

# Actuarial Work-Products, Inc.

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<b>TO:</b> <u>Addressee Number 1</u>	<u>Addressee Number 2</u>	<u>Addressee Number 3</u>
John Smith Enterprises	Self-Funding Actuarial	Black and White Consult
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**RE:** **Discrimination Testing** **Test Date** 10/01/2011  
**IRC Section 125**  
**Safe Harbor Test**

**Employer** Service Providers, Inc.

Single  **Multiple (Controlled/Affiliated)?**  NA **Other Employers Include:**

**Plan Name** Cafeteria Plan of Service Providers **DOL No.** 610

**Plan Description** CAF

**Engager** John Smith Enterprises **Test Year** 2011

This Work-Product constitutes an Actuarial Opinion that may be used to determine whether or not the subject health care plan is discriminatory as contemplated by IRC Section 125 and relevant Regulations and Rulings. The quantitative aspects of health care plan discrimination testing are properly of interest to the health actuary. Other areas of interest (plan restructuring, remediation, financial penalties, e.g.) properly remain with the accountant or attorney, however. This Work-Product is in three parts: (a) Opinion, (b) Quantitative Tests and (c) Submitted Data (stored at [www.awpse.com](http://www.awpse.com)).

Sincerely,

\_\_\_\_\_  
Principal or Certifying Actuary

# Opinion

I am either (a) a Principal of Actuarial Work-Products, Inc. or (b) a Certifying Actuary designated as Addressee Number Three and am a member of both the (a) Society of Actuaries and (b) the American Academy of Actuaries. My firm has been retained by the Engager to provide calculations of certain actuarial items for the above-cited Health Care Plan and also to provide an opinion as to whether or not such Plan is discriminatory as contemplated by applicable Federal Laws, Regulations and Rulings. I relied upon the Engager cited herein as Addressee Number One as to the accuracy and completeness of the underlying data and documentation that was used in this Certification. In other aspects, my examination included (a) reviews of the actuarial assumptions, methods and submitted data and (b) tests of actuarial computations as I considered necessary under the circumstances.

The results of the discrimination tests that form the basis of my opinion are as follows:

	<b><u>Are These Discrimination Tests Met?</u></b>
<b>1. <u>Per Se Discrimination Tests</u></b>	
a. Probationary Period	<u>Yes</u>
b. Benefits (Including Optional Benefits)	<u>Yes</u>
c. Participant Contributions	<u>Yes</u>
d. Tenure/Compensation	<u>Yes</u>
<b>2. <u>Eligibility Tests</u></b>	
a. <b><u>Percentage Tests</u></b>	
1. 70% Test	<u>Yes</u>
ii. 70/80% Test	<u>NA</u>
b. <b><u>Benefit Ratio Test</u></b>	<u>Not Applicable</u>
<b>3. <u>Benefits and Contributions Tests</u></b>	
a. Participant Net Benefit Index	<u>No</u>
b. Key Employee Concentration Test	<u>No</u>
<b><u>Is the Plan Nondiscriminatory for the Test Year?</u></b>	<u>No</u>

This Work-Product is an actuarial opinion as contemplated by the American Academy of Actuaries.

1. I am qualified to offer such opinion by reason of my meeting the requisite examination, experience and continuing education requirements of the American Academy of Actuaries.
2. I am independent of and have no conflicted interest with respect to this Work-Product.
3. This Work-Product was prepared at the request of the Engager who is identified herein and who may not be the end-user.
4. I intend to be a fiduciary with respect to this Work-Product and will act accordingly striving to meet the standards of conduct necessary to meet this end.
5. The professional liability for the computer-provided computations used in this Work-Product is assumed by Actuarial Work-Products, Inc. which has in place appropriate E & O insurance. Either the Principal or Certifying Actuary, as signing Actuary, assumes the professional liability for the data-handling activities and has in place appropriate E & O insurance; such Actuary does not assume the professional responsibility for flawed or inappropriately-submitted data but does assume the professional responsibility for reviewing/editing for general reasonableness and appropriateness. Professional liability for any related consulting is a facts and circumstances matter.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Principal or Certifying Actuary

# Quantitative Tests

## 1. Eligibility Test

### a. 70% Test (All)

Total Employees	20
Total Employees Eligible to Participate	15
Percent	75%

### b. 70/80% Test (Non-Excludible Only)

Total Employees	20
Excludible Employees	3
Eligible Employees	17
Total Employees Eligible to Participate (Omitting the Excludibles)	13
Percent	76%

70/80 % Test is inapplicable if 3 exceeds  
30% of 20

## 2. Benefit Ratio Test (Non-Excludible Only)

Not Applicable

## 3. Benefits and Contributions Test

### a. Participant Net Benefit Index

<u>Plan Participants</u>	<u>Number</u>	<u>Annualized</u>		<u>Participant Net Benefit Index</u>
		<u>Paid Qualified Benefits</u>	<u>Paid Participant Contributions</u>	
HCE	3	20,000	4,000	5,333
Non-HCE	17	26,000	2,000	1,412

Total	20	46,000	6,000	2,000
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**b. Key Employee Concentration Test**

<u>Employee Grouping</u>	<u>Number</u>	<u>Annualized Qualified Net Plan Benefits</u>	<u>Percentage</u>
Key Employees	2	14,000	35%
Non-Key Employees	18	26,000	65
Total	20	40,000	100%

## Comments

1. A highly compensated individual (HCI) is any person who is (a) one of the top five highly paid officers, (b) a more than a 10% shareholder (using IRC attribution rules) or (c) one of the top 25% employees in compensation (not counting the excludible non-participants).
2. A Highly Compensated Employee (HCE) is any employee who (a) is an officer, (b) is a more than 5% shareowner or (c) who has an annual compensation in excess of the limits set by IRC Section 414(q) (adjusted for COLA).
3. A Key Employee is any employee who is (a) an officer with annual compensation in excess of \$130,000. (b) an over 5% owner or (c) a 1% to 5% owner with an annual compensation in excess of \$150,000.

# Submitted Data

The Submitted Data is privacy-protected and is accessible at [www.awpse.com](http://www.awpse.com).