

Actuarial Work-Products, Inc.

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Addressee No. 2
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Addressee No. 3
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RE: Discrimination Testing – Common Database

Employer _____ **Designation** _____

Employer(s) Sharing Plan: Single _____ **Multiple (Controlled/Affiliated)** _____

Plan Name _____

Plan Type (For Testing Purposes) _____ **DOL Number** _____

Engager _____

Eligible User _____ **Test Year** _____

This Work-Product constitutes a Risk and Actuarial Opinion that may be used to determine (a) whether or not the subject Plan is discriminatory as contemplated by IRC Section 105(h), Section 125 or Section 129 and (b), if so, what would likely be the basis for any resulting penalties. The quantitative aspects of discrimination testing are properly of interest to the risk/actuarial practitioner; areas of interest properly remain with the accountant and the attorney, however.

This Certification is in six parts:

1. Narrative or Explanation
2. Statement of Actuarial Opinion
3. Submitted Data
4. Testing Results
5. Employer Options
6. Comments of the Actuary

Sincerely,

Principal
Actuarial Work-Products, Inc.

PART 1

NARRATIVE OR EXPLANATION

The Statement of Risk/Actuarial Opinion (set forth in Part 2) is based on the Submitted Data (set forth in Part 3) that is processed by a computer program embedded in this Website to produce the Testing Results (set forth in Part 4) and the subsequent Employer Options are of sufficient importance to justify a separate Section (Part 5).

The User will find most questions answered in the Submitted Data Commentary; the more formal Text titled *Discrimination in Health Care Plans* is available as an online book at the Discrimination Subsite. It is expected that the User have available, at least for reference, the companion (or introductory) Work-Product titled *Discrimination Appraisal*.

The hoped-for purpose is to provide one-stop Discrimination Testing (supported by the Appraisal Work-Product and the online Text) that (a) is user-friendly, (b) accessible, (c) practitioner-managed (with some restrictions), (d) uses the latest and best in information technology, (e) treats discrimination both in a traditional/narrow way as well as the modern or more expanded way and (f) is inexpensive.

PART 2

STATEMENT OF RISK/ACTUARIAL OPINION DISCRIMINATION TESTING OF HEALTH CARE PLAN(S)

I am a principal of both Self-funding Actuarial Services, Inc. and Actuarial Work-Products, Inc. (affiliated Corporations); am a member of the Society of Actuaries and am a member of 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(s). I relied upon the Engager shown herein as to the accuracy and completeness of the underlying information that was used in this Certification. In other aspects, my examination included (a) reviews of the actuarial assumptions, methods, submitted data and (b) tests of actuarial computations as I considered necessary under the circumstances.

Summary of Tests

Employer _____ Designation _____

Employer(s) Sharing Plan: Single _____ Multiple (Controlled/Affiliated) _____

Plan Name _____ DOL Number _____

Plan Type (For Testing Purposes) _____ Test Year _____

Discrimination Test Results

1. Benefits Test

Are all four of the Benefits Test questions answered negatively? _____

2. Eligibility Test

<u>Test Result</u>	<u>Is the Test Met?</u>	<u>Sample Average</u>	<u>Statistical Range</u> <u>Low</u> <u>High</u>
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70%	_____	_____	_____	_____	_____
70/80%	_____	_____	_____	_____	_____
Fair Cross-Section	_____	_____	_____	_____	_____

3. Benefits/Contributions

<u>Employee group</u>	<u>Average Benefits</u> <u>Average Contributions</u>		
Excluded	_____		
Prohibited	_____		
Non-Prohibited	_____		
Total	_____		
<u>Concentration</u>	<u>Total Qualified Benefits</u>	<u>Percent of Total</u>	
Key Employee	_____	_____	
All Employees	_____	_____	

For those tests that are quantifiable, this Opinion provides the results of the Work-Products that were previously-produced for numerous unrelated plans by this Risk/Actuary in the form of samples thereby permitting this Opinion to measure the mean and dispersion of such samples.

Conditions and Terms of Opinion

That this Work-Product is an Actuarial Opinion as contemplated by the American Academy of Actuaries.

1. That 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. That this Actuarial Work-Product is the result of a mathematical computer program processing inputted data and documentation by Actuarial Work-Products, Inc. as summarized herein.
3. That I am independent of and have no conflicted interest with any party with respects to this Work-Product.
4. That the Work-Product was prepared at the request of the Eligible User, who is identified herein, and who may or may not be the ultimate user of such Work-Product.

5. That I have been engaged, as contemplated by the relevant American Academy of Actuaries, by the Engager identified herein.
6. That I intend to be a fiduciary with respect to this Work-Product and will act accordingly, striving to meet any and all standards of conduct necessary to meet this end.
7. That the professional liability for this Work-Product is assumed by Self-Funding Actuarial Services, Inc. which has in place an appropriate professional liability insurance policy. A PDF of the summary page of this policy is available at: www.awpse.com/eando.pdf.

09/25/2008
Date

Principal
Actuarial Work-Products, Inc.

PART 3

SUBMITTED DATA

PART 4

TESTING RESULTS

Employer Name _____ Designation _____

Plan Name _____ DOL Number _____

Test Results

1. Benefits Test

Is each Benefit Test Question answered negatively? _____

2. Eligibility Tests

a. Percentage Test

i. 70%

Total Employees _____

Total Participants (Excluding Non-Employees) _____

Percent _____

ii. 70/80%

Total Employees _____

Excludible by Statute	_____
Eligible Employees	_____
Total Participants (Excluding Non-Employees)	_____
Percent	_____

b. Fair Cross Section Test

i. Average Compensation by Class

<u>Class</u>	<u>Number</u>	<u>Annualized Compensation</u>	<u>Average</u>
<u>Employee-Non-Participant</u>			
Statutory	_____	_____	_____
Plan Provisions	_____	_____	_____
Employee Opt-Out	_____	_____	_____
Sub-Total	_____	_____	_____
<u>Employee-Participant</u>			
Prohibited	_____	_____	_____
Non-Prohibited	_____	_____	_____
Sub-Total	_____	_____	_____
Total	_____	_____	_____

ii. Range of Annualized Compensation – Participants

Prohibited Class	From _____ to _____
Non-Prohibited Class	From _____ to _____

iii. Distribution of Non-Prohibited Employee Participants by Range of Annualized Compensation

<u>Grouping</u>	<u>Compensation Range Codes</u>	<u>Number of Participants</u>
Low	_____	_____
Medium	_____	_____
High	_____	_____
Total		_____

iv. Ratio of Average Annualized Compensation

Ratio One: Total Non-Participants to Total Participants _____

Ratio Two: Total Prohibited to Non-Prohibited
Employee Participants _____

3. Benefits and Contributions

<u>Plan Participants</u>	<u>Number</u>	<u>Average Paid Qualified Benefits</u>	<u>Average Paid Participant Contributions</u>	<u>Quotient Benefits to Contributions</u>
Non-Employee	_____	_____	_____	_____
Prohibited Class	_____	_____	_____	_____
Non-Prohibited Class	_____	_____	_____	_____
Total	_____	_____	_____	_____

4. Concentration Tests

<u>Prohibited Class Grouping</u>	<u>Number</u>	<u>Paid Qualified Benefits</u>	<u>Percent of Total</u>
Key Employees			
Shareholders over 5%	_____	_____	
Annualized Compensation over \$125,000	_____	_____	
Top 20% Annualized Compensation	_____	_____	

Subtotal

All Officers

Highly Compensated _____

Total Qualified Benefits Paid by the Plan _____

5. Penalties for Test Failures

Highly Compensated Employees Who Are Affected

[illegible]

Total					

Discrimination Penalty Fraction

Benefits Paid to the Highly Compensated	
Total Plan Benefits	
Fraction	

PART 5

EMPLOYER OPTIONS

The Employer (or Engager as the case may be) may rely on the Work-Product as provided with confidence and comfort. Three comments are necessary in this regard: (a) the Risk/Actuarial

Work-Product is an exercise in measuring or quantifying and as such has a useful purpose; (b) to the extent that discrimination testing is subjective or qualitative, the role of risk/actuarial is diminished and the role of the attorney becomes dominant and (c) since the preparation of the requisite W-2 Forms (or 1099 Forms) is the responsibility of the accountant, the role of the such professional assumes a dominance, albeit in a limited area.

An appropriate compromise might well be (a) for the Employer (and staff) along with its practitioner(s) to obtain and review the Text, Appraisal and Work-Product; (b) where believed to be needful, obtain a legal opinion and (c) have the accountant audit the Work-Product(s) when the tax forms are prepared.

PART 6

COMMENTS OF THE ACTUARY

Elaborative or explanatory comments may be found in the appropriate Sub-Site under these headings: Description of Work-Product, Background Reading, Fees and Data Handling.

This Work-Product is the property of the Engager (shown on Page 1) who has the fee responsibility and is the party engaging the Actuary. The Eligible User is the person who actually enters the data and must be approved by Actuarial Work-Products, Inc.