



STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF PURCHASING

NOTIFICATION OF STATEWIDE CONTRACT

November 2, 2015

CONTRACT TITLE: Drug and Alcohol Testing

CURRENT CONTRACT PERIOD: February 1, 2016 through January 31, 2017

BUYER INFORMATION: Jessica Andres
(573) 751-1567
jessica.andres@oa.mo.gov

RENEWAL INFORMATION	Original Contract Period	Potential Final Expiration
	February 1, 2013 through January 31, 2014	January 31, 2017

ALL PURCHASES MADE UNDER THIS CONTRACT MUST BE FOR **PUBLIC USE ONLY**.
PURCHASES FOR PERSONAL USE BY PUBLIC EMPLOYEES OR OFFICIALS ARE PROHIBITED.

THE USE OF THIS CONTRACT IS **NOT MANDATORY**.

This contract has been established for the convenience of state agencies. Local Purchase Authority may be used to purchase supplies/services included in this contract from an alternative source at the discretion of the agency.

The entire contract document may be viewed and printed from the Division of Purchasing's **Awarded Bid & Contract Document Search** located on the Internet at <http://www.oa.mo.gov/purch>.

~ Instructions for use of the contract, specifications, requirements, and pricing are attached ~.

CONTRACT NUMBER	VENDOR NUMBER	VENDOR INFORMATION	MBE/WBE	COOP PROCUREMENT
C313004001	0612673550 1	Guardian Medical Logistics 1868 Craigshire Road St. Louis, MO 63146 Attn: Ron Williams E-Mail: rwilliams@guardianml.com Phone: 800-582-8807 x 247 Cell: 314-267-1431 Fax: 866-826-0634	No	Yes

STATEWIDE CONTRACT HISTORY

The following summarizes actions related to this Notification of Statewide Contract since its initial issuance. Any and all revisions have been incorporated into the attached document.

Contract Period	Issue Date	Summary of Changes
02/01/16 thru 01/31/17	11/02/15	Renewal and changed the Buyer Information on page one from Leslie Kemna to Jessica Andres.
02/01/15 thru 01/31/16	02/04/15	Renewal
02/01/14 thru 01/31/15	12/29/14	Due to assignment of Contract, vendor number has changed from 5421564260 4 to 0612673550 1 (see Amendment #007).
02/01/14 thru 01/31/15	10/21/14	Paragraph 4.3 and all subparagraphs of the contract are replaced in their entirety. Changed the Buyer Information on page one from Megan Howser to Leslie Kemna.
02/01/14 thru 01/31/15	05/27/14	Revised paragraph 3.3.1 a. of the contract.
02/01/14 thru 01/31/15	11/15/13	Renewal
02/01/13 thru 01/31/14	05/23/13	Specific language has been added to the contract for the Department of Social Services, Children's Division (CD) Clientele. Also added pricing for the Department of Social Services, Children's Division (CD) Clientele (line items 025 thru 034).
02/01/13 thru 01/31/14	01/16/13	Update pricing for line items 008 and 018.
02/01/13 thru 01/31/14	01/07/13	Initial issuance of new statewide contract

1. CONTRACTUAL REQUIREMENTS – GENERAL REQUIREMENTS FOR DRUG AND ALCOHOL TESTING SERVICES FOR EMPLOYEES OF ANY REQUESTING STATE AGENCY AND FOR DRUG TESTING SERVICES FOR THE DEPARTMENT OF SOCIAL SERVICES TA RECIPIENTS AND CD CLIENTELE.

This section applies to general pre-employment, post-accident, reasonable suspicion, return-to-duty, follow-up, and random drug and alcohol testing services for employees of any requesting state agency, and to drug testing services for the Department of Social Services TA Recipients and to clientele of the Department of Social Services CD.

1.1 General Requirements:

- 1.1.1 The contractor shall provide pre-employment, post-accident, reasonable suspicion, return-to-duty, follow-up, and random drug and alcohol testing services for employees of any requesting state agency. In addition, the contractor shall provide drug testing and follow-up testing services for Missouri residents who receive Temporary Assistance (hereinafter referred to as TA) from the Department of Social Services (hereinafter referred to as the DSS) or who are clientele of the Children’s Division (hereinafter referred to as CD) as requested by the DSS.
- a. For purposes of the contract, a state agency shall be defined as a division existing within a Department of Missouri State Government. The various sections, bureaus, offices, programs, boards, etc. that may exist within a division shall be considered part of the same state agency.
- 1.1.2 The contractor shall provide drug and/or alcohol testing services in accordance with the requesting state agency’s or the DSS’s internal policies/procedures, to whichever the contractor is providing services. In addition, the contractor shall provide drug and/or alcohol testing services to enable a requesting state agency and DSS’s compliance with the Omnibus Transportation Employee Testing Act of 1991 (hereinafter referred to as the Act), and its amendments.
- a. The contractor shall adhere to the rules and regulations published under the Act that can be found in 49 CFR 382 and 49 CFR 40 on the following website (<http://www.gpoaccess.gov/ecfr/>). The contractor shall agree and understand that any modifications to the federal rules and regulations shall be incorporated into the contract unless such modification is found to be contrary to Missouri law, as determined by legal counsel for the State of Missouri.
 - b. The contractor must comply with Section 208.027, RSMo and 13 CSR 40-2.420.
 - c. The contractor shall comply with all confidentiality requirements established in the Act, and as otherwise stated herein. The contractor shall only release test results to the requesting state agency, the DSS, and the individual tested.
- 1.1.3 The contractor shall provide all materials, supplies, and equipment to successfully perform the services required herein, including, but not limited to specimen collection and identification supplies, test tubes, labels, reagents, shipping containers, split specimen containers, etc.
- a. All testing materials, supplies, and equipment utilized by the contractor must meet accuracy and reliability standards and requirements established by the Federal Department of Transportation (hereinafter referred to as the Federal DOT), Federal Department of Health and Human Services (hereinafter referred to as the Federal HHS), and the Missouri Department of Health and Senior Services (hereinafter referred to as the DHSS).

- 1.1.4 The contractor shall perform all services in accordance with the provisions and requirements herein and to the sole satisfaction of the state agencies and the DSS utilizing the contract.
- 1.1.5 The contractor shall provide services on an as needed, if needed basis, at any time, twenty-four (24) hours per day, seven (7) days per week, including federal and state holidays, as requested by the state agency or the DSS. The State of Missouri does not guarantee any usage of the contract, or any minimum or maximum number of tests whatsoever.
 - a. The contractor shall agree and understand that any state agency of the State of Missouri may participate in the contract, but that the contract does not require mandatory participation by any state agency. The contractor shall agree and understand that the contract shall not be construed as an exclusive arrangement and if it is in the best interest of the State of Missouri, a state agency or the DSS may, at its own discretion, obtain alternate services elsewhere.
- 1.1.6 Cooperative Procurement Program – If the contractor has indicated agreement on Exhibit I with participation in the Cooperative Procurement Program, the contractor shall provide drug and alcohol testing as described herein under the terms and conditions, requirements and specifications of the contract, including prices, to other government entities in accordance with the Technical Services Act (section 67.360, RSMo, which is available on the internet at: <http://www.moga.mo.gov/statutes/c000-099/0670000360.htm>.) The contractor shall further understand and agree that participation by other governmental entities is discretionary on the part of that governmental entity and the State of Missouri bears no financial responsibility for any payments due the contractor by such governmental entities.

1.2 Quality Assurance Requirements:

- 1.2.1 The contractor shall utilize Chain of Custody forms in compliance with the contractor's established procedures.
 - a. The contractor shall maintain the Chain of Custody forms pursuant to 49 CFR Part 40 requirements.
 - b. The contractor shall provide in-service training to the state agency regarding the Chain of Custody process and procedures.
- 1.2.2 Upon request by the state agency or the DSS, the contractor shall provide copies of report and/or Chain of Custody forms to the state agency or the DSS in order for the state agency or the DSS to monitor the quality assurance practices of the contractor and for use by the state agency or the DSS in any legal proceeding.

2. CONTRACTURAL REQUIREMENTS – SPECIFIC REQUIREMENTS FOR DRUG AND ALCOHOL TESTING SERVICES FOR EMPLOYEES OF ANY REQUESTING STATE AGENCY

This section only applies to general pre-employment, post-accident, reasonable suspicion, return-to-duty, follow-up, and random drug and alcohol testing services for employees of any requesting state agency.

2.1 Contractor Personnel Requirements:

- 2.1.1 Medical Review Officer (hereinafter referred to as a MRO) - The contractor shall provide a MRO who must be a licensed physician (MD or DO) knowledgeable in the areas of drug abuse and toxicology procedures to review the results of all drug tests. The qualifications and performance of the MRO must be in compliance with 49 CFR Part 40.
- a. The MRO shall administer the contractor's random testing pool, shall provide blind specimens, and shall electronically transfer drug test results to the applicable state agency.
 - 1) The contractor and each individual state agency utilizing the contract must mutually agree upon the format and contents of the drug test results. If acceptable to the state agency utilizing the contract, the contractor may electronically transfer drug test results to the state agency via web access.
 - b. The MRO must be available to provide consultation to the state agency during legal proceedings.
- 2.1.2 Substance Abuse Professional (hereinafter referred to as a SAP) – The contractor shall provide the services of a SAP who must be (1) a licensed physician (MD or DO), or (2) a licensed and certified psychologist, or (3) a licensed social worker, or (4) an Employee Assistance Professional, or (5) an Alcohol and Drug Abuse Counselor certified by the National Association of Alcoholism and Drug Abuse Counselor's (NAADAC) Certification Commission or the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse. Furthermore, the SAP must possess knowledge of clinical experience in the diagnosis and treatment of drug and alcohol abuse and related disorders. The qualifications and performance of the SAP must be in compliance with 49 CFR 382.
- a. Upon request by a state agency, the SAP shall provide substance abuse counseling.
- 2.1.3 Legal Consultants – The contractor shall provide professional legal consultation to the state agency that shall include, but not be limited to consultation on drug and/or alcohol quality control, program administration, record keeping issues, and any related legal issues.
- 2.1.4 Expert Witness – Upon request by the state agency, the contractor shall provide expert testimony and witness services by qualified professionals (e.g. pathologists, biochemists, etc.) with technical expertise concerning specimen test results, Chain of Custody procedures, and any other aspect concerning the services required herein as deemed necessary to a legal proceeding.
- 2.1.5 The contractor's personnel must meet the requirements for collection personnel pursuant to 49 CFR Part 40.
- 2.1.6 If remedial training of contractor personnel is required pursuant to 49 CFR Part 40, the contractor shall notify each state agency that has used the contract in writing once the remedial training has been completed. Upon request by the state agency, the contractor shall provide remedial training records for specified contractor personnel.

2.2 Training Workshop Requirements for State Agencies:

- 2.2.1 Upon the request of a state agency, the contractor shall provide a training workshop to the state agency, in accordance with the requirements of 49 CFR 382.603 et seq. on the topics of identifying drug and alcohol abuse. The contractor shall provide all materials, supplies, and professional trainers.

- a. The contractor shall agree and understand that such training workshops may be held anywhere within the State of Missouri; however, most trainings will take place in Jefferson City, St. Louis, Kansas City, and Springfield.
 - 1) The scheduling and location of training workshops shall be mutually agreed upon by the requesting state agency and the contractor.
 - 2) If possible, the contractor may schedule combined training workshops with multiple requesting state agencies.
- b. The contractor must develop training workshops for an audience composed of supervisory employees designated by the requesting state agency.
- c. The training workshops must concentrate on helping supervisory employees determine whether reasonable suspicion exists to require drug and/or alcohol testing.
- d. The training workshops shall cover physical, behavioral, speech, and performance indicators for the probable/suspected use of drugs and/or alcohol. Each training workshop shall cover specific topics that meet training requirements specified in the Act.
- e. The contractor is advised that the requesting state agency cannot guarantee the number of training workshop participants, but estimate that fifteen to thirty (15-30) participants may attend each training workshop.
- f. The contractor shall partner with the requesting state agency in order to develop the content for a scheduled training workshop. Discussions pertaining to such may be conducted in person, by telephone, or in writing. The training workshop content must be mutually agreed upon by the contractor and the requesting state agency.
- g. The contractor shall supply all handouts and related training workshop materials to training workshop participants at no cost to the State of Missouri. Training workshop participants shall be allowed to keep all such materials.
 - 1) Training workshop materials must be neatly typed and clearly printed, and must identify the time, date, and location of the training workshop.
 - 2) As necessary, the contractor shall obtain copyright permission for training workshop materials.
 - 3) The contractor shall assume all liability, legal and otherwise, resulting from the content and presentation of training workshop materials.
- h. The contractor shall furnish a certificate of training workshop completion to each participant who has completed a training workshop.
- i. The requesting state agency shall have the right to cancel a scheduled training workshop without incurring liability, financial or otherwise, by providing the contractor with notice of the intent to cancel within at least ten (10) calendar days prior to the date for the scheduled training workshop.

2.2.2 Education Materials – The contractor shall develop and design written, photo-ready, and reproducible-quality educational materials that meet the requirements of 49 CFR 382, Subpart F. The educational materials are subject to the approval of the state agency.

- a. Upon request by a state agency, the contractor shall distribute education materials to designated state agency employees who hold a CDL license.

2.3 Specimen Collection and Retention Requirements:

- 2.3.1 The contractor should have a collection site(s) in every county throughout the State of Missouri. A list of the current collection sites throughout the State of Missouri are provided as Attachment 2.
- a. Upon request by a state agency, the contractor shall arrange for collection sites in states other than Missouri.
 - b. Upon request by a state agency, the contractor shall provide on-site specimen collection by utilizing a mobile specimen collection unit.
 - 1) The mobile specimen collection unit shall be an operational, reliable, and appropriately sized vehicle which meets all specifications and requirements herein and which at a minimum, satisfies the following requirements:
 - Meets or exceeds all applicable Federal Motor Vehicle Safety Standards as well as any applicable requirements of the State of Missouri.
 - Satisfies all city, county, and state licensing and inspection requirements and displays a current State of Missouri Motor Vehicle Inspection Sticker.
 - Is kept in a clean, safe, and reliable mechanical condition with maintenance records kept current.
 - Is six (6) years old or newer.
 - Is equipped with first aid kits and fire extinguishers.
- 2.3.2 The contractor shall collect split specimen collections. For purposes of this document, split specimen collection is defined as the sample collected being split into two separate specimens; one specimen is tested immediately and the other specimen is stored for re-testing, if necessary.
- 2.3.3 The contractor must use federally mandated collection forms for both drug (5-part form) and alcohol (3-part form) specimens for federal regulated tests. The contractor may use forms that have not been federally mandated for non-regulated tests.
- 2.3.4 The contractor shall provide specimen pick-up services via courier between the hours of 6:00 a.m. and 7:00 p.m., CST, Monday through Friday, including state holidays, regardless of the specimen collection site location.
- a. The contractor must maintain specimens in proper condition while being transported in order to ensure the accuracy of the test performed.
- 2.3.5 The contractor's specimen collectors shall be certified in accordance with Federal DOT regulations and procedures. If requested by the state agency, the contractor shall provide proof to the state agency of a specimen collector's certifications.
- a. The contractor must collect all specimens in accordance with the Federal DOT requirements outlined in 49 CFR Part 40.
 - b. In the event the Federal DOT reviews and revises its drug testing regulations and procedures, the contractor shall revise the contractor's drug testing regulations and procedures to be in compliance with the Federal DOT.
- 2.3.6 Specimen Retention:
- a. The contractor shall maintain positive specimens for one (1) calendar year following the specimen testing, for a specific duration of time established by federal requirements, or pending any litigation.

- 1) Upon written request of the state agency's Chief of Custody or another designated state agency official, the contractor shall retain any positive test specimens for a longer period, as specified by the state agency.
- b. The contractor shall retain negative specimens for at least three (3) working days following the collection of the specimens, in compliance with Federal standards.

2.4 Drug Testing and Reporting Requirements:

- 2.4.1 Drug Testing – The contractor shall conduct a five (5) panel drug screen or a nine (9) panel drug screen, whichever is specified by the requesting state agency. The contractor shall test collected urine specimens for detection of the following drugs:
 - a. Five (5) panel drug screen:
 - 1) Amphetamines/Methamphetamines
 - 2) Marijuana
 - 3) Cocaine
 - 4) Opiates
 - 5) Phencyclidine (PCP)
 - b. Nine (9) panel drug screen:
 - 1) Benzodiazepines
 - 2) Marijuana
 - 3) Amphetamines
 - 4) Phencyclidine (PCP)
 - 5) Barbiturates
 - 6) Methadone
 - 7) Cocaine
 - 8) Opiates
 - 9) Methamphetamines (Ecstasy)
- 2.4.2 The contractor's laboratory, or the laboratory utilized by the contractor, must be certified by the Federal HSS per Federal DOT regulations.
- 2.4.3 Upon request by a state agency, the contractor shall conduct on-site specimen collection and drug testing services by utilizing a mobile specimen collection unit in accordance with the mobile specimen unit collection requirements specified herein. However, if agreeable to the requesting state agency, the contractor may conduct on-site specimen collection and drug testing services in a secure area at the requesting state agency's location.
- 2.4.4 Test Results Reporting – The contractor must have an MRO verify all test results. The contractor must report all test results to the appropriate state agency within forty-eight (48) hours following the verification of the test result.
 - a. The contractor shall conduct confirmation tests on all positive drug tests as mandated by Federal DOT regulations.
 - b. If a positive drug test is challenged by a state agency employee, the contractor shall send the unused portion of the split urine specimen to a second laboratory for re-testing. The contractor is responsible for seeking and obtaining payment for all costs associated with the challenge specimen re-testing (e.g. shipping costs for shipping a sample to another laboratory, testing, and MRO review and reporting) from the state agency employee. The state agency shall not pay the contractor or the laboratory the contractor utilizes for the re-testing of a challenge specimen.

- 2.4.5 STAT Drug Testing and Reporting – In addition to the drug testing and reporting requirements specified herein, the contractor shall provide immediate testing of specimens identified as STAT by a requesting state agency. STAT drug testing services shall be defined as emergency tests which require results within a certain immediate timeframe, as specified herein. The contractor’s STAT drug testing services shall be available twenty-four (24) hours a day, seven (7) days per week.
- a. The contractor shall pick-up specimens requiring STAT drug testing within four (4) hours following notification by a requesting state agency.
 - b. STAT drug test results must be reported to the requesting state agency via telephone immediately upon receiving STAT drug test results.
 - c. The contractor shall submit written STAT drug test results to the requesting state agency via electronic transmission by no later than twenty-four (24) hours following the specimen pick-up.

2.5 Alcohol Testing and Reporting Requirements:

- 2.5.1 Upon request by a state agency, the contractor shall conduct alcohol screening/testing services by utilizing Evidential Breath Testing (EBT) devices that are approved by the National Highway Traffic Safety Administration and the DHSS.
- 2.5.2 The contractor must provide a trained and certified Breath Alcohol Technician (BAT) to conduct the breath alcohol screening/testing.
- 2.5.3 Upon request by a state agency, the contractor shall conduct on-site breath alcohol screening/testing services by utilizing a mobile specimen collection unit in accordance with the mobile specimen collection unit requirements herein. However, if agreeable to the requesting state agency, the contractor may conduct on-site breath alcohol screening/testing services in a secure area at the requesting state agency’s location.
- 2.5.4 The contractor shall immediately notify the requesting state agency via telephone of a finding of .02 alcohol concentration or greater for any state agency employee screened/tested.
- 2.5.5 The contractor must conduct a Breath Alcohol Confirmation test for any state agency employee who blows over a .02 alcohol concentration or greater.
- a. The Breath Alcohol Confirmation test must be conducted within at least fifteen (15) minutes, but no more than thirty (30) minutes following the completion of the initial alcohol screening/testing.
- 2.5.6 The contractor shall conduct all alcohol screening and testing services, including any Breath Alcohol Confirmation tests in accordance with the Federal DOT alcohol testing regulations and procedures.
- a. In the event the Federal DOT reviews and revises its alcohol testing regulations and procedures, the contractor shall revise the contractor’s alcohol regulations and procedures to be in compliance with the Federal DOT.
- 2.5.7 Upon request by the state agency, the contractor shall provide copies of maintenance reports for breath alcohol testing equipment, including a description for what is checked and how often maintenance is performed. Blank reports may be found on the following website:

<http://www.health.mo.gov/lab/breathalcohol/forms.php>

2.6 Random Drug and Alcohol Testing and Reporting Requirements:

- 2.6.1 The contractor shall develop and administer procedures and protocols for random drug and alcohol testing as mandated by Federal DOT regulations and shall operate the contractor’s random drug and alcohol testing system in a manner that complies with the Act.

2.6.2 Upon receiving a request for random drug and/or alcohol testing from a state agency, the contractor shall randomly select employees from the requesting state agency's pool of employees. The state agency's pool of employees shall be provided to the contractor upon the initial request by a state agency for random drug testing services.

a. The contractor shall update the pool on a monthly basis as changes to the pool are provided by a state agency.

1) Following an update of a pool, a verification copy of the contractor's pool shall be sent to the applicable state agency.

2.6.3 The contractor shall test state agency employees who are randomly selected from the state agency's pool for random drug and/or alcohol testing and shall report the results of such tests in accordance with the drug testing and reporting requirements for state agency employees specified herein.

2.7 Additional Reporting Requirements for Drug and Alcohol Testing:

2.7.1 If requested by the Federal DOT for audit purposes, a state agency must submit detailed records of the drug and alcohol abuse prevention program to the Federal DOT. Therefore, if requested by a state agency, the contractor shall provide to the state agency, any necessary information and data that will aid the state agency in submitting the required records to the Federal DOT.

2.7.2 On a quarterly basis, the contractor must provide statistical test result reports to each state agency that has used the contract on OMB #2125-0529, "Drug and Alcohol Testing Management Information Systems Data Collection". The contractor shall provide the statistical test result reports by state agency, with the state agency results broken down, upon request by the state agency.

a. Statistical test results must be separated by federal and non-federal tests performed for each state agency utilizing the contract.

2.7.3 The contractor shall ensure that all reports comply with Federal DOT regulations and shall ensure that the reports are retained for the length of time specified by the Federal DOT regulations.

2.7.4 Within thirty (30) calendar days following the end of the original contract period or any applicable renewal periods, the contractor shall submit a contract usage report to the Division of Purchasing and Materials Management (hereinafter referred to as the DPMM) detailing all drug and alcohol testing services provided under the contract for any state agency utilizing the contract during the previous contract period. At a minimum, the report must contain the number of drug and alcohol tests conducted for each state agency utilizing the contract, the number of pre-employment tests conducted for each state agency utilizing the contract, the number of mobile, on-site and out-of-state tests conducted for each state agency utilizing the contract, and the number, location, and number of participants attending each training workshop (refer to training workshop requirements) for each state agency utilizing the contract. The contractor must submit the report electronically in a format approved by the DPMM.

2.8 Invoicing and Payment Requirements:

2.8.1 Prior to any payments becoming due under the contract, the contractor must return a completed state Vendor Input/ACH-EFT Application, which is downloadable from the Vendor Services Portal at:

<https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>

a. The contractor understands and agrees that the State of Missouri reserves the right to make contract payments through electronic funds transfer (EFT).

b. The contractor must submit invoices on the contractor's original descriptive business invoice form and must use a unique invoice number with each invoice submitted. The unique invoice number will be listed on the State of Missouri's EFT addendum record to enable the contractor to properly apply

the state agency's payment to the invoice submitted. The contractor may obtain detailed information for payments issued for the past 24 months from the State of Missouri's central accounting system (SAM II) on the Vendor Services Portal at:

<https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>

- 2.8.2 Invoicing – The contractor must submit an itemized monthly invoice to each state agency utilizing the contract for services provided during the previous month. Upon use of the contract, each state agency shall specify a contact person and billing address.
- a. The contractor's invoice shall include the last four (4) digits of the Social Security Number for each individual state agency employee tested.
 - b. Upon approval by a utilizing state agency, the contractor may send invoices via email.
- 2.8.3 Payments – The contractor shall be paid in accordance with the firm, fixed prices stated on the Pricing Pages of the contractor's awarded proposal.
- a. Each state agency utilizing the contract shall be solely responsible for the payment of services provided to that state agency.
 - b. The contractor shall be paid the firm, fixed price specified on the Pricing Pages for each test result reviewed by a MRO, regardless as to whether the results were positive or negative.
 - c. Under most circumstances, state agency employees shall be responsible for the cost of a SAP. However, in some circumstances, a state agency may choose to pay for a portion of or all of the cost of a SAP.
- 2.8.4 Other than the payments specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.
- 2.8.5 Notwithstanding any other payment provision of the contract, if the contractor fails to perform required work or services, fails to submit reports when due, or is indebted to the United States, the state agency may withhold payment or reject invoices under the contract.
- 2.8.6 Final invoices are due by no later than thirty (30) calendar days of the expiration of the contract. The state agency shall have no obligation to pay any invoice submitted after the due date.
- 2.8.7 If a request by the contractor for payment or reimbursement is denied, the state agency shall provide the contractor with written notice of the reason(s) for denial.
- 2.8.8 If the contractor is overpaid by the state agency, upon official notification by the state agency, the contractor shall provide the state agency (1) with a check payable as instructed by the state agency in the amount of such overpayment at the address specified by the state agency, or (2) deduct the overpayment from the monthly invoices as requested by the state agency.
- 2.8.9 The contractor shall understand and agree that each state agency utilizing the contractor's services shall be solely responsible for only those services requested by the state agency.

3. CONTRACTUAL REQUIREMENTS – SPECIFIC REQUIREMENTS FOR DRUG TESTING SERVICES FOR DSS TA RECIPIENTS

This section only applies to drug testing services for DSS TA recipients.

3.1 Recipient Education Materials Requirements:

- 3.1.1 The contractor shall develop written, photo-ready, and reproducible quality education materials for TA recipients to help recipients understand the drug testing process. The DSS must approve the contractor's education materials prior to such materials being provided to TA recipients.
- 3.1.2 Upon request by the DSS, the contractor shall distribute education materials via mail to TA recipients designated by the DSS.

3.2 Contractor Personnel Requirements:

- 3.2.1 Medical Review Officer (MRO) - The contractor shall provide a MRO who must be a licensed physician (MD or DO) knowledgeable in the areas of drug abuse and toxicology procedures to review the results of all drug tests. The qualifications and performance of the MRO must be in compliance with 49 CFR Part 40.
 - a. The MRO shall provide blind specimens to each laboratory being utilized by the contractor.
 - b. The MRO shall transfer drug test results to the DSS through scheduled transfers via a batch file transfer.
 - c. The MRO must be available to provide consultation to the DSS at any time including, but not limited to during legal proceedings.
 - d. The MRO must be available to attend and provide testimony as to their conclusions regarding the drug test at the time and place determined by the DSS.
- 3.2.2 Legal Consultants – The contractor shall provide professional legal consultation to the DSS that shall include, but not be limited to consultation on drug testing quality control, program administration, record keeping issues, and any related legal issues.
- 3.2.3 Expert Witness – Upon request by the DSS, the contractor shall provide expert witness testimony and witness services by qualified professionals (e.g. MRO, specimen collectors, laboratory technicians/personnel, pathologists, biochemists, etc.) with technical expertise concerning specimen test results, Chain of Custody procedures, and any other aspect concerning the services required herein as deemed necessary to a legal proceeding.
- 3.2.4 If remedial training of contractor personnel is required pursuant to 49 CFR Part 40, the contractor shall notify the DSS in writing once the remedial training has been completed. Upon request by the DSS, the contractor shall provide remedial training records for specified contractor personnel.

3.3 Specimen Collection and Retention Requirements:

- 3.3.1 The contractor should have a collection site(s) in every county throughout the State of Missouri. A list of the current collection sites throughout the State of Missouri are provided as Attachment 2.
 - a. The contractor must provide drug testing services for TA recipients in the county where a TA recipient resides, in accordance with 13 CSR 40-2.420 (1) (C) which may be viewed on the following website (<http://www.sos.mo.gov/adrules/csr/current/13csr/13c40-2.pdf>). If the contractor does not currently have a collection site within a county where a TA recipient resides, the contractor must take steps to provide the necessary drug testing services within that county, including, but not limited to arranging for the provision of a mobile specimen collection unit.

1) The mobile specimen unit shall be an operational, reliable, and appropriately sized vehicle which meets all specifications and requirements herein and which at a minimum, satisfies the following requirements:

- Meets or exceeds all applicable Federal Motor Vehicle Safety Standards as well as any applicable requirements of the State of Missouri.
- Satisfies all city, county, and state licensing and inspection requirements and displays a current State of Missouri Motor Vehicle Inspection Sticker.
- Is kept in a clean, safe, and reliable mechanical condition with maintenance records kept current.
- Is six (6) years old or newer.
- Is equipped with first aid kits and fire extinguishers.

b. The contractor shall understand and agree that the DSS offices shall not be used for the provision of specimen collection and drug testing services for TA recipients.

3.3.2 The contractor shall collect split specimen collections. For purposes of this document, split specimen collection is defined as the sample collected being split into two separate specimens; one specimen is tested immediately and the other specimen is stored for re-testing, if necessary.

3.3.3 The contractor shall provide specimen pick-up services via courier between the hours of 6:00 a.m. and 7:00 p.m., CST, Monday through Friday, including state holidays, regardless of the specimen collection site location.

a. The contractor must maintain specimens in proper condition while being transported in order to ensure accuracy of the test performed.

3.3.4 Upon request by the DSS, the contractor shall conduct on-site specimen collection from TA recipients by utilizing a mobile specimen collection unit. Coordination (e.g. when and where) for such shall be mutually agreed upon by the DSS and the contractor.

3.3.5 The contractor's specimen collectors shall be certified in accordance with Federal DOT regulations and procedures. If requested by the DSS, the contractor shall provide proof to the DSS of a specimen collector's certifications.

a. The contractor must collect all specimens in accordance with the Federal DOT requirements outlined in 49 CFR Part 40.

b. In the event the Federal DOT reviews and revises its drug testing regulations and procedures, the contractor shall revise the contractor's drug testing regulations and procedures to be in compliance with the Federal DOT.

3.3.6 Specimen Retention:

a. The contractor shall maintain non-negative specimens for one (1) calendar year following the specimen testing, for a specific duration of time established by federal requirements, or pending any litigation.

1) Upon written request of the DSS Chief of Custody or another designated DSS official, the contractor shall retain any positive test specimens for a longer period, as specified by the DSS.

b. The contractor shall retain negative specimens for at least three (3) working days following the collection of the specimens, in compliance with Federal standards.

3.4 FAMIS Interface Requirements:

3.4.1 The contractor shall provide an interface between the contractor's system and the DSS's FAMIS system to allow for nightly, ad hoc, and other scheduled transfers via a batch file transfer. The contractor's system shall not be directly connected to the FAMIS system, but must be capable of interfacing via one (1) of the following methods:

- a. A dedicated, leased line circuit that connects the contractor's system to DSS's mainframe system.
 - 1) The contractor shall be responsible for ordering and providing the dedicated, leased line circuit with a circuit bandwidth of T1 or greater and coordinating its installation at the contractor's and the DSS's site.
 - 2) The contractor shall be responsible for installation charges, ongoing circuit costs, equipment costs (e.g. router and switch, configuring, and administering and maintaining equipment), site preparation (e.g. electrical wiring and data cabling), etc.
 - 3) The contractor shall be responsible for ensuring a firewall between the contractor's system and the connection to the DSS system is maintained at all times.
- b. A secure Virtual Private Network (hereinafter referred to as a VPN) tunnel that traverses the Internet to the DSS's firewall.
 - 1) The contractor shall provide a connection to the Internet of sufficient bandwidth that shall allow data transfers to occur in each direction (to and from) the DSS system in less than one (1) hour. This connection shall be subject to the security policy and procedures of the DSS that shall be provided to the contractor upon award of the contract.
 - 2) The contractor shall also supply system equipment that provides VPN concentrator functions at the contractor's locations and is capable of supporting an IPSEC VPN tunnel with 3DES encryption or higher, preferably AES and will function with the current DSS Cisco VPN concentrator.

3.4.2 The contractor shall procure a batch file data transfer product that is compliant with the DSS's Connect:Direct, MVS Version 04 Release 03, or an updated version from Sterling Software and shall maintain the contractor's file transfer product.

- a. The contractor shall set up the processes in the software to allow for the data transfers to occur to and from the state agency system.

3.4.3 The contractor shall ensure the contractor's system has connectivity to the state agency system.

- a. The TA recipient records shall be sent via a batch file data transfer to and from the DSS and the contractor's host computer.
 - 1) The contractor's system must be capable of conducting nightly, ad hoc, and other scheduled data transfers.
 - 2) The contractor's system must be capable of storing specific information to be transferred on a schedule to be mutually determined between the contractor and the DSS during system development.
- b. The contractor must coordinate data transfers with the state agency at a time that ensures business operations are not interrupted. The state agency anticipates, but cannot guarantee that batch file data transfers will need to be performed after 6:00 p.m.

- 3.4.4 The contractor must ensure that ninety-nine percent (99%) of all batch file data transfers are successful on the first attempt.
- 3.4.5 Within fifteen (15) calendar days following the award of the contract, the contractor shall discuss and shall mutually agree with the DSS what information shall be transferred to and from the contractor regarding TA recipients in need of the contractor's drug testing services.

3.5 Drug Testing and Reporting Requirements:

- 3.5.1 The contractor shall conduct a five (5) panel drug screen for all scheduled TA recipients for detection of the following drugs:
 - a. Amphetamines/Methamphetamines
 - b. Cannabinoids (THC)
 - c. Cocaine
 - d. Opiates
 - e. Phencyclidine (PCP)
- 3.5.2 Immediately following the award of the contract, the contractor shall discuss and shall mutually agree with the DSS the requirements for scheduling drug testing appointments with TA recipients, including the scheduling of a mobile specimen collection unit.
- 3.5.3 Drug Testing Appointments – Upon receipt of a referral via batch file from the DSS, the contractor shall schedule a drug testing appointment directly with the TA recipient. The drug testing appointment must be arranged and scheduled with the recipient within forty-eight (48) hours following the receipt of the referral from the DSS.
 - a. The contractor shall schedule the drug testing appointment by sending written notification to the TA recipient that shall direct the TA recipient to submit to a drug test within forty-eight (48) hours of the date specified on the notification received from the contractor.
 - 1) The DSS must provide approval of the contractor's written notification format, content, etc. before the contractor uses such written notification to begin scheduling drug testing appointments with TA recipients.
 - 2) If the written notification is returned to the contractor as undeliverable, the contractor must notify the DSS within forty-eight (48) hours via batch file.
 - 3) If the TA recipient is a no-show for the appointment scheduled by the contractor, the contractor shall notify the DSS of such within forty-eight (48) hours following the missed appointment.
- 3.5.4 Drug Test Results Reporting – Following completion of the drug testing, the contractor must provide the DSS with the date of the drug test and written results from the drug test via batch file from the contractor within forty-eight (48) hours.
 - a. For each non-negative drug test result for a TA recipient, the contractor must provide follow-up services, such as confirmation of a non-negative positive test results and a MRO review.
- 3.5.5 If a non-negative drug test is challenged by a TA recipient, the contractor shall send the unused portion of the split urine specimen to a second laboratory for re-testing. The contractor is responsible for seeking and obtaining payment for all costs associated with the challenge specimen re-testing (e.g. shipping costs for shipping a sample to another laboratory, re-testing costs, and costs for MRO review and reporting) from the TA recipient. The DSS shall not pay the contractor or the laboratory the contractor utilizes for the re-testing of a challenge specimen.

- 3.5.6 Within thirty (30) calendar days following the end of the original contract period or any applicable renewal periods, the contractor shall submit a contract usage report to the DSS and the Division of Purchasing and Materials Management detailing all drug testing services provided for TA recipients under the contract during the previous contract period. The contractor must submit the report electronically in a format approved by the DSS. At a minimum, the report must include the number and location of drug tests conducted for TA recipients.
- 3.5.7 Within thirty (30) calendar days following the end of the original contract period or any applicable renewal periods, the contractor shall submit a contract usage report to the DPMM detailing the drug testing services provided for TA recipients during the previous contract period. At a minimum, the report must include the total number of drug tests conducted for TA recipients, the number of mobile based tests conducted for TA recipients, the number of non-negative confirmation tests conducted for TA recipients, the number of MRO test result reviews for TA recipients, and the number of no-shows for TA recipients. The contractor must submit the report electronically in a format approved by the DPMM.
- 3.5.8 Monthly Reporting Requirements – The contractor shall submit a usage report to the DSS by county on a monthly basis by no later than the fifteenth of each month for the previous month for all services specified herein provided to TA recipients. The reports must build continually as each month passes to reflect each TA recipient who may be referred one month and who may be tested in a subsequent month. Therefore, the report must include information regarding the each previous month of the contract and year-to-date information for each county in addition to a statewide summary. The contractor shall submit the reports electronically in a format mutually agreed upon by the contractor and the DSS. At a minimum, the reports shall include the following information:
- a. The total number of referrals received from DSS during the previous month.
 - b. The total number of tests provided to TA recipients.
 - c. A description of each test provided to a TA recipient.
 - d. The total number of non-negative test results for the reporting period.
 - e. A description of the drugs identified for each non-negative test.
 - f. A description of how and where (e.g. fixed site or mobile test) the drug test was provided to each TA recipient.
 - g. The total number of no-shows by scheduled TA recipients.
 - h. The total number of drug testing appointment letters returned as undeliverable and a list of the TA recipients who did not receive an appointment letter due to such lack of deliverability.

3.6 Invoicing and Payment Requirements:

- 3.6.1 Prior to any payments becoming due under the contract, the contractor must return a completed state Vendor Input/ACH-EFT Application, which is downloadable from the Vendor Services Portal at:

<https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>

- a. The contractor understands and agrees that the State of Missouri reserves the right to make contract payments through electronic funds transfer (EFT).
- b. The contractor must submit invoices on the contractor's original descriptive business invoice form and must use a unique invoice number with each invoice submitted. The unique invoice number will be listed on the State of Missouri's EFT addendum record to enable the contractor to properly apply the state agency's payment to the invoice submitted. The contractor may obtain detailed information for payments issued for the past 24 months from the State of Missouri's central accounting system (SAM II) on the Vendor Services Portal at:

<https://www.vendorservices.mo.gov/vendorservices/Portal/Default.aspx>

- 3.6.2 Invoicing – The contractor must submit an itemized monthly invoice to the DSS for services provided during the previous month. The DSS shall specify a contact person and billing address.

- a. The contractor's invoice shall include the Department Client Number (DCN) associated with the TA recipient.
 - b. The contractor's invoices must accompany the contractor's monthly report.
 - c. Upon approval by the DSS, the contractor may send invoices via email
- 3.6.3 Payments – The contractor shall be paid in accordance with the firm, fixed prices stated on the Pricing Pages of the contractor's awarded proposal.
- a. The DSS shall be solely responsible for the payment of services provided to TA recipients.
 - b. The contractor shall be paid the firm, fixed price specified on the Pricing Pages for each test result reviewed by the MRO for a TA recipient, regardless as to whether the results were negative or non-negative.
- 3.6.4 Other than the payments specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.
- 3.6.5 Notwithstanding any other payment provision of the contract, if the contractor fails to perform required work or services, fails to submit reports when due, or is indebted to the United States, the DSS may withhold payment or reject invoices under the contract.
- 3.6.6 Final invoices are due by no later than thirty (30) calendar days of the expiration of the contract. The DSS shall have no obligation to pay any invoice submitted after the due date.
- 3.6.7 If a request by the contractor for payment or reimbursement is denied, the DSS shall provide the contractor with written notice of the reason(s) for denial.
- 3.6.8 If the contractor is overpaid by the DSS, upon official notification by the DSS, the contractor shall (1) provide the DSS with a check payable as instructed by the DSS in the amount of such overpayment at the address specified by the DSS, or (2) deduct the overpayment from the monthly invoices as requested by the DSS.
- 3.6.9 The contractor shall understand and agree that DSS shall be solely responsible for the services requested by the DSS.

4. MISCELLANEOUS REQUIREMENTS

This section applies to general pre-employment, post-accident, reasonable suspicion, return-to-duty, follow-up, and random drug and alcohol testing services for employees of any requesting state agency and for drug testing services for DSS TA recipients.

4.1 Other Contractual Requirements:

- 4.1.1 Contract – A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor’s proposal including any contractor BAFO response(s), (3) clarification of the proposal, if any, and (4) the Division of Purchasing and Materials Management’s acceptance of the proposal by “notice of award”. All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.
- a. A notice of award issued by the State of Missouri does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services for the State of Missouri, the contractor must receive a properly authorized purchase order or other form of authorization given to the contractor at the discretion of the state agency or the DSS.
 - b. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
 - c. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the Division of Purchasing and Materials Management prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.
- 4.1.2 Contract Period – The original contract period shall be as stated on the cover page of the Request for Proposal (RFP). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. The Division of Purchasing and Materials Management shall have the right, at its sole option, to renew the contract for three (3) additional one-year periods, or any portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.
- 4.1.3 Renewal Periods – If the option for renewal is exercised by the Division of Purchasing and Materials Management, the contractor shall agree that the prices for the renewal period shall not exceed the maximum price for the applicable renewal period stated on the Pricing Pages of the contract.
- a. If renewal prices are not provided, then prices during renewal periods shall be the same as during the original contract period.
 - b. In addition, the contractor shall understand and agree that renewal period price increases specified in the contract are not automatic. At the time of contract renewal, if the state determines funding does not permit the specified renewal pricing increase or even a portion thereof, the renewal pricing shall remain the same as during the previous contract period. If such action is rejected by the contractor, the contract may be terminated, and a new procurement process may be conducted. The contractor shall also understand and agree the state may determine funding limitations necessitate a decrease in the contractor’s pricing for the renewal period(s). If such action is necessary and the contractor rejects the decrease, the contract may be terminated, and a new procurement process may be conducted.

- 4.1.4 Termination – The Division of Purchasing and Materials Management reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, reports, supplies, equipment, and accomplishments prepared, furnished or completed by the contractor pursuant to the terms of the contract shall, at the option of the Division of Purchasing and Materials Management, become the property of the State of Missouri. The contractor shall be entitled to receive compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.
- 4.1.5 Contractor Liability – The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act.
- a. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.
 - b. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.
 - c. Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); (2) loss of, or damage to, the state's records or data; or (3) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.
- 4.1.6 Insurance – The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract.
- a. Liability Insurance – The contractor must have and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract. The insurance coverage shall include but not necessarily be limited to general liability and appropriate professional liability, etc. The insurance shall include an endorsement that adds the State of Missouri as an additional insured. Self-insurance coverage or another alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable and that the State of Missouri is protected as an additional insured.
 - b. The contractor shall provide written evidence of the insurance to the state agency and the DSS prior to performance under the contract. The evidence of insurance shall include, but shall not necessarily be limited to: effective dates of coverage, limits of liability, insurer's name, policy number, endorsement naming the State of Missouri as an additional insured/loss payee, endorsement by representatives of the insurance company, etc.
 - c. In the event any insurance coverage is canceled, the state agency and the DSS must be notified immediately.
- 4.1.7 Subcontractors – Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the State of Missouri and to ensure that the State of Missouri is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost

(including attorney fees) of any kind related to a subcontract in those matters described in the contract between the State of Missouri and the contractor.

- a. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract.
- b. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein.
- c. Pursuant to subsection 1 of section 285.530, RSMo, no contractor or subcontractor shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. In accordance with sections 285.525 to 285.550, RSMo, a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of section 285.530, RSMo, if the contract binding the contractor and subcontractor affirmatively states that:
 - 1) The direct subcontractor is not knowingly in violation of subsection 1 of section 285.530, RSMo, and shall not henceforth be in such violation.
 - 2) The contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

4.1.8 Participation by Other Organizations – The contractor must comply with any Organization for the Blind/Sheltered Workshop, Service-Disabled Veteran Business Enterprise (SDVE), and/or Minority Business Enterprise/Women Business Enterprise (MBE/WBE) participation levels committed to in the contractor's awarded proposal.

- a. The contractor shall prepare and submit to the Division of Purchasing and Materials Management a report detailing all payments made by the contractor to Organizations for the Blind/Sheltered Workshops, SDVEs, and/or MBE/WBEs participating in the contract for the reporting period. The contractor must submit the report on a monthly basis, unless otherwise determined by the Division of Purchasing and Materials Management.
- b. The Division of Purchasing and Materials Management will monitor the contractor's compliance in meeting the Organizations for the Blind/Sheltered Workshop and SDVE participation levels committed to in the contractor's awarded proposal. The Division of Purchasing and Materials Management in conjunction with the Office of Equal Opportunity (OEO) will monitor the contractor's compliance in meeting the MBE/WBE participation levels committed to in the contractor's awarded proposal. If the contractor's payments to the participating entities are less than the amount committed, the state may cancel the contract and/or suspend or debar the contractor from participating in future state procurements, or retain payments to the contractor in an amount equal to the value of the participation commitment less actual payments made by the contractor to the participating entity. If the Division of Purchasing and Materials Management determines that the contractor becomes compliant with the commitment, any funds retained as stated above, will be released.
- c. If a participating entity fails to retain the required certification or is unable to satisfactorily perform, the contractor must obtain other certified MBE/WBEs or other organizations for the blind/sheltered workshops or other SDVEs to fulfill the participation requirements committed to in the contractor's awarded proposal.
 - 1) The contractor must obtain the written approval of the Division of Purchasing and Materials Management for any new entities. This approval shall not be arbitrarily withheld.
 - 2) If the contractor cannot obtain a replacement entity, the contractor must submit documentation to the Division of Purchasing and Materials Management detailing all efforts made to secure a

replacement. The Division of Purchasing and Materials Management shall have sole discretion in determining if the actions taken by the contractor constitute a good faith effort to secure the required participation and whether the contract will be amended to change the contractor's participation commitment.

- d. Within thirty days of the end of the original contract period, the contractor must submit an affidavit to the Division of Purchasing and Materials Management. The affidavit must be signed by the director or manager of the participating Organizations for the Blind/Sheltered Workshop verifying provision of products and/or services and compliance of all contractor payments made to the Organizations for the Blind/Sheltered Workshops. The contractor may use the affidavit available on the Division of Purchasing and Materials Management's website at <http://oa.mo.gov/purch/vendor.html> or another affidavit providing the same information.

4.1.9 Substitution of Personnel - The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific key individual(s) and/or personnel qualifications identified in the proposal. Therefore, the contractor agrees and understands that any substitution of the specific key individual(s) and/or personnel qualifications identified in the proposal must be with individual(s) of equal or better qualifications than originally proposed.

4.1.10 Authorized Personnel:

- a. The contractor shall only employ personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- b. If the contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state. The state may also withhold up to twenty-five percent (25%) of the total amount due to the contractor.
- c. The contractor shall agree to fully cooperate with any audit or investigation from federal, state, or local law enforcement agencies.
- d. If the contractor meets the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, the contractor shall maintain enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the contracted services included herein. If the contractor's business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, then the contractor shall, prior to the performance of any services as a business entity under the contract:
 - 1) Enroll and participate in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
 - 2) Provide to the Division of Purchasing and Materials Management the documentation required in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program; AND
 - 3) Submit to the Division of Purchasing and Materials Management a completed, notarized Affidavit of Work Authorization provided in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.

- e. In accordance with subsection 2 of section 285.530, RSMo, the contractor should renew their Affidavit of Work Authorization annually. A valid Affidavit of Work Authorization is necessary to award any new contracts.
- 4.1.11 Contractor Status – The contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Missouri. Therefore, the contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the State of Missouri, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.
 - 4.1.12 Coordination – The contractor shall fully coordinate all contract activities with those activities of the state agency and the DSS. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the state agency, the DSS, or the Division of Purchasing and Materials Management throughout the effective period of the contract.
 - 4.1.13 Property of State – All documents, data, reports, supplies, equipment, and accomplishments prepared, furnished, or completed by the contractor pursuant to the terms of the contract shall become the property of the State of Missouri. Upon expiration, termination, or cancellation of the contract, said items shall become the property of the State of Missouri.
 - 4.1.14 Confidentiality:
 - a. The contractor shall agree and understand that all discussions with the contractor and all information gained by the contractor as a result of the contractor’s performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the state agency and the DSS.
 - b. If required by the state agency or the DSS, the contractor and any required contractor personnel must sign specific documents regarding confidentiality, security, or other similar documents upon request. Failure of the contractor and any required personnel to sign such documents shall be considered a breach of contract and subject to the cancellation provisions of this document.
 - 4.1.15 Commercial Drivers License - The contractor and the contractor's drivers who, in the provision of services under the contract: (1) operate any single vehicle with a Gross Vehicle Weight Rating (GVWR) of over 26,000 (twenty-six thousand) pounds or any combination vehicle with a Gross Combination Weight Rating of over 26,000 (twenty-six thousand) pounds provided the Gross Vehicle Weight Rating of the vehicle(s) being towed is in excess of 10,000 (ten thousand) pounds, (2) operate any size vehicle which requires hazardous materials placards, (3) operate any vehicle designed to transport more than 15 (fifteen) persons (including the driver), or (4) engage in any other activity outlined in the Commercial Motor Vehicle Safety Act, must comply with all other requirements in the Commercial Motor Vehicle Safety Act. The contractor must submit proof or verification of compliance with such Act to the state agency and the DSS no later than 30 (thirty) calendar days following the award of the contract.
 - 4.1.16 For Hire License (Class E) - The contractor and the contractor’s drivers who, in the provision of services under the contract: (1) receive pay for driving a motor vehicle transporting 14 (fourteen) or fewer passengers or (2) transport property for pay or as part of their job must have a For Hire License (Class E). The vehicle driven must have a 26,000 (twenty-six thousand) pound or less Gross Vehicle Weight Rating (GVWR) or registered weight and not be required to be placarded for hazardous materials.
- 4.2 Federal Funds Requirements** – The contractor shall understand and agree that the contract may involve the use of federal funds. Therefore, for any federal funds used, the following paragraphs shall apply:

- 4.2.1 In performing its responsibilities under the contract, the contractor shall fully comply with the following Office of Management and Budget (OMB) administrative requirements and cost principles, as applicable, including any subsequent amendments:
- a. Uniform Administrative Requirements – A-102 - State/Local Governments; 2 CFR 215 - Hospitals, Colleges and Universities, For-Profit Organizations (if specifically included in federal agency implementation), and Not-For-Profit Organizations (OMB Circular A-110).
 - b. Cost Principles - 2CFR 225 – State/Local Governments (OMB Circular A-87); A-122 - Not-For-Profit Organizations; A-21 - Colleges and Universities; 48 CFR 31.2 - For-Profit Organizations; 45 CFR 74 Appendix E – Hospitals.
- 4.2.2 Steven’s Amendment – In accordance with the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, Public Law 101-166, Section 511, “Steven’s Amendment”, the contractor shall not issue any statements, press releases, and other documents describing projects or programs funded in whole or in part with Federal money unless the prior approval of the state agency and the DSS is obtained and unless they clearly state the following as provided by the state agency and the DSS:
- a. The percentage of the total costs of the program or project which will be financed with Federal money;
 - b. The dollar amount of Federal funds for the project or program; and
 - c. The percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.
- 4.2.3 The contractor shall comply with 31 U.S.C. 1352 relating to limitations on use of appropriated funds to influence certain federal contracting and financial transactions. No funds under the contract shall be used to pay the salary or expenses of the contractor, or agent acting for the contractor, to engage in any activity designed to influence legislation or appropriations pending before the United States Congress or Missouri General Assembly. The contractor shall comply with all requirements of 31 U.S.C. 1352 which is incorporated herein as if fully set forth. The contractor shall submit to the state agency and the DSS, when applicable, Disclosure of Lobbying Activities reporting forms.
- 4.2.4 The contractor shall comply with the requirements of the Single Audit Act Amendments of 1996 (P.L. 104-156) and Circular A-133, including subsequent amendments or revisions, as applicable or 2 CFR 215.26 as it relates to for-profit hospitals and commercial organizations. A copy of any audit report shall be sent to the state agency and the DSS each contract year if applicable. The contractor shall return to the state agency and the DSS any funds disallowed in an audit of the contract.
- 4.2.5 The contractor shall comply with the Pro-Children Act of 1994 (20 U.S.C. 6081), which prohibits smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.
- 4.2.6 The contractor shall comply with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations, as applicable.
- 4.2.7 The contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).
- 4.2.8 If the contractor is a sub-recipient as defined in OMB Circular A-133, Section 210, the contractor shall comply with all applicable implementing regulations, and all other laws, regulations and policies authorizing or governing the use of any federal funds paid to the contractor through the contract.

- 4.2.9 Non-Discrimination and ADA - The contractor shall comply with all federal and state statutes, regulations and executive orders relating to nondiscrimination and equal employment opportunity to the extent applicable to the contract. These include but are not limited to:
- a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin (this includes individuals with limited English proficiency) in programs and activities receiving federal financial assistance and Title VII of the Act which prohibits discrimination on the basis of race, color, national origin, sex, or religion in all employment activities;
 - b. Equal Pay Act of 1963 (P.L. 88 -38, as amended, 29 U.S.C. Section 206 (d));
 - c. Title IX of the Education Amendments of 1972, as amended (20 U.S.C 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex;
 - d. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) which prohibit discrimination on the basis of disabilities;
 - e. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age;
 - f. Equal Employment Opportunity – E.O. 11246, “Equal Employment Opportunity”, as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity”;
 - g. Missouri State Regulation, 19 CSR 10-2.010, Civil Rights Requirements;
 - h. Missouri Governor’s E.O. #94-03 (excluding article II due to its repeal);
 - i. Missouri Governor’s E.O. #05-30; and
 - j. The requirements of any other nondiscrimination federal and state statutes, regulations and executive orders which may apply to the services provided via the contract.

4.3 Business Associate Provisions:

- 4.3.1 Health Insurance Portability and Accountability Act of 1996, as amended - The state agency and the contractor are both subject to and must comply with provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) (PL-111-5) (collectively, and hereinafter, HIPAA) and all regulations promulgated pursuant to authority granted therein. The contractor constitutes a “Business Associate” of the state agency. Therefore, the term, “contractor” as used in this section shall mean “Business Associate.”
- a. The contractor agrees that for purposes of the Business Associate Provisions contained herein, terms used but not otherwise defined shall have the same meaning as those terms defined in 45 CFR Parts 160 and 164 and 42 U.S.C. §§ 17921 *et. seq.* including, but not limited to the following:
 - 1) “Access”, “administrative safeguards”, “confidentiality”, “covered entity”, “data aggregation”, “designated record set”, “disclosure”, “hybrid entity”, “information system”, “physical safeguards”, “required by law”, “technical safeguards”, “use” and “workforce” shall have the same meanings as defined in 45 CFR 160.103, 164.103, 164.304, and 164.501 and HIPAA.
 - 2) “Breach” shall mean the unauthorized acquisition, access, use, or disclosure of Protected Health Information which compromises the security or privacy of such information, except as provided in 42 U.S.C. § 17921. This definition shall not apply to the term “breach of contract” as used within the contract.
 - 3) “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the contractor.
 - 4) “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the state agency.
 - 5) “Electronic Protected Health Information” shall mean information that comes within paragraphs (1)(i) or (1)(ii) of the definition of Protected Health Information as specified below.

- 6) "Enforcement Rule" shall mean the HIPAA Administrative Simplification: Enforcement; Final Rule at 45 CFR Parts 160 and 164.
 - 7) "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
 - 8) "Individual" shall have the same meaning as the term "individual" in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502 (g).
 - 9) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
 - 10) "Protected Health Information" as defined in 45 CFR 160.103, shall mean individually identifiable health information:
 - (a) Except as provided in paragraph (b) of this definition, that is: (i) Transmitted by electronic media; or (ii) Maintained in electronic media; or (iii) Transmitted or maintained in any other form or medium.
 - (b) Protected Health Information excludes individually identifiable health information in (i) Education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g; (ii) Records described at 20 U.S.C. 1232g(a)(4)(B)(iv); and (iii) Employment records held by a covered entity (state agency) in its role as employer.
 - 11) "Security Incident" shall be defined as set forth in the "Obligations of the Contractor" section of the Business Associate Provisions.
 - 12) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C.
 - 13) "Unsecured Protected Health Information" shall mean Protected Health Information that is not secured through the use of a technology or methodology determined in accordance with 42 U.S.C. § 17932 or as otherwise specified by the secretary of Health and Human Services.
- b. The contractor agrees and understands that wherever in this document the term Protected Health Information is used, it shall also be deemed to include Electronic Protected Health Information.
 - c. The contractor must appropriately safeguard Protected Health Information which the contractor receives from or creates or receives on behalf of the state agency. To provide reasonable assurance of appropriate safeguards, the contractor shall comply with the business associate provisions stated herein, as well as the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) (PL-111-5) and all regulations promulgated pursuant to authority granted therein.
 - d. The state agency and the contractor agree to amend the contract as is necessary for the parties to comply with the requirements of HIPAA and the Privacy Rule, Security Rule, Enforcement Rule, and other rules as later promulgated (hereinafter referenced as the regulations promulgated thereunder). Any ambiguity in the contract shall be interpreted to permit compliance with the HIPAA Rules.

4.3.2 Permitted Uses and Disclosures of Protected Health Information by the Contractor:

- a. The contractor may not use or disclose Protected Health Information in any manner that would violate Subpart E of 45 CFR Part 164 if done by the state agency, except for the specific uses and disclosures in the contract.

- b. The contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the state agency as specified in the contract, provided that such use or disclosure would not violate HIPAA and the regulations promulgated thereunder.
- c. The contractor may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1) and shall notify the state agency by no later than ten (10) calendar days after the contractor becomes aware of the disclosure of the Protected Health Information.
- d. If required to properly perform the contract and subject to the terms of the contract, the contractor may use or disclose Protected Health Information if necessary for the proper management and administration of the contractor's business.
- e. If the disclosure is required by law, the contractor may disclose Protected Health Information to carry out the legal responsibilities of the contractor.
- f. If applicable, the contractor may use Protected Health Information to provide Data Aggregation services to the state agency as permitted by 45 CFR 164.504(e)(2)(i)(B).
- g. The contractor may not use Protected Health Information to de-identify or re-identify the information in accordance with 45 CFR 164.514(a)-(c) without specific written permission from the state agency to do so.
- h. The contractor agrees to make uses and disclosures and requests for Protected Health Information consistent with the state agency's minimum necessary policies and procedures.

4.3.3 Obligations and Activities of the Contractor:

- a. The contractor shall not use or disclose Protected Health Information other than as permitted or required by the contract or as otherwise required by law, and shall comply with the minimum necessary disclosure requirements set forth in 45 CFR § 164.502(b).
- b. The contractor shall use appropriate administrative, physical and technical safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by the contract. Such safeguards shall include, but not be limited to:
 - 1) Workforce training on the appropriate uses and disclosures of Protected Health Information pursuant to the terms of the contract;
 - 2) Policies and procedures implemented by the contractor to prevent inappropriate uses and disclosures of Protected Health Information by its workforce and subcontractors, if applicable;
 - 3) Encryption of any portable device used to access or maintain Protected Health Information or use of equivalent safeguard;
 - 4) Encryption of any transmission of electronic communication containing Protected Health Information or use of equivalent safeguard; and
 - 5) Any other safeguards necessary to prevent the inappropriate use or disclosure of Protected Health Information.
- c. With respect to Electronic Protected Health Information, the contractor shall use appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic Protected Health Information that contractor creates, receives, maintains or transmits on behalf of the state agency and comply with Subpart C of 45 CFR Part 164, to prevent use or disclosure of Protected Health Information other than as provided for by the contract.

- d. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), the contractor shall require that any agent or subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of the contractor agrees to the same restrictions, conditions, and requirements that apply to the contractor with respect to such information.
- e. By no later than ten (10) calendar days after receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall make the contractor's internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, created by, or received by the contractor on behalf of the state agency available to the state agency and/or to the Secretary of the Department of Health and Human Services or designee for purposes of determining compliance with the HIPAA Rules and the contract.
- f. The contractor shall document any disclosures and information related to such disclosures of Protected Health Information as would be required for the state agency to respond to a request by an individual for an accounting of disclosures of Protected Health Information in accordance with 42 USCA §17932 and 45 CFR 164.528. By no later than five (5) calendar days of receipt of a written request from the state agency, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, the contractor shall provide an accounting of disclosures of Protected Health Information regarding an individual to the state agency. If requested by the state agency or the individual, the contractor shall provide an accounting of disclosures directly to the individual. The contractor shall maintain a record of any accounting made directly to an individual at the individual's request and shall provide such record to the state agency upon request.
- g. In order to meet the requirements under 45 CFR 164.524, regarding an individual's right of access, the contractor shall, within five (5) calendar days following a state agency request, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the state agency, provide the state agency access to the Protected Health Information in an individual's designated record set. However, if requested by the state agency, the contractor shall provide access to the Protected Health Information in a designated record set directly to the individual for whom such information relates.
- h. At the direction of the state agency, the contractor shall promptly make any amendment(s) to Protected Health Information in a Designated Record Set pursuant to 45 CFR 164.526.
- i. The contractor shall report to the state agency's Security Officer any security incident immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. For purposes of this paragraph, security incident shall mean the attempted or successful unauthorized access, use, modification or destruction of information or interference with systems operations in an information system. This does not include trivial incidents that occur on a daily basis, such as scans, "pings," or unsuccessful attempts that do not penetrate computer networks or servers or result in interference with system operations. By no later than five (5) days after the contractor becomes aware of such incident, the contractor shall provide the state agency's Security Officer with a description of any remedial action taken to mitigate any harmful effect of such incident and a proposed written plan of action for approval that describes plans for preventing any such future security incidents.
- j. The contractor shall report to the state agency's Privacy Officer any unauthorized use or disclosure of Protected Health Information not permitted or required as stated herein immediately upon becoming aware of such use or disclosure and shall take immediate action to stop the unauthorized use or disclosure. By no later than five (5) calendar days after the contractor becomes aware of any such use or disclosure, the contractor shall provide the state agency's Privacy Officer with a written description of any remedial action taken to mitigate any harmful effect of such disclosure and a proposed written plan of action for approval that describes plans for preventing any such future unauthorized uses or disclosures.

- k. The contractor shall report to the state agency's Security Officer any breach immediately upon becoming aware of such incident and shall take immediate action to stop the continuation of any such incident. By no later than five (5) days after the contractor becomes aware of such incident, the contractor shall provide the state agency's Security Officer with a description of the breach, the information compromised by the breach, and any remedial action taken to mitigate any harmful effect of such incident and a proposed written plan for approval that describes plans for preventing any such future incidents.
- l. The contractor's reports required in the preceding paragraphs shall include the following information regarding the security incident, improper disclosure/use, or breach, (hereinafter "incident"):
 - 1) The name, address, and telephone number of each individual whose information was involved if such information is maintained by the contractor;
 - 2) The electronic address of any individual who has specified a preference of contact by electronic mail;
 - 3) A brief description of what happened, including the date(s) of the incident and the date(s) of the discovery of the incident;
 - 4) A description of the types of Protected Health Information involved in the incident (such as full name, Social Security Number, date of birth, home address, account number, or disability code) and whether the incident involved Unsecured Protected Health Information; and
 - 5) The recommended steps individuals should take to protect themselves from potential harm resulting from the incident.
- m. Notwithstanding any provisions of the Terms and Conditions attached hereto, in order to meet the requirements under HIPAA and the regulations promulgated thereunder, the contractor shall keep and retain adequate, accurate, and complete records of the documentation required under these provisions for a minimum of six (6) years as specified in 45 CFR Part 164.
- n. Contractor shall not directly or indirectly receive remuneration in exchange for any Protected Health Information without a valid authorization.
- o. If the contractor becomes aware of a pattern of activity or practice of the state agency that constitutes a material breach of contract regarding the state agency's obligations under the Business Associate Provisions of the contract, the contractor shall notify the state agency's Security Officer of the activity or practice and work with the state agency to correct the breach of contract.
- p. The contractor shall indemnify the state agency from any liability resulting from any violation of the Privacy Rule or Security Rule or Breach arising from the conduct or omission of the contractor or its employee(s), agent(s) or subcontractor(s). The contractor shall reimburse the state agency for any and all actual and direct costs and/or losses, including those incurred under the civil penalties implemented by legal requirements, including but not limited to HIPAA as amended by the Health Information Technology for Economic and Clinical Health Act, and including reasonable attorney's fees, which may be imposed upon the state agency under legal requirements, including but not limited to HIPAA's Administrative Simplification Rules, arising from or in connection with the contractor's negligent or wrongful actions or inactions or violations of this Agreement.

4.3.4 Obligations of the State Agency:

- a. The state agency shall notify the contractor of limitation(s) that may affect the contractor's use or disclosure of Protected Health Information, by providing the contractor with the state agency's notice of privacy practices in accordance with 45 CFR 164.520.

- b. The state agency shall notify the contractor of any changes in, or revocation of, authorization by an Individual to use or disclose Protected Health Information.
 - c. The state agency shall notify the contractor of any restriction to the use or disclosure of Protected Health Information that the state agency has agreed to in accordance with 45 CFR 164.522.
 - d. The state agency shall not request the contractor to use or disclose Protected Health Information in any manner that would not be permissible under HIPAA and the regulations promulgated thereunder.
- 4.3.5 Expiration/Termination/Cancellation - Except as provided in the subparagraph below, upon the expiration, termination, or cancellation of the contract for any reason, the contractor shall, at the discretion of the state agency, either return to the state agency or destroy all Protected Health Information received by the contractor from the state agency, or created or received by the contractor on behalf of the state agency, and shall not retain any copies of such Protected Health Information. This provision shall also apply to Protected Health Information that is in the possession of subcontractor or agents of the contractor.
- a. In the event the state agency determines that returning or destroying the Protected Health Information is not feasible, the contractor shall extend the protections of the contract to the Protected Health Information for as long as the contractor maintains the Protected Health Information and shall limit the use and disclosure of the Protected Health Information to those purposes that made return or destruction of the information infeasible. If at any time it becomes feasible to return or destroy any such Protected Health Information maintained pursuant to this paragraph, the contractor must notify the state agency and obtain instructions from the state agency for either the return or destruction of the Protected Health Information.
- 4.3.6 Breach of Contract – In the event the contractor is in breach of contract with regard to the business associate provisions included herein, the contractor agrees that in addition to the requirements of the contract related to cancellation of contract, if the state agency determines that cancellation of the contract is not feasible, the State of Missouri may elect not to cancel the contract, but the state agency shall report the breach of contract to the Secretary of the Department of Health and Human Services.

The following specific drug testing services requirements shall be added to the contract for the Department of Social Services, Children's Division (CD) clientele, in accordance with contract amendment #002 and as specified below:

CONTRACTUAL REQUIREMENTS – SPECIFIC REQUIREMENTS FOR DRUG TESTING SERVICES FOR DSS CD CLIENTELE

This section only applies to drug testing services for DSS CD clientele.

CD Clientele Education Materials Requirements:

The contractor shall develop written, photo-ready, reproducible quality education materials for CD's clientele to help such clientele understand the drug testing process. The DSS must approve the contractor's education materials prior to such materials being provided to CD clientele.

Upon request by the DSS, the contractor shall distribute education materials via mail to CD clientele designated by the DSS.

Contractor Personnel Requirements:

Medical Review Officer (MRO) – The contractor shall provide a MRO who must be a licensed physician (MD or DO) knowledgeable in the areas of drug abuse and toxicology procedures to review the results of all drug tests. The qualifications and performance of the MRO must be in compliance with 49 CFR Part 40.

- a. The MRO shall provide blind specimens to each laboratory being utilized by the contractor.
- b. The MRO shall transfer drug test results to the DSS through scheduled transfers via batch file transfer.
- c. The MRO must be available to provide consultation to the DSS at any time including, but not limited to during legal proceedings.
- d. The MRO must be available to attend and provide testimony as to their conclusions regarding the drug tests at the time and place determined by the DSS.

Legal Consultants – The contractor shall provide professional legal consultation to the DSS that shall include, but not be limited to consultation on drug testing quality control, program administration, record keeping issues, and any related legal issues.

Expert Witness – Upon request by the DSS, the contractor shall provide expert witness testimony and witness services by qualified professionals (e.g. MRO's, specimen collectors, laboratory technicians/personnel, pathologists, biochemists, etc.) with technical expertise concerning specimen test results, Chain of Custody procedures, and any other aspect concerning the services required herein as deemed necessary to a legal proceeding.

If remedial training of contractor personnel is required pursuant to 49 CFR Part 40, the contractor shall notify the DSS in writing once the remedial training has been completed. Upon request by the DSS, the contractor shall provide remedial training records for specified contractor personnel.

Specimen Collection and Retention Requirements:

The contractor should have a collection site(s) in every county throughout the State of Missouri.

- a. If the contractor does not currently have a collection site within a county where CD clientele resides, the contractor must take steps to provide the necessary drug testing services, including, but not limited to arranging for the provision of a mobile specimen collection unit.

- 1) The mobile specimen unit shall be an operational, reliable, and appropriately sized vehicle which meets all specifications and requirements herein and which at a minimum, satisfies the following requirements:
 - Meets or exceeds all applicable Federal Motor Vehicle Safety Standards as well as any applicable requirements of the State of Missouri.
 - Satisfies all city, county, and state licensing and inspection requirements and displays a current State of Missouri Motor Vehicle Inspection Sticker.
 - Is kept in a clean, safe, and reliable mechanical condition with maintenance records kept current.
 - Is six (6) years old or newer.
 - Is equipped with first aid kits and fire extinguishers.
- b. The contractor shall understand and agree that the DSS offices shall not be used for the provision of specimen collection and drug testing services for CD clientele.

The contractor shall collect split specimen collections. For purposes of this document, split specimen collection is defined as the sample collected being split into two separate specimens; one specimen is tested immediately and the other specimen is stored for re-testing, if necessary.

The contractor shall provide specimen pick-up services via courier between the hours of 6:00 a.m. and 7:00 p.m., CST, Monday through Friday, including state holidays, regardless of the specimen collection site location.

- a. The contractor must maintain specimens in proper condition while being transported in order to ensure accuracy of the test performed.

Upon request by the DSS, the contractor shall conduct on-site specimen collection from CD clientele by utilizing a mobile specimen collection unit. Coordination (e.g. when and where) for such shall be mutually agreed upon by the DSS and the contractor.

The contractor's specimen collectors shall be certified in accordance with Federal DOT regulations and procedures. If requested by the DSS, the contractor shall provide proof to the DSS of a specimen collector's certifications.

- a. The contractor must collect all specimens in accordance with the Federal DOT requirements outlined in 49 CFR Part 40.
- b. In the event the Federal DOT reviews and revises its drug testing regulations and procedures, the contractor shall revise the contractor's drug testing regulations and procedures to be in compliance with the Federal DOT.

Specimen Retention:

- a. The contractor shall maintain non-negative specimens for one (1) calendar year following the specimen testing, for a specific duration of time established by federal requirements, or pending any litigation.
 - 1) Upon written request of the DSS Chief of Custody or another designated DSS official, the contractor shall retain any positive test specimens for a longer period, as specified by the DSS.
- b. The contractor shall retain negative specimens for at least three (3) working days following the collection of the specimens, in compliance with Federal standards.

Drug Testing and Reporting Requirements:

Drug Testing – The contractor shall conduct a five (5) panel drug screen or a nine (9) panel drug screen, whichever is specified by the DSS. The contractor shall test the collected urine specimens for detection of the following drugs:

- a. Five (5) panel drug screen:
 - 1) Amphetamines/Methamphetamines
 - 2) Marijuana
 - 3) Cocaine
 - 4) Opiates
 - 5) Phencyclidine (PCP)

- b. Nine (9) panel drug careen:
 - 1) Benzodiazepines
 - 2) Marijuana
 - 3) Amphetamines
 - 4) Phencyclidine (PCP)
 - 5) Barbiturates
 - 6) Methadone
 - 7) Cocaine
 - 8) Opiates
 - 9) Methamphetamines (Ecstasy)

The contractor shall discuss and shall mutually agree with the DSS the requirements for scheduling drug testing appointments with CD clientele, including the scheduling of a mobile specimen collection unit.

Drug Testing Referral Requirements - The contractor must only accept referrals from DSS personnel and family case managers (both hereinafter referred to as referring case managers) at any time, twenty four (24) hours per day, seven (7) days a week, including federal and state holidays.

- a. Except for emergency or in the case of immediate need, referrals shall be sent to the contractor via fax using a referral form approved by the DSS. Family case managers will utilize their own referral form separate from the form used for referrals by the DSS personnel so that referrals can be clearly distinguished from one another. The contractor must have a minimum of one facsimile machine that will be operable twenty four (24) hours a day, seven (7) days a week for the receipt of referrals.

- b. In situations where a court or the client’s case manager determines the need for an immediate sample collection for drug testing, the contractor shall be contacted by the DSS via telephone with specific instructions regarding the required drug test, including timing and location.
 - 1) The contractor shall send a specimen collector within the timeframe specified by the DSS who shall be provided with the hard copy of the referral form in person at the specified location.

 - 2) The contractor must provide the DSS with written instructions on how to contact the contractor’s contract administrator or designee for such emergency/immediate need situations.

The contractor shall not perform a specimen collection until the receipt of the faxed or hard copy referral form, which has been properly authorized according to the DSS referral policies and procedures.

Drug Testing Appointments – Upon receipt of a referral from a case manager, the contractor shall schedule a drug testing appointment directly with CD clientele. The drug testing appointment must be arranged and scheduled with the clientele within forty-eight (48) hours following the receipt of the referral from the case manager.

- a. The DSS must provide approval of the contractor’s written notification format, content, etc. before the contractor uses such written notification to begin scheduling drug testing appointments with CD clientele.

- b. If the written notification is returned to the contractor as undeliverable, the contractor must notify the DSS within forty-eight (48) hours via batch file.
- c. If a CD clientele is a no-show an appointment scheduled by the contractor, the contractor shall notify the DSS of such within forty-eight (48) hours following the missed appointment.

Drug Test Results Reporting – Following completion of the drug testing, the contractor must provide the DSS with the date of the drug test and written results from the drug test within forty-eight (48) hours.

If a non-negative drug test is challenged by CD clientele, the contractor shall send the unused portion of the split urine specimen to a second laboratory for re-testing. The contractor shall be responsible for seeking and obtaining payment for all costs associated with the challenge specimen re-testing from CD clientele (e.g. shipping costs for shipping a sample to another laboratory, re-testing costs, and costs for MRO review and reporting). The DSS shall not pay the contractor or the laboratory the contractor utilizes for the re-testing of a challenge specimen.

Within thirty (30) calendar days following the end of the original contract period or any applicable renewal periods, the contractor shall submit a contract usage report to the DSS and the Division of Purchasing and Materials Management detailing all drug testing services provided for CD clientele under the contract during the previous contract period. The contractor must submit the report electronically in a format approved by the DSS. At a minimum, the report must include the number and location of drug tests conducted for CD clientele.

Within thirty (30) calendar days following the end of the original contract period or any applicable renewal periods, the contractor shall submit a contract usage report to the Division of Purchasing and Materials Management detailing the drug testing services provided for CD clientele during the previous contract period. At a minimum, the report must include the total number of drug tests conducted for CD clientele, the number of mobile based tests conducted for CD clientele, the number of non-negative confirmation tests conducted for CD clientele, and the number of no-shows for CD clientele. The contractor must submit the report electronically in a format approved by the DPMM.

Monthly Reporting Requirements – The contractor shall submit a usage report to the DSS by county on a monthly basis by no later than the fifteenth of each month for the previous month for all services specified herein and provided to CD clientele. The reports must build continually as each month passes to reflect each CD clientele who may be referred one month and who may be tested in a subsequent month. Therefore, the report must include information regarding each previous month of the contract and year-to-date information for each county in addition to a statewide summary. The contractor shall submit the reports electronically in a format mutually agreed upon by the contractor and the DSS. At a minimum, the reports shall include the following information:

- a. The total number of referrals received from DSS during the previous month.
- b. The total number of tests provided to CD clientele.
- c. A description of each test provided to a CD clientele.
- d. The total number of non-negative test results for the reporting period.
- e. A description of the drugs identified for each non-negative test.
- f. A description of how and where (e.g. fixed site or mobile test) the drug test was provided to each CD clientele.
- g. The total number of no-shows by scheduled CD clientele.
- h. The total number of drug testing appointment letters returned as undeliverable and a list of the CD clientele who did not receive an appointment letter due to such lack of deliverability.

Invoicing and Payment Requirements:

Invoicing – The contractor must submit an itemized monthly invoice to the DSS for services provided during the previous month. The DSS shall specify a contact person and billing address.

- a. The contractor's invoice shall include the Department Client Number (DCN) associated with the CD clientele.
- b. The contractor's invoices must accompany the contractor's monthly report.
- c. Upon approval by the DSS, the contractor may send invoices via email

Payments – The contractor shall be paid in accordance with the firm, fixed prices stated on the pricing table of amendment 002.

- a. The DSS shall be solely responsible for the payment of services provided to CD clientele.
- b. The contractor shall be paid the firm, fixed price specified on the pricing table of amendment 002 for each test result reviewed by the MRO for a CD client, regardless as to whether the results were negative or non-negative.

Other than the payments specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

Notwithstanding any other payment provision of the contract, if the contractor fails to perform required work or services, fails to submit reports when due, or is indebted to the United States, the DSS may withhold payment or reject invoices under the contract.

Final invoices are due by no later than thirty (30) calendar days of the expiration of the contract. The DSS shall have no obligation to pay any invoice submitted after the due date.

If a request by the contractor for payment or reimbursement is denied, the DSS shall provide the contractor with written notice of the reason(s) for denial.

If the contractor is overpaid by the DSS, upon official notification by the DSS, the contractor shall (1) provide the DSS with a check payable as instructed by the DSS in the amount of such overpayment at the address specified by the DSS, or (2) deduct the overpayment from the monthly invoices as requested by the DSS.

The contractor shall understand and agree that the DSS shall be solely responsible for the services requested by the DSS.

PRICING PAGES*(C/S Code: 94940)*

Line Item	Description	Firm, Fixed Price
001	Five-Panel Drug Screen For TA Recipient	\$43.00 per test
002	Mobile Specimen Collection and Drug Test for TA Recipient	\$43.00 per person
003	No show fee for a scheduled TA Recipient who does not test	\$0.00 per person
004	No show fee for a scheduled mobile site TA Recipient who does not test	\$0.00 per person
006	Drug Specimen Positive Confirmation Test for TA Recipient	\$22.00 per test
007	MRO Test Results Review for TA Recipient	\$8.75 per review
008	MRO Consultation to DSS during Court Proceedings	\$150.00 per hour
009	Mobile Specimen Collection and Drug Test for State Agency Employees	\$43.00 per person
010	Five-Panel Drug Screen For State Agency Employees	\$43.00 per test
011	Nine-Panel Drug Screen For State Agency Employees	\$44.00 per test
012	STAT Drug Test for State Agency Employees	\$80.00 per test
013	Drug Specimen Positive Confirmation Test for State Agency Employees	\$22.00 per test
014	Breath Alcohol Test for State Agency Employees	\$28.50 per test
015	Mobile Breath Alcohol Test for State Agency Employees	\$28.50 per person
016	Breath Alcohol Confirmation Test for State Agency Employees	\$7.50 per test

Line Item	Description	Firm, Fixed Price
017	MRO Test Results Review for State Agency Employees	\$8.75 per review
018	MRO Consultation to State Agency during Court Proceedings	\$150.00 per hour
019	Use of Substance Abuse Professional (SAP) for State Agency Employees	\$125.00 per hour
020	Legal Consultation to a State Agency	\$150.00 per hour
021	Expert Witness Testimony for a State Agency	\$150.00 per hour
022	Out-of-State Drug and/or Alcohol Testing for a State Agency Employee	\$53.00 per test
023	Training Workshop for a State Agency	\$25.00 per person
024	Education Materials for a State Agency Training Workshop	\$5.00 per person
025	Five-Panel Drug Screen For CD Clientele	\$43.00 per test
026	Nine-Panel Drug Screen For CD Clientele	\$44.00 per test
027	Mobile Specimen Collection and Drug Test for CD Clientele	\$43.00 per person
028	No show fee for a scheduled CD Clientele who does not test	\$0.00 per person
029	No show fee for a scheduled mobile site CD Clientele who does not test	\$0.00 per person
030	Drug Specimen Positive Confirmation Test for CD Clientele	\$22.00 per test
031	MRO Test Results Review for CD Clientele	\$8.75 per review
032	MRO Consultation to DSS during Court Proceedings for CD Clientele	\$150.00 per hour
033	Legal Consultation to DSS concerning CD Clientele drug testing	\$150.00 per hour

Line Item	Description	Firm, Fixed Price
034	Expert Witness Testimony for DSS regarding CD Clientele drug testing	\$150.00 per hour