



**Request for Proposal**

**RFP # 2023 - 007**

**Drug and Alcohol Testing  
Occupational Health**

**Proposal Submission Deadline:  
March 15, 2023  
no later than 12:00 AM PST**

**Whatcom Transportation Authority**

<http://www.ridewta.com/business/doing-business/procurement>

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## Part 1 – Introduction

Whatcom Transportation Authority (WTA) is a Public Transportation Benefit Area (PTBA), defined by RCW Chapter 36.57A, providing transit service throughout Whatcom County, Washington. WTA provides fixed route, paratransit, rural dial-a-ride, on-demand, and vanpool service, as well as fixed route service into neighboring Skagit County.

Located in the northwest corner of Washington State, WTA serves the city of Bellingham, surrounding towns and rural communities, the Lummi Reservation, and the Nooksack Trust Lands.

WTA's mission is to enhance our community by:

- Delivering safe, reliable, efficient and friendly service
- Offering environmentally sound transportation choices
- Providing leadership in creating innovative transportation solutions
- Partnering with our community to improve transportation systems

Additional information about WTA can be found at [www.ridewta.com](http://www.ridewta.com).

WTA is currently seeking a Third-Party Administrator (TPA) to provide turn-key, comprehensive drug and alcohol testing services and occupational health services.

Proposers are required to adhere to the terms and conditions of this solicitation packet. WTA will not negotiate any aspect of the required service or contract once the Intent to Award is issued. WTA will not make any concessions for any Proposer who is not completely familiar with the scope or contract requirements.

All submittals become the property of WTA and are subject to public disclosure after award, pursuant to RCW Chapter 42.56.

Throughout this RFP the terms vendor, Contractor, and Proposer are used interchangeably. In general, the term Proposer means those who submit a proposal in response to this RFP, while a Contractor is a Proposer who has been selected and enters a contract to provide the services.

Equal Opportunity: Small, minority, veteran, women-owned, and Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, are encouraged to submit proposals in response to this solicitation. WTA ensures non-discrimination in the award and administration of all contracts, creates a level playing field where minority owned businesses can compete fairly, and remove barriers to their participation in our contracts.



## Part 2 – Scope of Work

### 2. A Introduction

WTA is a Public Transportation Benefit Area (PTBA), defined by RCW Chapter 36.57A, providing fixed route and paratransit service throughout Whatcom County, Washington and to neighboring Skagit County. WTA has 290 employees, with most represented by Amalgamated Transit Union, Local 843. Additionally, WTA contracts some of its vehicle detailing services to a third party.

WTA seeks a TPA to provide turn-key, comprehensive drug and alcohol testing services and occupational health services that both: (1) comply with US Department of Transportation (USDOT)/Federal Transportation Administration (FTA) regulations, 49 C.F.R. Part 40; and (2) more general and that do not necessarily comply with FTA regulations (Non-DOT Tests). This group includes but is not limited to WTA employees, potential new hires, and contractors providing public transportation related services on behalf of WTA.

### 2. B Background

The TPA Contractor for WTA will be expected to perform urine specimen and breath alcohol tests for random, post-accident, reasonable suspicion, return-to-work and follow up testing on WTA safety sensitive employees and contractors. Non-DOT tests may be conducted on all employees for post-accident and reasonable suspicion situations. WTA also requires pre-employment physicals for its safety sensitive employees, DOT medical certification and renewals for holders of a commercial drivers license (CDL), and occasional Hepatitis B shots for all employees.

Employees are categorized as follows:

Employee Category	Count
Full-time Employees	290
Part-time Employees	1
Breakdown of Employees 290	
Safety Sensitive Employees	227
Non-Safety Sensitive Employees	63
Classification Total 290	
Third Party Contractor	1

Safety Sensitive Employees are employees with duties related to the safe operation of WTA vehicles and mechanical equipment capable of injuring another person, including the operation and maintenance of mass transit vehicles (See Appendix C for complete definitions). This includes, but is not limited to, fleet technicians, transit operators, operator supervisors, dispatchers, trainers, and hostlers (See Appendix C for a complete list).

All applicants for safety sensitive positions are required to pass a DOT physical examination prior to hire or upon promotion, which includes a drug test. Similarly, safety sensitive positions and promotions are offered subject to the employee taking and passing the required physical and drug test.

Although the number of annual tests varies from year to year, as a general guideline, in 2022, WTA required:

- 153 DOT Drug Tests
  - 30 Pre-Employment
  - 119 Random
  - 5 Post Accident
- 32 DOT Breath Alcohol Tests
  - 27 Random
  - 5 Post Accident
- 19 Non-DOT Drug and Alcohol Tests
- 17 Pre-employment Physicals, including DOT medical and audiogram
- 50 DOT Medical Certification Renewals (these only reflect stats from employees utilizing Whatcom Occupational Health)

Drug and alcohol testing occurs 24 hours a day/ 7 days a week, often with little or no advance notice. Additionally, Post-Accident testing can happen anytime during WTA's service hours which include evenings, Saturday's, and Sundays. WTA currently does not provide service on the six (6) major holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day).

## **2. C General Technical Requirements**

The selected provider(s) shall be knowledgeable of and comply with all state, federal regulations (including, but not limited to, FTA and DOT regulations 49 CFR Part 655 and Part 40), as well as statutes governing Workers' Compensation and WTA policy.

Contractor service hours shall be no less than twelve (12) hours per business day (Monday through Friday). Under normal circumstances, results shall be provided within seventy two (72) hours or three (3) business days, WTA must be notified of any results delayed beyond this timeframe. After hours contact procedures must include a response time of no greater than thirty (30) minutes for post-accident or reasonable suspicion test.

Clinic/Office Location(s) shall be convenient to WTA, WTA employees, and local applicants within Whatcom County. Because WTA requires post-accident testing, a collection site must be within WTA's primary service area. Access to national network of clinics for out-of-town applicants is preferred, but not required. As a value-added service, WTA would consider mobile testing options.

Alcohol breath tests must be conducted by Breath Alcohol Technicians (BAT) trained with a National Highway Traffic Safety Administration (NHTSA)-approved course of instruction

on the methodology, operation, and calibration of the specific Evidential Breath Test's (EBT) being used. WTA reserves the right to request training certificates. EBT devices for initial and confirmation testing must be NHTSA approved.

Laboratories shall be certified under the U.S. Department of Health and Human Services (HHS) "Mandatory Guidelines for Federal Workplace Drug Testing Programs," and in compliance with laboratory analysis procedures specified in 49 CFR Part 40.

The Medical Review Officer (MRO) must be a licensed physician<sup>1</sup> (either M.D. or D.O.) with knowledge of substance abuse disorders, the medical use of prescription drugs, and the pharmacology and toxicology of illicit drugs. The MRO shall also demonstrate thorough knowledge and expertise in applicable state and federal rules, laws, and regulations. Additionally, the MRO must receive training and pass an examination administered by a nationally recognized MRO certification board or subspecialty board and renew that certification every five (5) years. WTA reserves the right to request copies of training and exam certifications.

Medical examiner(s) shall be licensed and listed on the Federal Motor Carrier Safety Administration National Registry. Examiners shall be Doctor of Medicine (M.D.), Doctors of Osteopathy (D.O.), or Physician Assistants (PA-C); advanced practice nurses (ARNP), or Doctors of Chiropractic (D.C.) and have demonstrated knowledge, expertise, and experience in applicable state and federal rules, laws, and regulation. Staff shall have proven experience working in an occupational medicine environment.

The successful Contractor will have

- A secure electronic mail (e-mail) communication method.
- A company website/portal that provides WTA with
  - Secure, password protected access to drug test results.
  - Statistical reports to meet FTA annual reporting requirements.
  - System to generate random selections on a monthly basis.
  - Searchable for
    - Testing reason
    - Testing authority (DOT/FTA/Non-DOT)
    - Specimen type
    - Collection date
    - MRO verified test result
    - Specimen ID
    - Donor ID
    - Past testing conducted for a minimum of twelve (12) months prior
  - System equipped with data encryption software
  - Backup system that will retain data in accordance with record retention periods per 49 CFR parts 40 and 655.

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<sup>1</sup> 49 CFR 40.121

## 2. D Scope of Work

### 2. D.1 DRUG & ALCOHOL TESTING SERVICES (SCOPE 1)

WTA reserves the right to conduct periodic audits, announced and unannounced, for any of the services provided. The audit may be performed by WTA or a designee.

#### *Drug and Alcohol Testing*

The successful Contractor must maintain a network of DOT qualified urine specimen and breath alcohol collectors who are available to administer tests within WTA's service area, and who are regularly and actively engaged in conducting urine and breath alcohol testing. As a value-added service, the Contractor may provide services with a mobile testing unit. The TPA will be responsible for ensuring collectors are trained in accordance with 49 CFR Part 40.33 and are able to conduct specimen collections in accordance with 49 CFR Part 40, as amended and the USDOT Specimen Collection Guidelines. The Contractor is expected to provide the following services and meet the following guidelines:

- A. Conduct urine specimen analysis for pre-employment testing, and urine specimen analysis and breath alcohol tests for random, post-accident, reasonable suspicion, return-to-work and follow up testing. Testing will be performed under FTA and DOT guidelines 49 CFR Part 655 and Part 40 and WTA's Drug and Alcohol Abuse Prevention Program Policies (Appendix D - I) (WTA Policies), including contracting with and using U.S. Department of Health and Human Services (DHHS)-approved laboratory testing facilities.
- B. Conduct a ten (10-) panel urine specimen analysis for Non-DOT post-accident, reasonable suspicion, return to work and follow up testing when requested.
- C. Collectors shall prepare all appropriate documentation of all completed urine specimen and breath alcohol tests, and the TPA must obtain such documentation of all completed urine specimen and breath alcohol tests and maintain accurate testing records and statistical reports.
- D. EBT external calibration checks are performed according to manufacturer's specifications. Maintain calibration documents of EBT devices for at least three (3) years after expiration of the Contract with WTA. Remove from service any device operating outside the tolerances for an EBT until it is repaired and an acceptable external calibration check.
- E. Always maintain backup EBT devices when the primary EBT is unavailable, out of calibration, or being serviced.

- F. Use both a failsafe procedure and EBT device ensuring employees are not retested within fifteen (15) minutes of the first test but are retested no later than thirty (30) minutes after completion of the screening test.
- G. Employee(s) brought in for reasonable suspicion testing will receive priority attention.
- H. Notify WTA immediately if an employee or prospective employee fails to arrive or delays arrival at the testing site; fails to sign the required testing forms; attempts to falsify test results through tampering, contamination, adulteration or substitution; fails to attempt to provide the required specimen; refuses to test; exhibits a shy bladder; leaves the testing site before test completion; or fails to otherwise cooperate with any part of the testing process.
- I. Provide oversight of specimen collectors ensuring collections are completed accurately and conform to FTA and DOT guidelines and WTA Policies.
- J. Guarantee that an adequate number of collectors are available to conduct both scheduled and unscheduled collections.
- K. An MRO shall contact WTA in any case involving a dilute negative pre-employment or positive test, using established protocols.
- L. After hours contact procedures must include a response time of no greater than 30 minutes for post-accident or reasonable suspicion test.

### *Laboratory*

- A. Provide expert witnesses to defend procedure integrity.
- B. Provide all chain of custody forms, supplies, and equipment necessary to collect, analyze, and/or store urine, breath and blood specimens.
- C. Guarantee security and validity of all urine specimens, maintenance of proper chain of custody, and that all records are accurate.
- D. Establish and maintain clear, documented procedures for processing, quality control, and confidentiality.
- E. FTA and DOT mandated specimens shall be analyzed for the covered substances specified in 49 CFR Part 40.
- F. Use immunoassay technique for the initial test to screen urine specimens for the specified drugs at FTA mandated cutoff levels. If any drug or its metabolite registers

above the cutoff level, an aliquot of the same urine specimen must be confirmed by using gas chromatography/mass spectrometry (GC/MS).

- G. Maintain and provide accurate records of all specimens tested and statistical reports on testing activity.
- H. Report results of the required test shall be provided to the MRO within twenty-four (24) hours of receipt of the specimen.
- I. There shall be no charges for canceled tests as a result of an error of collection or laboratory personnel.

#### *Medical Review Officer (MRO)*

- A. Review and interpret the results of laboratory analyses of drug/urine samples, prior to notifying WTA.
- B. Determine and confirm that for each positive test, proper collection and testing procedures were followed or whether the result has a legitimate medical explanation. The MRO shall be available and qualified to testify as an expert witness to testify in relationship to a court or regulatory proceeding regarding verified positive findings.
- C. The MRO or MRO staff member must report verified positive, adulterated or substituted drug test results verbally to WTA's Designated Employer Representative (DER) on the same day or next business day, following the MRO verification of the result and in accordance with 49 CFR Part 40.163, 165, 167
- D. Use reasonable medical judgement to determine if a confirmed negative result due to a prescription could be a "significant safety risk", and follow the protocol detailed in 49 CFR, Part 135 (e). Be available to speak with a prescribing physician up to five (5) days following the interview with the donor.

#### *Random Testing Program Management*

- A. The TPA must generate random selections in accordance with FTA and DOT guidelines rules and the appropriate rate to ensure that minimum annual random testing percentages are met.
- B. Use a scientifically valid method of determining the randomly selected employees. All covered employees have an equal chance of being selected each time a draw is made in accordance with 49 CFR Part 655.45.

- C. The TPA must prepare and deliver random selections to WTA’s DER or secondary contact within the first three (3) business days of the month by means of a secure and password protected website, secure electronic email or secure fax.

*Audit Response and Support*

WTA’s testing program is subject to a drug and alcohol compliance audit by state and federal authorities. The TPA will support WTA during any audits including but not limited to:

- Gathering and producing copies of testing records, custody and control forms, alcohol test forms, memorandums, result certificates, service provider qualifications, statistical reports and all other documents requested.
- Responding to all audit questionnaires or questions including those directed at
  - TPA approved and assigned collection sites and/or mobile collectors
  - Medical Review Officers
  - Laboratories used to analyze urine specimens
- Assisting in developing corrective action plans and responses to findings that are related to any of the services provided as part of this scope of services.

*Substance Abuse Professional Referrals (Optional)*

The TPA may provide a list of at least two (2) DOT qualified Substance Abuse Professionals (SAP) located within 50 mile of WTA’s primary location upon request.

**2. D.2 OCCUPATIONAL MEDICAL SERVICES (SCOPE 2)**

*Physical Exams*

The TPA shall maintain a network of qualified medical providers to perform physical examinations to all safety-sensitive position employees and candidates.

A. CDL Holder Exams.

Comply with Washington State Department of Licensing regulations, complete the CDL Holder Exam and issue medical examiner’s certificate. The exam will include at a minimum:

1. Physical examination (includes vitals, UA dip, laboratory height, weight, etc.)
2. Audiogram
3. Vision – distance

B. Fit-for-Duty Exams

Provide fit-for-duty exams upon request. WTA provides a position description or job analysis indicating the physical requirements and working conditions for specific positions. The medical examiner will determine an employee’s ability to perform the essential functions of his/her/their job.

### *Medical Leave*

When requested, provide verification or clarification of employee's need for medical leave, including documentation for the Family and Medical Leave Act (FMLA).

### *Other Services*

When requested, provide respirator testing, hearing tests, and Hepatitis B inoculations.

WTA may, at its option, hold an on-site flu clinic in partnership with the Contractor. WTA reserves the right to contract this service with other vendors depending on the value to the agency, scheduling, and any other factor that WTA may use to determine best value.

### *Scheduling, Notification, Recordkeeping and Reporting*

- A. Provide appointments Monday through Friday from 8 a.m. until 5 p.m., at a minimum. Additional times and weekend availability is preferred.
- B. Provide exam results to WTA through the secure web portal within one (1) business day of the exam, unless an alternate schedule is agreed to by WTA.
- C. Notify WTA immediately if an employee or job candidate does not appear for a scheduled appointment.
- D. Maintain accurate records and provide statistical reports as required by USDOT, FTA and WTA.

## **2. E Contractor Performance Reviews**

WTA will conduct a performance review of projects and the Contractor every twelve (12) months while the Contract is in effect<sup>2</sup>. The completed evaluation form shall be shared with the Contractor and become a permanent part of the Contract administration file. The results of these evaluations shall be considered for contract extensions, price adjustments, and in the evaluation of any future applications to WTA solicitations for services.

WTA will be using the criteria below in its evaluations.

- **Communication**

Contractor communicates regularly and openly with WTA HR staff. This can be done face to face, via phone conferences, one-to-one, or group meetings. Contractor is visible and available when needed. Answers emails and phone calls in a timely manner. Provides timely follow through. Reports are clear, received no later than the timelines outlined in the Scope of Work and well received. Verbal and written communication is concise and easy to understand.

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<sup>2</sup> 2 CFR 200.301, 2 CFR Part 200.318 (b), RCW 39.26.180(1)(d), RCW 39.26.180(3)

- **Interpersonal Skills with WTA staff**  
Effectively coordinates and cooperates with WTA HR staff and employees being tested. Respectful of WTA culture, mission, vision, and values. Seeks feedback to improve relationships and improve commitment towards quality service.
- **Employee interaction and relationships**  
Is courteous with WTA employees and mindful of WTA culture. Cooperates with WTA while being mindful of State and Federal testing requirements.

Evaluations will be scored as follows:

**1 = CONSISTENTLY BELOW EXPECTATIONS:** Performance is at a level below established objectives with the result that the overall contribution is marginal and substandard. Performance requires a high degree of constant supervision and guidance.

**2 = BELOW EXPECTATIONS:** Meets some of the established objectives and expectations but definite areas exist where achievement is substandard. Performance requires somewhat more than a normal degree of direction and supervision.

**3 = MEETS EXPECTATIONS:** Meets established objectives in a satisfactory and adequate manner. Performance requires normal degree of supervision and guidance.

**4 = EXCEEDS EXPECTATIONS:** Accomplishments are above expected level of essential requirements. Performance requires minimal supervision and guidance to achieve goals.

**5 = CONSISTENTLY EXCEEDS EXPECTATIONS:** Performance easily exceeds job requirements, performance approaches best possible attainment. Minimal to no supervision is required. Needs little to no guidance outside of original task order to complete tasks.



### Part 3 - Submission Guidelines

All submittals become the property of WTA.

#### 3. A Procurement Schedule

Dates preceded by an asterisk (\*) are estimated dates. Estimated dates are for information only.

Activity	Date - 2023
Procurement Request Released	February 3
Clarification Deadline	March 3, no later than 5:00 PM PST
Submissions Due	March 15 no later than 12:00 PM PST
*Finalist In Person Interviews	Week of April 10
*Notice of Intent to Award	May 1
*Estimated Award Date	June 1
<b>Contract Start Date</b>	<b>July 24, 2023</b>

Questions pertaining to the RFP must be submitted via WTA’s procurement portal. WTA does not guarantee a response to questions submitted via email, phone call, or after the clarification deadline has passed. Submissions are not reviewed or considered after they are due. WTA reserves the right to award a contract(s) without a Best and Final Offer. Issuance of a Notice of Intent to Award is not a substitute for a contract and can be revoked.

WTA reserves the right to modify the Procurement Schedule through written addenda.

WTA may invite the top one (1) to three (3) firms (competitive range) for a semifinal interview/presentation. WTA provides requirements of the interview when the interview is scheduled. WTA will not be responsible for any costs for interviews including but not limited to travel, expenses, preparations, or materials.

#### 3. B Proposal Guidelines

Proposers should fully inform themselves of the conditions, requirements, and specifications before submitting a proposal. The submission of a proposal constitutes Proposers acceptance of the terms and conditions of this solicitation request, including the underlying contract terms and conditions which are set out herein.

The Proposer is responsible for all costs related to the preparation of the proposal, demonstrations or interviews. Any costs associated with the project not specifically set forth in this Request for Proposal will be the responsibility of the Proposer and will be deemed included in the fees and charges proposed.

WTA reserves the right to:

- Award to one or more vendors
- Accept or reject any or all proposals and their Proposers
- Reject any or all proposals until a contract is signed with the Proposer
- Reject this solicitation and issue a new one for any reason
- Waive deviations from the requirements
- Waive any informality or minor irregularity in proposals received
- Issue changes to the solicitation in the form of written addenda
- Request additional information to fully evaluate a proposal

A proposal will be rejected when:

- It is late
- Not in the required format
- The Proposer fails to meet the minimum qualifications listed in Part 3.C
- The Proposer is determined to be not responsible as described in Part 4.D
- Any required form is not signed
- Vendor information, references, or any other form is incomplete or incorrect
- Any other reason determined to be in the best interest of the WTA
- It does not meet required terms and conditions
- The details of the proposal have been altered
- A Proposer fails to timely respond to a request for additional information
- It fails to contain any of the required information
- A conflict of interest is not properly disclosed
- Proposer fails to acknowledge in writing an addenda

Proposals may not be modified after opening unless requested by WTA. Prior to opening, proposals may be withdrawn at any time.

WTA may request that information be displayed differently than presented (for example, request a bundled pricing structure be itemized).

Proposal pricing shall be valid for a period of 120 days from proposal or BAFO deadline, if a BAFO occurs.

WTA may request clarification or additional information, including, but not limited to, financial statements.

### **3. C Minimum Proposer Qualifications**

**At the time of proposal**, Proposers must meet the following minimum qualifications. Proposers will not substitute the experience of a sub for their own.

- The Medical Review Officer (MRO) must be a licensed physician<sup>3</sup> with experience in substance abuse, prescription drug use, pharmacology and toxicology.
- Medical examiner(s) must be licensed and listed on the Federal Motor Carrier Safety Administration National Registry.
- Examiners shall be Doctor of Medicine (M.D.), Doctors of Osteopathy (D.O.), or Physician Assistants (PA-C); advanced practice nurses (ARNP), or Doctors of Chiropractic (D.C.).
- Maintain a network of DOT qualified urine specimen and breath alcohol collectors within the local (Whatcom County) area.
- Have a State of Washington and all required local government business license(s) and endorsements<sup>4</sup>.
- Not be suspended or debarred with SAM.gov.
- Not be disqualified from bidding under RCW 39.06.010 or 39.12.065 (3).
- Demonstrate there are no outstanding and/or repetitive violations with Labor and Industries, Department of Revenue, or Employment Security.
- Currently perform DOT required drug and breath alcohol testing including specimen collection and chain of custody management.
- Provide Occupational Medical exams currently or within the last five (5) years immediately preceding this solicitation request with CDL Holder Exams being part of the services provided.
- Laboratories will be certified under the US Department of Health and Human Services.
- Possess all permits, registrations, and licenses as required by city, state, and Federal ordinances, rules, laws, and regulations. When requested by WTA, Proposer shall provide documents confirming that he/she/it has obtained any local business registrations or permits that may be required.
- Is skilled, regularly engaged, and has performed satisfactorily on other contracts of like nature, magnitude and comparable difficulty, and at comparable rates of progress for the last five (5) years immediately preceding this solicitation request.
- 
- Offer a fixed, lump sum, per service cost for project services.

### 3. D Proposal Submission

**It is the proposers responsibility to ensure WTA has received its/his/her/their submission. WTA bears no responsibility for proposals that may be sent, but not received due to technical issues.**

Proposals will be submitted using WTA's Procurement Portal. Email's, USB/CD copies, or hard copies will not be reviewed.

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<sup>3</sup> 49 CFR 40.121

<sup>4</sup> A City of Bellingham endorsement will be required as a condition of proposal award to the highest scoring proposer.

### 3. E Questions About the RFP & Contact with WTA

Questions pertaining to the RFP must be submitted via WTA's procurement portal no later than the close of business on the date listed in the Procurement Schedule above. WTA does not guarantee a response to questions that are not submitted using the procurement portal.

WTA does not guarantee a response to questions submitted after the date provided in the Procurement Schedule.

Unauthorized contact regarding this RFP with WTA employees or agents may result in disqualification. Any oral communications will be considered unofficial and non-binding on WTA. Proposers should rely only on written statements issued by Procurement.

Do not add any WTA email address to company marketing email lists.

### 3. E Submission Package Contents

Proposals will conform to the following:

- Pages of the proposal should be numbered
- Sections clearly identified
- Single spaced, no columns
- Minimum twelve (12) point font
- No more than ten (10) double sided pages, excluding forms requested in the exhibits
- **A single, searchable PDF file with the submission and all completed forms**

Marketing materials, alternate agreements, and any other information not requested will be counted against the page limit. Do not add any WTA email addresses to marketing emails.

All proposals will include the information requested in Exhibit A.

### 3. F Conflict of Interest

WTA officers, employees, agents, or Board members will not solicit or accept gifts, favors, or anything of monetary value from Proposers. Any WTA officer, agent, employee, or Board member with a perceived or actual financial or other interest in the award of this proposed contract will recuse himself/herself from any evaluation or decision on any proposal.

Proposers and their staff must declare any perceived or actual conflict of interest. For example, a conflict of interest would arise if a Proposer or staff did the following:

- Assists in the creation of the scope of work. This includes, but is not limited to, reviewing and commenting on the preliminary scope in whole or part, assisting staff in specification writing, or recommending the use of a particular brand or supplier/distributor in the specification or evaluation of proposals.

- Has access to nonpublic information during the performance of an earlier contract or has been provided with information other contractors have not during procurement.
- Assists in the creation of a project budget.
- Has a personal or professional relationship or affiliation (past or present) with a member of the evaluation or project team.
- Has a financial gain from the recommendation and/or purchase of a particular good or service relating to a contract or potential contract. (e.g. distributor/manufacturer relationship)

WTA will review all conflict of interest statements and notify the Proposer of its decision to allow or reject a proposal as it pertains to the conflict.

In the event that a conflict of interest is discovered post-award, this will be considered a breach of contract and the contract will be terminated under the terms and conditions provided. The Proposer must pay any additional costs incurred by WTA to engage another contractor to finish the work.

### 3. G Addenda

Addenda will be issued to all known holders and posted at [ridewta.com](http://ridewta.com) should questions or clarifications be deemed significant enough to affect received proposals. Proposers must ensure they receive all issued addenda prior to the submission deadline, and acknowledge each addenda on Exhibit A.

### 3. H Protest Procedures

**Filing a Protest** Any party with an interest in the award of the solicitation may file a protest that WTA staff did not follow its own policies and procedures regarding a Procurement Action, or the procedures and restrictions set out in this RFP.<sup>5</sup> Any protest must be submitted in writing to WTA's Procurement & Grants Coordinator, and include the following information:

- a) Name, address, email address, and telephone number of the protester
- b) Signature of the protester or their representative
- c) Identification of the solicitation
- d) Detailed statement of the legal and factual grounds of the protest
- e) Copies of all relevant documents
- f) The form of relief requested

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<sup>5</sup> "Procurement Action" includes: specific procurement steps, such as setting the calendar of events; producing the proposal/bid document; advertising the proposal or bid in legal paper of record; maintaining a list of proposal/bid holders; conducting a pre-proposal meeting; responding to all approved equals/clarifications received by the appropriate time and date; addenda issued straightforwardly to all proposal/bid holders; enforcing closing time and date; providing proctoring services to the project manager and evaluation committee; setting criteria weights; conducting interview process with top-scoring Proposers and evaluation committee; creating notes to file regarding the proposal/bid process; issuing award/non-award letters; and maintaining a written record of the procurement.

Issues and facts not stated in the Notice of Protest will not be considered.

**Time for Filing a Protest.** A protest based on alleged improprieties or ambiguities in a **solicitation** must be filed at least seven (7) days before the due date of the bid or proposal. A protest based upon alleged improprieties in an **award** of a contract or a **proposed award** of a contract must be filed within three (3) days after the Notice of Intent to Award has been issued.

**Notice of Protest.** Procurement shall immediately give notice of a protest to the selected Proposer if a contract has been awarded. If no award has been made, notice will be provided to all Proposers.

**Stay of Award.** If a protest is filed, the award will be postponed unless the Finance Director determines in writing that:

- a) Reasonable probability exists that the protest will be denied.
- b) Delay of the award would be contrary to the best interests of WTA.

### Review of Protests

**Review:** The Finance Director shall review and investigate properly filed protests and issue a written decision to the protestor:

- a. A meeting(s) will be called within five (5) working days from receipt of the protest that will include representatives from the WTA and the protestor to discuss the issue(s) related to the protest. The meeting may be conducted by telephone conference if convenient for both parties.
- b. A decision of the protest will be made by the Finance Director within three (3) working days of the final meeting and at the time the protestor shall be notified of the decision in writing by the Director by email or regular mail.
- c. The Finance Director may, at his/her sole discretion, extend the limits of time outlined above.
- d. The decision of the Finance Director shall be final, unless appealed as provided herein.
- e. A request for reconsideration may be allowed if data becomes available that was not previously known, or there has been an error of law or regulation.

**Appeal:** A Protestor may appeal the Finance Director's formal decision to WTA's General Manager. The written appeal must be received by WTA within two (2) business days after receipt of the written decision by the Protestor, or the appeal will not be considered. Properly filed appeals of the decisions of the Finance Director shall be reviewed and investigated by the General Manager who shall issue WTA's final decision no later than twenty one (21) days after receipt.

### 3.1 Inter-local Purchasing

This award shall be subject to RCW Chapter 39.34 Inter-local Cooperation Act where other government agencies may purchase on the WTA request in accordance to the terms and



prices stated, over the subsequent time period for which the vendor is willing to honor the solicitation price.

### **3. J Request for Clarification, Deviation, or Substitutions**

Any Proposer(s) believing a contract term or scope requirement is unnecessarily restrictive or wishing to propose an alternate must submit their request using WTA's procurement portal by the deadline provided in the Procurement Schedule. Requests submitted after this date, or as a proposal condition will not be reviewed or considered. WTA will not agree to terms or conditions to the contract after proposals are submitted and conditioned proposals may be rejected as non-responsive. Any changes or requests pertaining to the contract must be made evident prior to the close of the procurement.

#### **ESTABLISHMENT OF CONTRACT BASED UPON NOTICE OF INTENT TO AWARD**

The ITB and the PROPOSAL SUBMITTED constitute an "offer" and "acceptance" of all of the terms and conditions for an enforceable contract, subject to WTA's formal award of a bid, which remains in its exclusive discretion. Once a proposal is accepted and awarded by WTA, the parties will have an enforceable "contract" whose terms and conditions will comprise those set out in the RFP and the proposal. WTA reserves the right to seek to have such contract enforced, and to seek specific performance from the successful Proposer based upon the terms set out in the RFP and the proposal. Throughout this RFP, the term "Contract" shall mean the terms and conditions contained in this RFP and an awarded proposal, and a formal written contract entered pursuant to Part 4.

Submission of a proposal grants WTA the right to enforce the parties agreement without the need for a signed Contract, based upon the existence of an enforceable agreement between the parties, whose terms and conditions shall comprise the RFP and proposal.

Any unapproved deviations, exceptions, substitutions, alternates, or conditions contained in a proposal are cause for the proposal's rejection as non-responsive.

THE ONLY WAY THAT THE SUCCESSFUL PROPOSER MAY MODIFY, AMEND OR AVOID ANY TERM AND CONDITION SET OUT IN THE RFP IS TO REQUEST A DEVIATION OR SUBSTITUTION BY THE DEADLINE PROVIDED IN 3.A. UNLESS A REQUEST IS PRESENTED BEFORE THE DEADLINE, AND ACCEPTED BY WTA IN WRITING AS AN ADDENDA, ALL TERMS AND CONDITIONS OF THE RFP SHALL BE BINDING AND ENFORCEABLE AGAINST THE SUCCESSFUL PROPOSER.

### **3. K Disadvantaged, Small, Veteran, Minority and Women-Owned Business Enterprises**

While not a requirement for the ensuing contract, certified DBE, SBE, VBE, MBE, and WBE are encouraged to submit a proposal. Minority firms shall have equal opportunity to compete for and perform as prime contractors, suppliers, or as subcontractors through another awarded contractor. Certification can be through Washington State's Office of



Minority and Women Own Business Enterprises [www.omwbe.org](http://www.omwbe.org) or other Unified Certifying Program (UCP) under 49 CFR 26.

## Part 4 – Proposal Evaluation

### 4. A Evaluation Procedures

1. The Procurement & Grants Coordinator will initially review proposals against the following criteria. Proposals that do not receive 3 “Pass” scores will not be reviewed further.

Factor	Points
Conformity with Minimum Proposer Qualifications (3.C)	Pass/Fail
Complete Package Submission (3.E)	Pass/Fail
All Exhibits Completed	Pass/Fail
Collection locations within WTA service area	Pass/Fail
After hours response time of 30 minutes or less	Pass/Fail
Cost	0-4

Pricing score is calculated using the following normalizing formula based on Contract Years 1-3 total cost for the tests in the 2022 testing quantities outlined in 2.B.

$(\text{Lowest Overall Proposed Price} \div \text{Price Being Evaluated}) \times \text{Total Points Possible} = \text{Score}$ .  
The score for pricing will not be averaged over the number of evaluators.

2. Evaluation Committee will review Proposals receiving 5 “Pass” scores against the following Initial Evaluation Factor(s), which are listed in the order of importance.

Factor	Points
Demonstrated ability to meet requirements in 2.C and 2.D	0-4
Collection Site Information	0-4
Testing Process	0-4
Web Portal	0-4
Total possible per evaluation member	16

Committee members will assign a score of 1 – 4 for each factor and it will calculate total points as follows:

- 0 – Proposal did not meet factor requirements = 0%
- 1 – Proposal met less than ½ of factor requirements = 25%
- 2 – Proposal met at least ¾ of factor requirements = 50%
- 3 – Proposal met all of the factor requirements = 75%
- 4 – Proposal exceeded factor requirements = 100%

Evaluator scores are in whole numbers only or rounded down. (e.g. evaluator scoring an 3.5 will round to 3). Scores will be added and the highest aggregate scores will be used to determine the highest scoring Proposer.

*For example, if the evaluation team consists of 4 members the total evaluated criteria points would not exceed 64 points. The cost points would be added on top of this aggregate total. A proposer could be awarded a total of 68 points in this example.*

3. The top 1 - 3 proposals (Competitive Range) **may** be invited for interviews. Proposals and interview results are re-scored against the Initial Evaluation Factors based on information provided by interviewees. Price will be recalculated based on the number of proposals in Competitive Range.
4. A member of the Evaluation Committee and/or the Procurement Manager may check references of the proposals in the Competitive Range and share them with the evaluation committee. The committee may consider reference responses during their evaluation of the proposers ability to meet the requirements of 2.C and 2.D.
5. Competitive Range scores, Initial Evaluation scores, and cost will be added to determine the highest scoring proposer.
6. Proposers may be asked for a Best and Final Offer post-interview as detailed in 4.D below. BAFO's will be re-scored against the same evaluation criteria above. WTA reserves the right to award a contract without a Best and Final Offer Request.
6. The highest scoring Proposer will be selected. Nothing in this request obligates the WTA to award a contract to the lowest cost Proposer, or any Proposer.

In the event that the top two (2) proposals are within 5 points of each other, they are considered comparative equals. WTA will require best and final offers (BAFO) be submitted for evaluation. The Evaluation Committee will review them against all of the evaluation factors above and render a final score.

#### **4. B Single or No Proposer**

In the event that only one proposal is received, WTA may request an extension of the offer period and/or conduct a cost analysis on the single received proposal. The Proposer shall promptly provide all cost or pricing data, documentation and explanation requested by WTA to assist in such analysis. By conducting such analysis, WTA shall not be obligated to accept the single proposal; WTA reserves the right to reject such proposal or any portion thereof.

Should there be no proposals received, WTA may issue a new RFP or contract with a vendor of it's choosing under its Sole Source process.

## **4. C Evaluation Criteria**

### **4. C.1 Ability to Meet Requirements of 2.C and 2.D**

Proposer will provide detail clearly establishing his/her/their compliance with the Technical Requirements in 2.C. Proposer demonstrates his/her/their ability to deliver the entire scope of services outlined in the 2.D Scope of Work.

All services are well defined including the process for administration of testing, reporting availability and ease of access, and adherence to Federal testing requirement. Collection process is clear and easy to understand. Random testing selection is explained, testing and result tracking meets the minimum needs outlined in the Technical Requirements.

### **4. C.2 Collection Site and Medical Service Information**

Proposer provides detail information about all collection and medical service sites, providers and their hours. Evaluations will review the hours available for services in relation to the Technical Requirements. After hours testing is priced reasonably. Contractor has proposed value-added solutions to improve collections or provide additional Occupational Health services that were not part of the Scope of Work.

### **4. C.3 Testing Process**

Testing process meets or exceeds minimum requirements outlined by USDOT and FTA regulations. Contractor has a logical and auditable method of conducting, tracking and protecting test results. Patient confidentiality is detailed and can be assured to the best of the proposers capabilities. Test result accuracy is at or above USDOT and FTA regulations.

### **4.C.4 Web Portal**

Web portal is easy to use, intuitive, and comprehensive. All data needed for Federal Drug and Alcohol MIS reporting is available. Any partner information is provided through a singular web portal.

## **4. D Responsibility Review**

WTA will only award to proposers who have the ability, willingness, and integrity to conform to all requirements of the proposal and subsequent contract.

To establish Proposers responsibility, WTA will review all material submitted with a proposal. WTA may also obtain additional information and conduct independent investigation, including, but not limited to, obtaining copies of business licenses and/or professional licenses and certificates, obtaining financial reports, verifying DBE/MWBE status, reviewing records with the Better Business Bureau, reviewing references, and checking debarment lists. WTA reserves the right to interview references, perform internet

searches, review Dunn & Bradstreet reports, and use any other investigative means it chooses. A Proposer must timely provide all requested information.

#### **4. E Best and Final Offers (BAFO)**

In WTA's discretion, Proposers may be afforded the opportunity to amend his/her/its proposal and make a BAFO. The requests for BAFO's shall include:

- Notice of an opportunity to submit a BAFO based on discussions during interviews or clarifying correspondence.
- A common due date and time for submission of written BAFO's or modifications to any BAFO, allowing a reasonable opportunity for preparation of the written BAFO's.
- Direction for BAFO format and contents.
- Notice that if a Proposer does not submit a BAFO or a notice of withdrawal and another BAFO, his/her/it's immediate previous offer will be construed as the BAFO.

Any modifications to the initial proposals made by a Proposer in the BAFO shall be clearly identified. WTA will evaluate BAFO's according to the same requirements and criteria as the initial proposal. The WTA will make appropriate adjustments to the initial scores for any criteria which have been affected by any modifications made by the BAFO's. These final scores and rankings will again be weighed against the Evaluation Criteria.

#### **4. F Notice of Intent to Award**

Upon selection of the successful Proposer, a Notice of Intent to Award will be provided to all Proposers. The Notice of Intent in no way constitutes a promise to award or an acceptance of the offer contained in the proposal; rather it is the WTA's first step in recommending a contract to its Board of Directors. WTA may reconsider and withdraw, change or amend a Notice of Intent at any time before the Board of Directors formally select a proposal.

In the event a contract award is made that is within the General Manager's signing authority, WTA may, at it's option, waive Board approval.

Proposers are permitted to request a debriefing about its/his/her own proposal from Procurement after the Notice of Intent is issued. Documents and information relating to the procurement may be requested by submitting a Public Disclosure Request to [RecordsRequests@ridewta.com](mailto:RecordsRequests@ridewta.com). Refer to Part 6 of this RFP for the process of releasing documents marked as "Confidential" or "Proprietary".

A City of Bellingham endorsement will be required as a condition of contract award to the highest scoring Proposer<sup>6</sup>. City of Lynden and City of Ferndale endorsements<sup>7</sup> will be required if services are performed in those locations.

<sup>6</sup> Bellingham Municipal Code 6.05.025

<sup>7</sup> Lynden Municipal Code 5.02.020 and Ferndale Municipal code 5.04.030



#### **4. G Trial Period and Right to Award to Next Lowest Bidder**

A ninety (90) day trial period applies to contracts awarded by this solicitation. During the trial period, CONTRACTOR must successfully perform. Failure to perform may cause immediate cancellation of the Contract. If a dispute occurs as to acceptability of product or service, WTA's decision prevails. WTA will only pay for work performed on authorized work orders up to termination. If the Contract is terminated within the trial period, WTA may award the Contract to the next lowest responsible bidder submitted a responsive bid. Any new award is also subject to a trial period.

## Part 5 – Special Terms and Conditions

A successful Proposer will execute a formal contract with WTA, which Contract shall include expressly or by reference the terms of this Request for Proposal, the general terms and conditions set out in Appendix A, and the following particular terms and conditions. Each and all of these applicable terms and conditions should be factored into any proposal:

### 5. A Contract Term, Compensation, and Invoice Payments

1. Contract Term: The initial length of the Contract will be three (3) years, and WTA may, in its discretion, extend the Contract for two (2) additional two (2) year increments. Total contract length with all extension options will not exceed seven (7) years.
2. Compensation: WTA will only issue payments against an approved Purchase Order.
3. Invoices: Payment will be based on Net thirty (30) day terms from the date of invoice receipt at ap@ridewta.com. WTA is open to negotiating different payment terms (i.e. 3% Net 15, etc.). Contractor will submit invoices no later than the 5<sup>th</sup> of the month following work performance. WTA reserves the right to refuse payment on invoices for work that completed sixty (60) days prior to the invoice receipt. Year end invoices will be submitted no later than January 20 each year unless otherwise approved in writing by WTA's Accounting Manager or designee.

Invoices must be addressed to Accounts Payable or emailed to ap@ridewta.com. WTA will not be responsible for late payments due to incorrect routing on the part of the vendor.

### 5. B Subcontractors

Contractor shall perform at least 90% of the work with its own organization.

All subcontractors must be pre-approved by WTA before they begin work. WTA reserves the right to investigate subcontractor responsibility prior to confirming award, if subcontractors are known. WTA will not approve change orders to the proposal or final contract price for replacing rejected subcontractors.

Prime contractors are required to provide a copy of the sub-contract or purchase order to WTA. Any sub-contract will contain the same language as required in Appendix A.

Before the sub-contractor starts, shall submit the following documents:

- Insurance requirements listed in Appendix A or furnish proof of inclusion of the Prime Contractors insurance
- Provide proof that all individuals are properly licensed, certified, and/or bonded to perform the contracted scope where applicable

Contractor will be jointly and severally, and vicariously liable to WTA for any work performed by its subcontractors, and responsible for the work of, including, but not limited

to the adequacy, timeliness, efficiency, and sufficiency, its subcontractors. All subcontractors will have sufficient knowledge, skill, and experience to perform the work contracted to them.

WTA will not be held responsible for the contractual relationship between subcontractors and Contractor. Contractor will maintain and monitor all subcontractor performance, payment, project delivery requirements, and relationships as they pertain to the Prime's ability to successfully complete a project.

### **5. C Limitations of Liability**

WTA is unable to agree to any limitation of liability in the event of a claim or issued judgment through the performance of a contract. This is considered a gift of public funds and is unenforceable by the Washington State Constitution<sup>8</sup>.

### **5. D Price Adjustments**

Prices shall remain firm-fixed for the duration of the initial three (3)-year Contract Term. Unless specifically requested in writing no less than sixty (60) days before the contract renewal, the Option term rates provided on Proposers' original Price Sheet Exhibit B will apply for each renewal term entered and shall be firm-fixed for the duration of that two (2)-year option term unless a further price relief adjustment is permitted in accordance with this section.

WTA reserves the right to approve, deny, or negotiate any price adjustments.

Contract price decreases and increases will be calculated using the CPI-U with the following parameters to obtain the Series ID CUURS49DSAS:

- Not Seasonally Adjusted
- AREA: Seattle-Tacoma-Bellevue, WA
- BASE: Current
- ITEM: Services
- PERIODICITY: Monthly

Price increases may not exceed 10% from the previous terms contract price. Contractors wishing to propose a higher increase will be required to submit additional documentation in support. Documentation may include but not be limited to: actual receipts, maintenance logs with costs, or subcontractor invoices.

Only in the event of market volatility pertaining to equipment or materials used in the provision of the work scope, WTA may consider requests for relief from the Contractor at any time during Contract. Contractor will submit specific and detailed documentation of a need for such relief. Documentation will include but not be limited to: actual receipts and

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<sup>8</sup> Article VIII, Section 7, "Credit not to be Loaned"



invoices, payroll data, and any other documentation supporting Contractors claim of market volatility.

### **5. E Insurance Requirements**

Contractor will be required to furnish insurance as outlined in Appendix A for each year the contract is effect.

## Part 6 – Public Disclosure Law

WTA complies with RCW Chapter 42.56. All proposals and Contract documents will be disclosed if a Public Disclosure Request (PDR) is submitted, unless a proper exception applies. It is Proposers responsibility to be familiar with RCW Chapter 42.56 and what WTA's confidentiality limitations are.

WTA will not execute non-disclosure agreements.

### **Proposals Marked Confidential:**

If WTA receives any public disclosure request that includes a request for all or a portion of any proposal, WTA is required to comply with this request under RCW Chapter 42.56, subject to any exception that may apply to WTA. Nonetheless, any information provided by Proposer labeled "Confidential" or "Proprietary" but does not, in WTA's opinion, fall into an exception from public disclosure, will be initially withheld and WTA will notify Proposer of the request. WTA will continue to withhold the confidential or proprietary labeled materials for a total of fourteen (14) days after providing notice. Thereafter, WTA shall release the confidential or proprietary materials pursuant to the public records request, subject to any court order or injunction that Proposer may obtain.

The Proposer assumes all costs of any legal actions, and shall reimburse WTA for administrative, expert and costs and attorneys' fees it incurs arising from dealing with bidder's labeling of any portion of the bid as "Confidential" or "Proprietary," including those arising from any legal action commenced by bidder. Submission of a bid is agreement with this section.

### **Public Records Application to Documents of Vendor**

As a public contract, all records prepared, generated or used by a successful vendor or its/his/her agents, employees and subcontractors relating to the Contract and associated work will be subject to being a "Public Record" under RCW Chapter 42.56. Proposer, if selected, shall maintain and retain all such records in a manner that is accessible and WTA shall have the right to review and inspect such records upon request, for a term of three (3) years following completion of the Contract work. All records subject to a public disclosure request will be provided to a requester. WTA may only refrain from disclosing any record based upon an exemption that is applicable to WTA, and will not refrain from disclosing any record under an exemption that may be personal to the Proposer. Proposer will need to seek judicial approval to prevent such disclosure, at its expense. Proposer, if selected, shall insert this provision in all contracts with subcontractors or agents providing services relating to the Contract.

## Part 7 – Proposer’s Checklist

By submitting a Proposal, Proposers agree to be bound by and adhere to all legal requirements and contract terms and conditions contained in this solicitation document.

WTA WILL NOT NEGOTIATE ANY ASPECT OF THE REQUIRED SERVICE OR ANY CONTRACT TERM OR CONDITION ONCE THE INTENT TO AWARD IS ISSUED. WTA WILL NOT MAKE ANY CONCESSIONS FOR PROPOSERS WHO ARE NOT COMPLETELY FAMILIAR WITH THE SCOPE OR CONTRACT REQUIREMENTS.

The following information, forms and documents contained in this solicitation shall be completed and submitted as the first section of the original bid document. Proposals not adhering to the provided directions may be disqualified as non-responsive.

WTA has included, as an editable file named “2023-007 RFP Exhibit A – F Fillable Bid Forms.doc” to be used for bid submission.

- Solicitation Response (Exhibit A)
- Proposal Cost (Exhibit B)
- Proposal Confirmation & Cover Sheet (Exhibit C)
- Proposer Information & References (Exhibit D)
- Debarment and Compliance (Exhibit E)
- Conflict of Interest (Part 3E)

Proposers are advised that the following will be incorporated into the final contract:

- Request for Proposal including Appendices
  - Appendix A – General Contract Terms & Conditions
  - Appendix C - Safety Sensitive Positions
  - Appendix D – Designating WTA as a Drug & Alcohol Free Workplace
  - Appendix E – Drug & Alcohol Abuse Prevention Program Definitions
  - Appendix F – Establishing Drug & Alcohol Testing
  - Appendix G – Training Employees on the Drug & Alcohol Abuse Prevention Program
  - Appendix H – Receiving Drug & Alcohol Abuse Assistance
  - Appendix I - Establishing WTA’s Drug & Alcohol Abuse Prevention Program
  - Appendix J – DOT Covered Substances 49 CFR Part 40
- Issued Addenda (if applicable)
- Contractor Completed Exhibits A – F
- Contractor Submitted Operational Procedures
- Executed Contract (Sample Appendix B) including any SaaS agreement required as part of web portal access.
- Purchase Orders

Proposers are responsible for ensuring they can access all Exhibits & Appendices.