



BOARD OF SUPERVISORS AGENDA ITEM REPORT **CONTRACTS / AWARDS / GRANTS**

☒ Award ☐ Contract ☐ Grant

Requested Board Meeting Date: 1/22/19

* = Mandatory, information must be provided

or Procurement Director Award ☐

***Contractor/Vendor Name/Grantor (DBA):**

The Lincoln National Life Insurance Company dba Lincoln Financial Group (Headquarters: Fort Wayne, IN)

***Project Title/Description:**

Short-Term Disability Insurance

***Purpose:**

Award: Master Agreement No. MA-PO-19-105. This Master Agreement is for an initial term of one (1) year in the annual award amount of \$1,700,000.00 (including sales tax) and includes four (4) one-year renewal options. Additionally, the Board of Supervisors authorizes the Procurement Director to execute the contract, contingent upon the Human Resources Directors acceptance of the policy.
Administering Department: Human Resources.

***Procurement Method:**

Pursuant to Pima County Procurement Code 11.24.010, Cooperative Procurement Authorized, for Requisition No. 19-129, the Procurement Director authorized the use of Sourcewell (formerly NJPA) contract no. 081617-LFG, which was awarded through competitive procedures reasonably similar to those set forth by Pima County Procurement Code.

PRCUID: 324774

Attachment: Cooperative Procurement Agreement.

***Program Goals/Predicted Outcomes:**

To provide employees short-term disability insurance to help assist in maintaining their income.

***Public Benefit:**

To attract and retain qualified employees by providing a comprehensive benefits package.

***Metrics Available to Measure Performance:**

Review of weekly short-term disability utilization.

***Retroactive:**

No.

JAN 16 15PM 0305 PCC CLK OF BD

Contract / Award InformationDocument Type: MA Department Code: PO Contract Number (i.e., 15-123): 19-105Effective Date: 02/01/2019 Termination Date: 01/31/2020 Prior Contract Number (Synergen/CMS): _____☒ Expense Amount: \$* 1,700,000.00 ☐ Revenue Amount: \$ _____***Funding Source(s) required:** Pima County Health Care Benefits TrustFunding from General Fund? ☐ Yes ☒ No If Yes \$ _____ % _____Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ NoIf Yes, is the Contract to a vendor or subrecipient? VendorWere insurance or indemnity clauses modified? ☐ Yes ☒ No

If Yes, attach Risk's approval.

Vendor is using a Social Security Number? ☐ Yes ☒ No

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Prior Contract No. (Synergen/CMS): _____

☐ Expense or ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ _____Is there revenue included? ☐ Yes ☐ No If Yes \$ _____***Funding Source(s) required:**Funding from General Fund? ☐ Yes ☐ No If Yes \$ _____ % _____**Grant/Amendment Information** (for grants acceptance and awards) ☐ Award ☐ Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e., 15-123): _____

Effective Date: _____ Termination Date: _____ Amendment Number: _____

☐ Match Amount: \$ _____ ☐ Revenue Amount: \$ _____***All Funding Source(s) required:*****Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ _____ % _____***Match funding from other sources?** ☐ Yes ☐ No If Yes \$ _____ % _____***Funding Source:** _____***If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?** _____Contact: Kelsey Braun, Procurement Officer *KB*Department: Procurement *May 15/19* Telephone: 724-7466Department Director Signature/Date: _____ *1/16/19*Deputy County Administrator Signature/Date: _____ *1-16-19*County Administrator Signature/Date: _____ *1/16/19*

(Required for Board Agenda/Addendum Items)

<p>Pima County Procurement Department Administering Department: Human Resources</p> <p>Project: Short Term Disability Insurance</p> <p>Contractor: The Lincoln National Life Insurance Company dba Lincoln Financial Group 1300 S. Clinton Street Fort Wayne, IN 46802</p> <p>Amount: \$1,700,000.00</p> <p>Funding: Health Benefit Self-Insurance Fund Pima County Contract No.: MA-PO-19-105</p>	
---	--

COOPERATIVE PROCUREMENT AGREEMENT

1. Parties, Background and Purpose.

- 1.1. Parties. This Contract is between Pima County, a political subdivision of the State of Arizona ("County"), and The Lincoln National Life Insurance Company ("Contractor").
- 1.2. Authority. Pima County is authorized by Pima County Code § 11.24.010 and A.R.S. § 41-2632 to enter into cooperative purchasing arrangements. Pima County has entered into such an agreement with Sourcewell (formerly NJPA) (Pima County contract no. 10168).
- 1.3. Contract.
 - 1.3.1. Sourcewell entered into a contract (contract no. 081617-LFG) for specified goods and services with Lincoln Financial Group, a financial services company ("Contractor"), which is currently in effect (the "Sourcewell Contract"). The Sourcewell Contract (including Contract Acceptance & Award, Request For Proposal and Contract Forms) is incorporated into this Contract by this reference.
 - 1.3.2. Section 1.3 of the Request for Proposal provides that another governmental entity with which Sourcewell has a cooperative purchasing agreement may, with Contractor's approval, purchase products and services at the same prices and under the same terms as in the Sourcewell Contract.
- 1.4. Purpose. The Pima County Human Resources department requires short-term disability insurance to provide income to employees who are unable to work for more than 14 days.

2. Term.

- 2.1. Original Term. This Contract is effective for a one-year period commencing on February 1, 2019 (the "Initial Term"). "Term," when used in this Contract, means the Initial Term plus any exercised Extension Options.

- 2.2. **Extension Options.** County may renew this Contract for up to four (4) additional periods of up to 1 year each (each an "Extension Option").
3. **Scope of Services.** Contractor agrees to furnish Pima County the goods and/or services ("Goods & Services") described on Exhibit A: Scope of Work (2 Pages) to this Contract, at a rate of \$0.35 per \$10.00 of weekly benefit (weekly benefit is calculated by multiplying each eligible employees weekly salary by 66.67%), up to a weekly maximum benefit of \$1,500.00, under the terms and conditions of the Sourcewell Contract as modified by this Contract. The terms and conditions set forth in this Contract control over any inconsistent provisions in the Sourcewell Contract.
4. **Not-to-Exceed Amount.** Purchases under this Contract by the County may not exceed \$1,700,000.00 annually (the "NTE Amount").
5. **Indemnification Clause.** To the fullest extent permitted by law, Contractor will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "Indemnitee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees (collectively, "Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The Indemnitee will, in all instances, except for Claims arising solely from the acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all Claims. Contractor is responsible for primary loss investigation, defense and judgment costs for any Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.
6. **Insurance Requirements.** Contractor will procure and maintain at its own expense insurance policies (the "Required Insurance") satisfying the below requirements (the "Insurance Requirements") until all of its obligations under this Contract have been met. The below Insurance Requirements are minimum requirements for this Contract and in no way limit Contractor's indemnity obligations under this Contract. The County in no way warrants that the required insurance is sufficient to protect the Contractor for liabilities that may arise from or relate to this Contract. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.
- 6.1. **Insurance Coverages and Limits:** Contractor will procure and maintain, until all of its obligations have been discharged, coverage with liability limits not less than those stated below. Coverage must be placed with insurers acceptable to the County with A.M. Best rating of not less than A- VII, unless otherwise approved by the County.
- 6.1.1. **Commercial General Liability (CGL)** – Occurrence Form with limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include cover for liability arising from premises, operations, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations.
- 6.1.2. **Business Automobile Liability** – Coverage for bodily injury and property damage on any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Contract with minimum limits not less than \$1,000,000 Each Accident.

- 6.1.3. Workers' Compensation and Employers' Liability – Statutory coverage for Workers' Compensation. Workers' Compensation statutory coverage is compulsory for employers of one or more employees. Employers Liability coverage with limits of \$1,000,000 each accident and \$1,000,000 each employee – disease.
- 6.1.4. Professional Liability (E & O) Insurance – This insurance is required by Pima County when Professional Liability or any other E&O coverage is excluded from the Contractor's CGL policy. The E&O policy limits shall be not less than \$2,000,000 Each Claim and \$4,000,000 Annual Aggregate. The insurance policy shall cover professional misconduct or negligent acts of anyone performing any services under this contract.
- 6.1.5. Network Security (Cyber)/Privacy Insurance: Coverage shall have minimum limits not less than \$2,000,000 Each Claim with a \$4,000,000 Annual Aggregate. The insurance shall include, but not be limited to, coverage for third party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss of private information, crisis management and identity theft response costs. This should also include breach notification costs, credit remediation and credit monitoring, defense and claims expenses, regulatory defense costs plus fines and penalties, cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.
- 6.2. Additional Coverage Requirements:
- 6.2.1. Claims Made Coverage: If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.
- 6.2.2. Additional Insured Endorsement: The General Liability, Business Automobile Liability and Technology E&O Policies shall each be endorsed to include Pima County, its departments, districts, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- 6.2.3. Subrogation Endorsement: The General Liability, Business Automobile Liability, Workers' Compensation and Technology E&O Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- 6.2.4. Primary Insurance Endorsement: The Required Insurance policies must stipulate that they are primary and that any insurance carried by Pima County, its agents, officials, employees or Pima County is excess and not contributory insurance. The Required Insurance policies may not obligate the County to pay any portion of a Contractor's deductible or Self Insurance Retention (SIR).
- 6.3. Subcontractors: Contractor must either (a) include all subcontractors as additional insureds under its Required Insurance policies, or (b) require each subcontractor to separately meet

all Insurance Requirements and verify that each subcontractor has done so, Contractor must furnish, if requested by County, appropriate insurance certificates for each subcontractor. Contractor must obtain County's approval of any subcontractor request to modify the Insurance Requirements as to that subcontractor.

- 6.4. Notice of Cancellation: Contractor must notify Pima County, within two (2) business days of Contractor's receipt of notice from an insurer, if any Required Insurance policy is suspended, voided, or cancelled for any reason. Notice must include the Pima County project or contract number and project description.

6.4.1 Verification of Coverage:

- 6.4.1.1 Contractor must furnish Pima County with a certificate of insurance (valid ACORD form or equivalent approved by Pima County) for each Required Insurance policy, which must specify that the policy has all the required endorsements, and must include the Pima County project or contract number and project description. Each certificate must be signed by an authorized representative of the insurer.
- 6.4.1.2 County may at any time require Contractor to provide a complete copy of any Required Insurance policy or endorsement.
- 6.4.1.3 Contractor must provide the certificates to Pima County before work commences. Each Required Insurance policy must be in effect at least 10 days before work under this Contract commences. Contractor must provide County a renewal certificate not less than 15 days prior to a Required Insurance policy's expiration date. Failure to maintain the Required Insurance policies, or to provide evidence of renewal, is a material breach of this Contract.
- 6.4.1.4 All insurance certificates must be sent directly to the appropriate County Department.

- 6.5. Approval and Modifications: The Pima County Risk Manager may modify the Insurance Requirements at any point during the Term of this Contract. This can be done administratively, with written notice from the Risk Manager, and does not require a formal Contract amendment. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, nor the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

7. **Cancellation for Conflict of Interest.** This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
8. **Compliance with Laws.** Contractor will comply with all applicable federal, state, and local laws, rules, regulations, standards and Executive Orders. Contractor warrants that it is appropriately licensed to provide the services under this Contract and that any subcontractors will be appropriately licensed. The laws and regulations of the State of Arizona govern the

rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in the appropriate court of the State of Arizona in Pima County.

9. **Non-Discrimination.** Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this Contract, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Contract, Contractor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
10. **Non-Appropriation of Funds.** Notwithstanding any other provision in this Contract, County may terminate this Contract if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining County or other public entity obligations under this Contract. In the event of such termination, County will have no further obligation to Contractor, other than to pay for services rendered prior to termination.
11. **Public Information.** Pursuant to A.R.S. § 39-121 et seq. all documents submitted to County by Contractor, including but not limited to pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.
12. **Legal Arizona Workers Act Compliance.**
 - 12.1. Compliance with Immigration Laws. Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this Contract likewise complies with the State and Federal Immigration Laws.
 - 12.2. Books & Records. County has the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.
 - 12.3. Remedies for Breach of Warranty. Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion.

Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Contractor.

- 12.4. **Subcontractors.** Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 24 by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract." CONTRACTOR hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to CONTRACTOR's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). CONTRACTOR will further ensure that each subcontractor who performs any work for CONTRACTOR under this contract likewise complies with the State and Federal Immigration Laws.

13. **Written Orders.** County will order products or services under this Contract by issuing a Delivery Order (DO) document. Order documents will be furnished to Contractor via e-mail or telephone. If an order is given verbally, the County Department that issued the order will transmit a confirming order document to Contractor within five workdays of the date the verbal order is given.

Contractor must not supply materials or services pursuant to the contract that are not documented or authorized by a Delivery Order (DO) at the time of provision. County accepts no responsibility for control of or payment for materials or services not documented by a County Delivery Order (DO).

Contractor will establish, monitor, and manage an effective contract administration process that assures compliance with all requirements of this Contract. In particular, Contractor will not provide goods or services other than those described in this Contract, in excess of the NTE Amount, or after the Term of the Contract has ended, without a Contract amendment properly executed and issued by County, as provided below. Any items provided in excess of that stated in this Contract are at Contractor's own risk.

14. **Amendments.** The County may extend or revise this Contract by notifying Contractor in writing of the change, which notice will be in the form of a revised "Master Agreement." If Contractor does not object in writing to the proposed changes within ten (10) calendar days after receipt of the notice, Contractor will be deemed to have accepted the changes, and the revision will be binding on the parties, effective as of the date the notice was issued. If Contractor objects to one or more of the changes, then the proposed changes will be deemed to be ineffective.

15. **Invoice Submittal.** Invoices are to be sent to:

Pima County Finance & Risk Management- Accounts Payable
P.O. Box 791
Tucson AZ, 85701.

16. **Notices.** Notices regarding this Agreement should be addressed to:

Gayl Zambo, Division Manager
Pima County Human Resources
150 W. Congress St. 4th Floor
Tucson, AZ 85701
(520)724-8006, Gayl.Zambo@pima.gov

Mike Walsh, Senior Account Director
Lincoln Financial Group
(619)244-5044, Mike.Walsh@lfg.com

(The remainder of page is left blank intentionally)

DRAFT

IN WITNESS WHEREOF, the parties have approved this Cooperative Procurement Agreement and agree to be bound by the terms and conditions of the Contract on the dates written below.

APPROVED:

The Lincoln National Life Insurance Company:

Procurement Director

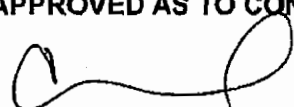
Authorized Officer Signature

Date: _____

Printed Name and Title

Date: _____

APPROVED AS TO CONTENT:



Human Resources Director

Date: 1/16/19

APPROVED AS TO FORM:



Deputy County Attorney
DANIEL JURKOWITZ

1/16/19
Date

DRAFT

Exhibit A: Scope of Services

Short-Term Disability Insurance

To provide Short-Term Disability Insurance to all benefits eligible Pima County employees.

Eligibility and Effective Date of Benefit

To be eligible for benefits, an employee must be a regular full-time or part-time employee hired to work and receiving pay for twenty (20) or more hours per week, or forty (40) hours per pay period. A variable-time employee hired to work and receiving pay for twenty (20) or more hours per week, or forty (40) hours per pay period, regardless of the actual number of hours worked is eligible. A temporary employee extended beyond the first six (6) months of employment and hired to work and receiving pay for twenty (20) or more hours per week, or forty (40) hours per pay period, is eligible. Coverage becomes effective after 90 days of eligibility.

Qualification for Disability

To be eligible for this benefit, employee must be under the care of a licensed physician and due to their own sickness or injury, unable to perform the duties and/or the regular schedule of the job held when the employee became disabled. Employee must comply with all requirements to be eligible for this benefit. This benefit excludes on-the-job injuries.

Employee Requirements

Employee must notify County of disability and complete all necessary paperwork.

Employee will receive additional paperwork from Contractor which must be completed and returned. Employee must provide Proof of Claim showing date disability began and its cause and degree to Contractor. Proof of Claim shall include, but is not limited to, statement by employee, statement by physician with descriptions of any restrictions, proof of any other income received, an authorization to obtain more information for claim and any other support of claim required.

Employee must provide proof of continued disability and physician's care to Contractor upon request.

County Requirements

Initial notice of a disability claim will be submitted to the Contractor by the County.

County will verify benefits eligibility and provide approval to Contractor.

County self-bills and will generate a monthly invoice based on all current benefits eligible employees. Salary information will be captured once per year for premium purposes only and claims will be based on current salary information.

County will send weekly electronic eligibility files to Contractor.

Contractor Requirements

Contractor will send required claim forms to the Employee and County for filing the required proof.

Once all requirements are met, Contractor is to provide a written Determination of Claim to County and Employee stating if claim is approved, denied or suspended, as well as what further information may be necessary.

Reports will be provided to County from Contractor on all claims.

Contractor will be responsible for payment of short-term disability benefit to Employee after claim is approved to include any necessary retroactive payments. Claims determination to be made within 3-5 business days after receipt of all completed documentation. Payment is mailed out the next business day following approval. Subsequent payments will be made on a weekly basis.

Contractor will provide W-2s to all Employees whom have received short-term disability benefits within the calendar year, and pay the employer portion of the FICA match as required by law.

Benefit Calculation & Elimination Period

Benefits will begin 14 days after date last worked and will not exceed 24 weeks of pay.

Weekly benefit will be based on 66.67% of weekly salary at time of disability or \$1,500 per week, whichever is less.

Other individual income will be documented and may reduce benefit per the restrictions of the insurance policy.

Short-Term Disability Policy

The Scope of Services is only a summary of the Lincoln Financial Short-Term Disability Policy. It describes some, but not all, of the features of the new Lincoln Financial Short-Term Disability Policy. The actual provisions of the new Lincoln Financial Short-Term Disability Policy govern and control and are incorporated into this contract if approved by the Pima County Human Resources Director on the condition that they are consistent with the coverage generally described in this contract. See Attachment 1: Group Insurance Policy.

Attachment 1: Group Insurance Policy

Short-Term Disability Insurance.

Group insurance policy to be provided by The Lincoln National Life Insurance Company upon effective date.

DRAFT