

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

21-301

SAP Number

Arrowhead Regional Medical Center

Department Contract Representative	<u>William L. Gilbert</u>
Telephone Number	<u>(909) 580-6150</u>
Contractor	<u>Sanofi Pasteur, Inc.</u>
Contractor Representative	<u>Ramey Evans</u>
Telephone Number	<u>(951) 323-6998</u>
Contract Term	<u>May 4, 2021 through December 31, 2021</u>
Original Contract Amount	<u>NTE \$300,000</u>
Amendment Amount	<u></u>
Total Contract Amount	<u>NTE \$300,000</u>
Cost Center	<u>7710</u>

Briefly describe the general nature of the contract: An Agreement with Sanofi Pasteur, Inc., for the purchase of influenza vaccines, for the agreement period of May 4, 2021 through December 31, 2021, for an amount not-to-exceed \$300,000.

FOR COUNTY USE ONLY

Approved as to Legal Form

Charles Phan, Deputy County Counsel

Date 4/23/2021

Reviewed for Contract Compliance



Date _____

Reviewed/Approved by Department

William L. Gilbert, Director

Date 4/26/21

2021-2022 INFLUENZA VACCINE PROGRAM

Group Name:	Arrowhead Regional Medical Center
Address:	400 North Pepper Ave Colton, CA 92324
Primary Contact & Title:	Cliff Hiroshige – Director of Pharmacy
Email of Primary Contact:	hiroshigec@armc.sbcounty.gov
Agreement Number:	365088 - 433223
Group Purchasing Organization:	Vizient

Influenza Vaccine Agreement for Arrowhead Regional Medical Center

Arrowhead Regional Medical Center is defined to include any office locations, ("Practice Locations"), through which **Arrowhead Regional Medical Center** carries out professional services. Practice Locations are listed in Exhibit B. References to **Arrowhead Regional Medical Center** include its Practice Locations. **Arrowhead Regional Medical Center** and its Practice Locations are part of the same legal entity, and constitute a single "buyer," for purposes of the federal health care program anti-kickback law discount exception, 42 U.S.C. § 1320a-7b(b)(3)(A), and safe harbor, 42 C.F.R. § 1001.952(h).

According to its immunization protocol, **Arrowhead Regional Medical Center**, a Member of **Vizient** (for itself and, as applicable, its participating Practice Locations) commits to the terms and conditions set forth below. To the extent of any inconsistencies between this Influenza Vaccine Agreement and the terms of the Supplier Agreement ("GPO Agreement") between Vizient and Sanofi Pasteur Inc., the terms of the GPO Agreement shall control:

Influenza Vaccine Terms:

- 1) **Arrowhead Regional Medical Center** must sign, date and return this Agreement by **May 4, 2021** in order to receive the pricing and shipping offers presented below. This offer is invalid after May 4, 2021.

- 2) Prices of influenza vaccines are valid for requests placed by **Arrowhead Regional Medical Center** Practice Locations for the 2021-2022 formula vaccines. Contract pricing, payment terms and shipping commitment timelines are indicated below in Exhibit A for the 2021-2022 influenza season. Shipping commitment timelines and percentages of total confirmed influenza vaccine reservation will be based on confirmed reservations as of March 31, 2021. Once **Arrowhead Regional Medical Center** selects Option (see Exhibit A), it cannot be changed after June 18, 2021.
Arrowhead Regional Medical Center may earn a rebate as shown in Exhibit A provided **Arrowhead Regional Medical Center** achieves the market share and prior year volume as defined in Exhibit A. Sanofi Pasteur Inc. will notify **Arrowhead Regional Medical Center** by January 15, 2021 of the Prior Year Volume dose numbers shipped to **Arrowhead Regional Medical Center's** Practice Locations in the previous influenza season as of December 11, 2020. The rebate percentage will apply towards total invoiced dollar purchases, exclusive of excise tax and returns for influenza vaccine purchases made by December 31, 2020. Sanofi Pasteur Inc.'s commitment to reserve and/or ship doses is expressly conditioned upon there being adequate nationwide supplies of influenza vaccine and the Centers for Disease Control and Prevention (CDC) not having implemented preferential immunization or taken other steps to influence the distribution of vaccine supplies. In the event Sanofi Pasteur Inc. ships any presentation of influenza vaccine more than 2 business days after the shipping dates identified in Exhibit A, the number of doses delivered late in that shipping period will be deducted from the Prior Year Volume. Any rebates for influenza vaccine for the current influenza season due **Arrowhead Regional Medical Center** shall be paid by Sanofi Pasteur Inc. on or before May 31, 2022. All rebate payments for influenza vaccine, by presentation, are based upon net purchases by Practice Locations, which are the total invoiced dollar purchases, exclusive of federal excise tax and returns for influenza vaccine purchases made by December 31, 2021.

- 3) **Arrowhead Regional Medical Center** will provide prompt written notice to Sanofi Pasteur Inc. should the price of any contract Product become noncompetitive (7.5% or greater below the net/net contract price) as a result of a bona fide competitive offer, and Sanofi Pasteur Inc. shall have the right to review the competitive price within thirty (30) days of such notice.

- 4) **Arrowhead Regional Medical Center** Practice Locations shall purchase influenza vaccine products hereunder from Sanofi Pasteur Inc. on a direct purchase basis only. Fluzone and Flublok Influenza vaccine requests placed through a wholesaler or distributor are not permitted and will not be credited to your contract.
- 5) Subject to Exhibit A, if Sanofi Pasteur Inc. does not meet the minimum shipping percentages set forth herein, and the Practice Location purchases a competitor's injectable influenza vaccine at a price greater than the Contract Price set forth in Exhibit A of the Agreement, then Sanofi Pasteur Inc. will issue a credit of \$1.00 per dose for every competitor's injectable dose purchased, up to the amount of the influenza vaccine committed doses not shipped per shipping commitment timelines. This credit shall be the sole and exclusive remedy to **Arrowhead Regional Medical Center**. The credit issued may only be applied to a future purchase by the Practice Location of Sanofi Pasteur Inc. influenza products. Any such purchases must be executed within ten (10) days of the date(s) committed by Sanofi Pasteur Inc. All claims for shipping commitment credit, together with appropriate documentation (proof of purchase), must be received by Sanofi Pasteur Inc., no later than December 1, 2021.
- 6) For direct purchases from Sanofi Pasteur Inc. for the current influenza season, Practice Locations may return a limited number of unused and expired doses for credit toward future purchases of influenza vaccine as follows:
 - Ten (10) percent of each presentation of each customer's influenza vaccine shipped during the 2021-2022 influenza season may be returned for full credit.
 - Credit can be applied to any future direct purchases of Sanofi Pasteur Inc. vaccines.
 - Expired influenza vaccine returns are accepted beginning after May 1, 2022 and must be returned by July 31, 2022.

Additional Terms:

- 7) The term of this Agreement is eight (8) months, beginning May 4, 2021 and ending December 31, 2021, with an option to renew for an additional twelve (12) month period as mutually agreed upon in writing by both parties. In the event that **Arrowhead Regional Medical Center's** GPO fails to execute an Agreement prior to the end date of this Agreement, this Agreement will end on the last day of the term of the GPO Agreement.
- 8) **Arrowhead Regional Medical Center** shall (1) provide Sanofi Pasteur Inc. with a complete list of Practice Locations participating in this Agreement, and (2) promptly advise Sanofi Pasteur Inc. of any changes, additions or deletions to the list as they occur. All such information must be submitted in an electronic format provided by Sanofi Pasteur Inc. (Exhibit B) via email. The document must contain the required fields as outlined in Exhibit B. Sanofi Pasteur Inc. will process any changes, additions and deletions relating to Exhibit B within forty-five (45) days of receipt. Sanofi Pasteur Inc. reserves the right to exclude certain proposed Practice Locations from coverage under this Agreement upon notice to **Arrowhead Regional Medical Center**. Sanofi Pasteur Inc. further reserves the right to cancel or amend this Agreement should **Arrowhead Regional Medical Center** not meet Sanofi Pasteur Inc.'s requirements as outlined in this section. In such event, Sanofi Pasteur Inc. agrees to provide thirty (30) days' written notice to **Arrowhead Regional Medical Center** and work with **Arrowhead Regional Medical Center** during said period to resolve outstanding issues.
- 9) Either **Arrowhead Regional Medical Center** or Sanofi Pasteur Inc. shall have the right to cancel this Agreement upon thirty (30) days written notice. Any benefit earned through the date of cancellation will be issued as specified by the Agreement.
- 10) **Arrowhead Regional Medical Center** shall promptly advise Sanofi Pasteur Inc. of any discrepancies in pricing. Sanofi Pasteur Inc. will process credit adjustment requests due to an error in pricing, excluding requests based on Practice Location affiliation, upon such notification. Credit adjustments due to Practice Location affiliation will be considered upon written notice to Sanofi Pasteur Inc., and will be limited to the two (2) month period prior to receipt of the written notification. Sanofi Pasteur Inc. reserves the right to deny credit adjustments based upon incomplete and/or inaccurate documentation.
- 11) Pursuant to Contract #346056-423092, and in consideration of **Arrowhead Regional Medical Center's** designated group purchasing organization, **Vizient**, providing various administrative services, Sanofi Pasteur Inc. shall pay an Administrative Fee to **Vizient**.
- 12) **Arrowhead Regional Medical Center** certifies to Sanofi Pasteur Inc. that (1) Products sold to **Arrowhead Regional Medical Center** under this Agreement shall be dispensed to patients, physicians and/or employees of **Arrowhead Regional Medical Center** and (2) **Arrowhead Regional Medical Center** is operating in each instance, both on the effective date of this Agreement and on the date said Product is dispensed, either as:

- (i) the exclusive provider of said product to patients, physicians or employees; or
 - (ii) a nonprofit institution, eligible for all purposes under the Nonprofit Institutions Act, 15 U.S.C. § 13c, for which purchases of said product are made for said **Arrowhead Regional Medical Center** "own use"; or
 - (iii) a for-profit organization, for which purchases of said product are made for **Arrowhead Regional Medical Center** "own use" as defined in De Modena, et al. v. Kaiser Foundation Health Plan, Inc., et al., 743 F. 2d 13888 (9 Cir. 1984), applying the holding of the U.S. Supreme Court in Abbott Laboratories, et al. v. Portland Retail Druggist Association, Inc., 425 U.S. 1 (1976).
- 13) Following the execution of this Agreement, **Arrowhead Regional Medical Center** shall promptly notify all Practice Locations of the implementation of this Agreement, including the following:
- a. Practice Locations will be responsible for inspection of all Products upon its receipt, immediately notifying Sanofi Pasteur Inc. of any Product that is damaged or unusable. Such Product shall be returned to Sanofi Pasteur Inc. in accordance with Sanofi Pasteur Inc.'s General Terms and Conditions of Sale. All Products must be stored and handled as described in each product's approved labeling.
 - b. Permit Sanofi Pasteur Inc. or its authorized representatives to examine or replace inventory as mutually agreed upon and shall permit Sanofi Pasteur Inc. or its authorized representatives reasonable access to **Arrowhead Regional Medical Center** Practice Locations in order to provide information or service materials.
 - c. **Arrowhead Regional Medical Center** agrees to meet with representatives from Sanofi Pasteur Inc. once each calendar quarter to review contract compliance and performance.
 - d. At or about the conclusion of the Agreement term, Sanofi Pasteur Inc. shall propose Product pricing for the renewal term of this Agreement and review it with responsible **Arrowhead Regional Medical Center** representatives.
 - e. Unless where disclosure is required by law, **Arrowhead Regional Medical Center** and Sanofi Pasteur Inc. shall hold the terms of this Agreement as confidential information and such obligation of confidentiality shall survive the termination or expiration of this Agreement.
- 14) With respect to any promotional programs or offers, Sanofi Pasteur Inc. shall have the sole right and responsibility for establishing and modifying the terms and conditions with respect to the sale of the Products, including any terms and conditions relating to or affecting the price at which the Products will be sold, any discounts attributable to payments on receivables, distribution of the Products, credit to be granted or refused, and the like.
- 15) All sales of Product hereunder are subject to Sanofi Pasteur Inc.'s Terms and Conditions of Sale ("Terms and Conditions") in effect at the time of shipment, copies of which are available upon request or at www.vaccinestoppe.com. In the event of any conflict between those Terms and Conditions and the terms set forth herein, the terms of this Agreement shall control. In the event of any conflict between the Terms and Conditions and the terms in the GPO Agreement, the terms of the GPO Agreement shall control.
- 16) Neither party may assign or transfer its rights nor obligations under this Agreement without the prior written consent of the other party hereto, provided that, Sanofi Pasteur Inc. may assign this Agreement to any affiliate or to a third party which purchases all, or substantially all, of the assets of the business to which this Agreement relates with written notice to **Arrowhead Regional Medical Center**.
- 17) In addition to any indemnification obligations set forth in the GPO Agreement, Sanofi Pasteur Inc. shall indemnify, defend, and hold harmless **Arrowhead Regional Medical Center** (and the County of San Bernardino), against and in respect of any and all claims, losses, costs, expenses, liabilities and damages, (including reasonable attorneys' fees) in connection with, arising out of or based upon any claim of an alleged defect in any of the products supplied hereunder (collectively, the "Claims"), except to the extent that any such Claim is caused by **Arrowhead Regional Medical Center** gross negligence, recklessness or willful misconduct, or from breach of any of **Arrowhead Regional Medical Center** representations, warranties or certifications. As a condition to Sanofi Pasteur Inc.'s indemnification, **Arrowhead Regional Medical Center** shall give Sanofi Pasteur Inc. notice of any Claims (including a copy of any such Claim served upon **Arrowhead Regional Medical Center**, promptly after such Claim was served and shall cooperate with Sanofi Pasteur Inc. and provide all such information to Sanofi Pasteur Inc. as shall be reasonably necessary for the defense (or settlement) of such Claims. **Arrowhead Regional Medical Center** agrees to cooperate with Sanofi Pasteur Inc. in all respects with the conduct of the defense of the Claims, and shall not compromise or otherwise settle any such Claim without Sanofi Pasteur Inc.'s prior written consent.
- 18) The terms and conditions of the **Vizient** GPO Agreement shall apply to this Agreement.

19) Unless otherwise notified in writing to the contrary, any notice or written disclosure required or permitted by the terms hereof to be given any party hereto shall be effectively delivered for all purposes if delivered personally, electronically, or if mailed, upon deposit in the United States mail, postage prepaid, and if directed to **Arrowhead Regional Medical Center** or any of its Practice Locations, properly addressed to **Arrowhead Regional Medical Center** at the address listed in this document on page 1 and the signature page. If directed to Sanofi Pasteur, properly addressed to: Sanofi Pasteur Inc., Discovery Drive, Swiftwater, PA 18370, ATTN: Director, Contract Development and Analytics EMAIL:contract.administration@sanofi.com.

This Agreement and its Exhibits constitute the final written expression of all terms and conditions of the Agreement relating to the transactions described herein. This Agreement and its Exhibits supersede all previous communications, representations, and agreements, promises, or statements, either written or verbally communicated, with respect to such transactions. No addition to or modification of any provision of this Agreement and its Exhibits will be binding unless made in writing and signed by the parties to the agreement or their authorized representatives. This document is issued by Sanofi Pasteur Inc. located at Discovery Drive, Swiftwater, Pennsylvania 18370-0187 and is binding only upon endorsement by its Head of Sales.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year so indicated below, with full authorization to do so.

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

Initial one selected option below:

Option 1 (Initial below)	Option 2 (Initial below)	Option 3 (Initial below)
C.H.		

**COUNTY OF SAN BERNARDINO ON BEHALF
OF ARROWHEAD REGIONAL MEDICAL
CENTER**

By: _____



Printed
Name: _____

Curt Hagman

Chairman, Board of Supervisors

Title: _____

Date: _____

MAY 04 2021

SANOFI PASTEUR INC.

Digitally signed by Patrick
Engkjer
Date: 2021.03.18 15:28:30
-05'00'

Patrick Engkjer

By: _____

Printed
Name: _____

Patrick Engkjer

Title: _____

Head of Key Accounts

Date: _____

3.18.21

**SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD
LYNNA MONELL
Clerk of the Board of Supervisors
of the County of San Bernardino**

By: _____

Deputy



Exhibit A

		Option 1	Option 2	Option 3
Performance & Prior Year Volume Component	Market Share/ Performance Expectation *(Fluzone QIV, Flublok QIV)	80% QIV Market Share	50% QIV Market Share	No Market Share Requirement
		&	&	&
	QIV Prior Year (PY) Volume *(Fluzone QIV, Flublok QIV)	No PY Volume Component	No PY Volume Component	90% PY Volume
		&	&	&
	HD and/or Flublok Prior Year (PY) Volume	95% PY Volume	95% PY Volume	90% PY Volume
Contract Pricing	Fluzone Quadrivalent vaccine 5-ml multidose vial 49281-0635-15	\$156.00	\$156.00	\$162.68
	Fluzone Quadrivalent vaccine 0.5-mL prefilled syringe 49281-0421-50	\$167.16	\$167.16	\$174.04
	Fluzone Quadrivalent vaccine 0.5-mL single dose vial 49281-0421-10	\$167.16	\$167.16	\$174.04
	Fluzone High-Dose Quadrivalent vaccine 0.7 mL prefilled syringe 49281-0121-65	\$530.58	\$530.58	\$542.49
	Flublok Quadrivalent vaccine 0.5-mL prefilled syringe 49281-0721-10	\$530.58	\$530.58	\$542.49
Rebates	**QIV Rebate	2%	1%	0%
	HD and Flublok Rebate	2%	2%	2%
Shipping Commitments	Fluzone High-Dose Quadrivalent and Flublok Quadrivalent vaccines	August 31 st – 25% of doses shipped September 30 th – 75% of doses shipped October 31 st – 100% of doses shipped	September 30 th – 75% of doses shipped October 31 st – 100% of doses shipped	
	Fluzone Quadrivalent vaccines	August 31 st – 25% of doses shipped September 30 th – 60% of doses shipped October 31 st – 100% of doses shipped	September 30 th – 60% of doses shipped October 31 st – 100% of doses shipped	

* Does not include Fluzone High-Dose Quadrivalent vaccine

** Does not include Fluzone High-Dose Quadrivalent vaccine and Flublok Quadrivalent vaccine

Prices do not include Federal Excise Tax of \$7.50 per unit (\$.75 per dose)

Sanofi Pasteur Inc. payment terms are 2% 90, net 91 days.

Exhibit B

List of Practice Locations

Provide a list of Practice Locations as requested by Sanofi Pasteur Inc. and updates monthly in an electronic format (Excel) acceptable to Sanofi Pasteur Inc. The Excel file may be sent via e-mail.

Required

HIN, DEA, and GLN
Customer Segment (pediatric, FP, IM, etc.)
Name
Address
City
State
Zip
Phone
Start Date
End Date (if known)
Contact Person
Add, Delete, Change

Optional

Sanofi Pasteur Inc. Customer Number

Appendix A

Influenza Vaccine Presentations and Pricing			NDC	Available Discount (Discounts vary by option)	Option 1 Price without Federal Excise Tax	Option 2 Price without Federal Excise Tax	Option 3 Price without Federal Excise Tax
Contract Price	Fluzone QIV 5 mL multidose vial		49281-0635-15		\$156.00	\$156.00	\$162.68
	Fluzone QIV 0.5 mL prefilled syringe		49281-0421-50		\$167.16	\$167.16	\$174.04
	Fluzone QIV 0.5 mL single dose vial		49281-0421-10		\$167.16	\$167.16	\$174.04
	Fluzone High-Dose QIV 0.7 mL prefilled syringe		49281-0121-65		\$530.58	\$530.58	\$542.49
	Flublok 0.5 mL prefilled syringe		49281-0721-10		\$530.58	\$530.58	\$542.49
*Flu Direct Savings Discount	Fluzone QIV 5 mL multidose vial		49281-0635-15	2%	\$152.88	\$152.88	\$159.42
	Fluzone QIV 0.5 mL prefilled syringe		49281-0421-50	2%	\$163.82	\$163.82	\$170.56
	Fluzone QIV 0.5 mL single dose vial		49281-0421-10	2%	\$163.82	\$163.82	\$170.56
	Fluzone High-Dose QIV 0.7 mL prefilled syringe		49281-0121-65	0%	\$530.58	\$530.58	\$542.49
	Flublok 0.5 mL prefilled syringe		49281-0721-10	0%	\$530.58	\$530.58	\$542.49
Less Web Discount	Fluzone QIV 5 mL multidose vial		49281-0635-15	1%	\$151.35	\$151.35	\$157.83
	Fluzone QIV 0.5 mL prefilled syringe		49281-0421-50		\$162.18	\$162.18	\$168.86
	Fluzone QIV 0.5 mL single dose vial		49281-0421-10		\$162.18	\$162.18	\$168.86
	Fluzone High-Dose QIV 0.7 mL prefilled syringe		49281-0121-65		\$525.27	\$525.27	\$537.07
	Flublok 0.5 mL prefilled syringe		49281-0721-10		\$525.27	\$525.27	\$537.07
Less Prompt Pay Cash Discount	Fluzone QIV 5 mL multidose vial		49281-0635-15	2%	\$148.32	\$148.32	\$154.67
	Fluzone QIV 0.5 mL prefilled syringe		49281-0421-50		\$158.93	\$158.93	\$165.48
	Fluzone QIV 0.5 mL single dose vial		49281-0421-10		\$158.93	\$158.93	\$165.48
	Fluzone High-Dose QIV 0.7 mL prefilled syringe		49281-0121-65		\$514.77	\$514.77	\$526.33
	Flublok 0.5 mL prefilled syringe		49281-0721-10		\$514.77	\$514.77	\$526.33
**Performance Rebate	Fluzone QIV 5 mL multidose vial		49281-0635-15	0% - 2%	\$3.06	\$1.53	\$0.00
	Fluzone QIV 0.5 mL prefilled syringe		49281-0421-50	0% - 2%	\$3.28	\$1.64	\$0.00
	Fluzone QIV 0.5 mL single dose vial		49281-0421-10	0% - 2%	\$3.28	\$1.64	\$0.00
	Fluzone High-Dose QIV 0.7 mL prefilled syringe		49281-0121-65	2%	\$10.61	\$10.61	\$10.85
	Flublok 0.5 mL prefilled syringe		49281-0721-10	2%	\$10.61	\$10.61	\$10.85
***Net Price (per Unit)	Fluzone QIV 5 mL multidose vial		49281-0635-15		\$145.27	\$146.80	\$154.67
	Fluzone QIV 0.5 mL prefilled syringe		49281-0421-50		\$155.66	\$157.30	\$165.48
	Fluzone QIV 0.5 mL single dose vial		49281-0421-10		\$155.66	\$157.30	\$165.48
	Fluzone High-Dose QIV 0.7 mL prefilled syringe		49281-0121-65		\$504.16	\$504.16	\$515.48
	Flublok 0.5 mL prefilled syringe		49281-0721-10		\$504.16	\$504.16	\$515.48
***Net Price (per Dose)	Fluzone QIV 5 mL multidose vial		49281-0635-15		\$14.53	\$14.68	\$15.47
	Fluzone QIV 0.5 mL prefilled syringe		49281-0421-50		\$15.57	\$15.73	\$16.55
	Fluzone QIV 0.5 mL single dose vial		49281-0421-10		\$15.57	\$15.73	\$16.55
	Fluzone High-Dose QIV 0.7 mL prefilled syringe		49281-0121-65		\$50.42	\$50.42	\$51.55
	Flublok 0.5 mL prefilled syringe		49281-0721-10		\$50.42	\$50.42	\$51.55

*Discount applies to doses reserved by February 28, 2021
 **Performance rebate percentages can be referenced in Exhibit A
 ***Net price per unit/dose reflects all available discounts and rebates