



The following documentation is an electronically-submitted vendor response to an advertised solicitation from the *West Virginia Purchasing Bulletin* within the Vendor Self-Service portal at ***wvOASIS.gov***. As part of the State of West Virginia's procurement process, and to maintain the transparency of the bid-opening process, this documentation submitted online is publicly posted by the West Virginia Purchasing Division at ***WVPurchasing.gov*** with any other vendor responses to this solicitation submitted to the Purchasing Division in hard copy format.

## Header @ 1

List View

### General Information

Contact

Default Values

Discount

Document Information

Procurement Folder: 241632

SO Doc Code: CRFQ

Procurement Type: Central Master Agreement

SO Dept: 0511

Vendor ID: VS0000011071

SO Doc ID: BCF1700000005

Legal Name: LNK LLC

Published Date: 6/2/17

Alias/DBA:

Close Date: 6/7/17

Total Bid: \$2,484,600.00

Close Time: 13:30

Response Date: 06/05/2017

Status: Closed

Response Time: 14:33

Solicitation Description: Addendum #3 - Drug and Alcohol Testing Services

Total of Header Attachments: 1

Total of All Attachments: 1





Purchasing Division  
2019 Washington Street East  
Post Office Box 50130  
Charleston, WV 25305-0130

State of West Virginia  
Solicitation Response

Proc Folder : 241632

Solicitation Description : Addendum #3 - Drug and Alcohol Testing Services

Proc Type : Central Master Agreement

Date issued	Solicitation Closes	Solicitation Response	Version
	2017-06-07 13:30:00	SR 0511 ESR06051700000006038	1

VENDOR

VS0000011071

LNK LLC

Solicitation Number: CRFQ 0511 BCF1700000005

Total Bid : \$2,484,600.00

Response Date: 2017-06-05

Response Time: 14:33:37

Comments:

FOR INFORMATION CONTACT THE BUYER

April Battle  
(304) 558-0067  
april.e.battle@wv.gov

Signature on File

FEIN #

DATE

All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	Collection Expert Witness Testimony	10.00000	HOUR	\$10.000000	\$100.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : 4.1.19.1 Collection Expert Witness Testimony

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	Laboratory Expert Witness Testimony	10.00000	HOUR	\$10.000000	\$100.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : 4.1.19.2 Laboratory Expert Witness Testimony

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	MRO Expert Witness Testimony	10.00000	HOUR	\$10.000000	\$100.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : 4.1.19.3 MRO Expert Witness Testimony

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	Collection Expert Witness Testimony at Deposition	10.00000	HOUR	\$10.000000	\$100.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : 4.1.19.4 Collection Expert Witness Testimony at Deposition

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
7	Laboratory Expert Witness Testimony at Deposition	10.00000	HOUR	\$10.000000	\$100.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : 4.1.19.5 Laboratory Expert Witness Testimony at Deposition

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
8	MRO Expert Witness Testimony at Deposition	10.00000	HOUR	\$10.000000	\$100.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : 4.1.19.6 MRO Expert Witness Testimony at Deposition

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
9	Selected TANF Clients Drug Testing	5000.00000	TEST	\$54.000000	\$270,000.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Selected TANF Clients Drug Testing

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
10	Selected TANF Clients Alcohol Testing	1000.00000	TEST	\$54.000000	\$54,000.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Selected TANF Clients Alcohol Testing

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
11	Selected Other Clients Drug Testing	35000.00000	TEST	\$54.000000	\$1,890,000.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :	Selected Other Clients Drug Testing

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
12	Selected Other Clients Alcohol Testing	5000.00000	TEST	\$54.000000	\$270,000.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :	Selected Other Clients Alcohol Testing



Purchasing Division  
2019 Washington Street East  
Post Office Box 50130  
Charleston, WV 25305-0130

State of West Virginia  
Request for Quotation  
27 — Miscellaneous

Proc Folder: 241632

Doc Description: Addendum #3 - Drug and Alcohol Testing Services

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2017-06-02	2017-06-07 13:30:00	CRFQ 0511 BCF1700000005	4

**BID RECEIVING LOCATION**

BID CLERK  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION  
2019 WASHINGTON ST E  
CHARLESTON WV 25305  
US

**VENDOR**

Vendor Name, Address and Telephone Number:

Drug Testing Centers of America  
100 Lee Street W  
Charleston, WV 25302  
304-344-8378

**FOR INFORMATION CONTACT THE BUYER**

April Battle  
(304) 558-0067  
april.e.battle@wv.gov

Signature X

FEIN # 81-4022435

DATE June 5, 2017

All offers subject to all terms and conditions contained in this solicitation

**ADDITIONAL INFORMATION:**

Addendum #3 is issued to respond to vendor questions.

No other changes.

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	This line item has been removed from the CRFQ.	0.00000	TEST		

Comm Code	Manufacturer	Specification	Model #
85121810			

**Extended Description :**

4.1 Selected TANF clients Drug and Alcohol Testing

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	This line item has been removed from the CRFQ.	0.00000	TEST		

Comm Code	Manufacturer	Specification	Model #
85121810			

**Extended Description :**

4.1 Selected Other clients Drug and Alcohol Testing

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	



Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Collection Expert Witness Testimony	10.00000	HOUR	\$10	\$100

Comm Code	Manufacturer	Specification	Model #
85121810			

**Extended Description :**

4.1.19.1 Collection Expert Witness Testimony

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Laboratory Expert Witness Testimony	10.00000	HOUR	\$10	\$100

Comm Code	Manufacturer	Specification	Model #
85121810			

**Extended Description :**

4.1.19.2 Laboratory Expert Witness Testimony

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	MRO Expert Witness Testimony	10.00000	HOUR	\$10	\$100

Comm Code	Manufacturer	Specification	Model #
85121810			

**Extended Description :**

4.1.19.3 MRO Expert Witness Testimony

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Collection Expert Witness Testimony at Deposition	10.00000	HOUR	\$10	\$100

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

4.1.19.4 Collection Expert Witness Testimony at Deposition

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	Laboratory Expert Witness Testimony at Deposition	10.00000	HOUR	\$10	\$100

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

4.1.19.5 Laboratory Expert Witness Testimony at Deposition

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	MRO Expert Witness Testimony at Deposition	10.00000	HOUR	\$10	\$100



Comm Code	Manufacturer	Specification	Model #
85121810			

**Extended Description :**

4.1.19.6 MRO Expert Witness Testimony at Deposition

INVOICE TO	SHIP TO
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US	STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	Selected TANF Clients Drug Testing	5000.00000	TEST	\$54	\$270,000

Comm Code	Manufacturer	Specification	Model #
85121810			

**Extended Description :**

Selected TANF Clients Drug Testing

INVOICE TO	SHIP TO
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US	STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	Selected TANF Clients Alcohol Testing	1000.00000	TEST	\$54	\$54,000

Comm Code	Manufacturer	Specification	Model #
85121810			

**Extended Description :**

Selected TANF Clients Alcohol Testing

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
11	Selected Other Clients Drug Testing	35000.00000	TEST	\$54	\$1,890,000

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :  
Selected Other Clients Drug Testing

INVOICE TO		SHIP TO	
ADMINISTRATIVE SERVICES ASSISTANT - 304-356-4528 HEALTH AND HUMAN RESOURCES BCF - COMMISSIONER'S OFFICE 350 CAPITOL ST, RM 730  CHARLESTON WV25301-3711  US		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER  No City WV 99999  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
12	Selected Other Clients Alcohol Testing	5000.00000	TEST	\$35	\$175,000

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :  
Selected Other Clients Alcohol Testing

SCHEDULE OF EVENTS
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Line	Event	Event Date
1	Questions Due by 3:00 PM	2017-05-15

BCF1700000005	<b>Document Phase</b> Final	<b>Document Description</b> Addendum #3 - Drug and Alcohol Testing Services	<b>Page 7 of 7</b>
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#### ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions



**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.:** CRFQ 0511 BCF1700000005

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

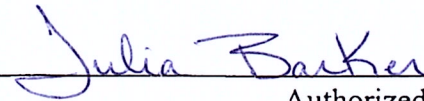
(Check the box next to each addendum received)

<input checked="" type="checkbox"/> Addendum No. 1	<input type="checkbox"/> Addendum No. 6
<input checked="" type="checkbox"/> Addendum No. 2	<input type="checkbox"/> Addendum No. 7
<input checked="" type="checkbox"/> Addendum No. 3	<input type="checkbox"/> Addendum No. 8
<input type="checkbox"/> Addendum No. 4	<input type="checkbox"/> Addendum No. 9
<input type="checkbox"/> Addendum No. 5	<input type="checkbox"/> Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Drug Testing Centers of America

Company



Authorized Signature

June 5, 2017

Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

REQUEST FOR QUOTATION  
CRFQ 0511 BCF1700000005  
Drug and Alcohol Testing Services

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**SPECIFICATIONS**

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the Department of Health and Human Resources (DHHR), Bureau for Children and Families (BCF), to establish an open-end contract for drug and alcohol testing services for selected Temporary Assistance for Needy Families (TANF) and other clients/applicants as needed and requested by its agencies at the counties as listed on attachment B County Locations.

**NOTE:** This request is covered in part or in whole by federal funds. All bidders will be required to acknowledge and adhere to "Attachment 1 - Provisions Required for Federally Funded Procurements".

In addition to the DHHR county offices listed below, the successful vendor must have minimum of 10 (ten) locations throughout the state to provide specimen collection.

**DHHR County Offices:** Addresses can be located at on attachment B County Locations, additional information can be found at <http://www.dhhr.wv.gov/bcf/Pages/MapList.aspx>.

- 2. DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

**2.1 "Contract Services"** means the drug and alcohol testing services as more fully described in these specifications.

**2.2 "Pricing Page"** means the schedule of prices, estimated order quantity, and totals contained in wvOASIS upon which Vendor should list its proposed price for the Contract Services.

**2.3 "SAMHSA"** means the Substance Abuse and Mental Health Services Administration, an agency of the United States Department of Health and Human Services.

**2.4 "Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.



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**CRFQ 0511 BCF1700000005**  
**Drug and Alcohol Testing Services**

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**2.5 "Title 49 CFR Part 40"** means the United States Department of Transportation Workplace Drug and Alcohol Testing Program Policy available at: [http://www.dot.gov/odapc/NEW\\_DOCS/part40.html](http://www.dot.gov/odapc/NEW_DOCS/part40.html).

**2.6 "Medical Review Officer (MRO)"** means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

**3. QUALIFICATIONS:** Vendor, or Vendor's staff if requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:

**3.1.** Prior to the award, Vendor must provide proof that it is a qualified drug and alcohol testing vendor as required by the DOT regulations [See 49 CFR Part 40.213 (b) & (c)], with a minimum of five (5) years' experience in drug and alcohol testing.

**4. MANDATORY REQUIREMENTS:** Contract Services must meet or exceed the mandatory requirements listed below.

**4.1 Selected TANF clients Drug and Alcohol Testing, Selected Other clients Drug and Alcohol Testing:**

**4.1.1** Vendor must provide all forms, collection kits and miscellaneous supplies for the collection, transportation and analyses of urine specimens.

**4.1.2** Vendor must comply with all applicable medical standards; federal, state and local government safety codes, laws and regulations relating to drug and alcohol testing available at: <http://www.samhsa.gov/workplace/drug-testing>.

**4.1.3** Vendor must follow the US Department of Transportation collection protocols provided in 49 CFR Part 40.

**REQUEST FOR QUOTATION**  
**CRFQ 0511 BCF1700000005**  
**Drug and Alcohol Testing Services**

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- 4.1.4** Vendor must provide for the collection of specimens to meet the requirements of 49 CFR Part 40 with respect to conducting workplace drug and alcohol testing, for collecting and storing urine specimens, testing for drugs and alcohol, and ensuring confidentiality. The vendor may use a mobile collection vehicle, or off-site collection facilities, provided all conditions of privacy, confidentiality and chain of custody are met for all collection locations.
- 4.1.5** Vendor must provide scheduled service Monday through Friday, between 7:00 am EST and 5:00 pm EST, excluding West Virginia State Holidays, see <http://www.personnel.wv.gov/employees/benefits/Pages/Holidays.aspx> for more information on State Holidays.
- Vendor must arrive on location and be ready to conduct testing within two (2) hours of the request for testing.
- 4.1.6** Vendor must ensure that collection site personnel will be trained in compliance with 49 CFR Part 40 which and shall be engaged in the business of providing the required controlled substances and alcohol testing.
- 4.1.7** Vendor must provide for transportation for all specimens to the testing laboratory in accordance with 49 CFR Part 40.
- 4.1.8** Vendor must provide for testing of urine in compliance with 49 CFR Part 40. This includes necessary collection and identification supplies and transportation costs from the collection site to a Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory. The split sample method of collection, handling, and storage is to be utilized. The split sample method is a collection in which the urine collected is divided into two separate specimen bottles, the primary specimen and the split specimen.
- 4.1.9** Vendor must utilize a laboratory that is certified by DHHS/SAMHSA (Department of Health and Human Services). The laboratory shall test and store specimens (primary and split specimens) and have in place equipment that meets applicable



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Drug and Alcohol Testing Services

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regulations which can be found at <http://www.gpo.gov/fdsys/pkg/FR-2012-06-14/pdf/2012-14582.pdf>. Additionally, the laboratory shall have a quality control program in place that complies with 49 CFR Part 40.

**4.1.10** Vendor must perform chemical analyses of urine specimens to determine whether the person from whom the specimen was taken has been using any of the drugs listed:

- A. Amphetamines (amphetamine and methamphetamine)
- B. Cocaine
- C. Marijuana
- D. Opiates (codeine and morphine)
- E. Phencyclidines (PCP)
- F. Barbiturates
- G. Benzodiazepines
- H. Methadone
- I. Propoxyphene
- J. Expanded Opiates (oxycodone, hydromorphone, hydrocodone, oxymorphone)

**4.1.11** Vendor must submit blind performance test specimens to the laboratory as mentioned in 4.1.9 in accordance with 49 CFR Part 40.

**4.1.12** Vendor must provide for alcohol testing that is to be conducted using equipment approved by the US Department Transportation and found on its Conforming Products List available at: <http://www.gpo.gov/fdsys/pkg/FR-2012-06-14/pdf/2012-14582.pdf> using the collection protocols found in 49 CFR Part 40.

**4.1.13** Vendor must provide, as part of its services, a Certified Medical Review Officer (MRO). The MRO shall be a West Virginia Medical licensed physician with knowledge of substance abuse disorders and have appropriate medical training necessary, which can be found at <http://www.gpo.gov/fdsys/pkg/FR-2012-06-14/pdf/2012-14582.pdf>, to interpret and evaluate controlled substances test results. The MRO shall be certified in accordance with 49 CFR Part 40.

**4.1.14** Vendor must provide confirmed test results, of both negative results and positive test results for nonprescription drugs are made



**REQUEST FOR QUOTATION**  
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**Drug and Alcohol Testing Services**

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available, in writing, to DHHR's Bureau Community Service Manager or his/her designee via confidential means, immediately upon confirmation by the MRO, but not later than 72 hours after receipt of the specimen by the laboratory. The vendor must inform the state agency contact if turnaround time for positive test result confirmation will exceed 72 hours.

- 4.1.15 Vendor must ensure that all laboratory records are maintained for the appropriate period of time to comply with 49 CFR Part 40 which can be found at <http://www.gpo.gov/fdsys/pkg/FR-2012-06-14/pdf/2012-14582.pdf> and that those records are provided, in written report format, to the DHHR upon written request within 120 hours.
- 4.1.16 Vendor must provide for an account manager (or designee) to be available during normal business hours (Monday through Friday between 7:00 am EST and 5:00 pm EST excluding State Holidays) to answer questions and resolve problems.
- 4.1.17 Vendor must provide each Facility / Bureau / Office (as appropriate) with a written recapitulation of the testing program activity on a monthly basis and provide by US mail a comprehensive listing within ten (10) calendar days to each respective thirty (30) Community Services Managers.
- 4.1.18 Vendor must, upon written request, prepare a litigation package within 120 hours of the request. The litigation package will be provided to the DHHR's Bureau Community Service Manager or his/her designee via confidential means and will include copies of all chain of custody documents, batch specimen review sheets, data review files (graphic charts), resumes and credentials of all technicians involved in testing of specimens, laboratory testing reports to include the initial immunoassay screen and the confirmation gas chromatography/mass spectrometry test.
- 4.1.19 Vendor must provide within seven (7) calendar days, upon request, expert witness testimony regarding the accuracy of specific client/applicant testing should the results and subsequent actions be challenged by client/applicant.

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Drug and Alcohol Testing Services**

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- 4.1.19.1** Expert witness testimony includes a collection expert to testify in court to the procedures followed in collecting the client/applicant's specimen(s).
- 4.1.19.2** Expert witness testimony includes a laboratory expert to testify in court to the procedures followed in testing the client/applicant's specimen(s).
- 4.1.19.3** Expert witness testimony includes MRO expert to testify in court to the test results of the client/applicant's specimen(s).
- 4.1.19.4** Expert testimony includes that provided by a collection expert at deposition in person.
- 4.1.19.5** Expert testimony includes that provided by a laboratory expert at deposition in person.
- 4.1.19.6** Expert testimony includes that provided by a MRO at deposition in person.
- 4.1.20** Vendor must maintain records, documents and other files directly related to the performance of work under this agreement in accordance with 49 CFR Part 40 and accepted professional practice and appropriate accounting procedures.
  - 4.1.20.1** Vendor shall maintain records pertaining to the contract for five (5) years following the end of the contract period. Should there be any litigation or issues related to the contract vendor shall maintain the records for five (5) years following the termination of any litigation that has not terminated within the above five (5) year period.
- 4.1.21** Vendor must provide any or all records produced or held in execution of this agreement within 10 calendar days of written notice by DHHR's Bureau Community Service Manager or his/her designee.



**REQUEST FOR QUOTATION  
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Drug and Alcohol Testing Services**

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**4.2 Department of Health and Human Resources Requirements**

- 4.2.1 Upon contract award, DHHR's Bureau Community Service Manager will provide a comprehensive list of individuals from each Facility / Bureau / Office authorized to request testing and receive results.
- 4.2.2 DHHR will not reimburse the vendor for initial set-up fee or for any renewal fees if the contract is renewed.
- 4.2.3 DHHR will not reimburse vendor for specimen adulteration assays.
- 4.2.4 DHHR will not reimburse vendor for handling of rejected specimens or those otherwise unfit for testing.
- 4.2.5 DHHR will not reimburse vendor for collection time. A collection is complete only after every client/applicant has met his/her testing obligations.
- 4.2.6 DHHR will reimburse the vendor a "no show" fee of the amount equal to the scheduled procedure in the event that vendor is called to a location for a scheduled collection/testing procedure and the client/applicant fails to appear for the collection/testing procedure after a reasonable waiting period of at least forty-five (45) minutes, provided that Vendor acquires written documentation from the authorized individual at the location or his/her designee.

**5. CONTRACT AWARD:**

**5.1 Contract Award:** The Contract is intended to provide Agency with a purchase price for the Contract Services. The Contract shall be awarded to the Vendor that provides the Contract Services meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

**5.2 Pricing Page:** Vendor should complete the Pricing Page entering the Unit Price for each item/Commodity Line on Exhibit A Pricing page as follows:

**REQUEST FOR QUOTATION**  
**CRFQ 0511 BCF1700000005**  
**Drug and Alcohol Testing Services**

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**Section 4.1** All costs are to be based upon an all-inclusive per-test collection rate as seen through the entire process of analysis, culminating with the certification of results and proper reporting of such results to appropriate DHHR personnel.

Section 4.1 Selected TANF clients Drug and Alcohol Testing  
Section 4.1 Selected Other clients Drug and Alcohol Testing

**Section 4.1.19.1 through 4.1.19.6** All costs are to be based upon an all-inclusive hourly rate including travel and preparation time.

Section 4.1.19.1 Collection Expert Witness Testimony

Section 4.1.19.2 Laboratory Expert Witness Testimony

Section 4.1.19.3 MRO Expert Witness Testimony

Section 4.1.19.4 Collection Expert Testimony at Deposition

Section 4.1.19.5 Laboratory Expert Testimony at Deposition

Section 4.1.19.6 MRO Expert Testimony at Deposition

(NOTE: Section 4.1.19.4 through 4.1.19.6 should be bid as the amount to be billed INSTEAD OF the hourly rate to be billed for Section 4.1.19.1 through Section 4.1.19.3, respectively, NOT IN ADDITION TO, when testimony is given at Deposition. Vendors are not required to provide different rates for these two distinct services, but may do so.)

Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

If responding with a paper bid, vendors should use the assembled CRFQ form (of the latest version), provided either with a mailed or faxed copy of the solicitation, or by downloading/printing from the Vendor Self Service (VSS) portal of wvOASIS, and insert the Unit Prices as instructed above. Then, they should multiply the Unit Price for each line by the provided Quantity (Qty) to calculate and enter a Total Price for each line. Vendors should not enter Total Prices without corresponding Unit Prices. Vendors should add all Total Price lines to arrive at their Total Bid.

If responding electronically through VSS, the Total Price is calculated by the system automatically; vendors should only need to enter a Unit Price for each line.



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If encountering issues with using wvOASIS to access the Pricing Page or other documentation, or with entering bid data electronically in general, bidders should contact the wvOASIS HelpDesk at (304) 558-6708.

**6. PERFORMANCE:** Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.

**7. PAYMENT:** Agency shall pay per test or other unit, as shown on the Pricing Pages, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

The vendor shall submit monthly invoices, in arrears, to each Bureau/Office according to usage for all services provided pursuant to the terms of the contract. Each invoice will contain documentation to determine the dates, type of tests, and cost per test; hours of expert testimony; or training materials, as applicable. DHHR reserves the right to reject any or all invoices for which proper documentation has not been provided. The vendor will be notified within ten (10) working days from the date of receipt of any invoice deficiencies.

State law forbids payment of invoices prior to receipt of services.

**8. TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.

**9. FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:

**9.1.** Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.

**9.2.** Vendor will be responsible for controlling cards and keys and will pay replacement

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fee, if the cards or keys become lost or stolen.

**9.3.** Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.

**9.4.** Anyone performing under this Contract will be subject to Agency's security protocol and procedures.

**9.5.** Vendor shall inform all staff of Agency's security protocol and procedures.

**10. VENDOR DEFAULT:**

**10.1.** The following shall be considered a vendor default under this Contract.

**10.1.1.** Failure to perform Contract Services in accordance with the requirements contained herein.

**10.1.2.** Failure to comply with other specifications and requirements contained herein.

**10.1.3.** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

**10.1.4.** Failure to remedy deficient performance upon request.

**10.2.** The following remedies shall be available to Agency upon default.

**10.2.1.** Immediate cancellation of the Contract.

**10.2.2.** Immediate cancellation of one or more release orders issued under this Contract.

**10.2.3.** Any other remedies available in law or equity.

**11. MISCELLANEOUS:**

**11.1. Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be

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available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:** Julia Barker  
**Telephone Number:** 304-344-8378  
**Fax Number:** 304-344-0069  
**Email Address:** julia.barker@drugtestingcenters.com



# Attachment B County Locations

## WV Department of Health & Human Resources Bureau for Children and Families Local County Office Directory

The WV Department of Health and Human Resources (WV DHHR) comprises the central offices of Client Services; Family Support; and Social Services and the following county offices where clients may seek assistance.

COUNTY	PHONE	FAX	MAILING ADDRESS	PHYSICAL ADDRESS
Barbour	457-9030	457-4094	49 Mattaliano Drive Philippi, WV 26416	
Berkeley	267-0100	267-0123	P.O. Box 1247 Martinsburg, WV 25402	433 Mid-Atlantic Parkway Martinsburg, WV 25404
Boone	369-7802	369-7816	P.O. Box 970 Danville, WV 25053	156 Resource Lane Foster, WV 25081
Braxton	765-7344	765-3694	3708 Sutton Lane Sutton, WV 26601	
Brooke (see Hancock)				
Cabell	528-5800	528-5523	2699 Park Avenue, Suite 100 Huntington, WV 25704	
Calhoun	354-6118	354-7076	P.O. Box 280 Grantsville, WV 26147	85 Industrial Park Road
Clay	587-4268	587-2567	P.O. Box 969 Clay, WV 25043	94 Main Street
Doddridge	873-2031	873-3078	PO Box 207 Smithburg, WV 26436	22 Herbert Avenue
Fayette	465-9613	465-7288	1400 Virginia Street Oak Hill, WV 25901	
Gilmer	462-0412	462-0416	1493 WV Highway 5, East Glennville, WV 26351	
Grant	257-4211	257-1569	53 Kiess Drive Petersburg, WV 26847	
Greenbrier	647-7476	647-7486	316 Maplewood Ave., Suite 3 Lewisburg, WV 24901	
Hampshire	822-6900	822-7571	P.O. Box 1736 Romney, WV 26757	24954 Northwestern Pike
Hancock	794-3060	794-4169	100 Municipal Plaza, Suite 600 Weirton, WV 26062	
Hardy	538-2391	538-2476	149 Robert C. Byrd Industrial Park, Moorefield, WV 26836	
Harrison	627-2295	627-2171	153 West Main Street, Suite D Clarksburg, WV 26301	
Jackson	373-2560	372-7888	4285 Cedar Lakes Drive Ripley, WV 25271	
Jefferson	724-2600	728-0529	P.O. Box 984 Charles Town, WV 25414	239 Willow Spring Drive
Kanawha	746-2360	558-1801	4190 W. Washington Street Charleston, WV 25313	
Lewis	269-6820	269-0544	P.O. Box 1268 Weston, WV 26452	91 Arnold Drive
Lincoln	824-5811	824-7811	P.O. Box 468 Hamlin, WV 25523	8209 Court Avenue
Logan	792-7095	792-7003	130 Stratton Street Logan, WV 25601	
McDowell	436-8302	436-3248	840 Virginia Avenue Welch, WV 24801	
Marion	368-4420	368-4191	416 Adams Street, Suite 307 Fairmont, WV 26554	
Marshall	843-4120	843-4127	400 Teletech Drive, Suite 2 Moundsville, WV 26041	
Mason	675-0880	675-0883	1406 Kanawha Street Pt. Pleasant, WV 25550	



COUNTY	PHONE	FAX	MAILING ADDRESS	PHYSICAL ADDRESS
<b>Mercer</b>	425-8738	487-3589	200 Davis Street Princeton, WV 27439	
<b>Mineral</b>	788-4150	788-5363	18 N. Tornado Way Keyser, WV 26726	
<b>Mingo</b>	235-4680	235-4667	203 E. Third Avenue Williamson, WV 25661	
<b>Monongalia</b>	285-3175	285-3174	P.O. Box 800 Morgantown, WV 26507	114 S. High Street
<b>Monroe</b>	772-3013	772-4372	P.O. Box 678 Union, WV 24983	#174 Route 3, East
<b>Morgan</b>	258-1350	258-3794	P.O. Box 597 Berkeley Springs, WV 25411	62 Regal Court
<b>Nicholas</b>	872-0803	872-0832	707 Professional Park Drive Summersville, WV 26651	
<b>Ohio</b>	232-4411	232-4773	69-16 <sup>th</sup> Street Wheeling, WV 26003	
<b>Pendleton</b>	358-2305	358-7163	100 Thorn Creek Road Suite 200 Franklin, WV 26807	
<b>Pleasants</b>	684-9244	684-9245	201 Second Street St. Marys, WV 26170	
<b>Pocahontas</b>	799-2540	799-2560	211 Valhalla Lane Marlinton, WV 24954-5520	
<b>Preston</b>	329-4340	329-6082	P.O. Box 100 Kingwood, WV 26537	18351 Veteran's Mem Hwy
<b>Putnam</b>	586-1520	586-0300	3405 Winfield Road Winfield, WV 25213	
<b>Raleigh</b>	256-6930	256-6932	407 Neville St. Beckley, WV 25801	
<b>Randolph</b>	637-5560	637-0391	1027 N. Randolph Avenue Elkins, WV 26241	
<b>Ritchie</b>	643-2934	643-4098	220 W. Main Street Harrisville, WV 26362	
<b>Roane</b>	927-0956	927-0970	677 Ripley Road, Suite 3 Spencer, WV 25276	
<b>Summers</b>	466-2807	466-2814	320 Summers St., Suite A Hinton, WV 25951	
<b>Taylor</b>	265-6103	265-6107	P.O. Box 29 Grafton, WV 26354	235 Barrett Street
<b>Tucker</b>	478-3212	478-4514	9346 Seneca Trail Parsons, WV 26287-9575	
<b>Tyler</b>	758-2127	758-2587	P.O. Box 563 Middlebourne, WV 26149	210 Main Street
<b>Upshur</b>	473-4230	473-4207	P.O. Box 460 Buckhannon, WV 26201	Route 3, Box 376-A
<b>Wayne</b>	272-6311	272-5183	26452 East Lynn Road Wayne, WV 25570-5103	
<b>Webster</b>	847-2861	847-7244	110 N. Main St., Suite 201 Webster Springs, WV 26288	
<b>Wetzel</b>	455-0920	455-0928	1236 North State Route 2 New Martinsville, WV 26155	
<b>Wirt</b>	275-6551	275-1126	P.O. Box 310 Elizabeth, WV 26143	124 Court Street
<b>Wood</b>	420-2560	420-4884	P.O. Box 1547 Parkersburg, WV 26102	400 5 <sup>th</sup> Street
<b>Wyoming</b>	732-6900	732-8223	HC 72, Box 300 Pineville, WV 24874	1767 Bearhole Road



## WV STATE GOVERNMENT

### HIPAA BUSINESS ASSOCIATE ADDENDUM

This Health Insurance Portability and Accountability Act of 1996 (hereafter, HIPAA) Business Associate Addendum ("Addendum") is made a part of the Agreement ("Agreement") by and between the State of West Virginia ("Agency"), and Business Associate ("Associate"), and is effective as of the date of execution of the Addendum.

The Associate performs certain services on behalf of or for the Agency pursuant to the underlying Agreement that requires the exchange of information including protected health information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the "HITECH Act"), any associated regulations and the federal regulations published at 45 CFR parts 160 and 164 (sometimes collectively referred to as "HIPAA"). The Agency is a "Covered Entity" as that term is defined in HIPAA, and the parties to the underlying Agreement are entering into this Addendum to establish the responsibilities of both parties regarding HIPAA-covered information and to bring the underlying Agreement into compliance with HIPAA.

Whereas it is desirable, in order to further the continued efficient operations of Agency to disclose to its Associate certain information which may contain confidential individually identifiable health information (hereafter, Protected Health Information or PHI); and

Whereas, it is the desire of both parties that the confidentiality of the PHI disclosed hereunder be maintained and treated in accordance with all applicable laws relating to confidentiality, including the Privacy and Security Rules, the HITECH Act and its associated regulations, and the parties do agree to at all times treat the PHI and interpret this Addendum consistent with that desire.

NOW THEREFORE: the parties agree that in consideration of the mutual promises herein, in the Agreement, and of the exchange of PHI hereunder that:

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
  - a. **Agency Procurement Officer** shall mean the appropriate Agency individual listed at: <http://www.state.wv.us/admin/purchase/vrc/agencyli.html>.
  - b. **Agent** shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).
  - c. **Breach** shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.
  - d. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.
  - e. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act. Public Law No. 111-05. 111<sup>th</sup> Congress (2009).



- f. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and 164.
- g. **Protected Health Information or PHI** shall have the meaning given to such term in 45 CFR § 160.103, limited to the information created or received by Associate from or on behalf of Agency.
- h. **Security Incident** means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.
- i. **Security Rule** means the Security Standards for the Protection of Electronic Protected Health Information found at 45 CFR Parts 160 and 164.
- j. **Subcontractor** means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.

## 2. Permitted Uses and Disclosures.

- a. **PHI Described.** This means PHI created, received, maintained or transmitted on behalf of the Agency by the Associate. This PHI is governed by this Addendum and is limited to the minimum necessary, to complete the tasks or to provide the services associated with the terms of the original Agreement, and is described in Appendix A.
- b. **Purposes.** Except as otherwise limited in this Addendum, Associate may use or disclose the PHI on behalf of, or to provide services to, Agency for the purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original Agreement, or as required by law, if such use or disclosure of the PHI would not violate the Privacy or Security Rules or applicable state law if done by Agency or Associate, or violate the minimum necessary and related Privacy and Security policies and procedures of the Agency. The Associate is directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Agency.
- c. **Further Uses and Disclosures.** Except as otherwise limited in this Addendum, the Associate may disclose PHI to third parties for the purpose of its own proper management and administration, or as required by law, provided that (i) the disclosure is required by law, or (ii) the Associate has obtained from the third party reasonable assurances that the PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party by the Associate; and, (iii) an agreement to notify the Associate and Agency of any instances of which it (the third party) is aware in which the confidentiality of the information has been breached. To the extent practical, the information should be in a limited data set or the minimum necessary information pursuant to 45 CFR § 164.502, or take other measures as necessary to satisfy the Agency's obligations under 45 CFR § 164.502.

### 3. Obligations of Associate.

- a. **Stated Purposes Only.** The PHI may not be used by the Associate for any purpose other than as stated in this Addendum or as required or permitted by law.
- b. **Limited Disclosure.** The PHI is confidential and will not be disclosed by the Associate other than as stated in this Addendum or as required or permitted by law. Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI unless Agency gives written approval and the individual provides a valid authorization. Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Associate will report to Agency any use or disclosure of the PHI, including any Security Incident not provided for by this Agreement of which it becomes aware.
- c. **Safeguards.** The Associate will use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the PHI, except as provided for in this Addendum. This shall include, but not be limited to:
  - i. Limitation of the groups of its workforce and agents, to whom the PHI is disclosed to those reasonably required to accomplish the purposes stated in this Addendum, and the use and disclosure of the minimum PHI necessary or a Limited Data Set;
  - ii. Appropriate notification and training of its workforce and agents in order to protect the PHI from unauthorized use and disclosure;
  - iii. Maintenance of a comprehensive, reasonable and appropriate written PHI privacy and security program that includes administrative, technical and physical safeguards appropriate to the size, nature, scope and complexity of the Associate's operations, in compliance with the Security Rule;
  - iv. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
- d. **Compliance With Law.** The Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to, the Privacy and Security Rules.
- e. **Mitigation.** Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the PHI by Associate in violation of the requirements of this Addendum, and report its mitigation activity back to the Agency.



**f. Support of Individual Rights.**

- i. Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying, and in electronic format, if requested, within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.
- ii. Amendment of PHI.** Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.
- iii. Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.528 and consistent with Section 13405 of the HITECH Act. Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:

  - the date of disclosure;
  - the name of the entity or person who received the PHI, and if known, the address of the entity or person;
  - a brief description of the PHI disclosed; and
  - a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
- iv. Request for Restriction.** Under the direction of the Agency, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR § 164.522, when the Agency determines to do so (except as required by law) and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."
- v. Immediate Discontinuance of Use or Disclosure.** The Associate will immediately discontinue use or disclosure of Agency PHI pertaining to any individual when so requested by Agency. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.



- g. **Retention of PHI.** Notwithstanding section 4.a. of this Addendum, Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.f. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. **Agent's, Subcontractor's Compliance.** The Associate shall notify the Agency of all subcontracts and agreements relating to the Agreement, where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum. Such notification shall occur within 30 (thirty) calendar days of the execution of the subcontract and shall be delivered to the Agency Procurement Officer. The Associate will ensure that any of its subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder. The Agency may request copies of downstream subcontracts and agreements to determine whether all restrictions, terms and conditions have been flowed down. Failure to ensure that downstream contracts, subcontracts and agreements contain the required restrictions, terms and conditions may result in termination of the Agreement.
- j. **Federal and Agency Access.** The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504. The Associate shall also make these records available to Agency, or Agency's contractor, for periodic audit of Associate's compliance with the Privacy and Security Rules. Upon Agency's request, the Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines; certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Associate's subcontractors, if any.
- k. **Security.** The Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI. In addition, compliance with 74 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XIII is required, to the extent practicable. If Associate chooses not to adopt such methodologies as defined in 74 FR 19006 to secure the PHI governed by this Addendum, it must submit such written rationale, including its Security Risk Analysis, to the Agency Procurement Officer for review prior to the execution of the Addendum. This review may take up to ten (10) days.
- l. **Notification of Breach.** During the term of this Addendum, the Associate shall notify the Agency and, unless otherwise directed by the Agency in writing, the WV Office of Technology immediately by e-mail or web form upon the discovery of any Breach of unsecured PHI; or within 24 hours by e-mail or web form of any suspected Security Incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the Agency Procurement Officer at [www.state.wv.us/admin/purchase/vrc/agencyll.htm](http://www.state.wv.us/admin/purchase/vrc/agencyll.htm) and,



unless otherwise directed by the Agency in writing, the Office of Technology at [incident@wv.gov](mailto:incident@wv.gov) or <https://apps.wv.gov/ot/ir/Default.aspx>.

The Associate shall immediately investigate such Security Incident, Breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, the Associate shall notify the Agency Procurement Officer, and, unless otherwise directed by the Agency in writing, the Office of Technology of: (a) Date of discovery; (b) What data elements were involved and the extent of the data involved in the Breach; (c) A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data; (d) A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized; (e) A description of the probable causes of the improper use or disclosure; and (f) Whether any federal or state laws requiring individual notifications of Breaches are triggered.

Agency will coordinate with Associate to determine additional specific actions that will be required of the Associate for mitigation of the Breach, which may include notification to the individual or other authorities.

All associated costs shall be borne by the Associate. This may include, but not be limited to costs associated with notifying affected individuals.

If the Associate enters into a subcontract relating to the Agreement where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum, all such subcontracts or downstream agreements shall contain the same incident notification requirements as contained herein, with reporting directly to the Agency Procurement Officer. Failure to include such requirement in any subcontract or agreement may result in the Agency's termination of the Agreement.

- m. **Assistance in Litigation or Administrative Proceedings.** The Associate shall make itself and any subcontractors, workforce or agents assisting Associate in the performance of its obligations under this Agreement, available to the Agency at no cost to the Agency to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Agency, its officers or employees based upon claimed violations of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inaction or actions by the Associate, except where Associate or its subcontractor, workforce or agent is a named as an adverse party.

#### 4. Addendum Administration.

- a. **Term.** This Addendum shall terminate on termination of the underlying Agreement or on the date the Agency terminates for cause as authorized in paragraph (c) of this Section, whichever is sooner.
- b. **Duties at Termination.** Upon any termination of the underlying Agreement, the Associate shall return or destroy, at the Agency's option, all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents



and subcontractors to assist the Agency with any HIPAA required accounting of disclosures survives the termination of the underlying Agreement.

c. **Termination for Cause.** Associate authorizes termination of this Agreement by Agency, if Agency determines Associate has violated a material term of the Agreement. Agency may, at its sole discretion, allow Associate a reasonable period of time to cure the material breach before termination.

d. **Judicial or Administrative Proceedings.** The Agency may terminate this Agreement if the Associate is found guilty of a criminal violation of HIPAA. The Agency may terminate this Agreement if a finding or stipulation that the Associate has violated any standard or requirement of HIPAA/HITECH, or other security or privacy laws is made in any administrative or civil proceeding in which the Associate is a party or has been joined. Associate shall be subject to prosecution by the Department of Justice for violations of HIPAA/HITECH and shall be responsible for any and all costs associated with prosecution.

e. **Survival.** The respective rights and obligations of Associate under this Addendum shall survive the termination of the underlying Agreement.

#### 5. General Provisions/Ownership of PHI.

a. **Retention of Ownership.** Ownership of the PHI resides with the Agency and is to be returned on demand or destroyed at the Agency's option, at any time, and subject to the restrictions found within section 4.b. above.

b. **Secondary PHI.** Any data or PHI generated from the PHI disclosed hereunder which would permit identification of an individual must be held confidential and is also the property of Agency.

c. **Electronic Transmission.** Except as permitted by law or this Addendum, the PHI or any data generated from the PHI which would permit identification of an individual must not be transmitted to another party by electronic or other means for additional uses or disclosures not authorized by this Addendum or to another contractor, or allied agency, or affiliate without prior written approval of Agency.

d. **No Sales.** Reports or data containing the PHI may not be sold without Agency's or the affected individual's written consent.

e. **No Third-Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Agency, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

f. **Interpretation.** The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The interpretation of this Addendum shall be made under the laws of the state of West Virginia.

g. **Amendment.** The parties agree that to the extent necessary to comply with applicable law they will agree to further amend this Addendum.

h. **Additional Terms and Conditions.** Additional discretionary terms may be included in the release order or change order process.



AGREED:

WV Department of Health  
and Human Resources

Name of Agency: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Associate: Drug Testing Centers of America

Signature: Julia Barker

Title: VP of Operations

Date: June 5, 2017

Form - WVBAA-012004  
Amended 08.26.2013

APPROVED AS TO FORM THIS 21<sup>st</sup>  
DAY OF June 20 17  
BY Patrick Morrissey  
Attorney General

#### Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. PHI not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Associate: Drug Testing Centers of America

WV Department of Health and Human Resources

Name of Agency: \_\_\_\_\_

Describe the PHI (do not include any actual PHI). If not applicable, please indicate the same.

All types of PHI in electronic, verbal, or any other form, including but not limited to:

- Names
- Geographic data
- All elements of dates
- Telephone numbers
- FAX numbers
- Email addresses
- Social Security numbers
- Medical record numbers
- Health plan beneficiary numbers
- Account numbers
- Certificate/license numbers
- Vehicle identifiers and serial numbers including license plates
- Device identifiers and serial numbers
- Web URLs
- Internet protocol addresses
- Biometric identifiers (i.e. retinal scan, fingerprints)
- Full face photos and comparable images
- Any unique identifying number, characteristic or code

To the minimum extent necessary, the services contained within this agreement involve the transmission of protected health information required for the appropriate oversight and administration of health care services and may include, but is not limited to, data and information related to: treatment data, beneficiary eligibility, medical records, and/or billing information, in paper, electronic, or any other form.



## **ATTACHMENT 1**

### **Provisions Required for Federally Funded Procurements**

- 1. Federal Funds:** This purchase is being funded in whole or in part with Federal Funds and is subject to the requirements established in 2 CFR § 200. Pursuant to 2 CFR § 200.317 the provisions of 2 CFR §§ 200.322 and 200.326 are expressly included in this solicitation below and incorporated into any contract resulting from this solicitation by reference.
- 2. 2 CFR §200.322 Procurement of recovered materials:** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 3. §200.326 Contract provisions:** Pursuant to the requirements contained in 2 CFR §§ 200.317 and 200.326, the following provisions are included any contract resulting from this solicitation, to the extent that the provisions are applicable.
  - (A)** At a minimum, the administrative, contractual, or legal remedies contained in W. Va. CSR § 148-1-5 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract resulting from this solicitation in instances where contractors violate or breach contract terms for contracts for more than the simplified acquisition threshold currently set at \$150,000 (which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908).

West Virginia Code of State Rules § 148-1-5 states:

#### **§ 148-1-5. Remedies.**

5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

#### **5.2. Contract Cancellation.**

**5.2.a. Cancellation.** The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

**5.2.a.1.** The vendor agrees to the cancellation;

**5.2.a.2.** The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

**5.2.a.3.** Failure to honor any contractual term or condition or to honor standard commercial practices;

**5.2.a.4.** The existence of an organizational conflict of interest is identified;

**5.2.a.5.** Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

**5.2.a.6.** Violation of any federal, state, or local law, regulation, or ordinance.

**5.2.b.** The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

**5.2.c. Opportunity to Cure.** In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

**5.2.d. Re-Award.** The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

**5.2.d.1.** The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

**5.2.d.2.** The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.



Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.

**5.3. Non-Responsible.** If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

**5.4. Suspension.**

**5.4.a.** The Director may suspend, for a period not to exceed one (1) year, the right of a vendor to bid on procurements issued by the Purchasing Division or any state spending unit under its authority if:

**5.4.a.1.** The vendor has exhibited a pattern of submitting bids and then requesting that its bid be withdrawn after bids have been publicly opened. For purposes of this provision, a pattern is two or more instances in any 12 month period.

**5.4.a.2.** The vendor has exhibited a pattern of poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to, two or more instances of any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; and failure to deliver commodities, services, or printing at the quality level required by the contract.

**5.4.a.3.** The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

**5.4.a.4.** The vendor's actions have given rise to one or more of the grounds for debarment listed in section 5A-3-33d.

**5.4.b. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:**

**5.4.b.1. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.**

**5.4.b.2. A notice of suspension must inform the vendor:**

**5.4.b.2.A. Of the grounds for the suspension;**

**5.4.b.2.B. Of the duration of the suspension;**

**5.4.b.2.C. Of the right to request a hearing contesting the suspension;**

**5.4.b.2.D. That a request for a hearing must be served on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension;**

**5.4.b.2.E. That the vendor's failure to request a hearing no later than five (5) working days of the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and**

**5.4.b.2.F. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.**

**5.4.b.3. A vendor's failure to serve a request for hearing on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.**  
**5.4.b.4. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.**

**5.4.b.5. Within five (5) working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.**

**5.4.b.6. The hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.**



5.4.c. A vendor may appeal a decision of the Director to the Secretary of Administration. The appeal must be in writing and served on the Secretary no later than five (5) working days of receipt of the Director's decision.

5.4.d. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.e. Any notice or service related to suspension actions or proceedings must be provided by certified mail, return receipt requested.

5.5. Vendor Debarment. The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in West Virginia Code § 5A-3-33d or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

5.5.a. Debarment proceedings shall be conducted in accordance with West Virginia Code § 5A-3-33e and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

5.5.b. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached. Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

5.5.c. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor,



including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated. 5.5.d. Pursuant to West Virginia Code section 5A-3-33e(e), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.

5.5.e. List of Debarred Vendors. The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

**5.6. Damages.**

5.6.a. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.b. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.c. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

**(B)** At a minimum, the termination for cause and for convenience provisions contained in W. Va. CSR § 148-1-5.2 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract in excess of \$10,000 resulting from this solicitation.

West Virginia Code of State Rules § 148-1-5.2 states:

**5.2. Contract Cancellation.**

5.2.a. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.a.1. The vendor agrees to the cancellation;

5.2.a.2. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.a.3. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.a.4. The existence of an organizational conflict of interest is identified;

5.2.a.5. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

5.2.a.6. Violation of any federal, state, or local law, regulation, or ordinance.

5.2.b. The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

5.2.c. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

(C) **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

41 CFR § 60-1.3 defines "Federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.



Accordingly, to the extent that this contract meets the definition of a "federally assisted construction contract" under 41 CFR Part 60-1.3, the following clause is included:

**41 CFR 60-1.4 - Equal opportunity clause. (b) *Federally assisted construction contracts.***

In accordance with the requirements of described above, and except as otherwise provided in the applicable regulations, the following language is hereby incorporated into any contract resulting from this solicitation involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may



request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

**(D) Davis-Bacon Act, as amended (40 U.S.C.3141-3148).** Any construction contract resulting from this solicitation hereby requires compliance with the Davis-Bacon Act (40 U.S.C.3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor



Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week.

Any construction contract resulting from this solicitation hereby requires compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

- (E) **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, any contract resulting from this solicitation in excess of \$100,000 that involve the employment of mechanics or laborers hereby requires compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (F) **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.



**(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—** Any contract resulting from this solicitation in excess of \$150,000 hereby requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C.1251-1387).

**(H) Debarment and Suspension (Executive Orders 12549 and 12689)—** Any contract resulting from this solicitation will not be awarded to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension."

**(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—** Any contract resulting from this solicitation requires compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.



State of West Virginia  
**VENDOR PREFERENCE CERTIFICATE**

Certification and application is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

1. ☐ **Application is made for 2.5% vendor preference for the reason checked:**  
☐ Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,  
☐ Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification;  
☐ Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; **or**,  
☐ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or**,
2. ☒ **Application is made for 2.5% vendor preference for the reason checked:**  
☒ Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or**,
3. ☐ **Application is made for 2.5% vendor preference for the reason checked:**  
☐ Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; **or**,
4. ☐ **Application is made for 5% vendor preference for the reason checked:**  
☐ Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or**,
5. ☐ **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**  
☐ Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or**,
6. ☐ **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**  
☐ Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.
7. ☐ **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with West Virginia Code §5A-3-59 and West Virginia Code of State Rules.**  
☐ Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) rescind the contract or purchase order; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

**Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.**

Bidder: Drug Testing Centers of America

Signed: \_\_\_\_\_

Date: June 5, 2017

Title: VP of Operations

\*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.



STATE OF WEST VIRGINIA  
Purchasing Division  
**PURCHASING AFFIDAVIT**

**MANDATE:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

**"Debt"** means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"Related party"** means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: Drug Testing Centers of America

Authorized Signature: Julia Barker Date: 5/25/17

State of Ky

County of Johnson, to-wit:

Taken, subscribed, and sworn to before me this 25 day of may, 2017.

My Commission expires 8-9-, 2019.



NOTARY PUBLIC

Lauren Hollbrook  
Purchasing Affidavit (Revised 08/01/2015)