

Request for Proposals: Drug & Alcohol Testing Services

Bids Due 10:00 AM

Thursday, November 16, 2023

for the contract period

January 1, 2024 – December 31, 2026

Southeastern Regional Services Group

Michael Kelly, Procurement Officer

SERSG@sersg.org

www.sersg.org

90 S. Main Street Sharon, MA 02067 781-784-1543

Table of Contents

LEGAL NOTICE – DRUG & ALCOHOL TESTING.....	3
INSTRUCTIONS TO PROPOSERS.....	4
General Instructions.....	4
Minimum Requirements.....	5
Evaluation Process & Criteria.....	5
Awards and Miscellaneous.....	7
SCOPE OF WORK.....	8
CONTENTS OF PROPOSALS.....	10
Technical Proposal shall include:.....	10
PRICE PROPOSAL.....	11
APPENDIX A: CERTIFICATION OF PROPOSAL.....	13
APPENDIX B: SUBCONTRACTOR IDENTIFICATION FORM.....	14
APPENDIX C: COMPANY CERTIFICATIONS.....	15
APPENDIX D: REFERENCES.....	16
ATTACHMENT 1: FORM OF CONTRACT.....	17

LEGAL NOTICE – DRUG & ALCOHOL TESTING

The Southeastern Regional Services Group invites proposals for Drug and Alcohol Testing and Administrative Services on behalf of the Towns of Abington, Canton, Dighton, East Bridgewater, Easton, Foxborough, Lakeville, Mansfield, Medfield, Norfolk, Norton, Plainville, Raynham, Sharon, Somerset Stoughton, and West Bridgewater and the City of Taunton to secure contracts for the three-year period commencing January 1, 2024. These services will fulfill requirements of the Omnibus Transportation Employee Testing Act of 1991 and United States Department of Transportation (DOT) Regulations 49 CFR parts 382 and 655 and as defined in part 40. These include all revisions to date as well as the FMCSA Clearinghouse implementation effective in 2020.

The scope of work requires administration and management of comprehensive alcohol and drug testing services with one Program Administrator to oversee and deliver these services. Administration includes random selection, record-keeping, submission of blind samples, reporting requirements, and chain-of-custody forms. Management must include specimen collection, breath analysis, laboratory processing, and a medical review officer and substance abuse professional, as well as training of municipal supervisors and employees. The primary Collection Site must be located within one of the above listed communities and the Program Administrator must provide at least one alternative collection site during hours that the primary collection site is closed.

Proposal packets are available by emailing your request to SERSG@sersg.org. Packets will be provided electronically and available beginning **October 26, 2023** at 12:00PM.

ALL proposals can be sent by mail to SERSG, Attn: Michael Kelly at 90 South Main Street Sharon, MA 02067. Proposals can also be hand delivered to Sharon Town Hall Clerks Office 90 South Main Street Sharon, MA 02067

Proposals must be received by **10:00AM Thursday, November 16, 2023** and will be opened at that time. All interested parties may attend. Scans of all Technical Proposals received will be available at www.sersg.org within 5 business days.

All bidding shall be in strict accordance with the requirements of Mass General Laws Chapter 30B. Work to be performed under this Contract shall comply with Executive Order No. 227 which sets forth the Commonwealth's non-discrimination and equal opportunity policy and the Commonwealth's civil rights laws and regulations.

Directors of the Southeastern Regional Services Group will determine which Proposal is the most advantageous based upon evaluative criteria contained in the proposal packet. Proposers must provide all required services at the same price for each municipality.

The Awarding Authority will be the Board of Selectmen, Select Board, Town Administrator, Town Manager, Mayor or other Procurement Officer of each SERSG municipality participating in this procurement. The SERSG Board of Directors reserves the right to waive any informality or reject any or all proposals.

INSTRUCTIONS TO PROPOSERS

General Instructions

This Request for Proposals (RFP) is issued by Michael Kelly, Procurement Officer for the Southeastern Regional Services Group and on behalf of its municipal members participating in this procurement. All questions and correspondence should be addressed to Michael Kelly at SERSG@sersg.org.

Proposers must examine the scope of work and provisions of this RFP prior to submitting a proposal. Capitalized terms have the same definition as contained in 49 Code of Federal Regulations (CFR) 40.3. The contents of this RFP, and the selected technical and price proposals, will be incorporated into the resulting contract. Contracts resulting from this bid will be between the successful proposer and each participating municipality, and will resemble the Form of Contract included here as Attachment 1.

Separate Price and Technical Proposals shall be submitted in separate sealed envelopes. Each envelope must be marked as “**Price Proposal: SERSG RFP-Drug & Alcohol Testing Services**” or as “**Technical Proposal: SERSG RFP-Drug & Alcohol Testing Services.**”

Proposals can be sent by mail to SERSG, Attn: Michael Kelly at 90 South Main Street Sharon, MA 02067. Proposals can also be hand delivered to Sharon Town Hall Clerks Office 90 South Main Street Sharon, MA 02067. Proposals must be received by **10:00AM Tuesday November 16, 2023.**

Proposers may correct, modify or withdraw their proposal as long as the correction, modification or withdrawal is received by the Procurement Officer by **10:00AM November 16, 2023** and the envelope is sealed and clearly marked “SERSG RFP-Drug & Alcohol Testing Services-Modification, Correction or Withdrawal of the Technical or Price Proposal.”

No late bids or amendments, modification or withdrawals will be accepted or considered. No telegraphic or faxed bids will be accepted. The SERSG Board reserves the right to waive any informality as to form and to reject any or all bids.

Late bids will not be considered. Bids delivered to the wrong address or office will be considered late. The clock in the Town of Sharon Clerks Office will be definitive.

All received Technical Proposals will be opened and **read aloud at 10:00AM on Tuesday, November 16, 2023**. All interested parties may attend. Scans of all Technical Proposals received will be posted to <http://sersg.org/bids.html> within 5 business days.

Proposals may be held by the Southeastern Regional Services Group for a period not to exceed sixty (60) days from the date on which they are submitted for the purpose of reviewing the proposals and investigating the qualifications of the proposers prior to awarding the contracts.

Proposals must be typewritten or machine-printed on 8.5” by 11” paper. Proposal pages must be numbered and signed in ink by an official authorized to bind the company. The proposal must include a statement that the terms, conditions and prices quoted in the proposal will remain valid for at least sixty (60) days from the submission date of the proposal.

Proposals should be prepared simply, economically and shall not exceed 100 pages. Proposals must provide concise descriptions of the proposers’ abilities to meet the requirements of this RFP. Emphasis should be on completeness, clarity, and on a straight-forward description of how the proposer will accomplish the tasks set

forth in this RFP. No credit will be given for additional packaging, marketing or promotional materials.

Proposals which fail to meet the requirements of this RFP, in the judgment of the SERSG Directors, or which are incomplete, conditional or obscure, or which contain additions, deletions, erasures, alterations or other irregularities or in which errors occur, shall be rejected. The SERSG Directors reserve the right to waive any informality in or to reject any or all proposals if the SERSG Directors determine that it is in the best interest of the municipalities to do so.

Minimum Requirements

1. Original **Technical** and **Price** Proposals are submitted in separate, sealed envelopes and arrive by the deadline.
2. The Technical Proposal provides all information required by the RFP and is signed in ink by an official authorized to bind the company.
3. Price Proposal is complete and includes a description of billing procedures and a sample invoice.
4. Appendices A-D are accurately completed and properly signed.
5. Proposer specifies a single business entity to be responsible for performance of the entire contract.
6. Proposer lists the names and qualifications of all key personnel who would be utilized under the contract.
7. Proposer provides copies of all certificates and licenses necessary in the performance of this contract.
8. Evidence is submitted regarding Proposer's past experience in the field of drug and alcohol testing.
9. Proposer identifies the laboratory that would be used under this contract and includes evidence that said lab was certified by National Institute on Drug Abuse (NIDA).
10. Proposer identifies a primary collection site located within one of the SERSG municipalities participating in this RFP and an alternate collection site also located one of the SERSG municipalities participating in this RFP or a mobile unit.
11. Proposer identified an alternate collection site located within the region or a mobile unit.

Proposers are advised that the SERSG Directors will reject any or all proposals if there is reason to believe that there is or has been collusion among proposers in the development of proposals for the work.

Failure on the part of any proposer submitting a proposal to receive answers to questions presented to the Procurement Officer or to receive addenda to this RFP shall not relieve such proposer from obligations under this RFP or the proposal submitted by such proposer. All such answers to questions or addenda shall become part of the documents comprising the contract between the proposer and each municipality. The **deadline for questions is 12:00PM November 8, 2023**. After the deadline, service providers will need to use the existing information to develop their best proposals.

Joint ventures, teaming arrangements or consortia are permissible only if the proposal indicates a single business entity as the prime contractor having complete fiscal and managerial responsibility under the contract. Regardless of the arrangement, proposers are advised that the prime contractor must possess significant management and medical capability, experience and resources.

Any sub-contractor(s) must be identified on Appendix B. The proposer shall provide a complete description of the services to be subcontracted together with a complete description of the qualifications and capabilities of the subcontractor to perform same. The SERSG Directors reserve the right to approve or disapprove any and all such subcontractors.

Evaluation Process & Criteria

Contracts will be awarded to the proposer that best satisfies the overall requirements of the RFP. This will not necessarily be the proposer quoting the lowest unit price and rate. The Technical Proposal of each proposer will be rated for overall quality and ranked accordingly. The SERSG Directors will use the following process to

evaluate proposals:

Initial Screening: A screening of all Technical Proposals will be conducted by the SERSG Directors representing member municipalities participating in this RFP to determine over-all responsiveness. The SERSG Directors will disqualify proposals that are determined to be incomplete or non-responsive. Please fulfill all minimum requirements listed above and all evaluative criteria detailed below.

Technical and Management Experience and Capabilities: The SERSG Directors will evaluate the qualifications and capabilities of each proposer to perform the work required by this RFP as set out in the proposal. This evaluation will emphasize technical and management qualifications and experience and will consider previous experience of the firm, personnel resources, technical approach, management qualifications, and other related experience, qualifications and resources as set forth in the proposal. This step of the overall proposal evaluation will include verification of credentials and stated experience. The SERSG Directors must be assured that respondents have the management and technical experience and capabilities described in their proposals. Failure to provide said assurances may result in a lower rating or constitute grounds for proposal disqualification. Each evaluative criterion shall receive a ranking of highly advantageous, advantageous, not advantageous, or unacceptable. The following Evaluative Criteria will be rated for each proposal:

<u>Evaluative Criteria</u>
1. Proposer’s prior experience serving municipalities in a similar capacity.
2. Demonstrated ability of software and information systems that will be used to ensure the accuracy and timeliness of reporting of test results.
3. Integrity, efficiency and ability of the communication and command links to process specimens and information between the contractor, subcontractors and municipalities.
4. Proposer’s understanding of MA municipal government and the procedures to coordinate with relevant personnel.
5. Sensitivity of the contractor to municipal staff concerns regarding job security, confidentiality, and etc.
6. Likely response time.
7. Quality of in-person training proposed to be given to supervisors and employees.
8. Experience of other key medical personnel including BAT technicians, collectors of urine specimens, biostatisticians, and substance abuse professionals and appropriate certifications.
9. The number and location of Collection Sites, located in one or more participating SERSG municipalities.
10. The arrangements that proposer proposes for specimen collection and breath analysis during hours that the Collection Site is closed including response time and reliability.
11. Will the proposer charge for missed or cancelled appointments?
12. Length of time contractor has been associated with subcontractors in delivering similar services.
13. Experience in the field of substance abuse of physicians who will be reviewing the drug test results. Appropriate certifications provided.
14. Evidence of NIDA certification of the laboratory that will be used.
15. Clear explanation of how proposer will coordinate with employers to fulfill FMCSA Clearinghouse reporting and query requirements.
16. Special skills, services or unique abilities contractor brings to medical testing programs.

Price Proposal Evaluation: The unit prices and rates proposed in the proposer's Price Proposal will be evaluated and ranked from most advantageous to least advantageous.

Combined Review: The respective rankings of the Technical Proposal and the Price Proposal shall be combined to determine the overall ranking of proposals from most advantageous to least advantageous based upon the combined evaluation of the Technical and Price Proposal of each proposer.

Interview of Finalists: SERSG Directors may interview finalists it has chosen as a result of the evaluation process. The primary purpose of the interview will be to allow each finalist the opportunity to demonstrate its understanding of the proposal and substantiate information contained in its proposal. The results of the interviews may be used to arrive at final rankings of the finalists and may result in adjustments to rankings assigned.

Awards and Miscellaneous

Based upon all information, SERSG Directors will select a finalist with whom contract negotiations will commence. Participating SERSG municipalities intend to enter into a written contract with the successful proposer commencing on January 1, 2024 and effective for a three-year period. The contract will contain the terms and conditions set forth in this RFP. The SERSG Directors representing municipalities participating in this procurement reserve the right to cancel this RFP at any time prior to contract award.

Information provided in the proposals submitted for this RFP may be subject to disclosure pursuant to federal and state laws.

Materials submitted will not be returned to proposers. All costs incurred by proposers in the preparation and submission of a proposal shall be the sole responsibility of proposers.

SCOPE OF WORK

The Drug and Alcohol Program Administrator will be responsible for complying with the requirements of 49 CFR parts 382 and 655 in the provision of the following services detailed in 49 CFR part 40 as follows:

- A. Provide drug and alcohol testing services as required by Federal Highway Administration regulations under 49 CFR 382 for municipal employees with commercial drivers' licenses (CDL) who are drivers of commercial motor vehicles AND under 49 CFR part 655 for municipal employees providing mass transit including, but not limited to, shuttle drivers for the Council on Aging departments. Participating municipalities will be serviced for the complete 3-year period for all qualifying employees. Current numbers of covered employees are listed at the end of this Scope of Work.

For purposes of random testing, all of these municipal drivers shall be grouped together in ONE POOL from which random selection shall be made.

NO random selections shall be made immediately before, during or immediately after SNOW STORMS!

- B. Drug and alcohol testing will occur under the following circumstances: pre-employment, random, post-accident, reasonable suspicion, return to duty, and follow-up. The contractor must provide at least one Collection Site located within one of the municipalities participating in this RFP and have available an alternative collection site, possibly a mobile unit, for use during those hours that the primary Collection Site is closed. Alternatively, the contractor may propose a mobile unit that will go to each Highway Department to perform all required testing. In post-accident and reasonable-suspicion testing cases that occur during hours that the primary collection site is closed, if a request for a mobile unit is made, the mobile unit must be present on-site within one hour of the time when the Contractor receives notice of the request. Municipal contacts request at least one week's advanced notice for random selection testing.
- C. Drug testing shall consist of urinalysis tests conducted by a NIDA certified laboratory and reviewed by a Medical Review Officer.
- D. Alcohol testing shall be performed by an Evidential Breath Testing device which meets the requirements of 49 CFR 40 and which is administered by a certified Breath Alcohol Technician.
- E. The computer program used must perform random selection of employees for testing in accordance with the testing percentages set by the Highway Administrator. For purposes of random testing, all SERSG drivers shall be grouped together in ONE POOL from which random selection shall be made.
- F. Supervisors shall be trained for a minimum of one hour on the consequences of alcohol misuse and one hour on the consequences of drug use including what constitutes reasonable suspicion in both cases. This training will be held once during the contract term for all supervisory employees who work for a municipality participating in this RFP in a joint training session.
- G. Blind sample testing must be administered at a rate of three per one hundred specimens. The contractor will be required to purchase the blind samples as well as submit them.
- H. A substance abuse professional must be provided to: evaluate employees referred to him or her; determine when an employee has completed a treatment program and is eligible to return to duty; and design the number and frequency of follow-up tests during the post rehabilitation period.
- I. Employ record-keeping methods and systems to ensure: the proper chain-of-custody procedures are followed;

random selections are conducted properly; appropriate information is made available to each municipality; and appropriate reporting is made to the Federal Highway Administration.

- J. For an additional annual fee, identified in the Price Proposal, proposer will coordinate with employers to fulfill FMCSA Clearinghouse reporting and query requirements if requested.

Municipality	Number of CDL Drivers (DPW)	Number Mass-Transit Drivers covered (COA, bus)	TOTAL NUMBER of drivers subject to testing
Abington	8		8
Canton	43	10	53
Dighton	9		9
East Bridgewater	16		16
Easton	29	10	39
Foxborough	28	35	63
Lakeville	8	5	13
Mansfield	37	9	46
Medfield	25		25
Norfolk	13	1	14
Norton	26		26
Plainville	6	2	8
Raynham	13	1	14
Sharon	32		32
Somerset	16		16
Stoughton	38	8	46
Taunton	22		22
West Bridgewater	15		15
totals	368	80	465

CONTENTS OF PROPOSALS

Proposers should submit their proposals in two parts, the Technical Proposal and the Price Proposal. The Technical Proposal should identify the proposer and set forth its qualifications, experience, key personnel assigned to the project, the proposer's resources available and committed to complete the Scope of Work, and References.

Technical Proposal shall include:

- 1) Proposer's name, address, telephone number, contact person, the office that will be responsible for performing the work and similar information for all subcontractors. Appendix C should be signed by each subcontractor.
- 2) A general statement describing the proposer, its size, number of employees, primary business, its qualifications and experience in conducting drug and alcohol testing programs. Similar information must be provided regarding all subcontractors.
- 3) Description of all significant litigation that the proposer has been a party to in the last five (5) years including court, caption and docket number.
- 4) The name of the person who will serve as the Project Manager for the proposer including his or her qualifications, experience in performing and/or managing work similar to that described in the Scope of Work and a list of three (3) previous contracts in which said person served as a Project Manager.
- 5) Other key personnel must be identified who will be assigned to complete the work under the contract including the role each will play in completion of the work and including for each person a resume which sets forth his or her qualifications and relevant experience. Appropriate certifications must also be included.
- 6) Proposer must include a statement of the availability and location of staff and other required resources for performing all services and providing reports. Proposer must indicate whether or not the services outlined in the Scope of Work can be performed using only present staff.
- 7) The location of the primary Collection Site and the days and times during the week when it is open for collecting samples or a description of the mobile unit that is to be used and its availability.
- 8) The location of either the alternate Collection Site or a description of the mobile unit that will be available during days or hours that the primary Collection Site is closed.
- 9) Proposer must provide comments on any conflict of interest that may arise from providing services to the SERSG municipalities.
- 10) Proposer should prepare a detailed proposed work plan for completion of the tasks set forth in the Scope of Work. The work plan should identify specific tasks offered to be performed by the proposer, methodology for completion of the work, personnel assigned to complete each task, and such other information as will be relevant to explaining the proposer's approach to the Scope of Work. At a minimum proposer should address the following items:
 - a) A description of the proposer's understanding of the services to be performed.
 - b) A detailed description of the proposed method of performing the drug and alcohol testing program.
 - c) The proposed time schedule for the completion of the work where appropriate.

PRICE PROPOSAL

The proposer must submit a Price Proposal for the work described in the Scope of Work. No additional charges will be allowed except as provided in the following paragraphs of this section. No taxes are to be included in any price as the municipalities are exempt from federal, state and local taxes.

1. The fixed unit cost per alcohol and drug test assuming specimens are collected at the primary Collection Site designated by the Proposer during normal business hours:

- a. Alcohol testing \$ _____ per screening test
- b. Alcohol testing \$ _____ per confirmation test
- c. Drug testing \$ _____ per test

NO scheduling of random tests right before, during or right after major snowstorms!

2. The fixed unit cost per alcohol and drug test for tests performed after normal business hours as a result of an unscheduled call either at an alternate Collection Site located in the general region or through a mobile unit brought on-site or to the scene of an accident:

- a. Alcohol testing \$ _____ per screening test
- b. Alcohol testing \$ _____ per confirmation test
- c. Drug testing \$ _____ per test
- d. Mileage charge \$ _____ per mile
- e. Minimum charge \$ _____ per response.

Proposers may offer both an alternate Collection Site and a mobile unit in which case both schedules of fixed unit costs must be provided for alcohol and drug testing.

The above-stated unit costs must include compensation for all administrative services associated with such tests including: random selection, chain of custody procedures, storage of split samples, record-keeping, record reporting to each municipality and to the Federal Highway Administration, review of medical history by a Medical Review Officer, contact and conferencing with employees regarding positive samples, and referral to a substance abuse professional when appropriate.

3. The fixed fee per blind sample for the service of purchasing and submitting blind samples to the certified laboratory in accordance with the Act:

\$ _____ per blind sample

4. The fixed fee for the basic pre-employment physical performed on prospective employees covered by the Act:

\$ _____ per examination

5. The fee per municipal employee for evaluation by a licensed substance abuse professional following a positive drug or alcohol test (3 hour minimum):

\$ _____ per employee per hour

6. The fee per municipal employee for re-evaluating an employee who has completed a treatment and rehabilitation program and who wishes to return to duty (3 hour minimum):

\$ _____ per employee per hour

7. The fee per two hour training session for supervisors on the symptoms that give rise to reasonable suspicion drug or alcohol testing:

\$ _____ per session

8. The one-time fee for establishing the random SERSG pool (about 450 drivers):

\$ _____ per three-year contract

9. The mileage charge for trainers traveling to and from training sessions:

\$ _____ per mile

10. The mileage charge for trainers traveling to and from training sessions:

\$ _____ per mile

11. An annual fee to coordinate with each requesting employer to fulfill FMSCA Clearinghouse employer requirements as municipality's designated Third Party Administrator.

\$ _____ per year

12. If the proposer recommends additional services not outlined in this RFP, such services shall be separately described in the Technical Proposal and separately priced in the Price Proposal as follows:

\$ _____ per _____

Municipalities should be charged only for testing of their drivers or for other services rendered for their municipal employees or their pro-rata share of general pool expenses.

No charges are allowed for missed appointments.

Proposers must provide a clear description of billing procedures and invoicing method. Invoices must include testing date, specimen identification number, work location of the tested employee and the type of test given. A Sample Invoice must be submitted with the Price Proposal.

I hereby certify that all prices quoted are good for 60 days from the date of submission.

Signature of Authorized Agent

Name of Company

APPENDIX A: CERTIFICATION OF PROPOSAL

Under the pains and penalties of perjury, the undersigned certifies this proposal has been submitted in good faith and without collusion with any other person and is in all respects bona fide. As used in this certification, the word “person” means any natural person, joint venture, partnership, corporation or other business or legal entity.

PROPOSER:

Name of Company

BY:

Signature of Authorized Agent

Typed Name and Title

Date

APPENDIX B: SUBCONTRACTOR IDENTIFICATION FORM

1. Subcontractor's full name _____

2. Mailing Address _____

3. Telephone _____

4. Email Address _____

5. Name and title of contact person _____

6. If applicable, name, location and address of the branch office or subordinate element that will perform, or principally assist in performing, the services encompassed in this RFP.

7. Does subcontractor operate as an: individual, firm, association, partnership, corporation or other legal business entity? Briefly describe: _____

8. State whether the subcontractor is registered with the Massachusetts Secretary of State as a foreign corporation or Massachusetts corporation. _____

9. Briefly describe the business activities of the subcontractor and the functions the subcontractor will serve for this contract: _____

10. Federal Employer Identification Number _____

X - _____
Signature of Subcontractor's Official Authorized to bind the Subcontractor

Printed Name and Title

APPENDIX C: COMPANY CERTIFICATIONS

Exact Name of Company or Partnership _____

Type of Company or Partnership _____

Said company or partnership is duly organized under the laws of the State of _____ on _____ and is duly registered under M.G.L. Chapter 156D section 15.03 to do business in the Commonwealth of Massachusetts.

For Sole Proprietorship: Date Business Initiated _____

Federal tax I.D. number: _____.

Please attach names, residential addresses and titles of the officers or principals of the above-named company.

Above-named company is in good standing with the Secretary of State of the Commonwealth of Massachusetts (or the State of _____) and, to my best knowledge and belief, has filed all state tax returns and paid all state taxes required by law. (M.G.L. Chapter 62C Section 49A)

_____ is authorized to sign contracts/agreements Authorized Agent Name

on behalf of _____ pursuant to a vote of

Company
Board of Directors/Officers on _____
Date

Signed under the pains and penalties of perjury this _____ day of _____, 20____.

Signature of Clerk

For Corporations: **Attach a copy** of the Articles of Organization and **latest Annual Report** filed with the Commonwealth.

For Partnerships: **Attach a copy** of the Articles of Formation filed with the Commonwealth.

For Business Trusts: **Attach a copy** of the Declaration of Business filed with the Commonwealth.

APPENDIX D: REFERENCES

Please provide three references that represent three previous contracts representing work similar to the Scope of Work described in this RFP including the names and telephone numbers of an official at each one of these clients.

1. _____
Contact Person Name

Company Name and Address

Phone Number

Email Address

2. _____
Contact Person Name

Company Name and Address

Phone Number

Email Address

3. _____
Contact Person Name

Company Name and Address

Phone Number

Email Address

ATTACHMENT 1: FORM OF CONTRACT

DRUG & ALCOHOL TESTING SERVICES

This Agreement (the “Contract”) made and entered into this _____ day of _____, 2023 between the City or Town of _____ (herein referred to as the “City or Town”) and _____ (herein referred to as the “Contractor”).

Recitals: The Contractor has bid successfully to provide the services described in the Scope of Work section of the Request for Proposals for Drug and Alcohol Program Administration attached hereto and incorporated herein by reference for a three-year period commencing on January 1, 2024 until December 31, 2026. Incorporated by reference and specifically made a part of this Contract are the terms in the Request for Proposals and the Proposal, Technical and Price, of the Contractor.

Now, therefore, the City or Town and the Contractor agree as follows:

Covenants, Warranties and Representations

1. The Contractor covenants, warrants and represents to the City or Town as follows:
 - a. Contractor’s Proposal is in all respects bona fide, fair and made without collusion or fraud with any other person.
 - b. The price charged to the City or Town for Drug and Alcohol Program Administrative and Testing Services is equal to or less than the price currently charged to any other customer for services of an identical or comparable nature.
 - c. Contractor has and will maintain in full force and effect all permits and approvals necessary for the performance of this Contract.
 - d. Contractor has now and will maintain during the term of the Contract control over the equipment necessary for the performance of this Contract.
 - e. Contractor has now and will maintain sufficient personnel who shall be certified and appropriately equipped to perform the Contract.
 - f. Contractor is now and will remain during the term hereunder duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts and Contractor has taken all necessary action to authorize the execution and delivery of this Contract on behalf of the Contractor. This Contract when executed and delivered by a signatory on the Contractor’s behalf will be valid and binding on the Contractor.
 - g. Contractor has complied with all the laws of the Commonwealth of Massachusetts relating to the filing of State tax returns and payment of all State taxes required under said laws.
2. Contractor agrees to perform fully all the terms and provisions of this Contract in accordance with applicable federal and state laws and regulations, more specifically Contractor covenants to:
 - a. Provide the Administrative and Testing Services listed in the Scope of Work on an as-needed basis to the reasonable satisfaction of the City or Town, and
 - b. Keep and maintain during the term of this Contract with insurers satisfactory to the City or Town the policies of insurance listed herein. At least fifteen (15) days prior to the Commencement Date of this Contract, Contractor shall deliver to the City or Town a Certificate of Insurance showing the City or Town as an additional insured on all such policies.
 - c. Maintain books, records and other compilations of data in such detail as shall properly substantiate claims for payment under the Contract. All such records and reports shall be kept for a period of six (6) years starting on the first day after final payment under this Contract.
 - d. Maintain records of testing necessary to satisfy the reporting requirements of 49 CFR 40.

Term of Contract

This Contract shall commence when signed by both parties and remain in effect until fully performed or earlier terminated. Contractor’s Administration of the Drug and Alcohol Testing Program hereunder shall commence on January 1, 2024 (the “Commencement Date”) and continue until December 31, 2026 unless sooner terminated as provided herein. Any subsequent year of this Contract is contingent upon monies required by this Contract being appropriated by Town Meeting.

Compensation

In consideration of the faithful performance of the Contract by the Contractor, the City or Town promises to pay the Contractor for administrative and testing services provided according to the rates and amounts specified in Contractor’s Price Proposal. The City or Town’s maximum obligation under this Contract shall not exceed \$_____. Payments shall be made under this Contract by the City or Town to the Contractor upon the submission of monthly invoices detailing the services rendered for the previous month. Invoices shall detail the service rendered, the date, who performed the test or services, and where the service was rendered.

Indemnity

Contractor hereby agrees to defend, indemnify and hold harmless the Town from and against any or all claims, demands or loss arising out of or related to the negligent or willful acts of the Contractor, its agents, servants and sub-contractors in connection with Contractor’s performance of this Contract.

Key Personnel

Contractor represents that the individuals identified in Contractor’s Proposal are its full-time employees and will be assigned to complete the Contractor’s obligations under this Contract. In the event that, for any reason, Contractor proposes to replace or substitute any individual(s) previously identified, advance notice shall be provided by the Contractor to the City or Town so as to permit the City or Town to review the qualifications of the proposed personnel. Any proposed replacement or substitution shall possess like or comparable qualifications to those of personnel previously assigned by the Contractor. The City or Town reserves the right to disapprove any such replacement(s) or substitution(s).

Record-Keeping

- a. All reports, notes, test data, estimates and other documents, data or information prepared by the Contractor pursuant to the Scope of Work shall become the property of the Contractor and the City or Town, and each shall have an unlimited right to use, duplicate or disclose such data or materials, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so to the extent consistent with the confidentiality requirements of 49 CFR 40.
- b. Contractor shall maintain books, records and other compilations of data pertaining to the performance of the provisions and requirements of this Contract to the extent and in such detail as shall properly substantiate claims for payment under this Contract.
- c. In the case of either (a) or (b) above, all such records shall be kept for a period of six (6) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of this action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later.
- d. In the case of either (a) or (b) above, all such records shall be available to the City or Town at the Contractor’s office during office hours upon reasonable notice being given to Contractor and copies will be provided to the City or Town upon request by the City or Town.

Termination

This Contract may be terminated under the following conditions:

- a. For Cause: If the Contractor fails to fulfill its obligations pursuant to the terms and conditions of this Contract, the City or Town may terminate this Contract by giving written notice to the Contractor at least seven (7) calendar days prior to the effective date of termination stated in the notice. The notice shall state the circumstances of the alleged breach and may state a reasonable period, not less than thirty (30) calendar days, during which the alleged breach may be cured, subject to the approval of the City or Town.
- b. Emergency: The City or Town may terminate or suspend this Contract by providing written notice to the Contractor stating the grounds for the City or Town's action in the form of a certified letter, hand-carried letter or other appropriate written means, if the City or Town determines that immediate action is necessary to protect public funds or property, or to protect any person from injury. Such termination or suspension shall be effective upon receipt of notice of either suspension or termination by the Contractor. In the case of a suspension under this paragraph, the notice shall be accompanied by instructions from the City or Town specifying requisite action(s) by the Contractor to remove the suspension, a proposed timetable for meeting those requirements and a description by the City or Town of allowable activities and costs, if any, during the suspension period. Failure by the Contractor to remedy the stated deficiencies according to the timetable prescribed by the City or Town shall be cause for immediate termination.
- c. Failure to Appropriate Funds.
 - (1) The obligations of the City or Town under the Contract or under any amendment to the Contract for any fiscal year or any part thereof, are subject to the appropriation, allocation and allotment to the City or Town of funds sufficient to discharge the City or Town's obligations which accrue in that fiscal year, the continuation of such funds so appropriated, allocated and allotted and authorization to spend such funds for the purposes of the Contract.
 - (2) If for any fiscal year, or any part thereof, during the term of the Contract, funds for the discharge of the Town's obligations under the Contract are not appropriated, are reduced or eliminated, or the required authorization to expend such funds is withdrawn or funds so appropriated, allocated, allotted and authorized are insufficient for that purpose, then the Town shall give notice to the Contractor and the Contract shall terminate as of the date specified in the notice which shall be not less than seven days from the date of the notice. Upon receipt of a notice of termination, the Contractor shall prepare and forward to the Town an invoice for all conforming work under the Contract done prior to the termination date for which the Contractor has not been paid. The Town shall process such final invoice for payment in accordance with its usual processes.
 - (3) The City or Town agrees to make reasonable efforts to obtain funding and all necessary authorizations, and to notify the Contractor promptly when they have been obtained or when it appears certain they will not be obtained or when it appears certain that funding will be either reduced or eliminated. If partial funding sufficient for a clearly segregatable unit(s) or task(s) should be made available, the parties may agree to perform their respective obligations relative to such units or tasks and the Contract shall be amended accordingly.
- d. In the event of termination for Default (including an Emergency which ripens into a default), the Contractor shall not be relieved of liability to the City or Town for injury or damages sustained by the City or Town by virtue of any breach of this Contract by the Contractor and the City or Town shall be free to pursue all of its remedies at law or in equity.

Notices

Any notice hereunder shall be in writing and shall be deemed delivered and received when given in person to either party, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid. The notice shall be addressed to the persons and addresses indicated below:

For the Contractor

_____ (include email address)

For the City or Town:

_____ (include email address)

Obligations in Event of Termination

- a. Upon termination, all documents, finished or unfinished, data, studies, and reports prepared by the Contractor pursuant to this Contract shall become the property of the City or Town.
- b. The City or Town shall promptly pay the Contractor for all services performed to the effective date of termination provided the Contractor is not in default of the terms of this Contract and submits to the City or Town properly completed invoices, with supporting documentation covering such services no later than two (2) months after the effective date of termination.

Insurance

The Contractor, prior to the performance of services pursuant to this Contract, shall furnish the City or Town with acceptable insurance certification showing the following: the name and address of the insurer and of the insured, the policy period, the details of coverage including limits of liability.

Contractor shall provide for the following coverages and the City or Town must be named as an additional insured thereon:

- a. General Liability Insurance including Bodily Injury, Personal Injury, Property Damage and Professional Liability: One million dollars (\$1,000,000.00) combined single limit.
- b. Motor Vehicle Liability Insurance including Non-owned and Hire Auto Liability: One million dollars (\$1,000,000.00) bodily injury and one million dollars (\$1,000,000.00) property damage.

Confidentiality

The Contractor acknowledges that in performance of this Contract, Contractor may acquire or have access to “personal data” and become a “holder” of such personal data as defined in M.G.L. Chapter 66A or other information deemed confidential. The Contractor shall comply with all laws and regulations relating to confidentiality and privacy, including but not limited to, any rules or regulations of the City or Town. The Contractor agrees that it will inform each of its employees having involvement with personal data or other confidential information of the laws and regulations relating to confidentiality.

Conflict of Interest

- a. No officer or employee of the City or Town and/or the City or Town shall participate in any decision relating to this Contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested. No officer or employee of the City or

Town shall have any interest, direct or indirect, in the Contract or any proceeds thereof.

b. The Contractor understands that any person individually named to provide services under this Agreement may become a special state employee subject to the provisions of Chapter 268A of the Massachusetts General Laws and agrees that all such personnel shall comply with the provisions of that chapter.

Assignment by Contractor

The Contractor shall not assign, in whole or in part, or otherwise transfer any interest in this Agreement without the prior written consent of the City or Town, which consent shall not be unreasonably withheld.

Subcontracting

Except as provided in Contractor’s Technical Proposal, none of the services to be provided by the Contractor pursuant to this Contract shall be subcontracted or delegated, in whole or in part, to any other organization, association, individual, corporation, partnership or other such entity without the prior written approval of the City or Town. No subcontract or delegation shall relieve or discharge the Contractor from any obligation or liability under this Contract. The City or Town shall have the right to obtain a copy of the subcontract upon request.

Fair Employment Practices

The Contractor shall not discriminate against any qualified employee or applicant for employment because of race, color, national origin, ancestry, age, sex, religion or physical or mental handicap. The Contractor agrees to comply with all applicable federal and state statutes, rules and regulations prohibiting discrimination in employment including: Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1993, Massachusetts General Laws Chapter 151B, and all relevant Administrative Orders and Executive Orders.

Force Majeure

Neither party shall be liable to the other nor deemed to be in breach of this Contract for failure or delay in rendering performance occasioned by unforeseeable causes beyond the control of and without the fault or negligence of either party. Such causes may include, but are not limited to: Acts of god or the public enemy, wars, fires, floods, epidemics, quarantine restrictions, strikes, unforeseen freight embargoes or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

Examination/Audit of Books/Records

The City or Town may, at reasonable times, examine and audit the books and/or records of the Contractor where such books and/or records relate to the performance and payments due thereunder for the Contract or subcontract entered into by the Contractor. Such books and records shall be kept in conformity with generally accepted accounting principles and maintained by the Contractor for a period of six (6) years from the date of final payment under the prime contract or subcontract.

Contract Manager/Contract Officer

The **Contractor** designates _____ to act as Contract Manager.

He or she, or any successor to this role designated in writing, will act to ensure the Contract provisions and Scope of Work are being adhered to and will work with the City or Town to facilitate the performance of the Contract.

The **City or Town** designates _____ to act as Contract Officer. He or she shall have the responsibility for coordinating the performance of the City or Town’s obligations under the Contract and interacting with the Contract Manager.

Employee Insurance

The Contractor agrees, during the term of the Contract, to maintain at the Contractor’s expense all insurance

required by law for its employees, including disability, workers compensation, and unemployment compensation.

Entire Agreement

The City or Town and the Contractor agree that all of the terms stated herein and any attachments hereto constitute the total and complete agreement between the parties with respect to the subject matter hereof and supersedes all prior written agreements, representations, negotiations and undertakings not set forth or incorporated herein.

Amendments

No amendment to this Contract shall be effective or binding upon the parties unless in writing and signed by the City or Town and the Contractor.

Severability

If any provision of this Contract is found to be illegal, then both parties shall be relieved of their obligations under that provision. The remainder of the Contract shall continue in force.

Choice of Law

This Contract shall be construed under and governed by the laws of the Commonwealth of Massachusetts. The Contractor agrees to bring any action relating to or claim arising from the Contract, whether pursuant to state or federal law, in a court of competent jurisdiction within the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any rights a party may have to intervene in any action, wherever pending, in which the other is a party.

IN WITNESS WHEREOF, the parties hereto set their hands and seals the day and year below written.

For the Contractor:

Date	By:	Signature of Authorized Agent
		Printed Name and Title of Authorized Agent

For the City/Town:

Date	By	Signature
		Printed Name and Title of Authorized Agent