

STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
CONTRACTUAL AGREEMENT
DPSCS Q0006064
WITH
SCIENTIFIC TESTING LABORATORIES, INC.

THIS CONTRACT (the "Contract") is made as of the 15th day of August 2006, by and between Scientific Testing Laboratories, Inc. (the "Contractor") and the State of Maryland, acting through the Maryland Department of Public Safety and Correctional Services, Division of Parole and Probation (the "Department" or the "Division").

IN CONSIDERATION of the premises and the covenants herein contained, the parties agree as follows:

1. Definitions

Except as provided otherwise in this Contract, terms used in this Contract have the meanings indicated:

- 1.1 "Contractor" means Scientific Testing Laboratories, Inc., whose principal business address is 450 South Lake Blvd., VA 23236.
- 1.2 "Department" means the Maryland Department of Public Safety and Correctional Services.
- 1.3 "Procurement Officer" means BJ Said-Pompey, or her successor or alternate as designated under Maryland Law.
- 1.4 "State" means the State of Maryland.

2. Scope of Work

- 2.1 The Contractor shall provide the services described in the Contractor's bid and the IFB. These services shall be provided in accordance with this Contract and the following exhibits, which are attached and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision, with earlier listed Exhibits prevailing over later listed Exhibits:

Exhibit A – The IFB
Exhibit B – The Contractor's bid dated 6/27/3006
Exhibit C – The Contract Affidavit

- 2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the

Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor shall assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

- 2.3 Modifications to this Contract may be made, provided: (a) the modifications are made in writing; (b) all parties sign the modifications; and (c) approval by the required agencies, as described in COMAR, Title 21, is obtained.

3. Time for Performance.

Unless terminated earlier as provided in this Contract, the Contractor shall provide the services for the period beginning on August 15, 2006 and ending on July 31, 2008 ("base period"). The State, at its sole option, has the unilateral right to extend the term of the Contract for up to three additional, successive one-year terms.

4. Consideration and Payment

- 4.1 The Contractor shall be paid the following amounts for services it provides under this Contract.

A. Testing and confirmation price for all four drugs and creatinine level:

\$4.98

Per urine sample

B. For each instance of an appearance to provide testimony under Section 2.6.1 of the IFB (Exhibit A to the Contract): \$600.00.


- 4.2 The Division is not obligated to request a minimum number of drug tests or instances of testimony under the Contract, and does not guarantee a minimum number for either service.

- 4.3 A. Payments to the Contractor during the base period of the Contract may not exceed \$645,600.00, as calculated using the following formula:

$(120,000 \text{ drug tests} \times \underline{\$4.98} \text{ per drug test}) + (80 \text{ appearances for testimony} \times \underline{\$600.00}) = \$645,600.00.$

B. Payments to the Contractor under each one-year option period of the Contract may not exceed \$322,800.00, as calculated using the following formula:

$$(60,000 \text{ drug tests} \times \$4.98 \text{ per drug test}) + (40 \text{ appearances for testimony} \times \$600.00) = \$322,800.00.$$

- 4.4 Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the Contractor. Electronic Funds transfer will be used by the State to pay Contractor for this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.
- 4.5 Each invoice shall reflect the Contractor's federal tax identification number, which is 
- 4.6 Each invoice must also contain the Contract Number Q0006064 and Purchase Order Number and must be submitted to:
Department of Public Safety and Correctional Services
Accounts Payable
300 East Joppa Road
Towson, MD 21286
- 4.7 Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, are prohibited.
- 4.8 In addition to any other available remedies if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer pursuant to this Contract.

5. Personnel

Contractor agrees that all personnel identified in its proposal, or personnel of equal qualifications, shall be assigned to perform the terms of this contract.

6. Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party

shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party, (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information or (e) which such party is required to disclose by law.

7. Non-Hiring of Employees

No official or employee of the State of Maryland, as defined under State Government Article, 15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this contract, shall during the pendency and term of this contract and while serving as an official or employee of the State become or be an employee of the contractor or any entity that is a subcontractor on this contract.

8. Disputes

This Contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland, as from time to time amended, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within 30 days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within 30 days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

9. Maryland Law

This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

10. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to

cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

11. Contingent Fee Prohibition

The contractor, architect, or engineer (as applicable) warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the contractor, architect, or engineer, to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this agreement.

12. Nonavailability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

13. Termination for Default

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State of Maryland shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

14. Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State

shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12 (A)(2).

15. Delays and Extensions of Time

The Contractor agrees to perform this agreement continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances, regardless of cause, in the performance of services under this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

16. Suspension of Work

The Procurement Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

17. Pre-Existing Regulations

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

18. Financial Disclosure

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

19. Political Contribution Disclosure

The Contractor shall comply with the provisions of Election Law Article, Sections 14-101 through 14-108 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, a county or an incorporated municipality or their agencies, during a calendar year under which the person receives in the aggregate, \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

20. Retention of Records.

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three years after final payment by the State of Maryland under this Contract or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section.

21. Compliance with Laws.

The Contractor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- C. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,
- D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

22. Cost and Price Certification

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its proposal or offer.

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its proposal or offer, was inaccurate, incomplete, or not current.

23. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the State of Maryland, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the State. Any such subcontract or assignment shall include the terms of sections 13, and 15 through 28 of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to its subcontractors.

24. Indemnification

24.1 The Contractor shall indemnify the State against liability for any claims, damages, loss, costs, expenses, suits, or actions of any character arising from or relating to the performance of the Contractor or its subcontractors under this Contract.

24.2 The State of Maryland has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

24.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

24.4 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.

25.5 The Contractor shall indemnify the State for damage, loss or destruction of all State property in the Contractor's care, custody and control throughout the term of this Contract.

26. Security

Any person who is an employee or agent of the Contractor or subcontractor and who enters the premises of a facility under the jurisdiction of the Department shall be searched, fingerprinted (for the purpose of a criminal history background check), photographed and required to wear an identification card issued by the Department. Further, the Contractor, its employees and agents and subcontractor's employees and agents shall not violate Md. Code Ann., Correctional Services §§ 9-410 – 9-416 and such other security regulations of the Department about which they may be informed from time to time. The failure of any of the Contractor's or subcontractor's employees or agents comply with any provision of this Section 29 of this contract is sufficient grounds for this Department to immediately terminate this contract for default.

27. Administrative

27.1 Contract Manager. The work to be accomplished under this Contract shall be performed under the direction of the Contract Monitor. The Contract Monitor monitors the daily activities of the contract and provides guidance to the contractor.

28. Notices. All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid as follows:

If to the State:

BJ Said-Pompey, Procurement Officer
Maryland Department of Public Safety and Correctional Services
300 East Joppa Road, Suite 1000
Towson, Maryland 21286

PH: 410-339-5015
FX: 410-339-4240
Email: bjsaid-pompey@dpscs.state.md.us

If to the Contractor:


Stanley Rockovich, Regional Sales Manager
Scientific Testing Laboratories, Inc. (STL)
450 Southlake Boulevard
Richmond, VA 23236

PH: (804) 378-9130 or (800) 977-9130
FX: (804) 379-5919

Email (please insert)

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.


("CONTRACTOR")

By: 

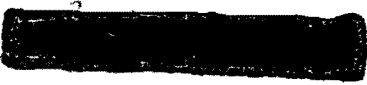
Date 7/19/2006

Witness: 

MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES


By: 

Date 8-14-06

Witness: 

Approved for form and legal sufficiency this 14th day

of August, 2006.


Assistant Attorney General