

February 5, 2007

Scott Fontaine
6146 S. Cushman Ave.
Tacoma, WA 98408

Re: Freedom of Information Act Request
Received January 30, 2007

Dear Mr. Fontaine:

I have been asked by West Virginia University President David Hardesty to look into your recent West Virginia Freedom of Information Act (WVFOIA) request. You request information relating to drug testing of West Virginia University athletes conducted since January 1, 2004.

We were able to locate four (4) pages of documentation responsive to your request for documentation or an accounting of all positive (drug) tests. With regard to those documents, portions of them were redacted so as to not breach the confidentiality of those involved in the testing. You will notice that recreational drugs were tested by WVU, while drugs such as anabolic steroids were tested by the NCAA, for the years in question.

We were unable to locate a calendar or other documentation indicating the frequency of drug tests administered to athletes; however, random drug tests are conducted on a monthly basis while school is in session. Team tests may be performed at the request of a coach with approval by an administrator.

We are unable to provide any documents in response to your third request, records related to punishments levied for positive tests, because any response we provide would violate confidentiality regulations including, but not limited to, the Family Educational Rights and Privacy Act (FERPA). That being said, our four (4) page response to your fifth request, audits or reports discussing the drug testing of athletes, while not an audit or report, should provide you with the general list of sanctions imposed on student athletes who violate the substance abuse program.

We were unable to locate documents responsive to your fourth request, the budget for or amount of money dedicated to drug testing for fiscal or calendar years, 2004, 2005, 2006 and 2007 because there is no line item specific to "drug testing." I can, however, provide you with the information directly:

Fiscal Year 2004 - \$7,000.00
Fiscal Year 2005 - \$7,000.00
Fiscal Year 2006 - \$7,000.00
Fiscal Year 2007 - \$7,000.00

Office of the President

We were able to locate twenty-two (22) pages of documentation responsive to your sixth request, contracts or agreements with vendors who have a role in drug testing athletes and your seventh request, all information provided by vendors the last time your institution put the drug testing of athletes up for bid or requested proposals.

In total, we were able to locate thirty (30) pages of documentation responsive to your request. West Virginia University has established a fifty (50) cent per page copying fee for records requested under the West Virginia Freedom of Information Act. If you would like us to mail these documents to you, please provide a check in the amount of \$15.00, made out to "West Virginia University." We will forward the documents to you at your address, listed above, when we receive your check. If you want to set up an appointment to view the documents, please give me a call and we will set an appropriate time for your visit. While you are viewing the file, you may designate which records you would like to have copies for which you must pay the rate as noted above.

I am required by W.Va. Code § 29-B-1-3(4) to advise you that this request is now at an end and that you may "institute proceedings for injunctive or declaratory relief in the circuit court" of Monongalia County, should you choose to do so.

Sincerely,



Shea R. Browning
Assistant General Counsel



West Virginia University

General Counsel's Office

February 5, 2007

Scott Fontaine
6146 S. Cushman Ave.
Tacoma, WA 98408

Re: Freedom of Information Act
Request Received January 30,
2007

Dear Mr. Fontaine:

We are still in the process of preparing a response to the above referenced West Virginia Freedom of Information Act (WVFOIA) request, and need some additional time. We expect to be able to give you a response no later than February 16, 2007. I apologize for the delay.

If you have any questions, please contact me at the number listed below.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Shea R. Browning', written over the typed name and title.

Shea R. Browning
Assistant General Counsel

Office of the President

Phone: 304-293-5841
Fax: 304-293-2326
www.wvu.edu/~gcounsel/

105 Stewart Hall
PO Box 6201
Morgantown, WV 26506-6201

Equal Opportunity/Affirmative Action Institution



West Virginia University

General Counsel's Office

May 1, 2007

Scott Fontaine
6146 S. Cushman Ave.
Tacoma, WA 98408

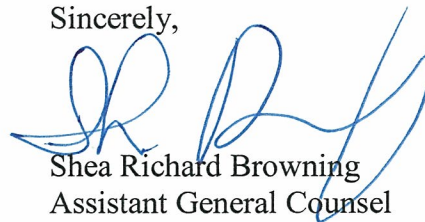
RE: FOIA Request

Dear Mr. Fontaine:

This will acknowledge receipt of your check in the amount of \$15.00 to cover the cost of duplicating the document you requested under the West Virginia Freedom of Information Act. Enclosed please find the document responsive to your request.

If you have any questions, please contact me at the number listed below.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SR Browning', written over a printed name and title.

Shea Richard Browning
Assistant General Counsel

Enclosures

Office of the President

Phone: 304-293-5841
Fax: 304-293-2326
www.wvu.edu/~gcounsel/

105 Stewart Hall
PO Box 6201
Morgantown, WV 26506-6201

Equal Opportunity/Affirmative Action Institution

MOUNTAINEERS

West Virginia University

Intercollegiate Athletics
PO Box 0877
Morgantown WV 26507-0877

DRUG TESTING RESULTS August 2003 – May 2004

WVU Testing



Total Tests: 253

Recreational: 253
Anabolic Steroid: 0

Negative: 249 (98.4%)

Positive: 4 (1.58%)

Violations: 4 First

- 4 Marijuana

Dilute: 8 (3.16%)

- 6 Retested: 5 Negative
1 Dilute → Surprise Retest: Positive

NCAA Testing

Site Testing (Nov. 12, 2003)

Total Tests: 22

- 18 [REDACTED]
- 4 [REDACTED]

Negative: 22

[REDACTED] (Dec. 30, 2003)

Total Tests: 18

Negative: 18

MOUNTAINEERS

West Virginia University

Intercollegiate Athletics
PO Box 0877
Morgantown WV 26507-0877

DRUG TESTING RESULTS

August 2004 – May 2005

WVU Testing



Total Tests: 256

Recreational: 256

Anabolic Steroid: 0

Negative: 255 (99.6%)

Positive: 1 (0.39%)

Violations: 1 First

- 1 Marijuana

Dilute: 7 (2.73%)

- 6 Retested: 5 Negative

1 Dilute – no surprise test (school out of session)

NCAA Testing

Site Testing (Mar. 31, 2005)

Total Tests: 24

- 16 [REDACTED]

- 8 [REDACTED]

Negative: 24

Total Tests: 4

[REDACTED] (Mar. 24, 2005)

Negative: 4

MOUNTAINEERS

West Virginia University

Intercollegiate Athletics

PO Box 0877

Morgantown WV 26507-0877

DRUG TESTING RESULTS

August 2005 – May 2006

WVU Testing



Total Tests: 243

Recreational: 243

Anabolic Steroid: 0

Negative: 242 (99.6%)

Positive: 1 (0.39%)

Violations: 1 First

- Failure to show

Dilute: 2 (0.82%)

- 0 Retested

NCAA Testing

Site Testing (Jan. 26, 2006)

Total Tests: 24

- 18

- 8

Negative: 26

Total Tests: 4

(Mar. 17, 2006)

Negative: 4

MOUNTAINEERS

West Virginia University

Intercollegiate Athletics
PO Box 0877
Morgantown WV 26507-0877

DRUG TESTING RESULTS July 2006 – December 2006

WVU Testing



Total Tests: 111

Recreational: 111
Anabolic Steroid: 0

Negative: 110 (99.1%)

Positive: 1 (0.90%)

Violations: 1 First

- Marijuana

Dilute: 2 (1.80%)

- 2 Retested

2 Negative

NCAA Testing

Site Testing

July 27, 2006

Total Tests: 4

- 4 [REDACTED]
- 0 [REDACTED]

Negative: 3

Positive: 1 – Anabolic steroid

October 5, 2006

Total Tests: 31

- 19 [REDACTED]
- 8 [REDACTED]
- 4 [REDACTED]

Negative: 30

Positive: 1 – Anabolic Steroid

CONSENT TO PARTICIPATE IN WVU
DEPARTMENT OF INTERCOLLEGIATE ATHLETICS
DRUG SCREENING POLICY AND
SUBSTANCE ABUSE PROGRAM

I, _____ hereby acknowledge that I have received a copy of the WVU Department of Intercollegiate Athletics Drug Screening Policy and Substance Abuse Program. I further acknowledge that I read the Policy; that it has been outlined to me, and that I fully understand the provisions of the Policy.

I hereby voluntarily and without threat, inducement or compulsion, consent to have a sample of my urine collected and tested for the presence of certain drugs or substances on a random, unannounced basis, in accordance with the provisions of the Drug Screening Policy, and at such times as required under the policy.

I further agree and consent to the disclosure of said records and results relating to me only to those persons involved in the administration of the program, and only under the circumstances described in the "Program". This consent is given pursuant to all State and Federal privacy statutes and is a waiver of my rights to non-disclosure of such test records and results only to the extent of the disclosures authorized in the "Program".

I understand that the contracted laboratory shall release the results of the urinalysis to the Drug Advisory Committee only. I further understand that the team physician(s) is obligated to keep my identity confidential and he is not required and may not be compelled to furnish my name or identity in any state or local civil, criminal, administrative legislative or other proceedings. (W.Va. Code 60A-5-504).

I hereby release the West Virginia Board of Regents, West Virginia University, its employees and agents from legal responsibility or liability for the disclosure or release of any information from the records or forms kept pursuant to this policy

Student's Name Printed

Date

Student's Signature

(over)

JAN 11 2007

DRUG SCREENING AND SUBSTANCE ABUSE PROGRAM

Purpose. The Department of Intercollegiate Athletics at West Virginia University believes that the use of controlled substances and "performance enhancing" drugs constitutes a threat to the integrity of intercollegiate athletics, represents a danger to the health and careers of student-athletes and unduly exposes student-athletes to exploitation. Additionally, use or abuse of drugs can be extremely injurious to student-athletes and their teammates, particularly when participating in athletic competition or practice.

Therefore, the Athletic Department has implemented a mandatory program of drug education, testing and treatment (counseling/rehabilitation) to assist and benefit athletes at West Virginia University. The program seeks to protect student-athletes at West Virginia University from the risks and dangers of drug abuse through such measures as sanctions for violations of this policy.

Goals of the Drug Screening and Substance Abuse Program include enhancing the health and well-being of all student-athletes and safeguarding student-athletes participating in West Virginia University programs. Because West Virginia University believes drug use can destructively affect the physical and emotional well-being of student-athletes, no matter when such use should occur during the year, drug screening tests are random throughout the year.

Athletic Drug Advisory Committee. The Athletic Drug Advisory Committee supervises the Drug Screening and Substance Abuse Program. The Athletic Drug Advisory Committee is comprised of the Athletic Director, Assistant Athletic Director, Assistant Athletic Director/Finance and Administration, Assistant Athletic Director/Student Services, Team Physicians, a representative from the Carruth Center, Coordinator of Athletic Medical Services, Coordinator of Athletic Training Services, Head Football Athletic Trainer, designated coaches, and a student-athlete (in an advisory role, appointed by the athletic administration).

The Athletic Training Staff works cooperatively with the Athletic Drug Advisory Committee to help supervise the Drug Screening and Substance Abuse Program. The Athletic Training Staff collects from each student-athlete a signed copy of the consent form to participate in the Drug Screening and Substance Abuse Program. A member of the Athletic Training Staff contacts the contracted laboratory to monitor and collect urine during the testing procedure.

Prohibited Substances. The use of the following drugs is prohibited before, during, and after the sport season, except as may be prescribed by a physician qualified to treat the medical condition for which the prescription is made.

Athletic Drug Screen Panel

Amphetamines	Benzodiazepines	Anabolic Steroids	Cocaine
Barbiturates	Cannabinoid	Methaqualone	Opiates
Phencyclidine			

Procedure. Student-athletes are asked to sign an "Informed Consent" waiver giving the West Virginia University Athletic Department permission to test. The contracted laboratory collects the urine samples for analysis.

Randomization and team testing will be done throughout the year. Official team rosters are procured from the WVU Athletic Department Compliance Office and are used to compose a list of student-athletes eligible to be randomly selected by computer for the test. This computerized list will be generated at various times throughout the semester.

Failure to appear at the testing site will be treated as a positive result. If a student-athlete is unable to produce a specimen or produces an insufficient volume for testing, he/she will be instructed to drink eight ounces of fluid every fifteen minutes for the remainder of the testing period. If, after this time, an adequate specimen still has not been produced, the student-athlete will be required to produce an acceptable sample at a designated laboratory site by the end of the business day. Failure to do so will be treated as a positive result. Any attempt to alter the integrity or validity of the urine specimen and/or collection process will be treated as a positive result. If the specimen is not within the acceptable temperature range, another sample must be provided immediately or within that day before the next practice.

Those athletes who have dilute urine specimens will be re-tested at the next scheduled testing session. If they produce a second dilute, the respective head coach will be notified; they will then have a surprise test soon thereafter. If the surprise test is dilute, the results of that test will be considered valid. If the student-athlete who had a previous positive result produces a dilute specimen, they will be subject to a surprise test.

Identification of those participating in the urinalysis and the results will be strictly confidential. The testing service will notify the appropriate member of the Athletic Drug Advisory Committee of all results. That person will be the only person capable of matching test results with individual identification numbers and will in turn notify individuals of their results.

Results

NEGATIVE RESULTS:

In accordance with the purpose of this program, the Department of Intercollegiate Athletics, to begin with, will assume that all student-athletes will test negative to the controlled substances listed. There will be no maximum number of times each student-athlete may be tested during their careers at WVU. If a student-athlete does have a positive urine test, then he/she will be placed on an active list and then may be randomly tested for the remainder of their career at WVU.

POSITIVE RESULTS:

First Violation. If an individual's sample tests positively, the contracted laboratory will retest the sample immediately to assure there is no error in the result. If a positive result is verified and confirmed, an Athletic Drug Advisory Committee member will be notified by the laboratory and in turn, the committee member will notify the student-athlete who tested positive by letter. The student-athlete will be directed to arrange a meeting with his/her head coach and supervising athletic trainer within three (3) days. At this meeting, the student-athlete in the presence of these individuals, will telephone his/her parents and advise them of the results. In addition, copies of this letter will be sent to the Athletic Director, the Head Coach, the supervising athletic trainer, and a representative from the WVU Carruth Center for Counseling and Psychological Services. The student-athlete is expected to make an appointment to be seen in the Carruth Center within one week for an evaluation of alcohol or other substance abuse or dependence.

The student-athlete will be suspended from participation in team practices, games, and activities, including team meetings and pre-event meals, until he/she has a subsequent **NEGATIVE** drug screen as monitored by the Carruth Center. The student-athlete will continue participation with the Carruth Center until he/she is released by this service.

Failure to comply or refusal to participate with the counseling program set forth above, will result in immediate disqualification from all athletic participation until the above guidelines are met.

Second Violation. If an individual's sample tests positively, the contracted laboratory will retest the sample immediately to assure there is no error in the result. If a positive result is verified and confirmed, an Athletic Drug Advisory Committee member will be notified by the laboratory and in turn, the committee member will notify the student-athlete who tested positive by letter. The student-athlete will be directed to arrange a meeting with his/her head coach, supervising athletic trainer, and the Athletic Director within three (3) days. At this meeting, the student-athlete in the presence of these individuals, will telephone his/her parents and advise them of the results. In addition, copies of this letter will be sent to the Athletic Director, the head coach, the supervising athletic trainer, and a representative from the WVU Carruth Center for Counseling and Psychological Services. The student-athlete is expected to make an appointment to be seen in the Carruth Center within one week for an evaluation of alcohol or other substance abuse or dependence.

The student-athlete will be suspended from participation in team practices, games, and activities, including team meetings and pre-event meals, until he/she has a subsequent NEGATIVE drug screen as monitored by the Carruth Center. The suspension will also include a time period of 10% of the team's season competition schedule including postseason events. In computing the 10% penalty, .50 is rounded down, and .51 is rounded up. The suspension will also include no traveling either to home or away events during this period. The suspension will begin immediately upon the student's notification of positive results. If a team completes its competition schedule while a student-athlete is under the above suspension, the student's participation suspension will carry over into the following year's (next season's) competition.

The student-athlete is required to comply with the minimal guidelines set forth above. Failure to do so will result in immediate disqualification from all athletic participation and removal of all department-provided financial support for the remainder of the student-athlete's career. The student-athlete's head coach may impose additional penalties beyond these guidelines subject to the approval of the Director of Athletics.

Third Violation. The individual's sample will be retested immediately to assure no error has occurred. If the positive result is verified and confirmed, the Athletic Drug Advisory Committee member will notify the student-athlete testing positive by letter to arrange an appointment with the Head Coach, Director of Athletics, Team Physician, and supervising athletic trainer. At this meeting the Director of Athletics will notify the student-athlete's parents and advise them that the student-athlete will be removed from all further athletic participation and all athletic provided financial aid will be withdrawn for the remainder of the athlete's career. The student-athlete will also be referred for appropriate rehabilitation.

Effect of Negative Results in Retesting to Confirm Positive Test Result. When the result of any retest for confirmation of a positive test is negative, it shall be assumed the immediately prior positive result was in error, and that prior test shall be treated as no violation.

Any conviction of an alcohol and/or drug related incident, including in the dormitories or any court of law, will be considered a first violation of the West Virginia University Department of Intercollegiate Athletics Drug Screening Policy and Substance Abuse Program. Any subsequent incidents will be considered a second and/or third violation as outlined in the above mentioned policy. Reasonable suspicion, notification from the police or safety officials, violation of team rules, and/or concerns from the Athletic Director or athletic administration and coaches will result in a referral to the Carruth Center without counting as a first violation. Failure to comply with the Carruth Center and/or the referral will result in a first violation. Any subsequent incidents will be referred to the Carruth Center too; failure to comply with the Carruth Center and/or the referrals will be considered a second and/or third violation as outlined in the above mentioned policy.



West Virginia University

Buyer: J Page 1 of 7 Pages

Contract No.: U04DRUGTEST

Institution: West Virginia University

Preparation Date: 02/03/04

State Acct. No.: VARIOUS

Fiscal Year: 2004

Purchase Order

Vendor Name and Address:

F.E.I.N. 0000158319/133757370

Telephone No.: 800-833-3984

Ship To: West Virginia University Various Locations Morgantown, WV 26506

Laboratory Corporation of America Holdings 6370 Wilcox Road Dublin, Ohio 43016 Attn: Contracts Department

Invoice in Quintuplicate To: West Virginia University Procurement Services PO Box 6024 Morgantown, WV 26505-6024

Effective Date: February 15, 2004

Terms:

F.O.B. Destination

Shipping Date: As needed

Contract Acceptance

This Agreement constitutes the acceptance of contract made by and between West Virginia University Board of Governors and Laboratory Corporation of America Holdings for Substance Abuse Testing

signed by James R Mott

Senior Vice President (Title)

WV State Purchasing Division Administration Unit Certified Encumbered

FEB 16 2004

[Handwritten signature]

Service performed under this contract is to be continued in the succeeding fiscal year contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated for these services, this contract becomes of no effect and is null and void after June 30.

Terms and Conditions On Back

Total Amount Of This Purchase Order \$ OPEN END

[Handwritten signature: James Bennett] Procurement Officer

TERMS AND CONDITIONS

1. **ACCEPTANCE:** Seller shall be bound by this Order and its terms and conditions upon receipt of this Order. This Order expressly limits acceptance to the terms and conditions stated herein. Additional or different terms proposed by the Seller are objected to and are hereby rejected, unless otherwise provided for in writing by the Buyer and approved by the Attorney General.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the Procedural Rules of the Governing Board having jurisdiction shall govern all rights and duties under the Contract; including, without limitation, the validity of this Purchase Order/Contract.
3. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder, may be assigned by the Seller without the Buyer's consent.
4. **BUYER:** For the purposes of these Terms and Conditions, the "Buyer" means the institution purchasing goods and services for which a Purchase Order has been lawfully issued to the Seller.
5. **CANCELLATION:** The Buyer may cancel any Purchase Order/Contract upon 30 days written notice to the Seller.
6. **COMPLIANCE:** Seller shall comply with all federal, state and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the W.Va. Division of Labor, if applicable.
7. **DELIVERY:** For exceptions to the delivery date as specified in the Order, the Seller shall give prior notification and obtain the approval of the Buyer. Time is of the essence of this Order and it is subject to termination by the Buyer for failure to deliver on time.
8. **DISPUTES:** Disputes arising out of the agreement shall be submitted to the West Virginia Court of Claims.
9. **HOLD HARMLESS:** The Buyer will not agree to hold the Seller or any other party harmless because such agreement is not consistent with state law.
10. **MODIFICATIONS:** This writing is the parties' final expression of intent. No modification of this Order shall be binding unless agreed to in writing by the Buyer.
11. **NON-FUNDING:** All services performed or goods delivered under this Purchase Order/Contract are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
12. **ORDER NUMBERS:** Contract Order numbers or Purchase Order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices and correspondence.
13. **PAYMENTS AND INTEREST ON LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the West Virginia Code.
14. **RENEWAL:** The Contract may be renewed only upon mutual written agreement of the parties.
15. **REJECTION:** All goods or materials purchased herein are subject to approval of the Buyer. Any rejection of goods or materials resulting in nonconformity to the terms, conditions or specifications of this Order, whether held by the Buyer or returned to the Seller, will be at the Seller's risk and expense.
16. **SELLER:** For the purposes of these Terms and Conditions, the "Seller" means the vendor whose quotation, bid, proposal or expression of interest has been accepted and has received a lawfully issued Purchase Order from the Buyer.
17. **SHIPPING, PACKING, BILLING & PRICING:** Unless otherwise stated, all goods are to be shipped pre-paid, FOB destination. No charges will be allowed for special handling, packing, wrapping, bags, containers, etc., unless otherwise specified. All goods or services shall be shipped on or before the date specified in this Order. Prices are those that are stated in this Order. No price increase will be accepted without written authority from the Buyer.
18. **TAXES:** The State of West Virginia (the Buyer) is exempt from Federal and State taxes and will not pay or reimburse such taxes.
19. **TERMINATION:** In the event of a breach by the Seller of any of the provisions of this contract, the Buyer reserves the right to cancel and terminate this contract forthwith upon giving written notice to the Seller. The Seller shall be liable for damages suffered by the Buyer resulting from the Seller's breach of contract.
20. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this Order will: (a) conform to the specifications, drawings, samples or other description furnished or specified by the Buyer; (b) be merchantable and fit for the purpose intended; (c) be free and clear of all liens, claims and encumbrances of any kind; and/or (d) be free from defect in material and workmanship.

Revised 3/29/96

15715

Vendor will perform forensic urine drug testing including temperature and PH verification at time of collection by immunoassay initial testing, and further confirmation testing of presumptive positive specimens by Gas Chromatography/Mass Spectrometry (GC/MS) GC/MS is generally recognized as the most accurate technology available and is recommended in all situations where results are planned for use in connection with employment or punitive decisions.

Vendor will provide at no additional charge, all supplies necessary for the collection, preparations, transportation and preservation of all specimens to be submitted for testing.

Vendor agrees to maintain the confidentiality and not to disclose externally the results of tests performed on specimens referred to it for tests, except to the referring physician or with the consent of the patient, unless required by law.

Vendor will provide personnel to provide collection and/or observers at various athletic facilities within 24 hours of notification.

Test Cutoffs

INITIAL SCREEN	DRUG	GC/MS CONFIRMATION
300	Amphetamines	500
200	Barbiturates	200
300	Cocaine	150
20	Cannabinoids	10
300	Methaqualone	200
300	Opiates	200
25	Phencyclidine	20
300	Benzodiazepine	300

EST Qty.	TEST NUMBER	TEST NAME	NET PRICE
600	709439 ⁷³⁷³⁹³	Immunoassay Drug Screen	\$ 19.00 each

Includes Qualitative Analyses for the following Drugs of Abuse

Amphetamines	Cocaine (Benzoylcegonine)
Barbiturates	Methaqualone (Quaaludes)
Benzodiazepines	Opiates
Cannabinoid	Phencyclidine (PCP)

*Confirmation tests, by Gas Chromatography/Mass Spectrometry (GC/MS) will be performed at \$ 56.00 per drug class

Est Qty.	TEST NUMBER	TEST NAME	NET PRICE
110	803007	Anabolic Steroids	\$120.00
	070466	Chain of Custody Handling	\$ 1.50
	708008	Observer Collection Charge (Per observer)	\$ 14.00

*GC/MS Confirmation of each positive result \$56.00 per drug class

LIFE OF CONTRACT: This contract becomes effective on **February 15, 2004** and extends for a period of one (1) year or until such reasonable time thereafter as is necessary to obtain a new contract. Such "reasonable time" shall not exceed twelve (1) months. The vendor may terminate this contract for any reason upon expiration of one (1) year from the effective date of this contract by giving the Chief Procurement Officer thirty (30) days written notice.

RENEWAL: The contract may be renewed upon mutual written consent, submitted to the Chief Procurement Officer thirty (30) days prior to the date of expiration. Such renewal shall be in accordance with the terms and conditions of the original contract and shall be limited to two (2) successive one- (1) year periods.

CANCELLATION: The Chief Procurement Officer reserves the right to cancel the contract immediately upon written notice to the vendor if the commodities or services supplied are of an inferior quality or do not conform with the specifications of the bid and contract herein.

OPEN MARKET CLAUSE: The Chief Procurement Officer may purchase in the open market, without the filing of a requisition or cost estimate, items specified on this contract for immediate delivery in emergencies due to unforeseen causes (including but not limited to delays in transportation or an unanticipated increase in the volume of work).

QUANTITIES: Quantities listed in the Request for Bids are approximate only based on future estimates. It is understood and agreed that the contract shall cover the quantities actually ordered for delivery during the term of the contract, whether more or less than the quantities shown.

VENDOR REGISTRATION: All vendors and/or Contractors must be registered with the State of West Virginia before conducting business. All vendors must be registered prior to issuance of a purchase order or contract and will be responsible for and must pay any registration fee. Vendor's registration must remain current throughout the life of this contract.

PRICE ADJUSTMENT PROVISION: West Virginia University will consider bids that contain provisions for price adjustments prior to the expiration of the life of the contract, provided that such price adjustment covers both upward and downward movement of the commodity price, and that adjustment is based upon the "pass through" increase or decrease of raw materials, which make up all or a substantial part of the product. Adjustments are to be based upon an actual dollar figure, not on percentage. All price adjustment requests must be substantiated in a manner acceptable to the Chief Procurement Officer of WVU, e.g. governmental bench marks, general market increase, published price lists. The Chief Procurement Officer must receive such requests for an increase in writing at least 30 days in advance of the effective date of the increase. Any time the vendor requests a price adjustment; Procurement Services may either accept the price adjustment or amend the contract accordingly or reject the adjustment in its entirety and cancel the contract.

PREFERRED TERMS: The prices on this contract are firm for the life of the contract, as indicated in the life of contract clause contained herein, not to exceed one year. If this contract is renewed at the end of one year, Procurement Services may accept or reject a proposed price increase for the succeeding terms.

ALTERNATE TERMS: If the vendor cannot guarantee a firm price for the life of the contract, he must indicate one of the paragraphs listed below. Failure to qualify this bid binds the vendor to a firm price for the Life of the Contract.

1. _____ The prices on this contract will remain firm for _____ days after the effective date of the contract. Prices will remain firm after each price adjustment for a minimum of _____ days.
2. XX The vendor does not agree to maintain a firm price for the length of the contract but of an alternate proposal as follows: 5% annual increase

PURCHASING CARD ACCEPTANCE: The State of West Virginia currently utilizes a Purchasing Card Program that is issued through a local bank. The Vendor **MUST** accept the Purchasing Card for payment of all orders equal to or less than the allowable limit of the Card as a condition of award.

ORDERING PROCEDURES: Small dollar purchases must be made by the Ordering Departments direct contact with the Vendor and payment made by use of either the WVU State Procurement Card or the WVU Research Corporation Procurement Card. Small dollar purchases shall be defined as any order with a total sum equal to or less than the established credit card limit, of either Procurement Card, in place at the time of order. Orders exceeding the established credit limit of either Procurement Card shall be made by issuance of a written Purchase Order for commodities covered by this Contract.

INVOICING: All invoices must be original, have complete description, unit price, extended price and MUST reference the page and item number that corresponds with the contract.

REGIONAL CAMPUS AND OTHER HIGHER EDUCATION INSTITUTIONS: Any and all Regional Campuses and other WV state higher education institutions are permitted to use this contract. However, invoices must be sent directly to the Regional Campus or Institution.

FUNDING PARAGRAPH: Service performed under this contract is to be continued in the succeeding fiscal year contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated for these services, this contract becomes of no effect and is null and void after June 30.

PROMPT PAYMENT ACT OF 1990 (W.VA. CODE § 5A-3-54)

INSTITUTION'S RESPONSIBILITY: According to the Prompt Payment Act of 1990 (West Virginia Code § 5A-3-54), any properly registered and qualified vendor who supplies services or commodities to an institution is entitled to prompt payment upon presentation to the institution of a legitimate uncontested invoice. The institution's accounts payable function shall establish institutional procedures to ensure that vendors are paid promptly.

An institution receiving a legitimate uncontested invoice shall process the invoice within ten working days from its receipt. This means that invoices shall be processed at the institution and forwarded to the State Auditor within ten days of receipt of the vendor's legitimate and uncontested invoice. An invoice shall be deemed to have received on the date it is marked received by the institution, or three days after the date of the postmark made by the United States Postal Service as evidenced on the envelope in which the invoice was mailed, whichever is earlier. If the invoice is received prior to delivery and acceptance of the goods and services, the invoice shall be deemed to be received on the date the goods are delivered and accepted or the services fully performed and accepted.

VENDOR'S RESPONSIBILITY: In order to receive timely payment, vendors have an obligation and responsibility to present invoices that are timely and accurate. An original of a vendor's invoice is needed for payment. The invoice must also contain identical information as shown on the purchase order or contract, such as:

- a. Vendor's name and address;
- b. Federal Employer's Identification Number (FEIN);
- c. Purchase order number;
- d. Invoice should be mailed to the proper address at the institution;
- e. Item description and number;
- f. Quantity, unit of measure and/or unit price, and extension of each item;
- g. Invoice total;
- h. Dates of order and shipment;
- i. Back orders, if any;
- j. Cancellations, if any;
- k. Credit memo, if the credit is not part of the invoice; and
- l. Invoices for services rendered must include the dates of service and be prepared according to the payment terms in the contract or purchase order.

INTEREST ON LATE PAYMENT: The Prompt Payment Act of 1990 (West Virginia Code § 5A-3-54) entitles a vendor to interest on legitimate and uncontested invoices that have not been paid from the 61st day after the invoice was received until the date when the check was mailed to the vendor. The Act considers an invoice uncontested when it accurately covers the goods and services received. If the invoice is received prior to delivery and acceptance of the goods and services, the invoice shall be deemed to be received on the date the goods are delivered and accepted or the services fully performed and accepted. In order to receive payment for interest if entitled, a vendor must make a request in writing to the State Auditors and provide proof that the vendor received a check for payment of the invoice after the 60 day time limit. If the vendor is entitled to interest, the State Auditor's Office will calculate the interest and pay any amounts due.

West Virginia University
Purchase Change Request

FY 6	Buyer L	Date 2/16/06	Acct # VARIOUS	P. O Date 2/3/04	Order # U04DRUGTEST
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Document <input type="checkbox"/> Requisition (Cancellation Only) <input type="checkbox"/> Regular Purchase Order <input checked="" type="checkbox"/> Contract Purchase Order <input type="checkbox"/> Open End Contract Purchase Order <input type="checkbox"/> Agreement	Purpose of Change (Check boxes applicable) <input type="checkbox"/> Cancellation <input checked="" type="checkbox"/> Increase/Decrease <input type="checkbox"/> Unused Balance(\$25.00 Maximum) <input type="checkbox"/> Freight <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Extension Error <input type="checkbox"/> Error in Total Amount <input type="checkbox"/> Change of Account <input type="checkbox"/> Change of Vendor Name/ Address <input type="checkbox"/> Other
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Vendor Name, Address, FEIN, Phone # Laboratory Corporation of America Holdings 6370 Wilcox Road Dublin, Ohio 43016 Attn: Contracts Department FIMS# 0000128319/133757370 Phone: 800-833-3984	Spending Unit Name & Address West Virginia University Various Locations Morgantown, WV 26506
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Item#	Quantity	Unit M	Description	Unit Price	Extended Price
			<p align="center">Change Order # <u>2</u></p> <p align="center">RENEWAL #2</p> <p>PLEASE REVISE ORIGINAL PURCHASE ORDER AS FOLLOWS:</p> <p>To renew Open End Contract # U04DRUGTEST originally effective February 15, 2004 for one additional year under the same terms and conditions as the original contract with a price increase as per the attached list. The Laboratory will continue to perform all other routine and special chemistry analyses as per the Professional Fee Schedule current at the time the test is performed.</p> <p>Renewal Period: February 15, 2006 through February 14, 2007</p> <p>Effective Date: February 15, 2006</p> <p>TO FURNISH THE FOLLOWING:</p> <p>Substance Abuse Testing</p> <p>No Renewals Remain</p>		

Reason for Change: To renew Open End Contract with new pricing as per the attached list.	Previous Total \$ _____ Open End Increase \$ _____ Decrease \$ _____ New Total \$ _____ Open End
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Funding Paragraph

Service performed under this contract is to be continued in the succeeding fiscal year contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated for this service, this contract becomes of no effect and is null and void after June 30.

Approved

Yinda Y. Thompson 2-17-06
 Procurement Officer Date

Rob [Signature] 17 Feb 2006
 Chief Procurement Officer Date

TERMS AND CONDITIONS

1. **ACCEPTANCE:** Vendor shall be bound by this Order and its terms and conditions upon receipt of this Order. This Order expressly limits acceptance to the terms and conditions stated herein. Additional or different terms proposed by the Vendor are objected to and are hereby rejected, unless otherwise provided for in writing by the Institution and approved by the Attorney General.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the Procedural Rules of the Higher Education Policy Commission shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder, may be assigned by the Vendor without the Institution's consent.
4. **INSTITUTION:** For the purposes of these Terms and Conditions, the "Institution" means the institution purchasing goods and services for which a Purchase Order has been lawfully issued to the Vendor.
5. **CANCELLATION:** The Institution may cancel any Purchase Order/Contract upon 30 days written notice to the Vendor.
6. **COMPLIANCE:** Vendor shall comply with all federal, state and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the W. Va. Division of Labor, if applicable.
7. **DELIVERY:** For exceptions to the delivery date as specified in the Order, the Vendor shall give prior notification and obtain the approval of the Institution. Time is of the essence of this Order and it is subject to termination by the Institution for failure to deliver on time.
8. **DISPUTES:** Disputes arising out of the agreement shall be submitted to the West Virginia Court of Claims.
9. **HOLD HARMLESS:** The Institution will not agree to hold the Vendor or any other party harmless because such agreement is not consistent with state law.
10. **MODIFICATIONS:** This writing is the parties' final expression of intent. No modification of this Order shall be binding unless agreed to in writing by the Institution.
11. **NON-FUNDING:** All services performed or goods delivered under this Purchase Order/Contract are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
12. **ORDER NUMBERS:** Contract Order numbers or Purchase Order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices and correspondence.
13. **PAYMENTS AND INTEREST ON LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the West Virginia Code.
14. **RENEWAL:** The Contract may be renewed only upon mutual written agreement of the parties.
15. **REJECTION:** All goods or materials purchased herein are subject to approval of the Institution. Any rejection of goods or materials resulting in nonconformity to the terms, conditions or specifications of this Order, whether held by the Institution or returned to the Vendor, will be at the Vendor's risk and expense.
16. **VENDOR:** For the purposes of these Terms and Conditions, the "Vendor" means the vendor whose quotation, bid, proposal or expression of interest has been accepted and has received a lawfully issued Purchase Order from the Institution.
17. **SHIPPING, PACKING, BILLING & PRICING:** Unless otherwise stated, all goods are to be shipped prepaid, FOB destination. No charges will be allowed for special handling, packing, wrapping, bags, containers, etc., unless otherwise specified. All goods or services shall be shipped on or before the date specified in this Order. Prices are those that are stated in this Order. No price increase will be accepted without written authority from the Institution.
18. **TAXES:** The State of West Virginia (the Institution) is exempt from Federal and State taxes and will not pay or reimburse such taxes.
19. **TERMINATION:** In the event of a breach by the Vendor of any of the provisions of this contract, the Institution reserves the right to cancel and terminate this contract forthwith upon giving written notice to the Vendor. The Vendor shall be liable for damages suffered by the Institution resulting from the Vendor's breach of contract.
20. **WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Order will: (a) conform to the specifications, drawings, samples or other description furnished or specified by the Institution; (b) be merchantable and fit for the purpose intended; (c) be free and clear of all liens, claims and encumbrances of any kind; and/or (d) be free from defect in material and workmanship.



Laboratory Corporation of America™ Holdings
6370 Wilcox Road
Dublin, Ohio 43016

Telephone: 614-889-1061

February 6, 2006

Linda L. Thompson
West Virginia University
One Waterfront Place, 3rd Floor
PO Box 6024
Morgantown, WV 26506-6024

**RE: Renewal of Contract # U04DRUGTEST, LabCorp Account # 47501545,
revised notification February 15, 2006**

Dear Ms. Thompson,

Laboratory Corporation of America Holdings (LabCorp) is pleased to extend the current terms and conditions of the above referenced contract for the period of February 15, 2006 through February 14, 2007.


According to the terms of Contract U04DRUGTEST dated February 3, 2004, effective as of February 15, 2006, it will be necessary to increase those selected panels/tests which are shown in the table following to the indicated prices:

Test Number	Test Name	Price
070466	Chain-of-Custody Protocol	\$1.70
071290	Barbiturate Confirmation, Ur	\$62.00
071316	Cannabinoid Confirmation, Ur	\$62.00
071456	Opiate Confirmation, Urine	\$62.00
737393	DRUG PROFILE 737393 (amphetamine, barbiturate, benzodiazepine, cannabinoid, cocaine metabolite, opiate, phencyclidine, FAQs)	\$24.15
071282	Amphetamine Confirmation, Ur	\$62.00
071308	Benzodiazepine Confirmation, Ur	\$62.00
071324	Cocaine Metabolite Confirm, Ur	\$62.00
071464	Phencyclidine, Confirm, Urine	\$62.00
708008	PSC Specimen Collection	\$16.00
803007	Anabolic Steroids	\$132.00

The Laboratory will continue to perform all other routine and special chemistry analyses as per the Professional Fee Schedule current at the time the test is performed.

Ms. Thompson, if you have any questions or require additional information, please do not hesitate to contact your Clinical Laboratory Representative, Randy Murdock, at (304) 366-0291, extension 208. We look forward to continuing service of your reference clinical laboratory needs.

Sincerely,



James R. Mott
Senior Vice President

AFFIDAVIT**West Virginia Code §5A-3-10a states:**

No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owned is an amount greater than one thousand dollars in the aggregate.

Definitions:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions.

"Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

Exception:

The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

Under penalty of law, for false swearing (West Virginia Code, §61-5-3), it is hereby certified that the bidder and all related parties do not owe any debts or, if a debt is owed, that the provisions of the exception clause above apply; and all state licensing requirements are in compliance.

Vendor's Name: Laboratory Corporation of America Holdings

Authorized Signature: James R. Mott Date: 2-15-06

West Virginia University

Purchase Change Request

FY	Buyer	Date	Acct #	P. O Date	Order #
5 L		3/3/2005	VARIOUS	2/3/2004	U04DRUGTEST

Document	Purpose of Change (Check boxes applicable)
<input type="checkbox"/> Requisition (Cancellation Only) <input type="checkbox"/> Regular Purchase Order <input type="checkbox"/> Contract Purchase Order <input checked="" type="checkbox"/> Open End Contract Purchase Order Agreement	<input type="checkbox"/> Cancellation <input checked="" type="checkbox"/> Increase/Decrease <input type="checkbox"/> Unused Balance(\$25.00 Maximum) <input type="checkbox"/> Freight <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Extension Error <input type="checkbox"/> Error in Total Amount <input type="checkbox"/> Change of Account <input type="checkbox"/> Change of Vendor Name/ Address <input type="checkbox"/> Other

Vendor Name, Address, FEIN, Phone # Laboratory Corporation of America Holdings 6370 Wilcox Road Dublin, Ohio 43016 Attn: Contracts Department FIMS# 0000158319/133757370 Phone: 800-833-3984	Spending Unit Name & Address West Virginia University Various Locations Morgantown, WV 26506
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Item#	Quantity	Unit M	Description	Unit Price	Extended Price
			<p style="text-align: center;">Change Order # <u>1</u> RENEWAL #1</p> <p>To renew Open End Contract # U04DRUGTEST originally effective February 15, 2004 for one additional year under the same terms and conditions as the original contract with a price increase and to replace Drug Profile 703439 as per the attached list.</p> <p>Renewal Period: February 15, 2005 through February 14, 2006</p> <p>Effective Date: February 15, 2005</p> <p>TO FURNISH THE FOLLOWING: Substance Abuse Testing</p> <p>One (1) Renewal Remains</p>		

Reason for Change: To renew contract with new pricing and to replace Drug Profile 703439 as per the attached list.	Previous Total:	\$ <u>Open End</u>
	Increase	\$ _____
	Decrease	\$ _____
	New Total	\$ <u>Open End</u>

Funding Paragraph

Service performed under this contract is to be continued in the succeeding fiscal year contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated for this service, this contract becomes of no effect and is null and void after June 30.

Approved: James Bennett 3.7.05
Date

TERMS AND CONDITIONS

1. **ACCEPTANCE:** Vendor shall be bound by this Order and its terms and conditions upon receipt of this Order. This Order expressly limits acceptance to the terms and conditions stated herein. Additional or different terms proposed by the Vendor are objected to and are hereby rejected, unless otherwise provided for in writing by the Institution and approved by the Attorney General.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the Procedural Rules of the Higher Education Policy Commission shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder, may be assigned by the Vendor without the Institution's consent.
4. **INSTITUTION:** For the purposes of these Terms and Conditions, the "Institution" means the institution purchasing goods and services for which a Purchase Order has been lawfully issued to the Vendor.
5. **CANCELLATION:** The Institution may cancel any Purchase Order/Contract upon 30 days written notice to the Vendor.
6. **COMPLIANCE:** Vendor shall comply with all federal, state and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the W. Va. Division of Labor, if applicable.
7. **DELIVERY:** For exceptions to the delivery date as specified in the Order, the Vendor shall give prior notification and obtain the approval of the Institution. Time is of the essence of this Order and it is subject to termination by the Institution for failure to deliver on time.
8. **DISPUTES:** Disputes arising out of the agreement shall be submitted to the West Virginia Court of Claims.
9. **HOLD HARMLESS:** The Institution will not agree to hold the Vendor or any other party harmless because such agreement is not consistent with state law.
10. **MODIFICATIONS:** This writing is the parties' final expression of intent. No modification of this Order shall be binding unless agreed to in writing by the Institution.
11. **NON-FUNDING:** All services performed or goods delivered under this Purchase Order/Contract are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
12. **ORDER NUMBERS:** Contract Order numbers or Purchase Order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices and correspondence.
13. **PAYMENTS AND INTEREST ON LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the West Virginia Code.
14. **RENEWAL:** The Contract may be renewed only upon mutual written agreement of the parties.
15. **REJECTION:** All goods or materials purchased herein are subject to approval of the Institution. Any rejection of goods or materials resulting in nonconformity to the terms, conditions or specifications of this Order, whether held by the Institution or returned to the Vendor, will be at the Vendor's risk and expense.
16. **VENDOR:** For the purposes of these Terms and Conditions, the "Vendor" means the vendor whose quotation, bid, proposal or expression of interest has been accepted and has received a lawfully issued Purchase Order from the Institution.
17. **SHIPPING, PACKING, BILLING & PRICING:** Unless otherwise stated, all goods are to be shipped prepaid, FOB destination. No charges will be allowed for special handling, packing, wrapping, bags, containers, etc., unless otherwise specified. All goods or services shall be shipped on or before the date specified in this Order. Prices are those that are stated in this Order. No price increase will be accepted without written authority from the Institution.
18. **TAXES:** The State of West Virginia (the Institution) is exempt from Federal and State taxes and will not pay or reimburse such taxes.
19. **TERMINATION:** In the event of a breach by the Vendor of any of the provisions of this contract, the Institution reserves the right to cancel and terminate this contract forthwith upon giving written notice to the Vendor. The Vendor shall be liable for damages suffered by the Institution resulting from the Vendor's breach of contract.
20. **WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Order will: (a) conform to the specifications, drawings, samples or other description furnished or specified by the Institution; (b) be merchantable and fit for the purpose intended; (c) be free and clear of all liens, claims and encumbrances of any kind; and/or (d) be free from defect in material and workmanship.

West Virginia University

Requisition/Purchase Order Continuation Sheet

Buyer L	Page 3	Req. or P.O. No: U04DRUGTEST
Vendor Name Laboratory Corporation of America Holdings		

Test Number	Test Name	Price
070466	Chain-of-Custody Protocol	\$1.60
071290	Barbiturate Confirmation, Ur	\$59.00
071316	Cannabinoid Confirmation, Ur	\$59.00
071456	Opiate Confirmation, Urine	\$59.00
703439 (old)	DRUG PROFILE 703439 (amphetamine, barbiturate, benzodiazepine, cannabinoid, cocaine metabolite, opiate, phencyclidine)	\$20.00
737393 (new)	DRUG PROFILE 737393 (amphetamine, barbiturate, benzodiazepine, cannabinoid, cocaine metabolite, opiate, phencyclidine, FAQs)	\$23.00
071282	Amphetamine Confirmation, Ur	\$59.00
071308	Benzodiazepine Confirmation, Ur	\$59.00
071324	Cocaine Metabolite Confirm, Ur	\$59.00
071464	Phencyclidine, Confirm, Urine	\$59.00
708008	PSC Specimen Collection	\$15.00
803007	Anabolic Steroids	\$126.00

Pursuant to your request, Drug Profile 737393 has been added to contract U04DRUGTEST to replace Drug Profile 703439.

The Laboratory will continue to perform all other routine and special chemistry analyses as per the Professional Fee Schedule current at the time the test is performed.



West Virginia University

Buyer: J

Page 1 of 7 Pages

Contract No.: U04DRUGTEST

Institution: West Virginia University

Preparation Date: 02/03/04

State Acct. No.: VARIOUS

Fiscal Year: 2004

Purchase Order

Vendor Name and Address:

F.E.I.N. 0000158319/133757370

Telephone No.: 800-833-3984

Ship To: West Virginia University Various Locations Morgantown, WV 26506

Laboratory Corporation of America Holdings 6370 Wilcox Road Dublin, Ohio 43016 Attn: Contracts Department

Invoice in Quintuplicate To: West Virginia University Procurement Services PO Box 6024 Morgantown, WV 26505-6024

Effective Date: February 15, 2004

Terms:

F.O.B. Destination

Shipping Date: As needed

Contract Acceptance

This Agreement constitutes the acceptance of contract made by and between West Virginia University Board of Governors and Laboratory Corporation of America Holdings for Substance Abuse Testing

signed by James R Mott

Senior Vice President (Title)

WV State Purchasing Division Administration Unit Certified Encumbered

FEB 16 2004

[Handwritten signature]

Service performed under this contract is to be continued in the succeeding fiscal year contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated for these services, this contract becomes of no effect and is null and void after June 30.

Terms and Conditions On Back

Total Amount Of This Purchase Order \$ OPEN END

[Handwritten signature: James Bennett] Procurement Officer

TERMS AND CONDITIONS

1. **ACCEPTANCE:** Seller shall be bound by this Order and its terms and conditions upon receipt of this Order. This Order expressly limits acceptance to the terms and conditions stated herein. Additional or different terms proposed by the Seller are objected to and are hereby rejected, unless otherwise provided for in writing by the Buyer and approved by the Attorney General.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the Procedural Rules of the Governing Board having jurisdiction shall govern all rights and duties under the Contract; including, without limitation, the validity of this Purchase Order/Contract.
3. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder, may be assigned by the Seller without the Buyer's consent.
4. **BUYER:** For the purposes of these Terms and Conditions, the "Buyer" means the institution purchasing goods and services for which a Purchase Order has been lawfully issued to the Seller.
5. **CANCELLATION:** The Buyer may cancel any Purchase Order/Contract upon 30 days written notice to the Seller.
6. **COMPLIANCE:** Seller shall comply with all federal, state and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the W.Va. Division of Labor, if applicable.
7. **DELIVERY:** For exceptions to the delivery date as specified in the Order, the Seller shall give prior notification and obtain the approval of the Buyer. Time is of the essence of this Order and it is subject to termination by the Buyer for failure to deliver on time.
8. **DISPUTES:** Disputes arising out of the agreement shall be submitted to the West Virginia Court of Claims.
9. **HOLD HARMLESS:** The Buyer will not agree to hold the Seller or any other party harmless because such agreement is not consistent with state law.
10. **MODIFICATIONS:** This writing is the parties' final expression of intent. No modification of this Order shall be binding unless agreed to in writing by the Buyer.
11. **NON-FUNDING:** All services performed or goods delivered under this Purchase Order/Contract are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
12. **ORDER NUMBERS:** Contract Order numbers or Purchase Order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices and correspondence.
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14. **RENEWAL:** The Contract may be renewed only upon mutual written agreement of the parties.
15. **REJECTION:** All goods or materials purchased herein are subject to approval of the Buyer. Any rejection of goods or materials resulting in nonconformity to the terms, conditions or specifications of this Order, whether held by the Buyer or returned to the Seller, will be at the Seller's risk and expense.
16. **SELLER:** For the purposes of these Terms and Conditions, the "Seller" means the vendor whose quotation, bid, proposal or expression of interest has been accepted and has received a lawfully issued Purchase Order from the Buyer.
17. **SHIPPING, PACKING, BILLING & PRICING:** Unless otherwise stated, all goods are to be shipped pre-paid, FOB destination. No charges will be allowed for special handling, packing, wrapping, bags, containers, etc., unless otherwise specified. All goods or services shall be shipped on or before the date specified in this Order. Prices are those that are stated in this Order. No price increase will be accepted without written authority from the Buyer.
18. **TAXES:** The State of West Virginia (the Buyer) is exempt from Federal and State taxes and will not pay or reimburse such taxes.
19. **TERMINATION:** In the event of a breach by the Seller of any of the provisions of this contract, the Buyer reserves the right to cancel and terminate this contract forthwith upon giving written notice to the Seller. The Seller shall be liable for damages suffered by the Buyer resulting from the Seller's breach of contract.
20. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this Order will: (a) conform to the specifications, drawings, samples or other description furnished or specified by the Buyer; (b) be merchantable and fit for the purpose intended; (c) be free and clear of all liens, claims and encumbrances of any kind; and/or (d) be free from defect in material and workmanship.

Revised 3/29/96

Vendor will perform forensic urine drug testing including temperature and PH verification at time of collection by immunoassay initial testing, and further confirmation testing of presumptive positive specimens by Gas Chromatography/Mass Spectrometry (GC/MS) GC/MS is generally recognized as the most accurate technology available and is recommended in all situations where results are planned for use in connection with employment or punitive decisions.

Vendor will provide at no additional charge, all supplies necessary for the collection, preparations, transportation and preservation of all specimens to be submitted for testing.

Vendor agrees to maintain the confidentiality and not to disclose externally the results of tests performed on specimens referred to it for tests, except to the referring physician or with the consent of the patient, unless required by law.

Vendor will provide personnel to provide collection and/or observers at various athletic facilities within 24 hours of notification.

Test Cutoffs

INITIAL SCREEN	DRUG	GC/MS CONFIRMATION
300	Amphetamines	500
200	Barbiturates	200
300	Cocaine	150
20	Cannabinoids	10
300	Methaqualone	200
300	Opiates	200
25	Phencyclidine	20
300	Benzodiazepine	300

EST Qty.	TEST NUMBER	TEST NAME	NET PRICE
600	703439	Immunoassay Drug Screen	\$ <u>19.00</u> each

Includes Qualitative Analyses for the following Drugs of Abuse

Amphetamines	Cocaine (Benzoyllecgonine)
Barbiturates	Methaqualone (Quaaludes)
Benzodiazepines	Opiates
Cannabinoid	Phencyclidine (PCP)

*Confirmation tests, by Gas Chromatography/Mass Spectrometry (GC/MS) will be performed at \$ 56.00 per drug class

Est Qty.	TEST NUMBER	TEST NAME	NET PRICE
110	803007	Anabolic Steroids	\$ <u>120.00</u>
	070466	Chain of Custody Handling	\$ <u>1.50</u>
	708008	Observer Collection Charge (Per observer)	\$ <u>14.00</u>

*GC/MS Confirmation of each positive result \$ 56.00 per drug class

LIFE OF CONTRACT: This contract becomes effective on **February 15, 2004** and extends for a period of one (1) year or until such reasonable time thereafter as is necessary to obtain a new contract. Such "reasonable time" shall not exceed twelve (1) months. The vendor may terminate this contract for any reason upon expiration of one (1) year from the effective date of this contract by giving the Chief Procurement Officer thirty (30) days written notice.

RENEWAL: The contract may be renewed upon mutual written consent, submitted to the Chief Procurement Officer thirty (30) days prior to the date of expiration. Such renewal shall be in accordance with the terms and conditions of the original contract and shall be limited to two (2) successive one- (1) year periods.

CANCELLATION: The Chief Procurement Officer reserves the right to cancel the contract immediately upon written notice to the vendor if the commodities or services supplied are of an inferior quality or do not conform with the specifications of the bid and contract herein.

OPEN MARKET CLAUSE: The Chief Procurement Officer may purchase in the open market, without the filing of a requisition or cost estimate, items specified on this contract for immediate delivery in emergencies due to unforeseen causes (including but not limited to delays in transportation or an unanticipated increase in the volume of work).

QUANTITIES: Quantities listed in the Request for Bids are approximate only based on future estimates. It is understood and agreed that the contract shall cover the quantities actually ordered for delivery during the term of the contract, whether more or less than the quantities shown.

VENDOR REGISTRATION: All vendors and/or Contractors must be registered with the State of West Virginia before conducting business. All vendors must be registered prior to issuance of a purchase order or contract and will be responsible for and must pay any registration fee. Vendor's registration must remain current throughout the life of this contract.

PRICE ADJUSTMENT PROVISION: West Virginia University will consider bids that contain provisions for price adjustments prior to the expiration of the life of the contract, provided that such price adjustment covers both upward and downward movement of the commodity price, and that adjustment is based upon the "pass through" increase or decrease of raw materials, which make up all or a substantial part of the product. Adjustments are to be based upon an actual dollar figure, not on percentage. All price adjustment requests must be substantiated in a manner acceptable to the Chief Procurement Officer of WVU, e.g. governmental bench marks, general market increase, published price lists. The Chief Procurement Officer must receive such requests for an increase in writing at least 30 days in advance of the effective date of the increase. Any time the vendor requests a price adjustment; Procurement Services may either accept the price adjustment or amend the contract accordingly or reject the adjustment in its entirety and cancel the contract.

PREFERRED TERMS: The prices on this contract are firm for the life of the contract, as indicated in the life of contract clause contained herein, not to exceed one year. If this contract is renewed at the end of one year, Procurement Services may accept or reject a proposed price increase for the succeeding terms.

ALTERNATE TERMS: If the vendor cannot guarantee a firm price for the life of the contract, he must indicate one of the paragraphs listed below. Failure to qualify this bid binds the vendor to a firm price for the Life of the Contract.

1. _____ The prices on this contract will remain firm for _____ days after the effective date of the contract. Prices will remain firm after each price adjustment for a minimum of _____ days.
2. XX The vendor does not agree to maintain a firm price for the length of the contract but of an alternate proposal as follows: 5% annual increase

PURCHASING CARD ACCEPTANCE: The State of West Virginia currently utilizes a Purchasing Card Program that is issued through a local bank. The Vendor MUST accept the Purchasing Card for payment of all orders equal to or less than the allowable limit of the Card as a condition of award.

ORDERING PROCEDURES: Small dollar purchases must be made by the Ordering Departments direct contact with the Vendor and payment made by use of either the WVU State Procurement Card or the WVU Research Corporation Procurement Card. Small dollar purchases shall be defined as any order with a total sum equal to or less than the established credit card limit, of either Procurement Card, in place at the time of order. Orders exceeding the established credit limit of either Procurement Card shall be made by issuance of a written Purchase Order for commodities covered by this Contract.

INVOICING: All invoices must be original, have complete description, unit price, extended price and **MUST** reference the page and item number that corresponds with the contract.

REGIONAL CAMPUS AND OTHER HIGHER EDUCATION INSTITUTIONS: Any and all Regional Campuses and other WV state higher education institutions are permitted to use this contract. However, invoices must be sent directly to the Regional Campus or Institution.

FUNDING PARAGRAPH: Service performed under this contract is to be continued in the succeeding fiscal year contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated for these services, this contract becomes of no effect and is null and void after June 30.

PROMPT PAYMENT ACT OF 1990 (W.VA. CODE § 5A-3-54)

INSTITUTION'S RESPONSIBILITY: According to the Prompt Payment Act of 1990 (West Virginia Code § 5A-3-54), any properly registered and qualified vendor who supplies services or commodities to an institution is entitled to prompt payment upon presentation to the institution of a legitimate uncontested invoice. The institution's accounts payable function shall establish institutional procedures to ensure that vendors are paid promptly.

An institution receiving a legitimate uncontested invoice shall process the invoice within ten working days from its receipt. This means that invoices shall be processed at the institution and forwarded to the State Auditor within ten days of receipt of the vendor's legitimate and uncontested invoice. An invoice shall be deemed to have received on the date it is marked received by the institution, or three days after the date of the postmark made by the United States Postal Service as evidenced on the envelope in which the invoice was mailed, whichever is earlier. If the invoice is received prior to delivery and acceptance of the goods and services, the invoice shall be deemed to be received on the date the goods are delivered and accepted or the services fully performed and accepted.

VENDOR'S RESPONSIBILITY: In order to receive timely payment, vendors have an obligation and responsibility to present invoices that are timely and accurate. An original of a vendor's invoice is needed for payment. The invoice must also contain identical information as shown on the purchase order or contract, such as:

- a. Vendor's name and address;
- b. Federal Employer's Identification Number (FEIN);
- c. Purchase order number;
- d. Invoice should be mailed to the proper address at the institution;
- e. Item description and number;
- f. Quantity, unit of measure and/or unit price, and extension of each item;
- g. Invoice total;
- h. Dates of order and shipment;
- i. Back orders, if any;
- j. Cancellations, if any;
- k. Credit memo, if the credit is not part of the invoice; and
- l. Invoices for services rendered must include the dates of service and be prepared according to the payment terms in the contract or purchase order.

INTEREST ON LATE PAYMENT: The Prompt Payment Act of 1990 (West Virginia Code § 5A-3-54) entitles a vendor to interest on legitimate and uncontested invoices that have not been paid from the 61st day after the invoice was received until the date when the check was mailed to the vendor. The Act considers an invoice uncontested when it accurately covers the goods and services received. If the invoice is received prior to delivery and acceptance of the goods and services, the invoice shall be deemed to be received on the date the goods are delivered and accepted or the services fully performed and accepted. In order to receive payment for interest if entitled, a vendor must make a request in writing to the State Auditors and provide proof that the vendor received a check for payment of the invoice after the 60 day time limit. If the vendor is entitled to interest, the State Auditor's Office will calculate the interest and pay any amounts due.