**Date:** August 6, 2015  
**To:** Members of the Joint Labor-Management Benefits Committee  
**From:** Staff  
**Subject:** Affordable Care Act (ACA) Update: ESR Reporting & Tax Reporting

**RECOMMENDATION**
That the Joint Labor-Management Benefits Committee (JLMBC) receive and file the following report updating the impact of the Affordable Care Act (ACA) on the civilian Flex Benefits Program including a review of the implementation of the Employer Shared Responsibility (ESR) tracking tool and new ACA tax reporting requirements.

**DISCUSSION**
The Affordable Care Act (ACA) was signed into law on March 23, 2010. It contains a number of provisions impacting how health insurance is provided by an organization to its employees. Among the ACA’s provisions are coverage eligibility requirements and new employer tax reporting obligations. The Personnel Department/Employee Benefits Division has been coordinating the City’s efforts to comply with the ACA’s rules. As part of its compliance requirements, the City has worked with its Flex Benefits program third-party-administrator, Mercer HR Services, to develop a payroll/benefits data analytics program called the "ESR Tracking Tool." The purpose of the ESR Tracking Tool is to: (1) identify those City employees who are not presently eligible for a City health subsidy but who qualify for health-care eligibility under the ACA’s rules; and (2) provide annual summary data required to meet new tax reporting requirements.

The ESR tracking tool is now operational and providing data for the City’s various workforce populations, including Civilian, Sworn and Department of Water and Power (DWP) employees. Although the City does not administer Sworn or DWP health plans, for reasons of practicality and efficiency, it made sense to create a single tool that could provide the data analysis for all three populations. DWP is absorbing the proportional cost for utilizing the ESR tool to analyze their population’s data.

**DATA REQUIRED FOR NEW TAX FORMS - ESR Tracking Tool**
The ESR Tracking Tool is a complex data analytics system exchanging information between the City’s payroll system and Mercer’s Flex Benefits recordkeeping system. The ESR Tracking Tool is designed to track hours, make eligibility determinations, predict future enrollment volume, conduct trend analysis, and provide alerts for potential
compliance risks and penalties. The ESR Tracking Tool provides monthly and annual reports which detail the trending measurement period results as well as the final ACA full-time eligibility determinations for the existing workforces as well as new hires.

Under the ACA, results from a specific “measurement period” determine eligibility for ACA benefits under a subsequent “stability period.” The ESR reports are used to identify who qualifies for coverage based on the measurement and stability period analysis, as well as calculate whether the employer met the requirement to offer “substantially all” of its full-time workforce health coverage. Once a measurement period ends, the final full-time determination will be identified along with a flag if the status differs from the full-time or part-time status reported in the Benefits recordkeeping system.

The annual summary report generated from the ESR Tracking Tool is closely aligned with the IRS reporting requirements, but is not in the format required to produce the forms themselves. For each month of the reporting year, the annual summary report will provide a determination of whether the employee was considered full-time under the ACA, if they were offered coverage and whether the least cost medical plan (LCMP) they were offered was affordable. Although the data is aggregated in a format which can be manipulated in order to complete tax reporting, Mercer does not have the tax reporting infrastructure to translate the data in order to prepare the tax forms themselves.

**NEW Federal Government Tax Reporting Requirements**

Two forms of tax reporting are required under the Affordable Care Act (ACA):

- **Employer Provided Health Insurance Offer & Coverage** (Forms 1094-C and 1095-C); and
- **Minimum Essential Coverage** (Forms 1094-B and 1095-B)

The City will be primarily reporting for the [Employer Provided Health Insurance Offer & Coverage](#) (Forms 1094-C/1095-C), but may be required to provide certain reporting for [Minimum Essential Coverage](#). The forms became mandatory with the 2015 tax year. Employers must send employees their 1095-C forms by the **end of January** each year. Information must be sent to the IRS by the **end of February** if paper filed, or by the end of March if the forms are filed electronically.

**Minimum Essential Coverage** (Forms 1094-B and 1095-B)

Health Insurers and employers sponsoring self-insured group health plans must report on the minimum essential coverage they provide for all covered individuals starting in 2015. The health insurance plans offered through the Flex Program (Kaiser HMO and Blue Shield plans) are fully-insured. The health insurance providers, (Kaiser and Blue Shield) will be providing Minimum Essential Coverage (Forms 1094-B and 1095-B) to their respective members. Therefore, the City is not required to complete Minimum Essential Coverage reporting for employees enrolled in Flex medical plans. A summary
of ACA reporting requirements and the reporting forms is provided as Attachment A to this report.

**Employer Provided Health Insurance Offer & Coverage (Forms 1094-C/1095-C)**

Staff is now preparing to assist the City in coordinating its tax-reporting obligations in January 2016 for the 2015 tax year. These include the filings of new IRS Forms 1094C and 1095C. Form 1095-C provides information about health insurance offers of coverage and is provided to both employees and the IRS. Form 1094-C acts as summary employer reporting and is sent only to the IRS. These reports will be used by the IRS to analyze whether employers did or did not offer health insurance to ACA-eligible employees, and to validate whether those workers who received ACA subsidies under Federal exchanges were in fact eligible.

The complexity of the reporting lies in the fact that reports must be filed for those employees who are defined as “full-time” based on the ACA’s hours-worked definition of such, and include information regarding (a) the type of coverage based on certain pre-defined Internal Revenue Service codes; (b) the City’s offer of a lowest-cost premium for employee only (a.k.a. “Least Cost Medical Plan) coverage to its Civilian and sworn populations; and (c) the specific months of the year when the coverage was available to the employee (which will vary depending on dates of hire, intermittent periods of absence, etc.).

**Tax-Reporting Requirements**

The January 2016 tax-reporting deadline is approaching quickly and the City will need to move expeditiously in order to meet its reporting requirements. These responsibilities have been handed to the Personnel Department with very little transparency from the Federal government as to the specifics of the requirements. Because of the ongoing uncertainties the Federal government has indicated that for 2016 it is looking for good faith compliance on the tax reporting, recognizing that the regulatory guidance has been late, is evolving, and that employers are struggling to master the complexity of ACA recordkeeping and reporting requirements.

The City has essentially two alternatives to meet new tax reporting requirements: either develop our own internal reporting mechanism, or utilize an external provider. Mercer, which is administering the ESR Tracking Tool, has an existing business partnership with a firm called Taxware, LLC (Taxware) for tax-reporting services. Mercer elected to work with Taxware after engaging in a search process for a vendor with whom it could partner so that its clients had a resource for fulfilling their 1094-C/1095C tax-reporting needs. Taxware is not a sub-contractor of Mercer and therefore their services cannot be reached through the City’s existing contract with Mercer.

The annual summary report generated from Mercer’s ESR Tracking Tool is closely aligned with the IRS reporting requirements, but is not in the format required to produce the forms themselves. For each month of the reporting year, the annual summary report
will provide a determination of whether the employee was considered full-time under the ACA, if they were offered coverage and whether the least cost medical plan (LCMP) they were offered was affordable. Although the data is aggregated in a format which can be manipulated in order to complete tax reporting, Mercer does not have the tax reporting infrastructure to translate the data in order to prepare the tax forms themselves.

Due to the complexity of the tax reporting requirements, the complexity of the data residing within the ESR Tracking Tool, and the need for a compatible and accurate exchange of information between the ESR Tracking Tool and the tax reporting entity, the Personnel Department is proceeding to engage the services of Taxware to fulfill the City’s 1094-C/1095-C tax-reporting needs, under a one-year sole-source contract. Mercer and Taxware have spent considerable time and resources into developing and testing a mapping and translation infrastructure, which mitigates the risk for mapping and translation errors. Leveraging the Mercer-Taxware exchange will result in a comprehensive ACA reporting service combining regulatory, technology, reporting and remediation skills required to be compliant. The annual cost of using Taxware for these services is expected to cost approximately $100,000 or less.

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Approved by: Steven Montagna
What tax reporting is required by the Federal government for the Affordable Care Act?

Two forms of tax reporting are required under the Affordable Care Act (ACA):

- **Employer Provided Health Insurance Offer & Coverage** (Forms 1094-C and 1095-C)
- **Minimum Essential Coverage** (Forms 1094-B and 1095-B)

When is the reporting required?
The forms became mandatory with the 2015 tax year. Employers must send employees their 1095-C forms by the end of January each year. Information must be sent to the IRS by the end of February if paper filed, or by the end of March if the forms are filed electronically.

Why is this information required?
The IRS requires this information to enforce the employer and individual mandate provisions of the ACA:

- **Employer Mandate** - Companies that are required to offer insurance but don’t may have to pay a penalty. Through the required tax reporting, the IRS can track who is and isn't making coverage available to workers.

- **Individual Mandate** – The ACA also requires most people to have health insurance, and provides financial assistance (subsidies) to some people who aren’t able to obtain coverage through their employer. Through the required tax reporting, the IRS can determine who has access to employer-sponsored health insurance and who doesn’t.

**FORMS 1094-C AND 1095-C**

What forms are used to report an employer’s offer/cost of coverage?
Forms 1094-C and 1095-C. These forms must be filed by employers required to offer health insurance coverage to employees under the Affordable Care Act.

What distinguishes Forms 1094-C and 1095-C?
(1) 1095-C provides information about health insurance and is sent to both employees and the IRS
(2) 1094-C acts as a cover sheet about the 1095-C and is sent only to the IRS.
What information must be provided in Form 1095-C?
Form 1095-C must provide details about:

- The coverage offered to the employee
- The lowest-cost premium (a.k.a. “Least Cost Medical Plan) for employee only coverage available to the employee
- The months of the year when the coverage was available

Only employees defined as full-time under the ACA will be provided a 1095-C. Under ACA, a full-time employee is defined as any employee working, on average, 30 hours per week/130 hours per month (1,560 hours per year) over the applicable look-back period. Part-time, intermittent and half-time employees who do not meet the ACA definition of full-time will not be provided 1095-C, even though some may have received coverage under the Plan. They may still receive Form 1095-B from an insurance carrier if they are covered.

What information must be provided in Form 1094-C?
Form 1095-C must be sent to employees as well as to the IRS. When filed, the employers must also file Form 1094-C. This form is essentially a “cover sheet” for the 1095-C forms. It provides information about:

- The employer (address, phone number, employer identification number, etc.)
- Number of full time and total employees
- Name of contact person
- Number of 1095-C forms being sent

FORMS 1094-B AND 1095-B

What forms are used to report Minimum Essential Coverage?
Forms 1094-B and 1095-B. These forms must be filed by insurers for group plans and by employers for self-funded plans.

What is “Minimum Essential Coverage?”
Minimum essential coverage is the minimum level of benefits an individual’s insurance plan must provide so that an employer and/or employee can avoid paying a penalty. The following types of insurance provide minimum essential coverage:

- Any plan sponsored by an employer, including employer-sponsored coverage for retirees and "COBRA" coverage for former employees.
- Government health care plans.
- Health coverage purchased through the "Marketplace" (federal and state insurance exchanges).
- Any individual health insurance policy you had in place before the Affordable Care Act took effect.
What's distinguishes Forms 1094-B and 1095-B?
(1) 1095-B provides information about individual MEC coverage and is sent to the IRS and to the covered individual.
(2) 1094-B acts as a cover sheet about the 1095-B and is sent only to the IRS.

What information must be provided in Form 1095-B**?
Form 1095-B must provide details about:

- Part I identifies the person who is the responsible individual (or policy holder). For an employer-sponsored plan, for example, this would be the name of the employee.
- Part II identifies the employer if coverage is employer-sponsored.
- Part III identifies the insurance company providing the coverage.
- Part IV lists the people in your household who are covered by the insurance.
  - For each name, there is a box that will be checked if the person was covered by insurance for all 12 months of the year.
  - If that person wasn't covered for the full year, there is a box for each month; the months the person was covered will be checked.

What information must be provided in Form 1094-B?
Form 1095-B must be sent to employees as well as to the IRS. When filed, the employers must also file Form 1094-B. This form is essentially a “cover sheet” for the 1095-B forms. It provides information about:

- The employer (address, phone number, employer identification number, etc.)
- Number of employees
- Name of contact person
- Number of 1095-C forms being sent

*Note: If the employer is providing a 1095-C for an employee enrolled in a self-funded medical plan, MEC enrollments will be reported in section III of the combined 1095-C form instead of the 1095-B.