a bank of 40 hours to support ad-hoc analyses.

2.2.5 Quarterly Executive Dashboard

Mercer will deliver The County an automated executive-level report highlighting key performance metrics for The County's medical / drug plan.

2.3 County Responsibilities:

2.3.1 Designate a project team to work with Mercer throughout the contract period.

2.3.2 Provide, or, if applicable, cause all Data Suppliers to provide the following data as specifically requested by Mercer: Client data, data layouts, and data dictionaries in a timely manner (based upon the agreed-upon schedule) and in the formats, layouts and specifications provided by Mercer.

2.3.3 Client is solely responsible for ensuring the cooperation of its Data Suppliers as follows to enable Mercer to perform its Services. Specifically:

2.3.3.1 No Data Supplier imposes restrictions on the use of Client data that prohibit Mercer from performing the Services.

2.3.3.2 All data is submitted in a single record format per data type listed in Data Sources below.

2.3.3.3 All production data match the test data in format, layout, and content.

2.3.3.4 All historical data are provided in the same format as current data unless otherwise detailed in Data Sources below.

2.3.3.5 All Data Suppliers comply with the terms of this SOW with respect to the timely delivery of all Client data for all periodic database updates.

2.3.3.6 Client will actively participate in any Data Supplier discussions and/or negotiations regarding data release (Data Confidentiality and Indemnification Agreement), if requested by Mercer.

2.3.3.7 If events occur that change the scope of services and are beyond Mercer's control, Client and Mercer will mutually agree upon both financial and timing impact of these events and amend this SOW with respect to either or both as appropriate.

2.4 Information and Data Required:

At a minimum, the information and data we will need in order to commence work on the implementation of Mercer Focus include Health Care Data such as submitted charges, allowed amounts, out of pocket expenses (copay/coinsurance/deductible), COB, discount amount and net payment and all applicable clinical fields including full diagnosis (up to 5 digits) and procedure codes (i.e. ICD – 9, CPT/HCPCs and UB Revenue), capitation, place of service and provider type information and such other information as we mutually agree.

2.5 Permitted Uses and Disclosures of Your Health Care Data

2.5.1.1 Mercer may use all confidential information of Client including, without limitation, claim, eligibility, pricing and other data (Health Care Data) concerning participants in those plans and information related to such participant’s providers (collectively, “Client Data”) for purposes of performing the Services described in this SOW on behalf of Client.

2.5.1.2 In addition, Client hereby grants to Mercer a perpetual, worldwide, irrevocable, nonexclusive, royalty-free, license to use, disclose, distribute, license, copy, display and demonstrate all Client Data, in a de-identified format for inclusion in normative or pooled databases (the “Client Data License”). For the purpose of this consent, the term “de-identified” shall mean information that satisfies the requirements set forth in 45 CFR section 164.514 and 164.502. In connection with the use of the de-identified Client Data in any such normative or pooled databases, Mercer agrees to follow the confidentiality provisions set forth in the Business Associate Agreement and represents that it is in compliance with applicable laws with respect to privacy and data security relative to Client Data.

2.5.1.3 Client further acknowledges that it has authorized or will authorize each Data Supplier to release its Health Care Data to Truven Health Analytics.

2.6 Instructions

Instructions with respect to this project will be given to us by Chris Bradley or another member of the Client’s team.

2.7 Timeframe

We will begin our work for you on April 1, 2013 (“Database Launch Date”) and, assuming no unforeseen circumstances, we will seek to complete the implementation by September 30, 2013. This assumes that we have received all usable, necessary data and other information from your Data Suppliers indicated in Data Sources by June 1, 2013, and we timely receive such additional data and other information that we may request from time to time. If such information is not received in a timely manner, the projected timeframe may change.

2.8 Staffing

Staffing will be determined according to the roles and responsibilities outlined in the following table:

Responsible	Role	Responsibility
Patricia Cole	Client Manager	Oversight of project
Pamela LaBate	Project Manager	Day-to-day involvement with project updates/issues
Matt Grapentine	Analytic Lead	Provides direction on the core analytic Services described in this SOW
Elizabeth Gabree	Implementation Lead	Leads the implementation of Mercer FOCUS
The Mercer Focus Helpdesk	Application Support	The Helpdesk will provide ongoing support services.

2.9 Compensation and Expenses: (See Exhibit A)

Our fees are based on the Scope of Services outlined in this letter. Fifty percent of the implementation fees for the Services will be billed 30 days after database Launch Date. The remaining fifty percent of the Implementation fees will be billed upon database delivery. Annual Fees for the Services will be billed monthly based on 1/12 of the annual fee. Annual fees commence the month following database delivery. If the scope of services, staffing requirements, or volume changes (by more than 10%) during the contract term, then the fees will be adjusted by mutual agreement.

2.10 Pricing Assumptions
The pricing outlined above assumes the following:

- 2.10.1 13,000 self-funded employee and COBRA lives in the data warehouse.
- 2.10.2 A rolling 36 months of data maintained in the database (unless otherwise stated in table below).
- 2.10.3 Mercer only access to the database
- 2.10.4 Monthly update frequency
- 2.10.5 Measurement Strategy facilitated session
- 2.10.6 Annual Analytic Calendar
- 2.10.7 Annual Performance Review
- 2.10.8 Semi-Annual Special Topics
- 2.10.9 Quarterly Executive Dashboards
- 2.10.10 Any fees imposed by your data suppliers to send data to Truven are the responsibility of The County, and specifically excluded from our Services
- 2.10.11 Data Sources as outlined below:

2.11 Data Sources

Data Supplier	Start & End Dates	Data Type/Number of Feeds ^{1, 2}				Frequency
		Medical	Drug	Eligibility	Other	
ADP - Active	1/1/2010 – current			1		Monthly
ADP – COBRA	1/1/2010 – current			1		Monthly
CIGNA	1/1/2010 – current	1	1			Monthly
CIGNA	History only		1			One-time
Walgreens/Catamaran	1/1/2011 – current		1			Monthly
Magellan	1/1/2010 - current	1				Monthly

¹ Once implemented, Data Suppliers will provide data in the same layout and format represented by the test data on an ongoing basis for each subsequent database update. Re-submission(s) of production data, on an update basis, due to Data Supplier error, are not included in the Services.

² Pricing to implement and maintain additional data feeds not listed in Data Sources are outlined in section 2.12.

2.12 ADDITIONAL IMPLEMENTATION FEE DETAIL:

Data Type	Implementation Fee	Increase to Ongoing Base Fee
Claims feed – Shell format	\$8,500	\$4,000
Claims feed – Non-shell format	\$11,500	\$4,000
Eligibility feed – Shell format	\$11,500	\$4,000
Eligibility feed – Non-shell format	\$17,000	\$4,000
HRA/LM/DM/Biometric – Non-shell format	\$15,000	\$10,000

Data Type	Additional Implementation Fee
Claims feed – Shell format	\$8,500
Claims feed – Non-shell format	\$11,500
Eligibility feed – Shell format	\$11,500
Eligibility feed – Non-shell format	\$17,000
STD* – Shell format	\$14,000

STD* – Non-shell format	\$17,000
WC – Shell format	\$25,000
WC – Non-shell format	\$28,000
HRA/LM/DM/Biometric – Non-shell format	\$15,000

All fees are on a “per file” basis

- 2.12.1 A “Shell Format” means a file format and the codes submitted within the format submitted by a Data Source to THA that is: 1) a THA-defined eligibility or claims source, or 2) a file format from a Data Source where THA has created a standard conversion program to load the file to the Mercer Data Warehouse and will be used for all future eligibility or claims feeds from that source for Mercer Clients.
- 2.12.2 A “Non-Shell Format” means a file format other than a “Shell Format”
- 2.12.3 Any claims or eligibility feed that is in addition to the current number of feeds is also subject to an annual fee increase of \$4,000. A replacement file is subject to additional fees during the time period when run out claims are being loaded to the database.
- 2.12.4 Any health management file feed (HRA/Lifestyle Management/Disease Management/Biometric) is subject to an annual fee increase of \$10,000.
- 2.12.5 We do not recommend loading LTD data, however, it is available at the same rate as STD.
- 2.12.6 Cohort Data Feeds - the implementation for the cohort data feeds will be \$8000 for the first data feed and \$1000 for each additional data feed. The analysis will be included in the annual fee.
- 2.13 Performance Guarantees
Mercer is willing to put up to 5% of annual Mercer FOCUS fees at risk, according to the following standards:
 - 2.13.1 System Availability: The system and reporting tools will be available at least 97% of the time from 8 AM to 10 PM EST Monday through Friday, with the exception of scheduled database updates and/or upgrades.
 - 2.13.2 Monthly Data Refresh: Data refresh will occur in accordance with an annual production schedule.
 - 2.13.3 Production Deliverable Delivery: Quarterly executive dashboards will be delivered to Client in accordance with an annual reporting schedule.
 - 2.13.4 Account Management Responsiveness:
 - 2.13.5.1 Email received by Account Team: Response to sender within 1 business day.
 - 2.13.5.2 Voicemail received by Account Team: Response to caller within 1 business day.
 - 2.13.6 Adhoc reports: Ad hoc reports will average less than one hour of Mercer staff time to prepare.

EXHIBIT C
MARICOPA COUNTY
Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)
Business Associate Provisions

This Attachment sets out the HIPAA-related responsibilities and obligations of Contractor pursuant to the Contract between Contractor and Department.

I. Definitions

- A. Applicable Law means any of the following items, including any amendments to any such item as such may become effective:
1. the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);
 2. the federal regulations regarding privacy and promulgated with respect to HIPAA, found at 45 C.F.R. Parts 160 and 164 (the “Privacy Rule”);
 3. the federal regulations regarding electronic data interchange and promulgated with respect to HIPAA, found at 45 C.F.R. Parts 160 and 162 (the “Transaction Rule”);
 4. the federal regulations regarding security and promulgated with respect to HIPAA, found at 45 C.F.R. Parts 160 and 164 (the “Security Rule”); and
 5. the American Recovery and Reinvestment Act of 2009 (“ARRA”), §§ 13400-24, Public Law 111-5, 123 Stat 115 (Feb. 17, 2009), codified at 42 U.S.C. §§ 17921, 17931-40, 17951-53.
- B. Business Associate means an entity that performs or assists in the performance of a function on behalf of a Covered Entity, which involves the use or disclosure of Individually Identifiable Health Information as defined in 45 C.F.R. § 160.103. Contractor is a Business Associate of Department under this Contract, and for purposes of Contractor’s obligations under this Attachment, the terms “Business Associate” and “Contractor” are synonymous. Notwithstanding this definition, if Contractor does not have access to or create PHI under this Contract, Contractor is not a Business Associate, and the terms of this Attachment do not apply to Contractor.
- C. Contract means the entire agreement between the parties.
- D. Contractor for purposes of this Attachment means any party to this Contract, which is not a department of Maricopa County government.
- E. Covered Entity means a health plan, a health care clearinghouse, or a health care provider that transmits any health information in electronic form in connection with a transaction covered by HIPAA as defined in 45 C.F.R. § 160.103. Department or a part of Department, as designated by Maricopa County, is a Covered Entity under this Contract.
- F. Department means the party to this Contract that is part of Maricopa County government.
- G. ePHI means electronic protected health information within the meaning of 45 C.F.R. § 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Department.
- H. Individual means the person who is the subject of PHI.
- I. Protected Health Information (“PHI”) is health information that (1) is created or received by a Covered Entity, (2) relates to the physical condition, mental health or other health condition of an Individual, or to the provision of health care to the Individual (including but not limited to the

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payment for such health care), and (3) identifies or can be used to identify the Individual, as defined in 45 C.F.R. § 160.103.

- J. Secretary means the Secretary of the United States Department of Health and Human Services (“HHS”) and her designees.
- K. Security Breach means (1) unauthorized access to, or acquisition, use, disclosure, modification or destruction, of Department’s Unsecured PHI, whether in paper or electronic form, or (2) the successful interference with system operations in an information system containing Department’s PHI. The term does *not* include (1) disclosure of PHI to an unauthorized person in circumstances where that person would not reasonably have been able to retain the information, or (2) good faith unintentional access to, or acquisition or use of, PHI by Business Associate’s employees, agents or subcontractors in the course of such person’s performance of services authorized by the Contract provided that such PHI is not further accessed, acquired, used, or disclosed by any person.
- L. Unsecured PHI means all PHI, *except*: (1) PHI in electronic form that is encrypted consistent with regulations promulgated by HHS or has been subject to disposal in a manner that renders the information irretrievable, or (2) PHI in paper form that has been shredded, burned, or otherwise rendered irrecoverable.

II. Rights and Obligations of Business Associate

A. General Obligations

1. Compliance with Privacy Rule
- a. Business Associate shall not use or further disclose PHI other than as permitted or required by HIPAA, the Privacy Rule, and this Attachment.
 - b. Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Attachment.
 - c. Business Associate shall report to Department any use or disclosure of PHI, known to Business Associate, that is not permitted by this Attachment.
2. Compliance with Security Rule
- a. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI.
 - b. Business Associate shall report to Department any Security Breach of which Business Associate becomes aware.
3. Compliance with ARRA
- a. Business Associate shall comply with the Security Breach notice requirements provided in Section II.A.4 of this Attachment.
 - b. Business Associate shall not receive remuneration, either directly or indirectly, in exchange for PHI, except as may be permitted by 42 U.S.C. § 17935(d).

EXHIBIT C
MARICOPA COUNTY

**Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)
Business Associate Provisions**

[This paragraph shall be effective 180 days after issuance of final regulations implementing 42 U.S.C. § 17935]

- c. Pursuant to the Privacy Rule, made applicable to Business Associate by ARRA, Business Associate shall adopt, implement, and follow privacy policies and procedures in the same manner and to the same extent as if it were a Covered Entity.
- d. Pursuant to the Security Rule, made applicable to Business Associate by ARRA, Business Associate shall adopt, implement, and follow security policies and procedures in the same manner and to the same extent as if it were a Covered Entity.

4. Notice of Security Breach

- a. *Notice to Department.* Business Associate shall notify Department without unreasonable delay and within five (5) business days of Business Associate’s discovery of a Security Breach. The notice to Department shall include the identity of each Individual whose Unsecured PHI was involved in the Security Breach, a brief description of the Security Breach, and any mitigation efforts. To the extent that Business Associate does not know the identities of all affected Individuals when it is required to notify Department, Business Associate shall provide such additional information as soon as administratively practicable after such information becomes available. For purposes of this paragraph, a Security Breach shall be treated as discovered as of the first day on which the Security Breach is known or should reasonably have been known to Business Associate (including any person, other than the one committing the Security Breach, who is an employee, officer, or other agent of Business Associate).
- b. *Notice to Individuals.* On behalf of Department, Business Associate shall provide written notice of the Security Breach without unreasonable delay, but no later than sixty (60) calendar days following the date the Security Breach is discovered, or such later date as is authorized under 45 C.F.R. § 164.412, to each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, used, or disclosed as a result of the Security Breach. For purposes of this paragraph, a Security Breach shall be treated as discovered as of the first day on which the Security Breach is known or should reasonably have been known to Business Associate (including any person, other than the one committing the Security Breach, who is an employee, officer, or other agent of Business Associate).

The content, form, and delivery of such written notice shall comply in all respects with 45 C.F.R. § 164.404(c)-(d).

Business Associate and Department shall cooperate in all respects regarding the drafting and the content of the notice. To that end, before sending any notice to any Individual, Business Associate shall first provide a draft of the notice to Department. Department shall have five (5) business days (plus any reasonable extensions) to provide comments on Business Associate’s draft of the notice.

- c. *Notice to Media.* On behalf of Department, Business Associate shall provide written notice of a Security Breach to the media to the extent required under 45 C.F.R. § 164.406. Business Associate and Department shall cooperate in all

EXHIBIT C
MARICOPA COUNTY

Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)
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respects regarding the drafting and the content of the notice. To that end, before sending any notice to the media, Business Associate shall first provide a draft of the notice to Department. Department shall have five (5) business days (plus any reasonable extensions) to provide comments on Business Associate’s draft of the notice.

- d. *Notice to Secretary.* On behalf of Department, Business Associate shall provide written notice of a Security Breach to the Secretary to the extent required under 45 C.F.R. § 164.408. Business Associate and Department shall cooperate in all respects regarding the drafting and the content of the notice. To that end, before sending any notice to the Secretary, Business Associate shall first provide a draft of the notice to Department. Department shall have five business days (plus any reasonable extensions) to provide comments on Business Associate’s draft of the notice.

If a Security Breach involves fewer than five hundred (500) Individuals, Business Associate shall maintain a log or other documentation of the Security Breach that contains such information as would be required to be included if the log were maintained by Department pursuant to 45 C.F.R. § 164.408, and provide such log to Department within five (5) business days of Department’s written request.

5. Subcontractors and Agents. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides PHI agrees to the same restrictions and conditions that apply through this Attachment to Business Associate with respect to PHI.
6. Access to Books and Records by Secretary. Business Associate shall make its internal practices, books, and records relating to the use, disclosure, and security of PHI available to the Secretary for purposes of the Secretary determining Department’s and Business Associate’s compliance with HIPAA.
7. Mitigation. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of (a) a use or disclosure of PHI by Business Associate in violation of the requirements of this Attachment, or (b) a Security Breach.

B. Obligations Relating to Individual Rights

1. Restrictions on Disclosures. Upon request by an Individual, Department shall determine whether the Individual shall be granted a restriction on disclosure of PHI pursuant to 45 C.F.R. § 164.522. Department shall not agree to any such restriction without the prior consent of Business associate if such restriction would affect Business Associate’s use or disclosure of PHI, *provided, however*, that Business Associate’s consent is not required for requests that must be granted under 42 U.S.C. § 17935(a). Department shall communicate any grant of a request to Business Associate. Business Associate shall restrict its disclosures of the Individual’s PHI in the same manner as would be required for Department. If Business Associate receives an Individual’s request for restrictions, Business Associate shall forward such request to Department within five (5) business days.
2. Access to PHI. Upon request by an Individual, Department shall determine whether an Individual is entitled to access his or her PHI pursuant to 45 C.F.R. § 164.524. If Department determines that an Individual is entitled to such access, and that such PHI is under the control of Business Associate, Department shall communicate the decision to

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Business Associate. Business Associate shall provide access to the PHI in the same manner as would be required for Department. If Business Associate receives an Individual’s request to access his or her PHI, Business Associate shall forward such request to Department within five (5) business days.

3. Amendment of PHI. Upon request by an Individual, Department shall determine whether the Individual is entitled to amend his or her PHI pursuant to 45 C.F.R. § 164.526. If Department determines that an Individual is entitled to such an amendment, and that such PHI is both in a designated record set and under the control of Business Associate, Department shall communicate the decision to Business Associate. Business Associate shall provide an opportunity to amend the PHI in the same manner as would be required for Department. If Business Associate receives an Individual’s request to amend his or her PHI, Business Associate shall forward such request to Department within five (5) business days.
4. Accounting of Disclosures. Upon request by an Individual, Department shall determine whether any Individual is entitled to an accounting pursuant to 45 C.F.R. § 164.528. If Department determines that an Individual is entitled to an accounting, Department shall communicate the decision to Business Associate. Business Associate shall provide information to Department that will enable Department to meet its accounting obligations. If Business Associate receives an Individual’s request for an accounting, Business Associate shall forward such request to Department within five (5) business days.

C. Permitted Uses and Disclosures by Business Associate. Except as otherwise limited in this Attachment or by Applicable Law, Business Associate may:

1. Use or disclose PHI to perform functions, activities, or services for or on behalf of Department, as specified in the Contract, *provided that* such use or disclosure (a) is consistent with Department’s Notice of Privacy Practices, and (b) would not violate Applicable Law if done by Department;
2. Use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate;
3. Disclose PHI for the proper management and administration of Business Associate, *provided that* (a) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached, or (b) the disclosures are required by law; and
4. Use PHI to provide Data Aggregation services to Department as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

III. Rights and Obligations of Department

A. Privacy Practices and Restrictions

1. Upon request, Department shall provide Business Associate with the notice of privacy practices that Department produces in accordance with 45 C.F.R. § 164.520. If

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Department subsequently revises the notice, Department shall provide a copy of the revised notice to Business Associate.

2. Department shall notify Business Associate of any restriction to the use or disclosure of PHI that Department has agreed to in accordance with 45 C.F.R. § 164.522. Department shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate’s permitted or required uses and disclosures.

- B. Permissible Requests by Department.** Department shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Department.

IV. Term and Termination

- A. Term.** This Attachment shall become effective upon execution by the Parties and shall supersede any existing Business Associate Agreement among the Parties. The requirements of this Attachment shall end upon the termination of the Contract or upon termination for cause as set forth in the following Section IV.B, whichever is earlier.

- B. Termination for Cause.** Upon any Party’s knowledge of a material breach of this Attachment by another Party, the nonbreaching Party shall have the following rights:

1. If the breach is curable, the nonbreaching Party may provide an opportunity for the other Party to cure the breach or end the violation. Alternatively, or if the other Party fails to cure the breach or end the violation, the nonbreaching Party may terminate this Contract.
2. If the breach is not curable, the nonbreaching Party may immediately terminate this Contract.
3. If termination is not feasible, the nonbreaching Party may report the problem to the Secretary.

- C. Effect of Termination.**

1. Except as provided in Section IV.C.2, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI within its possession or control, and all PHI that is in the possession or control of Business Associate’s subcontractors or agents. Business Associate shall retain no copies of the PHI.
2. If Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Department notification of the conditions that make return or destruction infeasible. Business Associate shall extend the protections of this Attachment to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

V. Miscellaneous

- A. Electronic Health Records.** The Parties agree that Business Associate shall not maintain any “electronic health record” or “personal health record,” as those terms are defined in ARRA,

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for or on behalf of Department. As such, Business Associate has no obligation to document disclosures that are exempt from the accounting requirement under 45 C.F.R. § 164.528(1)(i)-(ix), and Department agrees not to include Business Associate on any list Department produces pursuant to 42 U.S.C. § 17935(c)(3).

- B. Regulatory References.** A reference in this Attachment to a section in any Applicable Law means the section in effect or as amended, and for which compliance is required.
- C. Amendment.** The Parties agree to take such action as is necessary to amend this Attachment from time to time as is necessary for Department to comply with the requirements of Applicable Law. All amendments to this Attachment, except those occurring by operation of law, shall be in writing and signed by both Parties.
- D. Survival.** The respective rights and obligations of Business Associate under Section IV.C. of this Attachment shall survive the term and termination of the Contract.
- E. Interpretation.** Any ambiguity in this Attachment shall be resolved in favor of a meaning that permits Department to comply with Applicable Law.
- F. No Third Party Beneficiaries.** Nothing express or implied in this Attachment is intended to confer, nor shall anything herein confer upon any person, other than Department, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- G. Assignment.** No assignment of rights or obligations under this Attachment shall be made by either Party without the prior written consent of the other Party; provided however, that Business Associate may assign the rights and obligations under this Attachment to an affiliate.
- H. Effect on Agreement.** Except as specifically required to implement the purposes of this Attachment, or to the extent inconsistent with this Attachment, all other terms of the underlying Contract shall remain in force and effect.
- I. Counterparts.** This Attachment may be executed in counterparts, each of which may be deemed an original.

DEPARTMENT NAME

Mercer Health & Benefits LLC
FIRM NAME

PERSON SIGNING (PLEASE PRINT)

Patricia A. Cole, Principal
PERSON SIGNING (PLEASE PRINT)

SIGNATURE

Patricia Cole
SIGNATURE

3/14/13
DATE

November 2, 2012
DATE