



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: 554013

Procurement Type: Central Master Agreement

Vendor ID: VS0000011071

Legal Name: LNK LLC

Alias/DBA:

Total Bid: \$178,930.00

Response Date: 04/26/2019

Response Time: 12:51

SO Doc Code: CRFQ

SO Dept: 0506

SO Doc ID: HHR1900000002

Published Date: 4/16/19

Close Date: 4/29/19

Close Time: 13:30

Status: Closed

Solicitation Description: ADDENDUM #1 - OPEN END
CONTRACT FOR DRUG AND

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 : 554013

Solicitation Description : ADDENDUM #1 - OPEN END CONTRACT FOR DRUG AND ALCOHOL TESTING

Proc Type : Central Master Agreement

Date issued	Solicitation Closes	Solicitation Response	Version
	2019-04-29 13:30:00	SR 0506 ESR04261900000004942	1

VENDOR

VS0000011071

LNK LLC

Solicitation Number: CRFQ 0506 HHR1900000002

Total Bid : \$178,930.00

Response Date: 2019-04-26

Response Time: 12:51:29

Comments:

FOR INFORMATION CONTACT THE BUYER

April E 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
1	Pre-Employment Drug Testing - Laboratory Screen	765.00000	TEST	\$120.000000	\$91,800.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Pre-Employment Drug Testing - Laboratory Screening - Section 1.1.A

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	Pre-Employment Alcohol Testing	765.00000	TEST	\$40.000000	\$30,600.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Pre-Employment Alcohol Testing Section 1.1 B

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	Reasonable Suspicion Drug Testing - On-Site Screen	185.00000	TEST	\$40.000000	\$7,400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Reasonable Suspicion Drug Testing - On-Site Screen Section 1.2 A

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	Reasonable Suspicion Drug Testing - Laboratory Screen	185.00000	TEST	\$170.000000	\$31,450.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Reasonable Suspicion Drug Testing - Laboratory Screen Section 1.2 B

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	Reasonable Suspicion Alcohol Testing	185.00000	TEST	\$60.000000	\$11,100.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Reasonable Suspicion Alcohol Testing Section 1.2 C

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	Post-Accident Drug Testing - On-Site Screen	2.00000	TEST	\$40.000000	\$80.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Post-Accident Drug Testing - On-Site Screen Section 1.3.A

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
7	Post-Accident Drug Testing - Laboratory Screen	2.00000	TEST	\$170.000000	\$340.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Post-Accident Drug Testing - Laboratory Screen Section 1.3 B

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
8	Post-Accident Alcohol Testing	2.00000	TEST	\$60.000000	\$120.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Post-Accident Alcohol Testing Section 1.3 C

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
9	Return to Work Drug Testing -Laboratory Screen	25.00000	TEST	\$120.000000	\$3,000.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Return to Work Drug Testing - Laboratory Screen Section 1.4 A

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
10	Return to Work Alcohol Testing	25.00000	TEST	\$40.000000	\$1,000.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Return to Work Alcohol Testing Section 1.4 B

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
11	Collection Expert Testimony	10.00000	HOUR	\$20.000000	\$200.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Collection Expert Testimony Section 4.1.1.17.1

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
12	Laboratory Expert Testimony	10.00000	HOUR	\$40.000000	\$400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Laboratory Expert Testimony Section 4.1.1.17.2

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
13	MRO Expert Testimony	10.00000	HOUR	\$40.000000	\$400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : MRO Expert Testimony Section 4.1.1.17.3

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
14	Collection Expert Testimony at Deposition	10.00000	HOUR	\$20.000000	\$200.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Collection Expert Testimony at Deposition Section 4.1.1.17.4

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
15	Laboratory Expert Testimony at Deposition	10.00000	HOUR	\$40.000000	\$400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : Laboratory Expert Testimony at Deposition Section 4.1.1.17.5

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
16	MRO Expert Testimony at Deposition	10.00000	HOUR	\$40.000000	\$400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description : MRO Expert Testimony at Deposition Section 4.1.1.17.6

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
17	Blind Performance Tests (One per Quarter)	4.00000	TEST	\$10.000000	\$40.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :	Blind Performance Tests (One per Quarter) Section 4.1.2.8



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

State of West Virginia
Request for Quotation
26 — Medical

Proc Folder: 554013

Doc Description: ADDENDUM #1 - OPEN END CONTRACT FOR DRUG AND ALCOHOL TESTING

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2019-04-16	2019-04-29 13:30:00	CRFQ 0506 HHR1900000002	2

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:

LNK dba Drug Testing Centers of America
100 Lee St. W
Charleston, WV 25302
304-344-8378

FOR INFORMATION CONTACT THE BUYER

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

Signature X

FEIN # 81-4022435

DATE April 26, 2019

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

ADDITIONAL INFORMATION:

Addendum #1 is issued to provide the solicitation documents that were omitted in error.

No other changes.

The West Virginia Purchasing Division is soliciting bids on behalf of the Department of Health and Human Resources to establish an open-end contract for drug and alcohol testing services for pre-employment, reasonable suspicion/cause, post-accident, and return-to-duty follow-up testing.

INVOICE TO	SHIP TO
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV25301 US	BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV 25301 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Pre-Employment Drug Testing - Laboratory Screen	765.00000	TEST	\$120.00	\$91,800.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Pre-Employment Drug Testing - Laboratory Screening - Section 1.1.A

INVOICE TO	SHIP TO
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV25301 US	BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV 25301 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Pre-Employment Alcohol Testing	765.00000	TEST	\$40.00	\$30,600

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Pre-Employment Alcohol Testing Section 1.1 B

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Reasonable Suspicion Drug Testing - On-Site Screen	185.00000	TEST	\$40.00	\$7,400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Reasonable Suspicion Drug Testing - On-Site Screen Section 1.2 A

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Reasonable Suspicion Drug Testing - Laboratory Screen	185.00000	TEST	\$170.00	\$31,450.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Reasonable Suspicion Drug Testing - Laboratory Screen Section 1.2 B

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Reasonable Suspicion Alcohol Testing	185.00000	TEST	\$60.00	\$11,100.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Reasonable Suspicion Alcohol Testing Section 1.2 C

INVOICE TO	SHIP TO
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Post-Accident Drug Testing - On-Site Screen	2.00000	TEST	\$40.00	\$80.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Post-Accident Drug Testing - On-Site Screen Section 1.3.A

INVOICE TO	SHIP TO
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	Post-Accident Drug Testing - Laboratory Screen	2.00000	TEST	\$170.00	\$340.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Post-Accident Drug Testing - Laboratory Screen Section 1.3 B

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	Post-Accident Alcohol Testing	2.00000	TEST	\$60.00	\$120.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Post-Accident Alcohol Testing Section 1.3 C

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	Return to Work Drug Testing -Laboratory Screen	25.00000	TEST	\$120.00	\$3,000.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Return to Work Drug Testing - Laboratory Screen Section 1.4 A

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	Return to Work Alcohol Testing	25.00000	TEST	\$40.00	\$1,000.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Return to Work Alcohol Testing Section 1.4 B

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
11	Collection Expert Testimony	10.00000	HOUR	\$20.00	\$200.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Collection Expert Testimony Section 4.1.1.17.1

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
12	Laboratory Expert Testimony	10.00000	HOUR	\$40.00	\$400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Laboratory Expert Testimony Section 4.1.1.17.2

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
13	MRO Expert Testimony	10.00000	HOUR	\$40.00	\$400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :
MRO Expert Testimony Section 4.1.1.17.3

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
14	Collection Expert Testimony at Deposition	10.00000	HOUR	\$20.00	\$200.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :
Collection Expert Testimony at Deposition Section 4.1.1.17.4

INVOICE TO		SHIP TO	
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
15	Laboratory Expert Testimony at Deposition	10.00000	HOUR	\$40.00	\$400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Laboratory Expert Testimony at Deposition Section 4.1.1.17.5

INVOICE TO	SHIP TO
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
16	MRO Expert Testimony at Deposition	10.00000	HOUR	\$40.00	\$400.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

MRO Expert Testimony at Deposition Section 4.1.1.17.6

INVOICE TO	SHIP TO
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV25301 US	BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES OFFICE OF HUMAN RESOURCES MGMT ONE DAVIS SQUARE, STE 400 CHARLESTON WV 25301 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
17	Blind Performance Tests (One per Quarter)	4.00000	TEST	\$10.00	\$40.00

Comm Code	Manufacturer	Specification	Model #
85121810			

Extended Description :

Blind Performance Tests (One per Quarter) Section 4.1.2.8

SCHEDULE OF EVENTS

Line	Event	Event Date
1	Questions Due	2019-04-19

HHR1900000002	Document Phase Final	Document Description ADDENDUM #1 - OPEN END CONTRACT FOR DRUG AND ALCOHOL TESTING	Page 9 of 9
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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

CONSTRUCTION CONTRACTS: Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

ALL CONTRACTS: 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: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, 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: LNK dba Drug Testing Centers of America

Authorized Signature: Julia Barker

Date: 4/26/19

State of WV

County of Johnson, to-wit:

Taken, subscribed, and sworn to before me this 26th day of April, 2019

My Commission expires 8-20, 2020

AFFIX SEAL HERE



THERESA HALL

Notary Public

State at Large, Kentucky

ID #561190

My Commission Expires: 8-20-20

NOTARY PUBLIC

Theresa Hall
Purchasing Affidavit (Revised 01/19/2018)

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, 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; **or**,
- ☐ 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.

8. Application is made for reciprocal preference.

- ☐ Bidder is a West Virginia resident and is requesting reciprocal preference to the extent that it applies.

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: LNK dba Drug Testing Centers of America

Signed: Julia Barker

Date: April 26, 2019

Title: VP of Operations

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

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. REVIEW DOCUMENTS THOROUGHLY: The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. MANDATORY TERMS: The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. PREBID MEETING: The item identified below shall apply to this Solicitation.

☒ A pre-bid meeting will not be held prior to bid opening

☐ A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

☐ A **MANDATORY PRE-BID** meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding.

Submitted e-mails should have solicitation number in the subject line.

Question Submission Deadline: April 19, 2019, at 3:00 PM EST

Submit Questions to: April Battle, File #22

2019 Washington Street, East

Charleston, WV 25305

Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)

Email: april.e.battle@wv.gov

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted electronically through wvOASIS or signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include electronic submission via wvOASIS, hand delivery, delivery by courier, or facsimile.

The bid delivery address is:
Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope or the bid may be rejected by the Purchasing Division.:

SEALED BID: Open-End Contract for Drug and Alcohol Testing
BUYER: April Battle, File #22
SOLICITATION NO.: CRFQ 0506 HHR1900000002
BID OPENING DATE: April 29, 2019
BID OPENING TIME: 1:30 PM EST
FAX NUMBER: (304) 558-3970

The Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS. Submission of a response to an Expression of Interest or Request for Proposal is not permitted in wvOASIS.

For Request For Proposal ("RFP") Responses Only: In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus _____ convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE: (This only applies to CRFP)

- ☐ Technical
☐ Cost

7. BID OPENING: Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time: April 29, 2019, at 1:30 PM EST

Bid Opening Location: Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

8. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. BID FORMATTING: Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

10. ALTERNATE MODEL OR BRAND: Unless the box below is checked, any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

☐ This Solicitation is based upon a standardized commodity established under W. Va. Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

11. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

13. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.

14. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

15. PREFERENCE: Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and should include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at:
<http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

15A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. A request form to help facilitate the request can be found at:
<http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

16. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES: For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

17. WAIVER OF MINOR IRREGULARITIES: The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

18. ELECTRONIC FILE ACCESS RESTRICTIONS: Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

19. NON-RESPONSIBLE: The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform, or lacks the integrity and reliability to assure good-faith performance.”

20. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.5. and § 148-1-6.4.b.”

21. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor’s entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled “confidential,” “proprietary,” “trade secret,” “private,” or labeled with any other claim against public disclosure of the documents, to include any “trade secrets” as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

22. INTERESTED PARTY DISCLOSURE: West Virginia Code § 6D-1-2 requires that the vendor submit to the Purchasing Division a disclosure of interested parties to the contract for all contracts with an actual or estimated value of at least \$1 Million. That disclosure must occur on the form prescribed and approved by the WV Ethics Commission prior to contract award. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

23. WITH THE BID REQUIREMENTS: In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Director of the Purchasing Division reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under W. Va. CSR § 148-1-4.6. This authority does not apply to instances where state law mandates receipt with the bid.

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of a Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

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

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

Initial Contract Term: This Contract becomes effective on award and extends for a period of one (1) year(s).

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

☐ **One Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Other:** See attached.

4. NOTICE TO PROCEED: Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☒ **Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☐ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

☐ **BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

☐ **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

☐ **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

☐ **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

☒ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

☒ SAMHSA Laboratory Certification

☒ Certified Medical Review Officer

☐

☐

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section.

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☒ **Automobile Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☒ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☐ **Cyber Liability Insurance** in an amount of: _____ per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

☐☐☐☐

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

9. WORKERS' COMPENSATION INSURANCE: The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. [Reserved]

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____

☒ Liquidated Damages Contained in the Specifications

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence with regard to all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

38. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE: This Contract may be utilized by other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"), provided that both the Other Government Entity and the Vendor agree. Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

39. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

40. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☒ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.requisitions@wv.gov.

41. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision. The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Revised 01/24/2019

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

42. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
- c. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
- d. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

43. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a

“substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

44. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the vendor must submit to the Agency a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

Julia Barker, VP of Operations

(Name, Title)

Julia Barker, VP of Operations

(Printed Name and Title)

100 Lee St.W. Charleston, WV 25302

(Address)

304-344-8378 / 304-344-0069

(Phone Number) / (Fax Number)

julia.barker@drugtestingcenters.com

(email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

LNK dba Drug Testing Centers of America

(Company)

Julia Barker VP of Operations

(Authorized Signature) (Representative Name, Title)

Julia Barker, VP of Operations

(Printed Name and Title of Authorized Representative)

April 26, 2019

(Date)

304-344-8378 / 304-344-0069

(Phone Number) (Fax Number)

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ 0506 HHR1900000002

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:

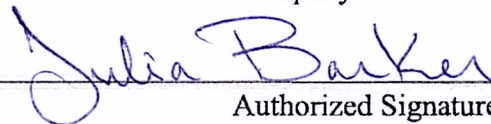
(Check the box next to each addendum received)

<input checked="" type="checkbox"/> Addendum No. 1	<input type="checkbox"/> Addendum No. 6
<input type="checkbox"/> Addendum No. 2	<input type="checkbox"/> Addendum No. 7
<input 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.

LNK dba Drug Testing Centers of America

Company



Authorized Signature

April 26, 2019

Date

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

**REQUEST FOR QUOTATION
CRFQ 0506 HHR1900000002
Drug and Alcohol Testing Services**

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the Department of Health and Human Resources ("DHHR," "Department" or "Agency") to establish an open-end contract for drug and alcohol testing services for select pre-employment, reasonable suspicion/cause, post-accident, and return-to-duty/follow-up, as needed and requested by its agencies, available 24-hours-per-day/7-days-per-week.

The contract awarded as a result of this solicitation may be funded in whole or in part with federal funds and thus this solicitation and its resulting awarded contract are subject to the requirements of Attachment 1: Provisions Required for Federally Funded Procurements.

NOTE: The WVDHHR has developed an EEOP Utilization Report and it is available at: <http://www.wvdhhr.org/pdfs/H1.5%20Utilization%20Report%20and%20EEOP%20policy.pdf>.

These services will be made available to the Department and its agencies to include:

- Bureau for Behavioral Health and Health Facilities (BHHF) and its seven State owned and operated hospitals,
- Bureau for Child Support Enforcement (BCSE),
- Bureau for Children and Families (BCF),
- Bureau for Medical Services (BMS),
- Bureau for Public Health (BPH), and
- Offices of the Cabinet Secretary (OCS).

Vendor will provide the Contract Services specified herein for the DHHR workforce of over 6,000 employees, as well as new-hire testing for BHHF's workforce of approximately 1,700 employees (included within the total for DHHR).

DHHR anticipates usage at the indicated locations in the estimates provided below:

1.1 Pre-Employment	Estimated Number of Yearly Tests
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1. Bureau for Behavioral Health and Health Facilities

	A. Drug/Laboratory	B. Alcohol Facility
Hopemont Hospital Hopemont, West Virginia 26764	40	40
Lakin Hospital Lakin, West Virginia 25287	100	100
John Manchin Senior Health Care Hospital	50	50

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Fairmont, West Virginia 26554		
Jackie Withrow Hospital Beckley, West Virginia 25801	120	120
Mildred Mitchell-Bateman Hospital Huntington, West Virginia 25709	180	180
William R. Sharpe, Jr. Hospital Weston, West Virginia 26452	175	175
Welch Community Hospital Welch, West Virginia 24901	100	100

1.2 Reasonable Suspicion/Cause

Estimated Number of Yearly Tests

Location	A. B. C.		
	Drug	Laboratory	Alcohol
1. Bureau for Behavioral Health and Health Facilities	35	35	35
Central Office Charleston, WV 25301			
Any Facility Listed Above			
2. Bureau for Child Support Enforcement	15	15	15
Central Office Charleston, WV 25301			
Morgantown, WV 26501			
Sutton, WV 26601			
White Hall, WV 26554			
Any County Office Listed Below			
3. Bureau for Children and Families	75	75	75

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Central Office
Charleston, WV 25301

Any County Office Listed Below

4. Bureau for Medical Services	5	5	5
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Central Office
Charleston, WV 25301

5. Bureau for Public Health	25	25	25
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Central Office
Charleston, WV 25301

Medical Examiner's Office
Charleston, WV 25302

State Labs
South Charleston, WV 25303

Threat Prep
Charleston, WV 25301

Any County Office Listed Below

6. Offices of the Cabinet Secretary	30	30	30
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Central Office
Charleston, WV 25301

OIG
Capitol Complex
Charleston, WV 25315

OIG
408 Leon Sullivan Way
Charleston, WV 25301

Any County Office Listed Below.

DHHR County Offices

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Beckley, WV 25801	Moundsville, WV 26041
Berkeley Springs, WV 25411	New Martinsville, WV 26155
Buckhannon, WV 26201	Oak Hill, WV 25901
Charles Town, WV 25414	Parkersburg, WV 26102
Charleston, WV 25313	Parsons, WV 26287
Clarksburg, WV 26302	Petersburg, WV 26847
Clay, WV 25043	Phillipi, WV 26416
Elizabeth, WV 26143	Pineville, WV 24874
Elkins, WV 26241	Princeton, WV 27439
Foster, WV 25081	Pt. Pleasant, WV 25550
Franklin, WV 26807	Ripley, WV 25271
Glenville, WV 26351	Romney, WV 26757
Grafton, WV 26354	Smithburg, WV 26436
Grantsville, WV 26147	Spencer, WV 25276
Hamlin, WV 25523	St. Marys, WV 26170
Harrisville, WV 26362	Summersville, WV 26651
Hinton, WV 25951	Sutton, WV 26601
Huntington, WV 35704	Union, WV 24983
Keyser, WV 26762	Wayne, WV 25570
Kingwood, WV 26537	Webster Springs, WV 26288
Lewisburg, WV 24901	Weirton, WV 26062
Logan, WV 25601	Welch, WV 24801
Marlinton, WV 24954	Weston, WV 26452
Martinsburg, WV 25404	Wheeling, WV 26003
Middlebourne, WV 26149	White Hall, WV 26554
Moorefield, WV 26836	Williamson, WV 25661
Morgantown, WV 26507	Winfield, WV 25213

1.3 Post-Accident/Incident

	A. Drug Laboratory	B. Laboratory	C. Alcohol
Anywhere in the state.	2	2	2

1.4 Return to Work

	A. Drug/Laboratory	B. Alcohol
Anywhere in the state.	25	25

1.5 Other Locations as Needed

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In addition to the specific locations indicated above, the Vendor must be able to respond for testing anywhere in the state, including, but not limited to, DHHR offices not located within a county office, and post-accident locations. These additional locations do not affect the estimated numbers above.

- 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 identified on the Pricing Pages as more fully described in these specifications.

2.2 “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.

2.3 “Pricing Page” means the pages, contained in wvOASIS or attached hereto as Exhibit A, upon which Vendor should list its proposed price for the Contract Services.

2.4 “SAMHSA” means the Substance Abuse and Mental Health Services Administration, an agency of the United States Department of Health and Human Services.

2.5 “Solicitation” means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.6 “Testing Locations” means the locations where on-site testing/collections will be performed as listed above.

2.7 “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.

- 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 Title 49 CFR Part 40, with a minimum of five (5) years’ business experience in drug and alcohol testing.

3.2. If any portions of the program will be subcontracted, vendor should identify in the bid those subcontractors that it intends to use and the portions of the program to be assigned to each. If no subcontractors will be used, that should be stated in the bid. Subcontracting is permissible with written approval of the agency, DHHR and the Vendor. This includes any testing laboratories

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that will be used, and an attestation that the laboratory meets all the requirements set forth in Section 4 below. Proof of subcontracting work and attestation should be submitted at time of bid but will be required prior to award.

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

4.1 Vendor Mandatory Contract Services Requirements and Deliverables:

4.1.1 General Requirements

- 4.1.1.1** Vendor must provide scheduled service Monday through Friday, between 7:00 am and 5:00 pm.
- 4.1.1.2** Vendor must provide 24-hour un-scheduled specimen collection for reasonable suspicion/for cause testing on an as-needed basis.
- 4.1.1.3** Vendor must arrive on location and be ready to conduct reasonable suspicion/for cause testing within two (2) hours of the request for testing. This includes testing at DHHR offices/facilities, and/or other locations as needed.
- 4.1.1.4** Vendor must provide for an account manager (or designee) to be available 24 hours a day, 7 days a week to answer questions and resolve problems.
- 4.1.1.5** Vendor must supply an emergency telephone number to be used by each testing location to provide specimen collection services after regular office hours.
- 4.1.1.6** Vendor must ensure that strict rules of confidentiality are maintained at all times. All test results and material acquired shall become the property of DHHR and the State of West Virginia. Information must not be released to any other party without prior express written consent of DHHR.
- 4.1.1.7** Vendor must maintain records related to the performance of work under this agreement in accordance with 49 CFR Part 40 and accepted professional practice and appropriate accounting procedures.

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- 4.1.1.8** Vendor shall maintain records pertaining to the contract for five (5) years following the end of the contract period.
- 4.1.1.9** Vendor must provide copies of any and all records held in performance of this agreement within 10 days of written notice by DHHR's Director of the Office of Human Resources Management, or his/her designee.
- 4.1.1.10** Vendor must provide computer software or a secured internet-based result reporting system at no cost to DHHR for tracking, management, and record maintenance of the DHHR program. The software or internet-based result reporting utilized must contain all necessary components to permit the MRO's report to be submitted and contained in the database. Vendor must provide DHHR with inquiry access to the software or internet-based result reporting from a DHHR personal computer located in the Office of Human Resources Management, or other designated location.
 - 4.1.1.10.1** Vendor may be required to demonstrate in person at no cost to DHHR all functions relative to program tracking, management, and record maintenance in the Office of Human Resources Management. DHHR reserves the right to determine acceptability based on the security of transmission along with the limit of access to any transmission, storage, or retrieval systems and to approve or reject software or internet-based result reporting.
 - 4.1.1.10.2** At the time of bid, Vendor should identify the software or internet-based result reporting system proposed for use under this contract. Such system must be secure and provide for the protection of confidential information (including, but not limited to, personally identifiable information (PII), any information protected by HIPAA, and all other such information protected by applicable state and federal laws). If it should be discovered that the software or reporting system lacks these protections, DHHR reserves the right to (1) demand that the Vendor

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Drug and Alcohol Testing Services**

immediately utilize another system, or (2) immediately terminate the contract. Vendor will be required to identify software or internet-based result reporting system proposed prior to award.

- 4.1.1.11** When submitting invoices for payment, Vendor must provide a detailed written summary of the testing program activity that accompanies and supports each invoice.
- 4.1.1.12** Vendor must follow the US Department of Transportation collection protocols provided in 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.
- 4.1.1.13** Vendor must collect specimens on DHHR premises, unless other arrangements are made with DHHR, and Vendor must provide for all conditions of privacy, confidentiality and chain of custody.
- 4.1.1.14** Vendor must comply with all applicable laws, regulations and industry standards relating to drug and alcohol testing.
- 4.1.1.15** Vendor must ensure that collection site personnel will be trained in compliance with Title 49 CFR Part 40 and shall be regularly engaged in the business of providing the required drug and alcohol testing.
- 4.1.1.16** Vendor must provide all forms, collection kits and miscellaneous supplies for the collection, transportation and analyses of specimens.
- 4.1.1.17** Vendor must provide, upon request, expert witness testimony regarding the results and accuracy of specific employee testing should the results and subsequent actions be challenged by the employee.
 - 4.1.1.17.1** Expert witness testimony includes a collection expert to testify in court to the procedures followed in collecting the employee's specimen(s).

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- 4.1.1.17.2** Expert witness testimony includes a laboratory expert to testify in court to the procedures followed in testing the employee's specimen(s).
- 4.1.1.17.3** Expert witness testimony includes MRO expert to testify in court to the test results of the employee's specimen(s).
- 4.1.1.17.4** Expert testimony includes that provided by a collection expert at deposition.
- 4.1.1.17.5** Expert testimony includes that provided by a laboratory expert at deposition.
- 4.1.1.17.6** Expert testimony includes that provided by a MRO at deposition.
- 4.1.1.17.7** Expert testimony includes a litigation package of pertinent documents, including, but not limited to: chain of custody forms, reports, quality control, and any documents generated during the testing process.
- 4.1.1.17.8** Cost of expert testimony is to be bid at an hourly rate, whereas all specimen collection and testing is to be bid at a flat rate (i.e., cost per test). Expert testimony will only be used when needed and should not be included in the bid price for every test.
- 4.1.1.17.9** Expert testimony can usually be taken by telephone and should not require travel on the part of the individual providing this service.

4.1.2 Testing Requirements

- 4.1.2.1** Vendor must provide for alcohol testing on-site 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.

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- 4.1.2.2** Vendor must provide for a confirmatory alcohol test on all breath concentrations minimum of .01 or higher.
- 4.1.2.3** Vendor must provide for collection of urine on-site in compliance with Title 49 CFR Part 40.
- 4.1.2.4** Upon request, Vendor must be able to provide preliminary drug test results on-site. Vendor must provide separate pricing for preliminary testing on-site versus testing in the lab. The Department will determine whether it will use preliminary testing, in-lab testing or both, based upon need.
- 4.1.2.5** The split sample method of collection, handling, and storage is to be utilized.
- 4.1.2.6** Vendor must utilize a SAMHSA-certified laboratory. The laboratory shall test and store specimens (primary and split specimens) and have in place equipment that meets applicable regulations. Additionally, the laboratory shall have a quality control program in place that complies with 49 CFR Part 40. Vendor must provide proof of SAMHSA certification.
- 4.1.2.7** Vendor must provide for transportation for all specimens to the appropriate testing laboratory in accordance with 49 CFR Part 40.
- 4.1.2.8** On a quarterly basis, Vendor must submit blind performance test specimens to the laboratory. Vendor will submit a false specimen to the laboratory for quality control purposes. These specimens must have a false identifier and be indistinguishable from all other regular specimens. The results will be delivered and billed to the DHHR's Office of Human Resources Management.
- 4.1.2.9** Vendor must perform chemical analyses of specimens to determine whether the person from whom the specimen was taken has been using any of the following drugs:
 - A. Amphetamines
 - B. Cannabinoids (THC)
 - C. Cocaine
 - D. Opiates

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- E. Phencyclidines (PCP)
- F. Barbiturates
- G. Benzodiazepines
- H. Methadone
- I. Propoxyphene
- J. Methaqualone

- 4.1.2.10** Vendor must provide a confirmatory test on all positive drug screens using gas chromatography/mass spectrometry technology, or other acceptable method that meets industry standard.
- 4.1.2.11** Vendor must provide, as part of its services, a Certified Medical Review Officer (MRO), certified in accordance with 49 CFR Part 40. Vendor must provide proof of MRO certification.
- 4.1.2.12** Vendor must provide confirmed test results to DHHR's Director of the Office of Human Resources Management or his/her designee via confidential means, immediately upon confirmation by the MRO, but not later than 4:00 p.m. on the third business day following the date of a test. If not reported timely, DHHR will not be charged for the test. Vendor may not reschedule a test for the purposes of meeting this requirement. For the purposes of this requirement, business days are Monday through Friday.
- 4.1.2.13** Vendor must report results as "Negative," "Positive," "Abnormal," or "Safety Concern."
- 4.1.2.13.1** An "abnormal" result is used when the results of chemical analysis indicate that the properties of the sample are inconsistent with normal human values or that the sample is otherwise invalid.
- 4.1.2.13.2** A "safety concern" result is used when the employee has a valid prescription for the medication, but the levels present indicate it is not being taken as prescribed or the effects of the medication may pose a safety risk due to the nature of the employee's work.
- 4.1.2.14** If a DHHR employee or prospective employee wishes to challenge a positive test result, such re-testing must be conducted from the

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same specimen that was originally taken, and the cost of which shall be borne by the employee or prospective employee. DHHR will not be responsible for the cost of these re-tests. Additionally, arrangements for re-testing and payment are to be made by the Vendor and the employee or prospective employee.

4.2 DHHR Mandatory Contract Services Requirements and Deliverables:

- 4.2.1** Upon contract award, DHHR's Director of the Office of Human Resources Management 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 compensate Vendor separately for specimen adulteration assays. Testing for adulterants must be included with the overall price per test.
- 4.2.4** DHHR will not compensate Vendor for improper collection, storage, labeling, testing, etc., which results in inaccurate or incomplete test results.
- 4.2.5** DHHR will not compensate Vendor on an hourly rate, except for the cost of expert testimony. See Section 5.2 below. All other prices quoted, and invoices submitted for payment must be based upon a flat rate.
- 4.2.6** DHHR will not compensate Vendor for no-shows and refusals to test that are not the fault of DHHR.

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 by entering the Unit Price for each item/Commodity Line as follows:

Cost of expert testimony is to be bid at an hourly rate, whereas all specimen collection and testing is to be bid at a flat rate (i.e., cost per test). Expert

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testimony will only be used when needed, and should not be included in the bid price for every test.

Line 1 through Line 10 Costs are to be based upon an all-inclusive, per-test rate, including travel time; culminating with the certification of results and proper reporting of such results to appropriate DHHR personnel.

Line 1: Pre-Employment Drug Testing – Laboratory Screen (1.1A)

Line 2: Pre-Employment Alcohol Testing (1.1B)

Line 3: Reasonable Suspicion Drug Testing – Preliminary On-Site Screen (1.2A)

Line 4: Reasonable Suspicion Drug Testing – Laboratory Screen (1.2B)

Line 5: Reasonable Suspicion Alcohol Testing (1.2C)

Line 6: Post Accident Drug Testing – Preliminary On-Site Screen (1.3A)

Line 7: Post Accident Drug Testing – Laboratory Screen (1.3B)

Line 8: Post Accident Alcohol Testing (1.3C)

Line 9: Return to Work Drug Testing – Laboratory Screen (1.4A)

Line 10: Return to Work Drug Alcohol Testing (1.4B)

Line 11 through Line 16 All costs are to be based upon an all-inclusive hourly rate including travel and preparation time.

Line 11: Collection Expert Witness Testimony (4.1.1.17.1)

Line 12: Laboratory Expert Witness Testimony (4.1.1.17.2)

Line 13: MRO Expert Witness Testimony (4.1.1.17.3)

Line 14: Collection Expert Witness Testimony at Deposition (4.1.1.17.4)

Line 15: Laboratory Expert Witness Testimony at Deposition (4.1.1.17.5)

Line 16: MRO Expert Witness Testimony at Deposition (4.1.1.17.6)

Line 17. Blind performance tests are to be based upon the same all-inclusive, per-test rate as Lines 1 through 10, above.

Line 17: Blind Performance Tests (One Per Quarter) (4.1.2.8)

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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.

If issues arise in 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.

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 sufficient documentation to determine the dates, types of tests, and costs per test and/or hours of expert testimony as applicable. DHHR reserves the right to reject any invoices for which proper documentation has not been provided. The Agency will attempt to notify Vendor within ten (10) working days from the date of receipt of any deficient invoices.

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:

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- 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 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. Liquidated Damages:

Vendor recognizes that their promise to timely and accurately perform specimen collection and testing is of the essence of this drug and alcohol testing contract with DHHR. Vendor also recognizes that DHHR provides vital services to the residents of the State, and as such, DHHR

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has a legitimate expectation that the Vendor will timely and accurately perform under this contract. Accordingly, Vendor agrees to pay to DHHR as liquidated damages an amount equal to what they would have billed DHHR, per incident, for failure to materially perform as required under this contract. If Vendor fails to pay properly-assessed liquidated damages to DHHR, then DHHR reserves the right to withhold the amount of said liquidated damages from future payments to Vendor.

10.2.4. 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 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

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. 111th 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/agencyli.htm and,

unless otherwise directed by the Agency in writing, the Office of Technology at 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 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:

Name of Agency: _____

Signature: _____

Title: _____

Date: _____

Name of Associate: LNK dba Drug Testing Centers of America

Signature: _____

Title: VP of Operations

Date: April 26, 2019

Form - WVBA-012004
Amended 08.28.2013

APPROVED AS TO FORM THIS 26th

DAY OF April

20 19

Patrick Morrissey

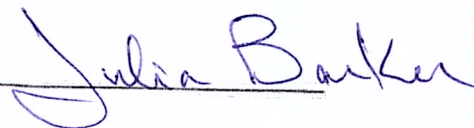
Attorney General

BY _____

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: LNK dba Drug Testing Centers of America, Julia Barker



Name of Agency: _____

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

All [types of PHI listed on App. A] in paper, electronic, verbal, or any other form. Including, but not limited to: To the minimum extent necessary, the services contained within this agreement involving the transmission of Protected Health Information (PHI) 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.

Subcontractors

On-site drug and alcohol testing will be subcontracted as needed to the following:

Advantage Occupational Medicine-Bridgeport, WV

AKME Drug Testing-Ashland, KY

On-Site In-Home Drug Testing-Beckley, WV

ProMedical- Morgantown, WV

Reliant Drug Testing-Point Pleasant, WV

Time Savers-Waynesburg, PA

Should it be beneficial to DHHR and Drug Testing Centers of America, other subcontractors may be added as needed.

Internet-based Result Reporting

Result reporting systems are Clinical Reference Laboratory's WebOasis and Nationwide Medical Review access through i3screen.