

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 06/25/14
ITEM FROM FINANCE COMMITTEE MEETING OF 06/16/14

ISSUE:

26. Request for Approval of Professional Services Agreement – Substance Abuse Testing Services for City of Santa Fe Employees (RFP #14/23/P); DATCO Services Corporation. (Debbie Rouse and Barbara Boltrek)

FINANCE COMMITTEE ACTION: APPROVED AS DISCUSSION ITEM

Requested approval of professional services agreement for substance abuse testing services for City of Santa Fe employees (RFP #14/23/P) with DATCO Services Corporation in the amount of \$35,000 not to exceed \$140,000 inclusive gross receipts tax. Budget is available in insurance claims fund.

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	X		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ			

3-17/14/FCMissue

City of Santa Fe, New Mexico

memo

DATE: June 9, 2014

TO: Finance Committee

FROM: Robert Rodarte, Purchasing Officer 
Purchasing Division

VIA: Marcos A. Tapia, Director
Finance Department

ISSUE: Award of Request for Proposal # '14/23/P
Drug and Alcohol Testing

SUMMARY:

On April 15, 2014, three proposals were received for the above referenced service as follows:

	Evaluation Score
DATCO, CA	2110
Concentra, Santa Fe	1770
Southwest MRO LLC, Albuquerque	

The evaluation criteria consisted of performance capability (30%); extent of administrative services (40%); and fee proposal (30%). The proposal was reviewed and evaluated by Robert Rodarte, Purchasing, Barbara Boltrek, Carlos Ramirez, and Debbie Rouse, Risk and Safety and Ken Smithson, Transit.

The using department has reviewed the proposals and recommends award to DATCO, CA in the amount of \$35,000.00 annually for a four year term.

Budget will be available in account number 62106.510300 (Risk & Safety – Insurance Claims – Professional Service) for each fiscal year.

ACTION:

It is requested that this recommendation of award to DATCO, CA, in the amount of \$35,000.00 annually for a four year term be reviewed, approved and submitted to the City Council for its consideration.

Attachment(s):

1. Memo of recommendation from the using department.
2. A copy of the professional service agreement.
3. A copy of tabulation score sheet.

EVALUATION SCORES

'14/23/P

DRUG AND ALCOHOL TESTING

Evaluation Committee	Written Evaluation		
	DATCO	Concentra	Southwest MRO LLC
Robert Rodarte	300	400	330
Barbara Boltrek	470	330	360
Carlos Ramirez	400	360	360
Debbie Rouse	470	340	330
Ken Smithson	470	340	0
Total Score	2110	1770	1380

City of Santa Fe, New Mexico

memo

DATE: JUNE 3, 2014

TO: SHIRLEY RODRIGUEZ, PROCUREMENT ANALYST
PURCHASING DIVISION

FROM: DEBBIE ROUSE^{DR}, SAFETY MANAGER

VIA: BARBARA BOLTREK, RISK MANAGEMENT/SAFETY MANAGER^{BB}

SUBJECT: RECOMMENDATION OF AWARD FOR RFP# 14/23/P

The Office of Risk Management requested proposals for the service to provide Substance Abuse Testing for the City of Santa Fe employees. On April 29th, the designated review committee reviewed four proposals submitted by Concentra, Southwest Drug & Alcohol Compliance, LLC, Southwest M.R.O. and DATCO.

As a result of this review, it is the recommendation of the committee to award RFP# 14/23/P, Substance Abuse Testing Program, to DATCO.

The contract amount will be \$35,000 per year, for a four year term, not to exceed \$140,000 for the life of the contract.

Funding is available in business unit and line item: 62106.510300.

Should you have any questions regarding this matter, please contact me at 5625.

CITY OF SANTA FE
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and DATCO Services Corporation (the "Contractor"). The date of this Agreement shall be the date when it is executed by the City and the Contractor, whichever occurs last.

1. SCOPE OF SERVICES

The Contractor shall provide the following services for the City:

A. For City employees mandated under various Drug and Alcohol policies as noted in Exhibit "A".

(1) Substance Abuse and Breath Alcohol Testing: Weekdays, Collection Availability for all city employees shall be provided during normal business hours, 8:00a.m. to 5:00p.m., Monday through Friday. And After Hours, 5:00p.m. and before 8:00a.m., seven (7) days per week, in Santa Fe, New Mexico.

a. Substance abuse testing shall consist of Department Of Health and Human Services and Department of Transportation five (5) Panel Urine drug testing.

b. Screening shall be done by an Enzyme Multiplied Immunoassay Test (EMIT) and confirmed by Gas Chromatography/Mass Spectrometry (GC/MS).

- c. A split specimen collection shall be used for urine testing and the collection shall be performed by trained collectors/tech.
- d. Drug test results shall be provided to a designated medical review officer (MRO) within twenty-four (24) hours from receipt of specimen in the laboratory for a negative drug screen; and to the MRO within forty-eight (48) to seventy-two (72) hours from receipt of specimen in the laboratory GC/MS confirmed positive results.
- e. Breath alcohol testing shall be performed by a certified breath alcohol testing technician using a government-approved evidential breath testing device.
- f. Chain of custody forms and procedures shall adhere to and document strict chain of custody form specimen collections throughout testing, reporting, and storage.
- g. If a substance abuse and/or breath alcohol test result is contested, the Contractor shall provide expert testimony to support the Contractor's findings.

B. For City employees mandated under various Drug and Alcohol policies as noted in Exhibit "A".

(1) Medical Review Services for city employees engaged in the drug testing program, shall be performed with strict adherence to Department of Health and Human Services and Department of Transportation (DOT) regulations.

- a. The Contractor shall review the drug test results to determine whether there is an alternative medical explanation for the test result, such as a legal use of prescription medication.
- b. Ensure the timely flow of test results and other information to the City.
- c. Shall provide the necessary privacy and confidentiality of the city employee personal medical history during the course of the reviewing process.
- d. The test result shall be reviewed by trained and certified Medical Review Officer (MRO).

(2) Random Selection Services for substance abuse and breath alcohol testing through the term of this Agreement.

- a. The consortium administrator shall update the pool, expedite the selection, communicate the selection and make the selection statistics available to the member company in a timely manner.

2. STANDARD OF PERFORMANCE; LICENSES

A. The Contractor represents that it possesses the experience and knowledge necessary to perform the services described under this Agreement.

B. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

C. The Contractor agrees to provide copies of certifications and documentation for the testing laboratory to the City a minimum of twice annually in January and July, and as changes occur including but not limited to:

- (1) Testing Equipment
- (2) Testing Technicians
- (3) Federal Laboratory Certifications.

3. COMPENSATION

A. The City shall pay to the Contractor in full payment for services rendered, a sum not to exceed thirty-five dollars (\$35,000), annually for four (4) years and not to exceed one hundred forty thousand dollars (\$140,000) for the life of the contract, inclusive of applicable gross receipts taxes.

B. The Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums paid under this Agreement.

C. Payment shall be made upon receipt, approval and acceptance by the City of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed and accepted by the City.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the City and the Contractor, whichever occurs last, and shall terminate on June 30, 2018, unless sooner pursuant to Article 6 below.

6. TERMINATION

A. This Agreement may be terminated by the City upon 30 days written notice to the Contractor.

(1) The Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the City original copies of all work product, research or papers prepared under this Agreement.

(2) Compensation is not based upon hourly rates for services rendered, therefore the City shall pay the Contractor for the reasonable value of services satisfactorily performed through the date Contractor receives notice of such termination, and for which compensation has not already been paid.

7. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement.

B. Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

C. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement.

8. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City. DATCO Services Corporation and the City of Santa Fe mutually agree to abide by the Health Insurance Portability and Accountability Act (HIPPA), 45CFR Parts 160-164, ("The Privacy Rule") and all State and Federal guidelines regarding confidentiality.

9. CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

11. RELEASE

The Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. The Contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

B. Contractor shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

C. Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under

the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

13. INDEMNIFICATION

The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. RECORDS AND AUDIT

The Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and

nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

22. NOTICES

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

City of Santa Fe:
Risk Management/Safety Division
P.O. Box 909
Santa Fe, NM 87504

Contractor:
DATCO Services Corp.
2280 Grass Valley Highway, Suite 232
Auburn, CA 95603

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

CONTRACTOR:
DATCO Services Corp.

JAVIER M. GONZALES, MAYOR

COURTNEY MORGAN,
OPERATIONS DIRECTOR

DATE: _____

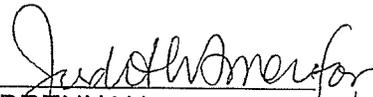
DATE: _____

Federal Tax ID #68-0386319
City of Santa Fe Business
Registration # 14-0012595B

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLEY A. BRENNAN,
INTERIM CITY ATTORNEY 5/23/14

APPROVED:

MARCOS A. TAPIA, FINANCE DIRECTOR

62106.510300
Business Unit Line Item

BACKGROUND & INFORMATION

The City of Santa Fe is seeking proposals from qualified firms to conduct collection and testing for alcohol and drugs from employees in various city positions.

The City of Santa Fe employs 1500 individuals, in various classifications, all of which fall under one of five (5) separate policies for drug and alcohol abuse. The Risk Management/Safety Division is responsible for administering the five drug and alcohol policies. The policies are as follows:

- Department of Transportation (DOT) – This policy applies to city employees that are required to have a commercial driver's license, (CDL), to perform their jobs. Testing includes pre-employment, post-accident, random, reasonable suspicion and return to duty/follow-up tests.
- Federal Transit Administration (FTA) – This policy covers all city Transit Division employees including bus/van operators, dispatchers, para-transit drivers, maintenance staff and supervisory staff. Also, covers Recreation Division employees including swim instructor, swim lifeguard, and recreation supervisor when required to possess a lifeguard certification. Administrative/clerical personnel fall under a separate city policy. Testing conditions are the same as the above.
- City of Santa Fe Police Department – This policy applies to all safety sensitive personnel including all commissioned police officers, (regardless of rank), emergency dispatchers, and public safety aides. Testing conditions are the same as the above. A safety sensitive position means a position which requires the employee to perform duties which impact the safety of the public and which expose the employee of hazardous conditions and requires responsibility for the physical safety of others. All other Police Department personnel, (non-commissioned/civilian), fall under a separate city drug and alcohol testing policy.
- City of Santa Fe Fire Department – This policy applies to all uniformed members of the Fire Department, (regardless of rank), and all fire apparatus technicians. These are also considered safety sensitive positions. Testing conditions are the same as the above. All civilian Fire Department employees fall under a separate city drug and alcohol testing policy.
- Reasonable Suspicion Testing for City of Santa Fe AFSCME employees/non-union employees/non-CDL/non safety sensitive employees – This policy applies to all city positions/classifications that do not fall under one of the above policies. Testing is only for reasonable suspicion and return to duty/follow-up tests. All other testing conditions do not apply.



City of Santa Fe Summary of Contracts, Agreements, & Amendments

Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT or CONTRACT AMENDMENT

2 Name of Contractor DATCO

3 Complete information requested Plus GRT
 Inclusive of GRT

Original Contract Amount: \$35,000.00

Termination Date: June 30, 2014

Approved by Council Date: Pending

or by City Manager Date: _____

Contract is for: Provide Substance Abuse Testing Services to the City.

Amendment # _____ to the Original Contract# _____

Increase/(Decrease) Amount \$ _____

Extend Termination Date to: _____

Approved by Council Date: _____

or by City Manager Date: _____

Amendment is for:

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments) Plus GRT
 Inclusive of GRT

Amount \$ _____ of original Contract# _____ Termination Date: _____

Reason: _____

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: \$ 140,000.00



City of Santa Fe Summary of Contracts, Agreements, & Amendments

5 Procurement Method of Original Contract: (complete one of the lines)

RFP# 14/23/P Date: _____

RFQ _____ Date: _____

Sole Source _____ Date: _____

Other _____

6 Procurement History: 4 year contract
example: (First year of 4 year contract)

7 Funding Source: _____ 62106 BU/Line Item: _____ 510300

8 Any out-of-the ordinary or unusual issues or concerns:
none
(Memo may be attached to explain detail.)

9 Staff Contact who completed this form: Debbie Rouse

Phone # x.5625

10 Certificate of Insurance attached. (if original Contract)

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # _____

Date of contract Executed (i.e., signed by all parties): _____

Note: If further information needs to be included, attach a separate memo.

Comments:

Client#: 548470

63DATCOSER

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/10/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: 3B&T Insurance Services, Inc. 110 Dixie Street Carrollton, GA 30117 770 214-1991
INSURED: DATCO Services Corporation 2280 Grass Valley Highway Suite 232 Auburn, CA 95603
INSURER A: Markel Ins (Stringer Ware) NAIC # 38970

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: COVR, TR, TYPE OF INSURANCE, ADJUSTER, POLICY NUMBER, POLICY EFF, POLICY EXP, LIMITS. Includes rows for General Liability, Automobile Liability, Umbrella Liability, Workers Compensation, and Professional Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Professional Liability-Testing Services; Claims Made; Retro Date: 06/12/96; Deductible: \$2,500 Each Claim;
DNA Testing; Training Endorsement
The policy includes a blanket additional insured endorsement (WE-009-01) that provides additional insured status to the certificate holder only when there is a valid written contract between the named insured and certificate holder that requires such status.

CERTIFICATE HOLDER and CANCELLATION sections. CANCELLATION text: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: Paula D. Dayem

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