



# San Bernardino County

## Legislation Text

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**File #: 5165, Agenda Item #: 46**

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### **REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY AND RECORD OF ACTION**

**December 7, 2021**

#### **FROM**

**PETE MENDOZA, Interim Director, Purchasing Department**  
**WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center**

#### **SUBJECT**

Agreement with Vizient, Inc. for Group Purchasing Membership Services

#### **RECOMMENDATION(S)**

1. Approve Master Services Agreement with Vizient, Inc. for County Group Purchasing Organization Associate Membership, for the period of January 1, 2022 through December 31, 2026, at no cost to the County for membership.
2. Approve Arrowhead Regional Medical Center's enrollment in Vizient, Inc.'s Vizient Data Management Platform and DataLYNX, for the period of January 1, 2022 through December 31, 2026, at a not-to-exceed cost of \$265,456.
3. Approve Arrowhead Regional Medical Center's enrollment in Vizient, Inc.'s Vizient Savings Actualizer - Supplies with Benchmarking Program, for the period of January 1, 2022 through December 31, 2026, at a not-to-exceed cost of \$504,368.

(Presenter: Pete Mendoza, Interim Director, 387-2073)

#### **COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**Provide for the Safety, Health and Social Service Needs of County Residents.**

#### **FINANCIAL IMPACT**

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). Contract expenditures are funded by State Medi-Cal, Federal Medicare, private insurance, and other departmental revenue. Funding sources may change in the future pending legislative activity related to the repeal and/or replacement of the Affordable Care Act. Sufficient appropriation and revenue are included in the Arrowhead Regional Medical Center's (ARMC) and other participating departments' 2021-22 budget and will be included in future recommended budgets.

Expenditures for numerous contracts used by ARMC and other departments under the Vizient, Inc. Group Purchasing Organization (GPO) are estimated at \$60,000,000 annually but may fluctuate based on actual need.

Vizient, Inc. collects an administrative fee from its contractors based on sales volume and provides a share back, or rebate, to its members based on agency spend. ARMC estimates approximately \$1,250,000 annually

in rebates, which will be deposited in the ARMC Miscellaneous Revenue account that is used to subsidize hospital operations. This will be the first time other participating departments will join the GPO and their rebates are anticipated to be minimal. The immediate benefit to departments in joining the GPO is the administrative streamline in the Request for Proposal (RFP) process.

### **BACKGROUND INFORMATION**

Approval of Recommendation No. 1 will allow the County to manage rising healthcare costs and reduce the time needed to perform competitive solicitations in-house, allowing for continued delivery of high-quality medical care. The County currently receives membership services from Vizient, Inc. for medical, surgical, and pharmaceutical products, and healthcare-related services such as maintenance of existing equipment.

Approval of Recommendation No. 2 and No. 3 will allow ARMC to utilize online data tools to perform market share analysis, run advanced spend analysis, consolidate systems of records including but not limited to SAP and Meditech, and standardize products where possible. These services will ensure that ARMC is receiving the best pricing available and will contribute the ongoing efforts to improve efficiency. Upon the effective date of the new agreement commencing January 1, 2022, the membership terms and conditions of the new agreement shall supersede Contract No. 08-88 governing terms and conditions with Vizient, Inc.

The Vizient Master Service Agreement is Vizient's standard commercial contract, as negotiated between the parties, which includes terms that differ from the standard County contract and omits certain County standard contract terms. The non-standard and missing terms include the following:

1. Vizient's liability to the County is limited to \$1,000,000 except for Vizient's indemnity obligations, gross negligence, willful misconduct, or violation of law.
  - The County standard contract does not include a limitation of liability.
  - Potential Impact: Claims could exceed the liability cap and the contract amount leaving the County financially liable for the excess. The County's liability under the contract is similarly limited, except for payment obligations.
2. There is no termination for convenience.
  - The County standard contract gives the County the right to terminate the Contract, for any reason, with a 30 day written notice of termination without any obligation other than to pay amounts for services rendered and expenses reasonably incurred prior to the effective date of termination.
  - Potential Impact: The County can only terminate the contract during the term of an uncured breach by Vizient. Any attempted termination by County without cause would result in payment liability for the full contract amount, which could result in payment liability where no funds are available due to lack of allocation or loss of funding or for future payments not otherwise incurred.
3. There is no stated venue in the contract.
  - The County standard contract requires venue for disputes in Superior Court of California, County of San Bernardino, San Bernardino District.
  - Potential Impact: Contractor is located in Dallas County, Texas and is incorporated in Delaware. Having no express venue in the contract means that venue in Dallas County, Texas or the State of Delaware could be applied to this contract, which may result in additional expenses that exceed the amount of the contract.
4. The contract requires that Vizient must be the exclusive GPO for purposes of negotiating and entering into pharmaceutical and pharmacy-related Supplier Agreements.
  - The County standard contract does not provide for exclusive procurement arrangements.

- **Potential Impact:** Procurements under this contract are limited to ARMC, and if ARMC procures pharmaceutical or pharmacy-related equipment, services, or supplies from any provider other than Vizient, the County will be in breach of contract, which will allow Vizient to terminate the contract and seek legal remedies.
5. The contract sets dollar values for minimum purchase requirements and assesses a penalty of 2.65% of the difference between the minimum purchase requirement and the actual purchases if the County fails to meet the annual minimum purchase requirement.
- The County standard contract does not provide for minimum purchase commitments.
  - **Potential Impact:** If ARMC fails to meet the minimum requirements, the County is liable for payment of a percentage of the difference. In addition, if the County would attempt to terminate the contract at any time prior to the end of the five-year period, the County would be liable for payment of this “penalty” for the total minimum requirements through the end of the contract.

Purchasing recommends approval of the contract with Vizient Inc., including the non-standard terms, as the services allow ARMC to procure thousands of medical products that are vital to efficient patient care in a timely manner. Use of Vizient Inc.’s services ensures that the County can continue to procure products in an economically responsible fashion through access to Vizient Inc.’s catalogue of competitively-bid, pre-negotiated agreements with multiple suppliers.

#### **PROCUREMENT**

On January 15, 2021, Purchasing released a Request for Proposals (RFP) (RFP AGENCY21-PURC-4090) for GPO membership services. The purpose of the RFP was to select a full-service GPO capable of providing competitive rates for medical products, surgical products, pharmaceutical products, and support services solicited in a manner compliant with County purchasing procedures.

Purchasing received proposals from the following vendors prior to the proposal due date on February 16, 2021:

<b>Proposer</b>	<b>Location</b>
Vizient, Inc.	Irving, TX
Intalere	St. Louis, MO

An evaluation committee comprised of representatives from ARMC, Public Health, and Sheriff/Coroner/Public Administrator evaluated the proposals and attended virtual presentations from both proposers. The evaluation criteria for the RFP included a comprehensive review and evaluation of qualifications, technical specifications, cost and rebate structures, and value-added services. The evaluation committee determined, based on their presentation and proposal, that Vizient, Inc. best met the needs of the County.

On March 17, 2021, a tentative award letter was sent to Vizient, Inc. and, on the same day, Intalere was notified in writing that they may protest the award by submitting a formal protest letter to the County Purchasing Department within 10 calendar days of the date of the non-selection letter. Purchasing did not receive a protest from Intalere.

#### **REVIEW BY OTHERS**

This item has been reviewed by County Counsel (John Tubbs II, Deputy County Counsel, and Bonnie Uphold, Deputy County Counsel, 387-5455) on November 10, 2021; Finance (Sofia Almeida, Administrative Analyst, 387-4378 and Yael Verduzco, Administrative Analyst, 387-5285) on November 15, 2021; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on November 18, 2021.