



ALASKA RAILROAD CORPORATION
327 W. Ship Creek Ave.
Anchorage, AK 99501

February 13, 2019

REQUEST FOR PROPOSAL #19-03-206670

ARRC Employee Assistance Program Services

Response Requested,

This form must be completed and returned to ensure receipt of future addenda or additional information. Fax this form to (907) 265-2439 or email to: Goemerg@akrr.com. All addenda will be forwarded to the contact name and number listed below.

Firms that have not returned this cover sheet will not be informed of addendums and will only be alerted to addendums by checking with the ARRC procurement officer or by checking ARRC's internet site: www.alaskarailroad.com, select Suppliers and then Solicitations. Bidders must acknowledge the receipt of all issued addendums in their proposal/bid submittal.

Company _____

Address _____

Contact _____

Phone _____

Fax _____

Email _____

Website: www.alaskarailroad.com



Alaska Railroad Corporation
327 W. Ship Creek Avenue,
Anchorage, AK 9950

February 13, 2019

REQUEST FOR PROPOSALS

#19-03-206670

The Alaska Railroad Corporation (ARRC) is soliciting proposals from interested concerns for the following:

ARRC Employee Assistance Program Services

Sealed offers in **original and three (3) copies and one electronic copy** will be received until **3:00 pm local time, March 5, 2018**. The envelope used for the submittal of your offer shall be plainly marked with the following information:

1. Offeror's name.
2. Offer number 19-03-206670
3. Date and time scheduled for the receipt of offers.
4. Sealed Offer: Transportation Asset Management Support Analysis

The ARRC may award a contract resulting from this solicitation to the responsible offeror whose offer conforming to this solicitation will be most advantageous to the ARRC.

ARRC may reject any or all offers if such action is in the best interest of ARRC, and waives informalities and minor irregularities in offers received. ARRC may award a contract on the basis of initial offers without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint. Any contract resulting from this solicitation shall incorporate the Standard Terms and Conditions contained in this solicitation package.

This Request for Proposal is not to be construed as a commitment of any kind nor does it commit the ARRC to pay for any cost incurred in the submission of an offer or for any other cost incurred prior to the execution of a formal contract.

Proposals received after the time and date set forth above shall be rejected. All proposals submitted in response to this solicitation must be signed by an individual with the legal authority to submit the offer on behalf of the company.

Bidder's responsibility: ARRC shall not be held responsible for Bidder's lack of understanding of what is required by this bid. Should a Bidder not understand any aspect of this bid, or require further explanation, or clarification regarding the intent or requirements of this bid, it shall be the responsibility of the Bidder to seek guidance from the ARRC.



The Alaska Railroad is a member of Green Star (<http://www.greenstarinc.org/>). ARRC earned an initial Green Star Award in 1994 and a Green Star Air Quality Award in 2007. The Alaska Railroad considers Green Star membership to be a positive business attribute, and regards a Green Star award as a tangible sign of an organization's commitment to environmental stewardship and continual improvement within its operations.

Please direct all responses and/or questions concerning this Request for Proposals to Greg Goemer, Alaska Railroad Corporation, Supply Management, 327 Ship Creek Avenue, Anchorage, AK 99501, telephone number (907) 265-2593, email: Goemerg@akrr.com

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APPENDIX A

CORPORATE BACKGROUND INFORMATION

Company and Employees

The Alaska Railroad Corporation (ARRC) is a public corporation and an instrumentality of the State of Alaska formed pursuant to AS 42.40. ARRC is the last full service (passengers and freight) railroad in the United States, with a route that runs from Seward and Whittier at tidewater to the interior of Alaska just beyond Fairbanks. The corporation is headquartered in Anchorage, with other work sites in Anchorage, Wasilla, Talkeetna, Fairbanks, Healy, Denali National Park, Nenana, Seward, and Whittier. Employees also work from various temporary locations along the “rail belt”, and there is a two-person office in Seattle, WA. The ARRC averages approximately 640 employees (year-round and seasonal), with employment reaching 710 in the summer season. Seventy-five percent (75%) of ARRC employees are represented by one of five (5) unions: Alaska Railroad Workers (ARW), American Train Dispatchers (ADTA), International Brotherhood of Teamsters (IBT), Transportation Communications Union (TCU), and the United Transportation Union (UTU). The remaining employees are non-represented and management personnel. The Railroad bargains benefit matters with all five labor organizations.

As the ARRC is a public corporation of the State of Alaska, its benefit plans are governmental plans and not subject to the provisions of ERISA. Even though ARRC is an ERISA-exempt organization, proposers should be mindful that adherence to ERISA guidelines for appeals and other program features are requirements of the proposal and requested services.

EAP Plan

All active and leave status employees and their family members are eligible for EAP services from the date of hire at no cost to the employee and their dependents. The EAP has been provided to ARRC employees since 1982. The Plan expanded from a 3-visit to the current 8-visit EAP model in 1991 for non-union employees and 1992 for union-represented employees. At that time the health insurance plan was modified to include managed mental health and substance abuse treatment coverage with the EAP as the gatekeeper to mental health and substance abuse treatment. The gatekeeper approach was discontinued in 2008 and health plan participants are no longer penalized for accessing mental health and substance abuse treatment without going through the EAP.

The ARRC Health Plan is self-insured. Premera Blue Cross Blue Shield of Alaska is the third party administrator of the Health Plan and claim fiduciary of the Plan.

In addition to documents included with this solicitation, ARRC has additional benefit information on its website at <https://insidetrack.akrr.com/>. The employee/dependent data and benefits information provided with this solicitation is representative of the current make-up of the employees and their dependents.

APPENDIX B

SCOPE OF SERVICES

Purpose of the Solicitation

The Alaska Railroad (ARRC) is soliciting proposals from qualified companies (Offerors) to provide an Employee Assistance Program (EAP), including Behavioral Health Management to all of its employees and their dependents.

Provide an Employee Assistance Program to the Alaska Railroad Corporation (ARRC) that includes but is not limited to:

1. Assessment/brief therapy/referral model of counseling for mental health and substance abuse problems for employees and their family members, with up to 8 EAP visits per problem per year paid by the ARRC. In-person counseling services must be provided in Anchorage, Fairbanks, and the Palmer/Wasilla area, Alaska. Program must be staffed and/or served by qualified and trained professionals. Counseling must be confidential except as required by law or allowed by patient/client release. Nationwide toll free telephonic assistance must be available 24 hours per day, 365 days a year.

The above required services may be supplemented by telephonic and secure video counseling as voluntary options for employees and family members.

2. Referral of participants to free or reduced-fee legal and financial counseling. Referrals to other work/life programs or providers is desirable, e.g., eldercare or childcare resources, adoption assistance, and health and wellness programs.
3. On-site critical incident stress debriefing.
4. Supervisory/management consultations and supervisor (mandatory) referrals.
5. Multi-media information and education resources. At a minimum, provide paper program brochures and posters and a website with program information and behavioral health resources such as self-assessment instruments and mental health wellness tips. Desirable information resources include employer communication tools; periodic in-person orientation and education programs for employees and supervisors; webinars; and health fair participation.
 - Quarterly and annual reporting to the contract administrator on program usage and behavioral outcomes. Minimum required report data: numbers and percentages of employees and family members utilizing the EAP during the reporting period; types of problems assessed; number of supervisory consultations; number of mandatory referrals; meeting, website and webinar usage or attendance. Library of on demand webinars to educate supervisors about how to effectively use the EAP.
 - Library of on demand webinars to educate employee and their dependents about mental health issues, substance abuse, financial health and other topics.

- Reporting quarterly to the Program Manager the number of Federal Railroad Administration (FRA)-covered employees in the ARRC random testing pool who voluntarily used the EAP for help with chemical dependency or substance abuse issues
 - Quarterly reports and a written annual report to the contract administrator on program usage and behavioral outcomes with recommendations for the improvement of utilization.
6. Providing DOT Substance Abuse Professional (SAP) services for drug and alcohol rehabilitation programs and mandated referrals, including:
- Assessment of drug and/or alcohol issues in employees referred;
 - Formal notification to ARRC as to whether or not locomotive engineers and conductors, including those in training, have an active substance abuse condition (see Exhibits B and C);
 - Formulation of treatment programs;
 - Formulation of recovery monitoring agreements;
 - Referral of employees to community providers for treatment, as necessary;
 - Formal notification to ARRC when employees are ready to be returned to work;
 - Recommendation of follow-up drug and alcohol testing – duration and frequency;
 - Monitoring of compliance with the treatment programs for up to 5 years; and
 - Reporting non-compliance with treatment programs and/or recovery monitoring agreements to the ARRC;
 - Participation in DOT audits of ARRC drug and alcohol testing program, as necessary.
- See Exhibit A for particulars of the ARRC Voluntary Referral and Co-Worker Report Programs.
 - See Exhibit B for the requirements for Locomotive Engineers under 49 CFR §240.115 and § 240.119.
 - See Exhibit C for the requirements for Conductors under 49 CFR § 242.111 (l) (o) and 49 CFR § 242.115.
 - See Exhibit D for ARRC’s Drug and Alcohol Policy.
- Behavioral health to include ways of promoting well-being by preventing or intervening in mental illness such as depression or anxiety, and by focusing on prevention and intervention in substance abuse or other addictions.
 - Integration of the employee’s and family member’s Primary Care Physician (PCP) into the behavioral health conversation.

Schedule

The tentative RFP schedule is as follows:

February 2019	Request for Proposals Issued
March 2019	Closing Date for Proposal Submission
March 2019	Evaluation of Proposals
April 2019	Contractor/vendor selection decision
April 2019	Contract negotiations/execution
July 1, 2019	Full implementation

EXHIBIT A

Alaska Railroad Corporation Voluntary Referral Program

Employees with alcohol and drug problems are encouraged to take the opportunity to obtain counseling or treatment before these problems manifest themselves in violation of the Alaska Railroad Corporation (ARRC) Drug and Alcohol Policy.

The Voluntary Referral Program is available to all employees of the ARRC. A covered employee, who is affected by an alcohol or drug use problem, may maintain an employment relationship with the ARRC if, before the employee is charged with conduct deemed by the ARRC sufficient to warrant dismissal, the employee seeks assistance through the ARRC for his/her alcohol or drug use problem. The employee may also be referred for such assistance by another employee, by a representative of the employee's collective bargaining unit, or by an ARRC Supervisor.

Employees are not limited regarding the number of times they can request voluntary referral through this program and discipline will not be assessed for anyone using Voluntary Referral.

Eligibility Terms:

An employee may use the Voluntary Referral Program if the employee initiates direct contact with the ARRC's contract services Employee Assistance Program (EAP Counselor):

- During non-duty hours (i.e. when the employee is off duty and off ARRC property); or,
- While unimpaired and otherwise in compliance with ARRC's Drug and Alcohol Policy.

An employee may also use the Voluntary Referral Program if a supervisor, co-worker, or representative of the employee's collective bargaining unit contacts the EAP Counselor to support and facilitate an employee's voluntary referral.

ARRC Responsibilities:

- Treat the referral and subsequent handling, including counseling and treatment, as confidential.
- Grant the employee a leave of absence to the extent necessary for treatment and rehabilitation for the period necessary to complete primary treatment and establish control over the employee's alcohol or drug problems. A leave of absence up to forty-five (45) calendar days will be granted, if necessary, for the purpose of meeting initial treatment needs.
- If granted a leave of absence, return the employee to work on the recommendation of the EAP Counselor, the treating facility, or the employee's personal physician when the employee has established control over the substance abuse problem.
 - ✓ Approval to return to service may not be unreasonably withheld.

Employee Responsibilities:

- Comply with ARRC Drug and Alcohol Policy 64-3 and 49 CFR 219.403.

Confidentiality:

- Confidentiality is waived with respect to a certified locomotive engineer or conductor or a candidate for certification, if the person at any time refuses to cooperate in a recommended course of counseling or treatment (per 49 CFR § 240.119 (e) or 49 CFR § 242.115 (g)) (to the extent that the ARRC receives from the EAP Counselor, official notice of the substance abuse disorder and non-compliance and shall suspend or revoke certification, as appropriate).

Voluntary Referral is not available under the following conditions:

- An employee has been notified he/she is to be tested for drugs and/or alcohol.
- The employee tested positive for drugs and/or alcohol while on duty or on ARRC property.
- The employee is under investigation for a positive drug and/or alcohol test or is in violation of Rule G (Rule 1.5) or the ARRC's Drug and Alcohol Policy.
- The employee is charged with an incident or rules violation (e.g., reasonable cause) associated with drug or alcohol use.

**Alaska Railroad Corporation
Co-Worker Report Program**

The Co-Worker Report Program is available to all employees of the Alaska Railroad Corporation (ARRC). An employee who enters and follows the tenets of this program as discussed below may avoid discipline and maintain his/her position with the ARRC as long as the employee complies with and successfully completes the program. This program applies to an employee following an alleged first offense under 49 CFR Part 219, Rule G (Rule 1.5), or the ARRC's Drug and Alcohol Policy, subject to the conditions and procedures contained in those programs.

Procedures:

- If a co-worker (as defined in 49 CFR Part 219.5) believes that another employee is apparently unsafe to work with or is, or appears to be, in violation of 49 CFR Part 219, GCOR Rule 1.5, or ARRC's Drug and Alcohol Policy, such co-worker may immediately contact an ARRC Supervisor or ARRC Officer to report the circumstances. The name of the co-worker making the report will not be made public.
- If the supervisor/officer immediately determines there is an apparent GCOR Rule 1.5 violation, the employee will be removed from service. Upon informing the employee of the violation, the supervisor/officer will ask the employee if he/she is willing to immediately waive an investigation on the rule charge in order to participate in the Co-Worker Report Program.
- If the employee agrees to waive this investigation, then he/she will be removed from service and promptly and safely, at ARRC expense, transported home or to other appropriate quarters.
- The employee will be given instructions for contacting ARRC's contract services Employee Assistance Program (EAP Counselor) to begin the referral process.

- However, if the employee does not waive investigation on the rules charge, the Co-Worker Report will be considered null and void and the supervisor/officer will proceed per applicable labor agreement.
 - ✓ The supervisor/officer will ensure that drug and/or alcohol tests have been conducted per a signs and symptoms evaluation. (The employee will be removed from service and promptly and safely, at ARRC expense, transported home or to other appropriate quarters pending the results of the drug and/or alcohol tests.

Referral to EAP Counselor:

An employee relieved from service under Co-Worker Report must contact an EAP Counselor within two (2) working days of the removal from service to make an appointment.

- An employee who fails to make the appointment, or who fails to appear for the appointment, or who fails to obtain a determination by the EAP Counselor, will be considered to have voluntarily forfeited all seniority rights and employment rights with the ARRC.
- The EAP Counselor must schedule necessary interviews with the employee and complete an evaluation within ten (10) calendar days of the date on which the employee first contacted the EAP Counselor with a request for evaluation under the program, unless it becomes necessary to refer the employee for further evaluation. In each case, all necessary evaluations must be completed within twenty (20) days of the date on which the employee first contacted the EAP Counselor.

When treatment is required:

If the EAP Counselor determines the employee is affected by psychological or chemical dependence on alcohol or a drug or by another identifiable and treatable mental or physical disorder involving abuse of alcohol or drugs as a primary manifestation, the following conditions must be met:

ARRC Responsibilities:

- The ARRC must, to the extent necessary for treatment and rehabilitation, grant the employee a leave of absence from the ARRC for the period necessary to complete primary treatment and establish control over the employee's alcohol or drug problem. A leave of absence of up to forty-five (45) days will be granted, if necessary, for the purpose of meeting initial treatment needs.
- The employee will be returned to service on written recommendation of the EAP Counselor when the employee has established control over the substance abuse problem. Approval to return to service may not be unreasonably withheld.
- Following return-to-service, the employee, as a further condition of the withholding of discipline, may be required to participate in a reasonable program of follow-up treatment for a period not to exceed sixty (60) months from the date the employee was originally withdrawn from service. The EAP Counselor will determine if this is necessary and will notify the ARRC in writing of the components of the follow-up treatment plan.

Employee Responsibilities:

- The employee must agree to undertake and successfully complete a course of treatment deemed acceptable by the EAP Counselor.

- An employee will be considered to have voluntarily forfeited all seniority rights and employment rights with the ARRC if at any time he/she:
 - ✓ Refuses to cooperate in the recommended course of treatment;
 - ✓ Fails to follow the tenets of the follow-up treatment plan; or
 - ✓ Tests positive with a follow-up drug or alcohol test.

When treatment is not required:

If the EAP Counselor determines the employee is not affected by an identifiable and treatable mental or physical disorder involving the abuse of drugs or alcohol as a primary manifestation:

- The ARRC will promptly return the employee to service on the recommendation of the EAP Counselor.

EXHIBIT B

DOT Requirements for Locomotive Engineers

49 CFR § 240.115 Criteria for consideration of prior safety conduct as a motor vehicle operator.

(a) Each railroad's program shall include criteria and procedures for implementing this section.

(b) When evaluating a person's motor vehicle driving record, a railroad shall not consider information concerning motor vehicle driving incidents that occurred more than 36 months before the month in which the railroad is making its certification decision and shall only consider information concerning the following types of motor vehicle incidents:

(1) A conviction for, or completed state action to cancel, revoke, suspend, or deny a motor vehicle drivers license for, operating a motor vehicle while under the influence of or impaired by alcohol or a controlled substance;

(2) A conviction for, or completed state action to cancel, revoke, suspend, or deny a motor vehicle driver's license for, refusal to undergo such testing as is required by State law when a law enforcement official seeks to determine whether a person is operating a vehicle while under the influence of alcohol or a controlled substance.

(c) If such an incident is identified,

(1) The railroad shall provide the data to the railroad's EAP Counselor, together with any information concerning the person's railroad service record, and shall refer the person for evaluation to determine if the person has an active substance abuse disorder;

(2) The person shall cooperate in the evaluation and shall provide any requested records of prior counseling or treatment for review exclusively by the EAP Counselor in the context of such evaluation; and

(3) If the person is evaluated as not currently affected by an active substance abuse disorder, the subject data shall not be considered further with respect to certification. However, the railroad shall, on recommendation of the EAP Counselor, condition certification upon participation in any needed aftercare and/or follow-up testing for alcohol or drugs deemed necessary by the EAP Counselor consistent with the technical standards specified in § 240.119(d)(3) of this part.

(4) If the person is evaluated as currently affected by an active substance abuse disorder, the person shall not be currently certified and the provisions of § 240.119(b) will apply.

§ 240.119 Criteria for consideration of data on substance abuse disorders and alcohol/drug rules compliance.

(a) Each railroad's program shall include criteria and procedures for implementing this section.

(b) *Fitness requirement.* (1) A person who has an active substance abuse disorder shall not be currently certified as a locomotive engineer.

(2) Except as provided in paragraph (e) of this section, a certified engineer who is determined to have an active substance abuse disorder shall be suspended from certification. Consistent with other provisions of this part, certification may be reinstated as provided in paragraph (d) of this section.

(3) In the case of a current employee of the railroad evaluated as having an active substance abuse disorder (including a person identified under the procedures of § 240.115), the employee may, if otherwise eligible, voluntarily self-refer for substance abuse counseling or treatment under the policy required by § 219.403 of this chapter; and the railroad shall then treat the substance abuse evaluation as confidential except with respect to current ineligibility for certification.

(c) *Prior alcohol/drug conduct; Federal rule compliance.* (1) In determining whether a person may be or remain certified as a locomotive engineer, a railroad shall consider conduct described in paragraph (c)(2) of this section that occurred within a period of 60 consecutive months prior to the review. A review of certification shall be initiated promptly upon the occurrence and documentation of any incident of conduct described in this paragraph.

(2) A railroad shall consider any violation of § 219.101 or § 219.102 of this chapter and any refusal or failure to provide a breath or body fluid sample for testing under the requirements of part 219 of this chapter when instructed to do so by a railroad representative.

(3) A period of ineligibility described in this paragraph shall:

(i) Begin, for a person not currently certified, on the date of the railroad's written determination that the most recent incident has occurred; or

(ii) Begin, for a person currently certified, on the date of the railroad's notification to the person that recertification has been denied or certification has been revoked; and

(4) The period of ineligibility described in this paragraph shall be determined in accordance with the following standards:

(i) In the case of a single violation of § 219.102 of this chapter, the person shall be ineligible to hold a certificate during evaluation and any required primary treatment as described in paragraph (d) of this section. In the case of two violations of § 219.102, the person shall be ineligible to hold a certificate for a period of two years. In the case of more than two such violations, the person shall be ineligible to hold a certificate for a period of five years.

(ii) In the case of one violation of § 219.102 of this chapter and one violation of § 219.101 of this chapter, the person shall be ineligible to hold a certificate for a period of three years.

(iii) In the case of one violation of § 219.101 of this chapter, the person shall be ineligible to hold a certificate for a period of 9 months (unless identification of the violation was through a qualifying "co-worker report" as described in § 219.405 of this chapter and the engineer waives investigation, in which case the certificate shall be deemed suspended during evaluation and any required primary treatment as described in paragraph (d)). In the case of two or more violations of § 219.101, the person shall be ineligible to hold a certificate for a period of five years.

(iv) In the case of a refusal or failure to provide a breath or body fluid sample for testing under the requirements of part 219 of this chapter when instructed to do so by a railroad representative, the refusal or failure shall be treated for purposes of ineligibility under this paragraph in the same manner as a violation of—

(A) § 219.102, in the case of a refusal or failure to provide a urine specimen for testing; or

(B) § 219.101, in the case of a refusal or failure to provide a breath sample (subpart D), or a blood specimen for mandatory post-accident toxicological testing (subpart C)).

(d) *Future eligibility to hold certificate following alcohol/drug violation.* The following requirements apply to a person who has been denied certification or who has had certification suspended or revoked as a result of conduct described in paragraph (c) of this section:

(1) The person shall not be eligible for grant or reinstatement of the certificate unless and until the person has—

(i) Been evaluated by an EAP Counselor to determine if the person currently has an active substance abuse disorder;

(ii) Successfully completed any program of counseling or treatment determined to be necessary by the EAP Counselor prior to return to service; and

(iii) Presented a urine sample for testing under Subpart H of this part that tested negative for controlled substances assayed and has tested negative for alcohol under paragraph (d)(4) of this section.

(2) An engineer placed in service or returned to service under the above-stated conditions shall continue in any program of counseling or treatment deemed necessary by the EAP Counselor and shall be subject to a reasonable program of follow-up alcohol and drug testing without prior notice for a period of not more than 60 months following return to service. Follow-up tests shall include not fewer than 6 alcohol tests and 6 drug tests during the first 12 months following return to service.

(3) Return-to-service and follow-up alcohol and drug tests shall be performed consistent with the requirements of subpart H of part 219 of this chapter.

(4) This paragraph does not create an entitlement to utilize the services of a railroad EAP Counselor, to be afforded leave from employment for counseling or treatment, or to employment as a locomotive engineer. Nor does it restrict any discretion available to the railroad to take disciplinary action based on conduct described herein.

(e) *Confidentiality protected.* Nothing in this part shall affect the responsibility of the railroad under § 219.403 of this chapter (“Voluntary Referral Policy”) to treat voluntary referrals for substance abuse counseling and treatment as confidential; and the certification status of an engineer who is successfully assisted under the procedures of that section shall not be adversely affected. However, the railroad shall include in its voluntary referral policy required to be issued pursuant to § 219.403 of this chapter a provision that, at least with respect to a certified locomotive engineer or a candidate for certification, the policy of confidentiality is waived (to the extent that the railroad shall receive from the EAP Counselor official notice of the substance abuse disorder and shall suspend or revoke the certification, as appropriate) if the person at any time refuses to cooperate in a recommended course of counseling or treatment

EXHIBIT C

DOT Requirements for Conductors

49 CFR § 242.111 Prior safety conduct as motor vehicle operator.

(a) Each railroad shall adopt and comply with a program meeting the requirements of this section. When any person (including, but not limited to, each railroad, railroad officer, supervisor, and employee) violates any requirement of a program which complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

(b) Except as provided in paragraphs (c), (d), (e), and (f) of this section, after the pertinent date specified in § 242.105(d) or (e), each railroad, prior to initially certifying or recertifying any person as a conductor for any type of service, shall determine that the person meets the eligibility requirements of this section involving prior conduct as a motor vehicle operator.

(c) A railroad shall initially certify a person as a conductor for 60 days if the person:

(1) Requested the information required by paragraph (h) of this section at least 60 days prior to the date of the decision to certify that person; and

(2) Otherwise meets the eligibility requirements provided in § 242.109.

(d) A railroad shall recertify a person as a conductor for 60 days from the expiration date of that person's certification if the person:

(1) Requested the information required by paragraph (h) of this section at least 60 days prior to the date of the decision to recertify that person; and

(2) Otherwise meets the eligibility requirements provided in § 242.109.

(e) Except as provided in paragraph (f) of this section, if a railroad who certified or recertified a person pursuant to paragraph (c) or (d) of this section does not obtain and evaluate the information required pursuant to paragraph (h) of this section within 60 days of the pertinent dates identified in paragraph (c) or (d) of this section, that person will be ineligible to perform as a conductor until the information can be evaluated.

(f) If a person requests the information required pursuant to paragraph (h) of this section but is unable to obtain it, that person or the railroad certifying or recertifying that person may petition for a waiver of the requirements of paragraph (b) of this section in accordance with the provisions of part 211 of this chapter. A railroad shall certify or recertify a person during the pendency of the waiver request if the person otherwise meets the eligibility requirements provided in § 242.109.

(g) *Individual's duty.* Except for persons designated as conductors under § 242.105(a) or (b) or for persons covered by § 242.109(f), each person seeking certification or recertification under this part shall, within 366 days preceding the date of the railroad's decision on certification or recertification:

(1) Take the actions required by paragraphs (h) through (j) of this section to make information concerning his or her driving record available to the railroad that is considering such certification or recertification; and

(2) Take any additional actions, including providing any necessary consent required by State, Federal, or foreign law to make information concerning his or her driving record available to that railroad.

(h) Each person seeking certification or recertification under this part shall request, in writing, that the chief of each driver licensing agency identified in paragraph (i) of this section provide a copy of that agency's

available information concerning his or her driving record to the railroad that is considering such certification or recertification.

(i) Each person shall request the information required under paragraph (h) of this section from:

(1) The chief of the driver licensing agency of any jurisdiction, including a state or foreign country, which last issued that person a driver's license; and

(2) The chief of the driver licensing agency of any other jurisdiction, including states or foreign countries, that issued or reissued the person a driver's license within the preceding five years.

(j) If advised by the railroad that a driver licensing agency has informed the railroad that additional information concerning that person's driving history may exist in the files of a state agency or foreign country not previously contacted in accordance with this section, such person shall:

(1) Request in writing that the chief of the driver licensing agency which compiled the information provide a copy of the available information to the prospective certifying railroad; and

(2) Take any additional action required by State, Federal, or foreign law to obtain that additional information.

(k) Any person who has never obtained a motor vehicle driving license is not required to comply with the provisions of paragraph (h) of this section but shall notify the railroad of that fact in accordance with procedures of the railroad that comply with § 242.109(f).

(l) Each certified conductor or person seeking initial certification shall report motor vehicle incidents described in paragraphs (n)(1) and (2) of this section to the employing railroad within 48 hours of being convicted for, or completed state action to cancel, revoke, suspend, or deny a motor vehicle drivers license for, such violations. For purposes of this paragraph and paragraph (n) of this section, "state action" means action of the jurisdiction that has issued the motor vehicle driver's license, including a foreign country. For the purposes of conductor certification, no railroad shall require reporting earlier than 48 hours after the conviction, or completed state action to cancel, revoke, or deny a motor vehicle drivers license.

(m) *Evaluation of record.* When evaluating a person's motor vehicle driving record, a railroad shall not consider information concerning motor vehicle driving incidents that occurred:

(1) Prior to the effective date of this rule;

(2) More than 36 months before the month in which the railroad is making its certification decision; or

(3) At a time other than that specifically provided for in §§ 242.111, 242.115, or 242.403.

(n) A railroad shall only consider information concerning the following types of motor vehicle incidents:

(1) A conviction for, or completed state action to cancel, revoke, suspend, or deny a motor vehicle drivers license for, operating a motor vehicle while under the influence of or impaired by alcohol or a controlled substance; or

(2) A conviction for, or completed state action to cancel, revoke, suspend, or deny a motor vehicle driver's license for, refusal to undergo such testing as is required by State or foreign law when a law enforcement official seeks to determine whether a person is operating a vehicle while under the influence of alcohol or a controlled substance.

(o) If such an incident is identified:

(1) The railroad shall provide the data to the railroad's DAC, together with any information concerning the person's railroad service record, and shall refer the person for evaluation to determine if the person has an active substance abuse disorder;

(2) The person shall cooperate in the evaluation and shall provide any requested records of prior counseling or treatment for review exclusively by the DAC in the context of such evaluation; and

(3) If the person is evaluated as not currently affected by an active substance abuse disorder, the subject data shall not be considered further with respect to certification. However, the railroad shall, on recommendation of the DAC, condition certification upon participation in any needed aftercare and/or follow-up testing for alcohol or drugs deemed necessary by the DAC consistent with the technical standards specified in § 242.115(f)(3).

(4) If the person is evaluated as currently affected by an active substance abuse disorder, the provisions of § 242.115(d) will apply.

(5) If the person fails to comply with the requirements of paragraph (o)(2) of this section, the person shall be ineligible to perform as a conductor until such time as the person complies with the requirements.

§ 242.115 Substance abuse disorders and alcohol drug rules compliance.

(a) Each railroad shall adopt and comply with a program which complies with the requirements of this section. When any person, including, but not limited to, each railroad, railroad officer, supervisor, and employee, violates any requirement of a program which complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

(b) After the pertinent date specified in § 242.105(d) or (e), each railroad, prior to initially certifying or recertifying any person as a conductor for any type of service, shall determine that the person meets the eligibility requirements of this section.

(c) In order to make the determination required under paragraph (d) of this section, a railroad shall have on file documents pertinent to that determination, including a written document from its DAC which states his or her professional opinion that the person has been evaluated as not currently affected by a substance abuse disorder or that the person has been evaluated as affected by an active substance abuse disorder.

(d) *Fitness requirement.* (1) A person who has an active substance abuse disorder shall be denied certification or recertification as a conductor.

(2) Except as provided in paragraph (g) of this section, a certified conductor who is determined to have an active substance abuse disorder shall be ineligible to hold certification. Consistent with other provisions of this part, certification may be reinstated as provided in paragraph (f) of this section.

(3) In the case of a current employee of the railroad evaluated as having an active substance abuse disorder (including a person identified under the procedures of § 242.111), the employee may, if otherwise eligible, voluntarily self-refer for substance abuse counseling or treatment under the policy required by § 219.403 of this chapter; and the railroad shall then treat the substance abuse evaluation as confidential except with respect to ineligibility for certification.

(e) *Prior alcohol/drug conduct; Federal rule compliance.* (1) In determining whether a person may be or remain certified as a conductor, a railroad shall consider conduct described in paragraph (e)(2) of this section that occurred within a period of 60 consecutive months prior to the review. A review of certification shall be initiated promptly upon the occurrence and documentation of any incident of conduct described in this paragraph.

(2) A railroad shall consider any violation of § 219.101 or § 219.102 of this chapter and any refusal to provide a breath or body fluid sample for testing under the requirements of part 219 of this chapter when instructed to do so by a railroad representative.

(3) A period of ineligibility described in this section shall begin:

(i) For a person not currently certified, on the date of the railroad's written determination that the most recent incident has occurred; or

(ii) For a person currently certified, on the date of the railroad's notification to the person that recertification has been denied or certification has been revoked; and

(4) The period of ineligibility described in this section shall be determined in accordance with the following standards:

(i) In the case of a single violation of § 219.102 of this chapter, the person shall be ineligible to hold a certificate during evaluation and any required primary treatment as described in paragraph (f) of this section. In the case of two violations of § 219.102 of this chapter, the person shall be ineligible to hold a certificate for a period of two years. In the case of more than two such violations, the person shall be ineligible to hold a certificate for a period of five years.

(ii) In the case of one violation of § 219.102 of this chapter and one violation of § 219.101 of this chapter, the person shall be ineligible to hold a certificate for a period of three years.

(iii) In the case of one violation of § 219.101 of this chapter, the person shall be ineligible to hold a certificate for a period of 9 months (unless identification of the violation was through a qualifying "co-worker report" as described in § 219.405 of this chapter and the conductor waives investigation, in which case the certificate shall be deemed suspended during evaluation and any required primary treatment as described in paragraph (f)). In the case of two or more violations of § 219.101 of this chapter, the person shall be ineligible to hold a certificate for a period of five years.

(iv) A refusal to provide a breath or body fluid sample for testing under the requirements of part 219 of this chapter when instructed to do so by a railroad representative shall be treated, for purposes of ineligibility under this paragraph, in the same manner as a violation of:

(A) Section 219.102 of this chapter, in the case of a refusal to provide a urine specimen for testing; or

(B) Section 219.101 of this chapter, in the case of a refusal to provide a breath sample for alcohol testing or a blood specimen for mandatory post-accident toxicological testing.

(f) *Future eligibility to hold certificate following alcohol/drug violation.* The following requirements apply to a person who has been denied certification or who has had certification suspended or revoked as a result of conduct described in paragraph (e) of this section:

(1) The person shall not be eligible for grant or reinstatement of the certificate unless and until the person has:

(i) Been evaluated by a SAP to determine if the person currently has an active substance abuse disorder;

(ii) Successfully completed any program of counseling or treatment determined to be necessary by the SAP prior to return to service; and

(iii) In accordance with the testing procedures of subpart H of part 219 of this chapter, has had an alcohol test with an alcohol concentration of less than .02 and presented a urine sample that tested negative for controlled substances assayed.

(2) A conductor placed in service or returned to service under the above-stated conditions shall continue in any program of counseling or treatment deemed necessary by the SAP and shall be subject to a reasonable program of follow-up alcohol and drug testing without prior notice for a period of not more than 60 months following return to service. Follow-up tests shall include not fewer than 6 alcohol tests and 6 drug tests during the first 12 months following return to service.

(3) Return-to-service and follow-up alcohol and drug tests shall be performed consistent with the requirements of subpart H of part 219 of this chapter.

(4) This paragraph does not create an entitlement to utilize the services of a railroad SAP, to be afforded leave from employment for counseling or treatment, or to employment as a conductor. Nor does it restrict any discretion available to the railroad to take disciplinary action based on conduct described herein.

(g) *Confidentiality protected.* Nothing in this part shall affect the responsibility of the railroad under § 219.403 of this chapter (“Voluntary referral policy”) to treat voluntary referrals for substance abuse counseling and treatment as confidential; and the certification status of a conductor who is successfully assisted under the procedures of that section shall not be adversely affected. However, the railroad shall include in its voluntary referral policy required to be issued pursuant to § 219.403 of this chapter a provision that, at least with respect to a certified conductor or a candidate for certification, the policy of confidentiality is waived (to the extent that the railroad shall receive from the SAP or DAC official notice of the substance abuse disorder and shall suspend or revoke the certification, as appropriate) if the person at any time refuses to cooperate in a recommended course of counseling or treatment.

**EXHIBIT D
ALASKA RAILROAD
DRUG AND ALCOHOL POLICY 64-3**

1. Purpose

The purpose of this Policy is to document the terms and conditions of the Alaska Railroad Corporation's (ARRC) drug and alcohol testing program and ensure the ARRC's compliance with Department of Transportation (DOT) Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40, Federal Railroad Administration (FRA) Control of Alcohol and Drug Use, 49 CFR Part 219, and Federal Motor Carrier Safety Administration (FMCSA) Controlled Substances and Alcohol Use and Testing, 49 CFR Part 382.

2. Policy Statement

In the interest of the safety of employees, passengers, and the general public, the ARRC strives to provide safe work and service environments that are free from drugs and alcohol.

- A. The ARRC conducts drug and alcohol testing under the authority of the FRA and the FMCSA and exercises its own authority to conduct Non-DOT drug and alcohol testing.
- B. All drug tests are performed in accordance with the specimen collection and laboratory analysis procedures prescribed in 49 CFR Part 40.
- C. All analyses of urine samples are performed by laboratories certified by the Department of Health and Human Services (HHS).
- D. All breath alcohol tests are performed in accordance with the collection procedures prescribed in 49 CFR Part 40 using an Evidential Breath Testing Device (EBT) or an Alcohol Screening Device (ASD).
- E. The use and/or possession of alcohol while on duty or on ARRC property is prohibited.
- F. An alcohol confirmation test result of .02 or greater is a positive alcohol test result.
- G. The use, possession, or distribution of any Schedule 1 (Controlled Substances Act) drug or controlled substance, including marijuana, while on duty or on ARRC property is prohibited. Any employee performing Regulated service is prohibited from using a controlled substance at any time, whether on duty or off duty, except as permitted by 49 CFR § 219.103.
- H. Any employee refusing to take a drug and/or alcohol test or testing positive for drugs and/or alcohol will lose all seniority and employment rights at the ARRC.
- I. ARRC supervisors and managers will complete drug and alcohol training classes that will include, among other topics: ARRC Policy overview, reasonable cause, FRA post-accident, FMCSA post-accident and reasonable suspicion testing events and processes.
- J. ARRC employees will comply with all applicable drug and alcohol testing procedures in this Policy.
- K. Employees, who are required by an Employee Assistance Program (EAP) Counselor to complete return-to-duty and follow-up drug and/or alcohol tests, are responsible for all costs associated with the testing process.

3. Coverage

This Policy applies to all ARRC employees and all applicants seeking employment with the ARRC.

4. Distribution

This Policy will be posted on the ARRC Intranet, given to all employees at new employee orientation, and redistributed from time to time, when the Policy is amended.

5. References/Authority

- A. Procedures for Transportation Workplace Drug and Alcohol Testing Programs, 49 CFR Part 40.
- B. Random Drug and Alcohol Testing of FRA (Hours of Service) Regulated Employees ARRC Policy 64-16.
- C. Random Drug and Alcohol Testing of FMCSA Regulated Employees ARRC Policy 64-17.
- D. ARRC Collective Bargaining Agreements.
- E. 49 CFR Part 219, 49 CFR Part 382, 49 CFR Part 172, 49 CFR Part 383, 49 CFR Part 392, 49 CFR Part 214.
- F. Use of ARRC Motor Vehicles ARRC Policy 63-8.
- G. ARRC Policy and Procedure # 61-1 Corrective Action and Disciplinary Action for Non-Represented Employees
- H. ARRC Drug Free Workplace Policy 64-18.

6. Responsibilities

- A. *Director, Human Resources Department* is responsible for the interpretation of this Policy.
- B. *Designated Employer Representative* (hereafter "Program Administrator") is responsible for:
 - 1. Overall program administration of this Policy, compliance with the directives in 49 CFR Parts 40, 219, and 382 and compliance with instructions from the Medical Review Officer (MRO).
 - 2. Receiving test results from the MRO. If an employee tests positive for drugs, the MRO notifies the Program Administrator. If an employee tests positive for alcohol, the Program Administrator is notified by the collector at the time of the test.
 - 3. Contacting the Labor Relations Department and the employee's Department Representative in the event of a positive test result and ensuring action is taken to remove employees from active service.
 - 4. Arranging for and responding to non-standard circumstances (e.g., invalid test results, directly observed urine collections).
 - 5. Conducting drug and alcohol training with supervisors and managers.
- C. *Supervisors and Managers* are responsible for coordinating with the Program Administrator to ensure that this Policy is applied uniformly throughout the ARRC. Supervisors and Managers are required to attend drug and alcohol training.
- D. *Employees* are responsible for complying with the terms of this Policy.
- E. *Medical Review Officer (MRO)* is responsible for:
 - 1. Complying with and being knowledgeable about DOT drug and alcohol testing regulations, including 49 CFR Parts 40, 219, 382 and the DOT MRO Guidelines.
 - 2. Acting as an independent and impartial "gatekeeper" and advocate for the accuracy and integrity of the drug testing process.

3. Receiving and reviewing all laboratory drug test results.
4. Reporting all drug test results to the ARRC and ensuring the timely flow of test results and other information.
5. Being knowledgeable about issues relating to adulterated and substituted specimens, as well as the possible medical causes of specimens having an invalid result.
6. Determining whether there is a legitimate medical explanation for confirmed positive, adulterated, substituted and/or invalid drug test results.
7. Conducting confidential interviews (per 49 CFR Part 40, Subpart G) with individuals who have a confirmed positive, adulterated, substituted, or invalid drug test result.
8. Immediately notifying the Program Administrator when a drug test result is confirmed positive for a controlled substance or is reported as adulterated or substituted.
9. Immediately notifying the Program Administrator of any test results that must be cancelled.
10. Ensuring that all Breath Alcohol Technicians immediately notify the Program Administrator of a confirmed positive breath alcohol test result.
11. Recommending (and/or approving) medical providers who can conduct shy bladder and shy lung evaluations in Anchorage, Fairbanks, or the closest community.
12. Protecting the confidentiality of the ARRC's drug and alcohol testing information.
13. Arranging for the testing of the split sample, if requested by an employee who has an initial confirmed positive drug test.
14. Providing guidance and interpretation of the applicable federal regulations regarding drug and alcohol testing.

7. **Definitions**

The following definitions apply to this Policy. In the event of any inconsistency between these definitions and any of the same terms defined in 49 CFR Parts 40, 219, or 382, the CFR definitions shall control.

- A. **Adulterated Specimen:** A urine specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.
- B. **Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- C. **Alcohol confirmation test:** A test following a screening test with a result of 0.02 or greater, using an evidential breath testing device, which provides quantitative data about the alcohol concentration.
- D. **Alcohol screening test:** An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.
- E. **Applicant:** All individuals seeking employment with the ARRC.
- F. **Cancelled Test:** A drug or alcohol test that has a problem identified that cannot be or has not been corrected or which 49 CFR Part 40 otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test.
- G. **Commerce:**

1. Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; and
 2. Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (1) of this definition.
- H. Commercial Driver's License (CDL): A license issued to an individual by a state or other jurisdiction of domicile, in accordance with the standards contained in 49 CFR Part 383, which authorizes the individual to operate a class of a commercial motor vehicle.
- I. Commercial Motor Vehicle (CMV): As defined in 49 CFR §383.5, is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
1. Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
 2. Has a gross vehicle weight rating or gross vehicle weight of 11,794 (or more) kilograms (26,001 pounds or more), whichever is greater; or
 3. Is designed to transport 16 or more passengers including the driver; or
 4. Is of any size and is used in the transportation of materials designated as hazardous materials under 49 U.S.C. § 5103 and is required to be placarded under subpart F of 49 CFR Part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73.
- K. Confirmation Drug Test: A second analytical procedure performed on a different aliquot of the original urine specimen to identify and quantify the presence of a specific drug or drug metabolite.
- L. Consortium/Third-party Administrator (C/TPA): A service agent that provides and/or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employer's drug and alcohol testing programs. C/TPAs are not employers for the purposes of 49 CFR Part 40.
- M. Controlled substance: Has the meaning assigned by 21 U.S.C. § 802, and includes a drug or other substance, or immediate precursor, included in Schedules I through V as they may be revised from time to time (21 CFR §§ 1308.11—1308.15).
- N. Designated Employer Representative (DER): The authorized ARRC employee required to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the ARRC, consistent with the requirements of 49 CFR Part 40. In this Policy, the DER is referred to as the Program Administrator.
- O. Directly Observed Urine Collection: Certain circumstances may require that an employee submits to a directly observed urine collection. The collector must ensure that the observer is the same gender as the employee. The observer can be a different person from the collector and need not be a qualified collector.
- P. DOT: The United States Department of Transportation.

- Q. EAP Counselor: A person qualified by experience, education, or training to counsel people affected by substance abuse problems and to evaluate their progress in recovering from or controlling such problems. This definition includes SAPs.
- R. Employee: All employees of the ARRC.
- S. FMCSA: The Federal Motor Carrier Safety Administration, an operating administration of the United States Department of Transportation.
- T. FRA: The Federal Railroad Administration, an operating administration of the United States Department of Transportation.
- U. FRA-covered employees: Those employees whose employment activities are subject to the Hours of Service laws and employees who are Roadway Workers.
- V. HHS: The Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.
- W. Hours of Service (HOS) of Railroad Employees: Employees covered by a federal law restricting certain employees performing train operations and related work to a maximum number of hours on duty and a minimum required rest period.
- X. Invalid Drug Test: The result reported by an HHS-certified laboratory in accordance with the criteria established by HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.
- Y. Laboratory: Any U. S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.
- Z. Medical Emergency: An acute medical condition involving the employee, or an emergency involving an immediate family member, requiring immediate emergency care and the presence of the employee (birth, death, illness, accident). An employee excluded (excused) persons will not be tested based on this selection. An employee excluded from random testing under these criteria must provide substantiation from a credible professional (e.g., doctor, hospital, law enforcement officer, school authority, court official), which must be furnished to the Program Administrator within one (1) week after the emergency has been resolved. If the employee does not provide the substantiation to the Program Administrator by the end of that week, then the Program Administrator will re-characterize the excusal from testing as a refusal to test.
- AA. Medical Review Officer (MRO): A licensed physician responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results including failure to complete drug and/or alcohol tests.
- BB. Negative Result: The result reported by an HHS-certified laboratory to the MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.
- CC. Positive Result: A result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.
- DD. Possess: To have on one's person or in one's personal effects or under one's control. The concept of possession, as used in this Policy, does not include control by virtue of presence in the employee's personal residence or other similar location off ARRC

property.

EE. Reconfirmed: The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

FF. Refusal: The following conditions are considered a refusal:

1. Fail to appear for a drug and/or alcohol test within a reasonable time, as determined by the ARRC, after being directed to do so by the ARRC and/or C/TPA.
2. Fail to remain at the testing site until the testing process is complete.
3. Fail to provide a urine specimen for any drug test required by FRA, FMCSA and/or the ARRC.
4. In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of the collection of the urine specimen.
5. Fail to provide a sufficient amount of urine and/or breath when directed and it is determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
6. Fail or decline to take an additional drug test as directed by the ARRC or the collector.
7. Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Program Administrator.
8. Fail to cooperate with any part of the testing process (e.g. refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
9. Fail to provide medical documentation within the prescribed time frame after being excused from testing due to a medical emergency (as defined under 7(Z) of this Policy).
10. Fail to follow the observer's instructions during an observed urine collection (raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process).
11. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
12. Admit to the collector, MRO, and/or ARRC Official that the employee or applicant adulterated or substituted the urine specimen.
13. Are reported by the MRO as having a verified adulterated or substituted test result.
14. Fail or refuse to sign the certification at Step 2 of the Alcohol Testing Form. An employee who refuses to take a drug and/or alcohol test or who adulterates or substitutes a urine specimen faces the same consequences as an employee who tests positive for a prohibited substance.
15. An employee who refuses to take a drug and/or alcohol test or who adulterates or substitutes a urine specimen faces the same consequences as an employee who tests positive for a prohibited substance.

FF. Regulated employee means a covered employee or roadway worker employee who performs regulated service for a railroad.

GG. Regulated Service means covered service or roadway worker activities, the

performance of which makes an employee subject to the requirements of 49 CFR § 219.

- HH. Roadway Worker means an employee of a railroad or of a railroad contractor, whose duties include inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near a track or with the potential of fouling a tract, and flagmen and watchmen/lookouts.
- II. Roadway Worker Protection (RWP) means the safety programs, processes and procedures in place for the protection of roadway workers.
- JJ. Safety-sensitive work for CDL holders: Work performed by a covered driver from the time he/she begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive work performed shall include:
 - 1. When at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
 - 2. When inspecting equipment as required by 49 CFR § 392.7 and § 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time.
 - 3. When at the driving controls of a commercial motor vehicle in operation.
 - 4. When in or upon any commercial motor vehicle except time spent resting in a sleeper berth.
 - 5. When loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
 - 6. When repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- GG. Split Specimen Collection: A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).
- HH. Substance Abuse Professional (SAP) means a person who evaluates employees who have violated a DOT drug and alcohol regulation. A SAP is an advocate for neither the employer nor the employee. The SAP's function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education and/or treatment, follow-up tests, and aftercare.
- II. Substituted specimen: A urine specimen with creatinine and specific gravity values that are so diminished or divergent that they are not consistent with normal human urine.

8. Policies and Procedures

A. Drug and Alcohol Policies and Prohibitions

Cooperation during collection process: The employee must cooperate with the collection process of any required specimen. If the employee refuses to cooperate with the instructions from the collector, the collector will terminate the collection process, document the non-cooperation on the Custody and Control Form and/or the Alcohol Testing Form, notify the ARRC Official at the collection site (if applicable) and contact

the ARRC's Program Administrator. This will be treated as a refusal to submit to testing.

1. Alcohol

- a. Use and/or possession of alcohol while on duty is prohibited. A breath alcohol test will not be conducted if an employee is found in violation by using and/or possessing alcohol while on duty.
- b. Use and/or possession of alcohol on ARRC property is prohibited with the following exceptions:
 - 1) An off duty ARRC employee may possess and/or use alcohol on ARRC passenger trains in accordance with all rules, regulations, and laws that govern such use and/or possession by the general public.
 - 2) Unopened containers of alcohol are allowed in a private motor vehicle on ARRC property as long as the private vehicle is not used for ARRC business. An unopened container is one in which the original seal is not broken.
- c. FRA regulations (49 CFR § 219.101(a)(3)) prohibit FRA-covered employees from consuming alcohol within four hours of reporting for covered service or after receiving notice to report for covered service, whichever is less. No testing will be conducted for this violation and discipline will be handled according to ARRC Policy and appropriate labor agreements.
- d. FMCSA regulations (49 CFR Part 382) prohibit CMV drivers:
 - 1) From consuming alcohol within four hours of performing safety-sensitive functions (49 CFR § 382.207). No testing will be conducted for this violation and discipline will be handled according to ARRC Policy and appropriate labor agreements.
 - 2) From consuming any alcohol for eight hours following an accident that required FMCSA Post Accident alcohol testing (49 CFR § 382.209). No testing will be conducted for this violation and discipline will be handled according to ARRC Policy and appropriate labor agreements.
- e. Employees must not have a breath alcohol concentration of .02 or greater when reporting for duty or while on duty.

2. Drugs and Controlled Substances

- a. The illegal use, possession, or distribution of any Schedule 1 (Controlled Substances Act) drug or controlled substance, including marijuana, while on duty or on ARRC property is prohibited. Any employee performing Regulated service is prohibited from using a controlled substance at any time (49 CFR § 219.102), whether on duty or off duty, except as permitted by 49 CFR § 219.103.
- b. If an employee's negative drug test result is dilute with a creatinine concentration greater than 5 mg/dl, the ARRC will not conduct a re-test.
- c. If an employee's negative drug test result is dilute with a creatinine concentration equal to or greater than 2 mg/dl, but less than or equal to 5 mg/dl, an immediate re-test is required under direct observation, per 49 CFR § 40.197(b)(1).
- d. Prescription medication: Employees must ensure safety on-the-job through responsible use of prescribed and over the-counter (OTC) medications,

which may have an adverse effect on alertness, coordination, reaction, response, or safety on-the-job. If an employee's medical provider has prescribed a medication that has the potential to adversely affect his/her alertness, coordination, reaction, response or safety on-the-job, the employee must contact the ARRC Human Resources Department prior to reporting to work to report the medication for review by the ARRC contract medical providers. The medical provider will determine and report to the ARRC HR Department:

- 1) If the employee may work safely while taking the medication,
 - 2) If the employee must abide by certain restrictions, such as waiting a certain period of time after taking the last dosage before reporting to work, or
 - 3) If the employee may not to return to work while taking the medication.
- e. Over the counter (OTC) medication: Employees must read the label of instructions and potential warnings for all OTC medications. Some may contain ingredients that may cause employees to be a safety concern at work due to side effects, such as sleeplessness, dizziness, drowsiness, nervousness, lightheadedness, etc. If employees are experiencing side effects from any OTC medications, they must call their supervisors/foremen and inform them that they are not reporting to work.

3. Loss of Driving Privileges: All employees holding positions that require a valid driver's license and/or a track car license as a qualification must notify their supervisor when their license has been revoked, suspended, or withdrawn due to on duty or off duty drug and/or alcohol related revocations. Notification must be made as soon as possible and before the beginning date of the revocation, suspension, or withdrawal.

B. Drug and Alcohol Testing Authority and Testing Reasons

1. Testing Authority means the legal basis for conducting drug and/or alcohol testing. The testing authority for each test depends upon the position held by the employee being tested and the circumstances giving rise to that test.
 - a. FRA authority (DOT test) is the legal basis for testing employees occupying positions covered by HOS or Roadway Worker (RWW) regulations. FRA authority is found in 49 CFR Part 219 and the reasons for testing are identified in the tables below. Employee are required to be in compliance when the employee is on duty and is required to perform or is available to perform regulated service.
 - b. FMCSA authority (DOT test) is the legal basis for testing employees using a CDL for ARRC business. FMCSA authority is found in 49 CFR Part 382 and the reasons for testing are identified in the tables below. Safety sensitive work for CDL holders means work performed by a covered driver from the time he/she begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.
 - c. ARRC authority (Non-DOT test) is the legal basis for testing all ARRC employees. The reasons for conducting tests under ARRC authority are identified in the tables below.
 - d. Employees using a CDL for ARRC business who are also Roadway Workers will be placed in the FRA RWW random pool. Other tests will be conducted under the authority of the FRA, FMCSA or ARRC depending on

the nature of the work being performed at the time of the testing situation.

2. Accident, incident, or unplanned event (see Table One): The following drug and alcohol tests are conducted in response to an accident, incident, or other unplanned event: Reasonable Cause, FMCSA Post Accident, FRA Post Accident and Reasonable Suspicion.

When such an event occurs, the ARRC Official will make a good faith effort to contact the Program Administrator (or designee) to discuss the facts and the testing reason and to jointly determine the need (or not) for drug and alcohol testing.

When calling the Program Administrator to confirm a testing determination, the ARRC Official will provide the following information:

- 1) Specific information about the accident/incident to assist in making a determination if it qualifies for drug and alcohol testing.
- 2) The name(s) of the employee(s) to be tested, to include how each employee was directly involved in the accident/incident. If it's determined to exclude an employee(s) from testing, the ARRC Official will provide the reason why to the Program Administrator.
- 3) The location of the accident/incident, so the Program Administrator can coordinate with the nearest available collection site for the drug and alcohol testing.

In the unlikely event that the ARRC Official is unable to reach the Program Administrator (or designee) to confirm the testing determination and coordinate the tests, the ARRC Official may directly contact ARRC's C/TPA. The C/TPA will assist the ARRC Official by contacting the appropriate collection site and arranging for the drug and alcohol testing.

The Program Administrator (or designee) has the authority to cancel and/or change any testing determinations made, including but not limited to, the decision to test for drugs and/or alcohol, the testing reason, the testing authority under which employees are to be tested, the employee(s) to be tested and where and when the collections will be conducted.

- a. Reasonable Cause (see Table One) drug and alcohol testing is conducted after an accident, incident or event when:

- 1) An employee's acts or omissions constitute a violation of any safety or operating rule, which results in a personal injury or property damage in excess of \$2,500 or if the accident, incident, or event could have resulted in serious injury or death.
- 2) Any employee is involved and evidence indicates the employee's performance may have caused or contributed to the accident, incident, event or its severity.

Employees will be excluded from testing when the ARRC Official and/or Program Administrator can immediately determine on the basis of specific information that the employee(s) had no role in the cause(s) or severity of the accident, incident or event.

Documentation of the decision to test will be transferred by the Program Administrator to the ARRC Reasonable Cause Documentation form (Appendix B).

- b. FMCSA Post Accident (see Table One and Table Two) drug and alcohol

testing is conducted following an occurrence (accident) involving an ARRC commercial motor vehicle operated on a public road in commerce by an ARRC employee with a CDL to determine if drugs and/or alcohol were instrumental in the cause of the event.

c. FRA Post Accident (see Table One and Table Three) drug and alcohol testing is conducted after any event (as outlined in 49 CFR Part 219 Subpart C) that involves one or more circumstances described below:

- 1) Major Train Accident: Any train accident (i.e., rail equipment accident involving damage in excess of the current reporting threshold) involving one or more of the following:
 - i. A fatality.
 - ii. A release of hazardous material (“hazmat”) lading from ARRC equipment accompanied by an evacuation or a reportable injury resulting from the hazmat material release.
 - iii. Damage to ARRC property of \$1,500,000 or more.
- 2) Impact Accident: An impact accident (i.e., rail equipment accident) that involves damage in excess of the current reporting threshold, resulting in a reportable injury or in damage to ARRC property of \$150,000.
- 3) Passenger Train Accident: A train accident (i.e., rail equipment accident) involving a passenger train with damage in excess of the current reporting threshold and a reportable injury to any person.
- 4) Fatal Train Incident: Any train incident that involves a fatality to any on duty ARRC employee as a result of the operation of on-track equipment, regardless of whether that employee was performing regulated service.
- 5) Human-factor highway-rail grade crossing accident/incident. A highway-rail grade crossing accident/incident when it involves:
 - i. a regulated employee who interfered with the normal functioning of a grade crossing signal system;
 - ii. a train crewmember who was or should have been flagging highway traffic;
 - iii. a regulated employee who was or should have been performing the duties of an appropriately equipped flagger;
 - iv. a fatality to any regulated employee performing duties for the ARRC regardless of fault; or
 - v. a regulated employee who violated an FRA regulation or ARRC operating rule and whose actions may have played a role in the cause or severity of the accident/incident.

The ARRC must recall regulated employees who may not have been present or on duty at the time or location of the event, but whose actions may have played a role in its cause or severity, including, but not limited to, an operator, dispatcher, or signal maintainer, for post-accident drug testing. Recall must occur prior to twenty-four (24) hours after the event.

d. Reasonable Suspicion (see Table One) drug and/or alcohol testing is

conducted when an ARRC Official(s) has a reasonable suspicion that an employee is exhibiting the signs and symptoms of drug and/or alcohol use. Documentation of the decision to test may be transferred by the Program Administrator to the ARRC Reasonable Suspicion Documentation form (Appendix A). Employees are held out of service pending the results of the reasonable suspicion drug and/or alcohol testing.

- 1) Reasonable suspicion must be based on specific, contemporaneous and articulable observations concerning the speech, behavior, body odor, or appearance of an employee. The testing determination will be made by an ARRC Official who has completed training on the signs and symptoms of drugs and alcohol.
- 2) Reasonable suspicion testing is authorized by FRA, FMCSA, and ARRC.
 - i. FRA: An employee will be tested under FRA authority if the regulated employee is performing regulated service at the time an ARRC Official observes signs and symptoms of drugs and/or alcohol. Alcohol testing determination requires one ARRC Official who has been trained in signs and symptoms of alcohol use. Drug testing determination requires two supervisors, one of whom is trained in signs and symptoms of drug use.
 - ii. FMCSA: An employee will be tested under FMCSA authority if the employee is a CDL holder and is performing safety-sensitive functions, is about to perform safety-sensitive functions, or has just ceased performing such functions and an ARRC Official observes signs and symptoms of drugs and/or alcohol.
 - iii. ARRC: Employees who are not subject to FRA authority or FMCSA authority will be tested under ARRC authority if an ARRC Official observes signs and symptoms of drugs and/or alcohol.

Table One

Accident, Incident, and Unplanned Testing Event

Accident, Incident, Unplanned Event: Testing Reasons	FRA Authority (DOT)		FMCSA Authority (DOT)		ARRC Authority (Non-DOT)		May employee return to work before negative test results are received in Human Resources Department?
	Drugs	Alcohol	Drugs	Alcohol	Drugs	Alcohol	
Reasonable Cause	N/A	N/A	N/A	N/A	✓	✓	Yes (With the exception of employees covered by United Transportation Union)
FRA or FMCSA Post Accident	✓	✓	✓	✓	N/A	N/A	Yes
Reasonable Suspicion	✓	✓	✓	✓	✓	✓	No

Table TwoFMCSA Post Accident Testing
49 CFR § 382.303

FMCSA Post Accident Event	Citation Issued to the CMV Driver	Testing Must Be Performed	May employee return to work before negative test results are received in Human Resources Department?
Human fatality	Yes	Yes	Yes
	No	Yes	Yes
Bodily injury with immediate medical treatment away from the scene	Yes	Yes	Yes
	No	No	N/A
Disabling damage to any motor vehicle requiring tow away	Yes	Yes	Yes
	No	No	N/A

Table ThreeFRA Post Accident Testing
49 CFR Part 219, Subpart C

FRA Post Accident Event	Testing Situation	Whom To Test	May employee return to work before negative test results are received in Human Resources Department?
Major Train Accident, as defined in 49 CFR § 219.201(a)(1)	Yes	All assigned crew members of all trains or other on-track equipment involved in the qualifying event. Other regulated employees who are not assigned must be tested if it is determined that the employee may have had a role in the cause or severity of the accident/incident, based on immediately available information.	Yes

Table Three – continued
 FRA Post Accident Testing

FRA Post Accident Event	Testing Situation	Whom To Test	May employee return to work before negative test results are received in Human Resources Department?
Impact Accident, as defined in 49 CFR § 219.201(a)(2)	Yes	All regulated employees associated with all involved trains or other on-track equipment. Regulated employee(s) may only be excluded from testing if it's immediately determined the employee(s) had no role in the cause or severity of the accident.	Yes
Passenger Train Accident, as defined in 49 CFR § 219.201(a)(4)	Yes	All regulated employees associated with all involved trains. Regulated employee(s) may only be excluded from testing if it's immediately determined the regulated employee(s) had no role in the cause or severity of the accident.	Yes
Fatal Train Incident, as defined in 49 CFR § 219.201(a)(3)	Yes	The remains of an on duty ARRC employee who dies within 12 hours of the qualifying event.	Yes
Human-factor highway-rail grade crossing accident/incident as defined in 49 CFR § 219.201 (a)(5)	Yes	A regulated employee who interfered with the normal functioning of a grade crossing signal system and whose actions may have contributed to the cause or severity of the event	Yes
	Yes	A train crew member who failed to flag highway traffic to stop due to an activation failure of the grade crossing system and whose actions may have contributed to the cause or severity of the event	Yes
	Yes	A regulated employee who failed to perform the duties of an appropriately equipped flagger and whose actions may have contributed to the cause or severity of the event	Yes
	Yes	The remains of the fatally injured regulated employee performing duties for the railroad	Yes
	Yes	A regulated employee who	Yes

		violated an FRA regulation or railroad operating rule and whose actions may have contributed to the cause or severity of the event	
Highway/rail grade crossing, wholly attributable to natural causes, or vandalism or trespassers	No	N/A	N/A

3. Planned and Scheduled Tests

a. Pre-employment drug and alcohol testing (see Table Four)

- 1) All applicants/employees given favorable consideration for (or transferring into) a position covered by HOS or RWP must submit to and pass a DOT/FRA pre-employment drug test. Such employees must also submit to and pass an ARRC authority (Non-DOT) pre-employment alcohol test.
- 2) All applicants/employees given favorable consideration for (or transferring into) a position requiring a CDL or CDL permit must submit to and pass a DOT/FMCSA pre-employment drug test. Such employees must also submit to and pass an ARRC authority (Non-DOT) pre-employment alcohol test.
- 3) Employees who have had a status change removing them from the FMCSA random drug and alcohol testing pool for 30 days or more must submit to an FMCSA pre-employment drug test when returning to work in a position using a CDL or CDL permit.
- 4) All other applicants given favorable consideration for all other positions at the ARRC must submit to and pass ARRC authority (Non-DOT) pre-employment drug and alcohol tests.

b. Random drug and/or alcohol testing (see Table Four) The ARRC conducts random drug and alcohol testing of all employees holding a position covered by the HOS, RWP or a position requiring a CDL.

- 1) The ARRC's C/TPA makes the monthly random selections from the random employee pools and notifies the Program Administrator of the selected employee names.
- 2) Employees chosen to submit to a random test are tested during their tour of duty, during the most advantageous and operationally beneficial time during the testing month, and on an unannounced basis without prior notice to the employee.
- 3) Details of coverage, selection, notification, etc. are outlined in ARRC Policy 64-16 (FRA) and ARRC Policy 64-17 (FMCSA).

c. Fit-for-duty drug and alcohol testing (see Table Four)

- 1) Employees who have been in layoff status for more than 90 calendar days or who are returning from a leave of absence of more than 90 calendar days must submit to Non-DOT fit-for-duty drug and alcohol tests before returning to work. Additionally, former employees who have

terminated employment and have been rehired with a break in service of more than 90 days must submit to and pass Non-DOT fit-for-duty drug and alcohol tests before returning to work.

2) Employees returning to work after an on-the-job or off-the-job injury/illness/surgery lasting more than 14 calendar days must submit to Non-DOT fit-for-duty drug and alcohol tests before returning to work.

d. Return-to-duty and/or follow-up testing following EAP referral (see Table Four)

Under certain circumstances, ARRC employees may be required, as a condition of their employment, to undergo a mandatory referral to an EAP Counselor for prescribed treatment, education, or aftercare. When an EAP Counselor notifies the ARRC that such an employee has successfully completed the referral, but must be tested in order to return to work, the employee must submit to and pass an FRA, FMCSA, or ARRC drug and alcohol tests (whichever is applicable) before returning to work.

In addition to return-to-duty drug and alcohol tests, the EAP Counselor may require a referred employee to submit to FRA, FMCSA or ARRC follow-up drug and/or alcohol tests (whichever is applicable) after the employee returns to work. If that is the case, the EAP Counselor will determine the number and the frequency of the required tests with a minimum of six unannounced follow-up tests in the first twelve months of the employee returning to work. The EAP Counselor will also notify the ARRC if the employee needs to be tested for drugs, alcohol, or both.

Table Four
Planned and Scheduled Tests

Testing Reasons	FRA (DOT authority)		FMCSA (DOT authority)		ARRC (Non-DOT authority)		Will an ARRC supervisor be involved?	May employee return to work before negative test results are received in Human Resources Department?
	Drugs	Alcohol	Drugs	Alcohol	Drugs	Alcohol		
Pre-employment	✓	N/A	✓	N/A	✓	✓	No	No
Random	✓	✓	✓	✓	N/A	N/A	Yes	Yes
Fit-for-duty	N/A	N/A	N/A	N/A	✓	✓	Yes	Yes
Return-to-duty	✓	✓	✓	✓	✓	✓	No	No
Follow-up	✓	✓	✓	✓	✓	✓	Yes	Yes

C. Split specimen:

1. When an employee is notified by the MRO of a verified positive drug test and/or refusal to test because of adulteration or substitution, the employee will have 72 hours from the time of notification to request a test of the split specimen. Split

specimen testing is not allowed if the test of the primary specimen produced an invalid drug test result.

2. When the employee has made the timely request for a test of the split specimen, the MRO will immediately provide written notice to the laboratory that tested the primary specimen and instruct them to forward the split specimen to a second HHS-certified laboratory for testing. All costs associated with the transfer and testing of the split specimen at the second laboratory will be the responsibility of the ARRC.

D. Confidentiality

1. The MRO shall not disseminate individual drug test results outside the ARRC, except when required by legal order or when the employee requests such dissemination in writing.
2. Drug and alcohol test results may be shared with ARRC representatives on a need-to-know basis only, which extends to ARRC Officials from the assigned department, Human Resources, Labor Relations, ARRC's designated EAP, and the donor employee.
3. The donor employees may release drug and alcohol testing information to their union representatives, attorneys, or other third parties as they choose.

9. Drug and Alcohol Violations

Violations of this Policy will result in the employee being immediately withdrawn from service and placed on leave in accordance with the respective collective bargaining agreement or the ARRC Policy # 61-1 Corrective Action and Disciplinary Action for Non-Represented Employees pending the results of a disciplinary hearing pursuant to the applicable union collective bargaining agreement or ARRC disciplinary policy. These violations include:

- A. Positive drug and/or alcohol test.
- B. Pre-duty use, on duty use and/or possession of drugs and/or alcohol on ARRC property.
- C. Refusal to submit to drug and/or alcohol testing. An employee who refuses to take a drug and/or alcohol test or who adulterates or substitutes a urine specimen faces the same consequences as an employee who tests positive for drugs and/or alcohol.
- D. Applicants who refuse to take a drug and/or alcohol test or who test positive for drugs and/or alcohol during the pre-employment testing process will have the job offer rescinded and will not be considered for employment with the ARRC for a minimum of one year.

10. Responsible Division/Department

This Policy will be reviewed and updated periodically by the Human Resources Department.

11. Documentation and Retention

- | | |
|---|-----------|
| • Negative drug test results | Two Years |
| • Alcohol test results with concentration of less than 0.02 | Two Years |
| • Random Test Selection Memorandum | Two Years |
| • Random Test Result Memorandum | Two Years |
| • Cancelled drug test results | Two Years |
| • Random selection process for drugs and alcohol and the verification lists | Two Years |
| • Master and Back-up Random Selection Lists | Two Years |

- Verified positive drug test results Five Years
- Alcohol test results with a concentration of 0.02 or greater Five Years
- Documentation of refusals to take required alcohol and/or drug tests including substituted or adulterated drug test results) Five Years
- SAP Reports Five Years
- Follow-up test results Five Years
- Schedules for Follow-up testing Five Years
- Summary record of each covered employee's test results Five Years
- Documents verifying the existence of a medical explanation of the inability of a covered employee to provide an adequate specimen Two Years
- Documentation of the circumstances beyond an employee's control preventing the random testing from occurring. Two Years

12. Appendices

- A. Reasonable Suspicion Documentation Form
- B. Reasonable Cause Documentation Form
- C. Notice from Office of Drug and Alcohol Policy Compliance - 12/3/2012

EMPLOYEE UNDER REASONABLE SUSPICION

Employee name:		Employee ID #:
Date of observation:	Time:	Location:
Supervisor name (printed):	Supervisor signature (if available):	Date:
Witness name (printed):	Witness signature (if available):	Date:
Designated Employer Rep (DER):	DER signature	Date:

OBSERVATIONS – Check all signs and symptoms observed

Note: The lists below are not all inclusive.

Behavior:	Appearance:	Speech:
<ul style="list-style-type: none"> <input type="checkbox"/> Stumbling, unsteady gait <input type="checkbox"/> Clumsy, uncoordinated <input type="checkbox"/> Unresponsive, distracted <input type="checkbox"/> Drowsy, sleepy, lethargic <input type="checkbox"/> Depressed, withdrawn <input type="checkbox"/> Irritable, moody <input type="checkbox"/> Hostile, belligerent <input type="checkbox"/> Agitated, anxious, restless <input type="checkbox"/> Hyperactive, fidgety <input type="checkbox"/> Suspicious, paranoid <input type="checkbox"/> Tremors, shakes <input type="checkbox"/> Violent behavior <input type="checkbox"/> Violence against property <input type="checkbox"/> Inappropriate, uninhibited behavior <input type="checkbox"/> Persistent runny nose or flu-like symptoms, for no reason <input type="checkbox"/> Frequent use of mints, mouthwash, breath sprays, eye drops <input type="checkbox"/> Other observations: 	<ul style="list-style-type: none"> <input type="checkbox"/> Bloodshot eyes <input type="checkbox"/> Tearing, watery eyes <input type="checkbox"/> Enlarged pupils <input type="checkbox"/> Pinpoint pupils <input type="checkbox"/> Unfocused, blank stare <input type="checkbox"/> Flushed or pale complexion <input type="checkbox"/> Sweaty for no reason <input type="checkbox"/> Cold, clammy <input type="checkbox"/> Dirty, messy appearance <input type="checkbox"/> Other observations: 	<ul style="list-style-type: none"> <input type="checkbox"/> Slurred, thick, slow <input type="checkbox"/> Exaggerated enunciation <input type="checkbox"/> Not understandable <input type="checkbox"/> Rapid, pressured <input type="checkbox"/> Loud, boisterous <input type="checkbox"/> Excessively talkative <input type="checkbox"/> Silly, nonsensical <input type="checkbox"/> Inappropriate, including cursing <input type="checkbox"/> Other observations:
		Body Odors: <ul style="list-style-type: none"> <input type="checkbox"/> Alcohol smell on breath <input type="checkbox"/> Marijuana smell on clothes <input type="checkbox"/> Other observations:

Test Required: <ul style="list-style-type: none"> <input type="checkbox"/> Breath alcohol test (FRA, FMCSA, or ARRC) <input type="checkbox"/> Urine drug test (FRA, FMCSA, or ARRC) 	No Test Conducted: <ul style="list-style-type: none"> <input type="checkbox"/> Employee refused test <input type="checkbox"/> 8 hours elapsed, so no breath alcohol test <input type="checkbox"/> No collection services available <input type="checkbox"/> Transported for medical care/evaluation
--	--

Employee transported to collection site by:	
Time transported:	Collection site:

Workflow process: ARRC supervisor/manager calls the ARRC DER to discuss signs and symptoms. DER documents the discussion of signs and symptoms and transcribes information to this form. This form will be kept with the drug and/or alcohol reasonable suspicion test results

This form will be completed by a supervisor, manager or Designated Employer Representative (DER) after the decision to test has been made.

Provide a brief description of the accident / incident:

—

Date of accident/incident:	Location:	Approx. time:	
Reporting Supervisor (print):	Supervisor signature (if available):	Date:	Department:
DER (print):	DER signature:	Date:	

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—

Employee Name: (If any employees are held over on hours of service, please make a note next to their name below)	# 1) Did employee(s) violate a safety or operating rule? If "no," go to # 4.		# 2) Did the rule violation result in personal injury or property damage in excess of \$2,500?		# 3) Could the rule violation have resulted in serious injury or death?		# 4) Did the employee's performance possibly cause or contribute to the accident/incident?		Decision to test for Non-DOT reasonable cause drugs and alcohol.	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No

Workflow process: ARRC supervisor/manager calls ARRC DER to discuss the accident/incident and potential for reasonable cause testing. A decision is made and DER documents the discussion and transcribes information to this form. Supervisor and/or DER will sign this form. The form will be kept with the drug and alcohol reasonable cause test results within the HR

EXCERPT FROM

GCOR

Electronic Edition

General Code of Operating Rules

Sixth Edition

Effective April 7, 2010

all previous rules and instructions inconsistent therewith.

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Possession of this document does not fulfill requirement of GCOR 1.3.1

Revised June 13, 2012

Adopted by:

Acadiana Railway Company
Adrian & Blissfield Rail Road Company
Alabama & Gulf Coast Railway
Alabama Southern Railrad
Alabama & Tennessee River Railway, LLC
Alabama Warrior Railroad
Alaska Railroad Corporation
Albany & Eastern Railroad Company
Aliquippa & Ohio River Railroad
Alliance Terminal Railway, LLC
Altamont Commuter Express Rail Authority
Alton & Southern Railway
Amtrak—Chicago Terminal
Amtrak—Michigan Line
Amtrak—NOUPT
AN Railway
Apache Railway Company
A&R Terminal Railroad Company
Arizona & California Railroad
Arizona and California Railway Company
Arizona Central Railroad
Arizona Eastern Railway Company
Arkansas Louisiana & Mississippi Railroad
Arkansas Midland Railroad Company Inc.
Arkansas & Missouri Railroad Company
Arkansas Southern Railroad
Ashtabula, Carson & Jefferson Railroad
AT&L Railroad Company
Atlantic & Western Railway
Austin Western Railroad
Baton Rouge Southern Railroad
Bauxite & Northern Railway
Bay Line Railroad
Belt Railway Company of Chicago
BHP Nevada Railway Company
Blackwell Northern Gateway Railroad
BNSF Railway
Boise Valley Railroad
Buckingham Branch Railroad
Buffalo & Pittsburg Railroad
California Northern Railroad
California Western Railroad
Camas Prairie RailNet, Inc.
Canadian Pacific
Caney Fork & Western Railroad
Canon City and Royal Gorge Railroad
Carolina Piedmont Railroad
Carrizo Gorge Railway
Cascade and Columbia River Railroad
Cedar Rapids & Iowa City Railway Company
Central California Traction Company
Central Illinois Railroad
Central Kansas Railway
Central Midland Railway
Central Montana Rail
Central Oregon & Pacific Railroad, Inc.
Central Railroad of Indiana
Central Railroad of Indianapolis
Charlotte Southern Railroad Company
Chattahoochee Bay Railroad
Chattahoochee Industrial Railroad
Chattooga & Chickamauga Railway
Chesapeake & Albemarle Railroad Company, Inc.
Chicago, Ft. Wayne & Eastern Railroad
Chicago Rail Link
Chicago SouthShore & South Bend Railroad
City of Prineville Railway
C&NC Railroad Corporation
Columbia Basin Railroad Co.
Columbia and Cowlitz Railway

APPENDIX C

PROPOSAL INFORMATION, CONDITIONS & INSTRUCTIONS

1. Pre-Submission Proposal Inquires

Proposers shall promptly notify ARRC of any ambiguity, inconsistency, conflict, or error which they may discover upon examination of the solicitation documents. Verbal inquiries regarding this RFP are not permitted. All inquiries must be made in writing and received at ARRC's offices prior to February 23 and the written inquiries must be submitted as follows:

Greg Goemer
Alaska Railroad Corporation
327 W. Ship Creek Avenue,
Anchorage, AK 99501
Email: goemerg@akrr.com

ARRC will respond to all or part of the written inquiries received through the issuance of a written Addendum to the RFP, if in the opinion of ARRC, such information is deemed necessary to submit proposals or if the lack of it would be prejudicial to other prospective proposers. Oral and all other non-written responses, interpretations and clarifications shall not be legally effective or binding. Any Proposer who attempts to use or uses any means or method other than those set forth above to communicate with ARRC or any director, officer, employee or agent thereof, regarding this RFP shall be subject to disqualification.

2. Proposal Submission Deadline

Sealed proposals must be received by ARRC no later than 3:00 p.m., local time, on March 1, 2019 at:

Alaska Railroad Corporation
Purchasing Department
327 W. Ship Creek Avenue,
Anchorage, AK 99501

One (1) original and three (3) copies of each proposal, and one electronic copy must be submitted. The sealed envelope or package used in submitting a proposal shall be clearly marked with the following information:

1. Proposer's Name
2. RFP Number 19-03-206670
3. Sealed Proposal: ARRC EAP Services

Proposals received after the time and date set forth above shall be rejected. All proposals submitted in response to this solicitation must be signed by an individual with the legal authority to submit the offer on behalf of the company.

3. Proposal Open and Subject to Acceptance

All proposals shall remain open and subject to acceptance by ARRC for sixty (60) days after the deadline for proposal submission.

4. Proposal Opening

Proposals will be opened privately at ARRC's convenience on or after the proposal due date.

5. Reserved Rights

In addition to other rights in this RFP, ARRC reserves, holds and may exercise at its sole discretion, the following rights and options:

- (a) To supplement, amend, or otherwise modify or cancel this RFP with or without substitution of another RFP.
- (b) To issue additional or subsequent solicitations for proposals.
- (c) To conduct investigations of the Proposers and their proposals.
- (d) To clarify the information provided pursuant to this RFP.
- (e) To request additional evidence or documentation to support the information included in any proposal.
- (f) To reject any and all proposals, or parts thereof, and/or to waive any informality or informalities in any of the proposals or the proposal process for the RFP, if such rejection or waiver is deemed in the best interest of ARRC.
- (g) To award a contract or contracts resulting from this solicitation to the responsible Proposer whose proposal conforming to this solicitation will be most advantageous to ARRC.
- (h) To negotiate any rate/fee offered by a Proposer. ARRC shall have the sole right to make the final rate/fee offer during contract negotiations. If the selected Proposer does not accept ARRC's final offer, ARRC may, in its sole discretion, reject the proposal and start negotiations with the next highest ranked Proposer.
- (i) If an award is made and, prior to entering into a contract, subsequent information indicates that such award was not in the best interest of ARRC, ARRC may rescind the award without prior notice to proposers and either award to another proposer or reject all proposals or cancel the RFP.
- (k) To terminate the contractor at any point in the evaluation process or after award if the approved personnel become unavailable, are switched off project by the firm, or the qualifications are generally found to be inadequate. All personnel reassignments to and from the project will be approved by ARRC.

6. Proposal Costs

Each Proposer shall be solely responsible for all costs and expenses associated with the preparation and/or submission of its proposal, and ARRC shall have no responsibility or liability whatsoever for any such costs and expenses. Neither ARRC nor any of its directors, officers, employees or authorized agents shall be liable for any claims or damages resulting from the solicitation or collection of proposals. By submitting a proposal, Proposer expressly waives (i) any claim(s) for such costs and expenses, and (ii) any other related claims or damages.

7. Taxes

Pursuant to AS 42.40.910, ARRC is exempt from all forms of state or local sales, property and other taxes. Accordingly, any Proposer who submits a proposal shall not include any such tax in any of its proposal prices or in any calculation thereof.

8. Proposal Format

Interested firms shall submit one (1) original proposal and three (3) copies, containing a statement of qualifications and a concise narrative that fully addresses each evaluation criteria. Proposals shall have a maximum of thirty (30) pages, exclusive of resumes and exhibits. A signed cover letter of a maximum two (2) pages should introduce the proposed firm, summarize the main qualifications of the firm, and include any other information the Contractor deems will emphasize the Contractor's ability to

successfully perform the services required and demonstrate why selection of Contractor would be advantageous to ARRC. A limited number of larger (11x17) sheets are acceptable for graphics or charts. The page limit excludes cover sheets, cover letter, table of contents, forms required by ARRC, resumes or other attachments required herein.

Important Instructions: To be considered responsive, Proposers must submit the following

- a: Bidders Questionnaire in APPENDIX F. Note all addenda in your firm's proposal
- b: Cost schedule – Pricing shall be submitted in a separate envelope labeled “Pricing” (No copies required).

9. Capacity to Perform

Any Proposer considered for award as a result of this solicitation may be required to make assurance to the Contract Administrator concerning the Proposer's capacity and capability to perform. Previous contracts of a like nature, financial solvency, and other information may be requested of the considered Proposer. Failure to provide assurances requested in a timely manner may be cause for rejection of the Proposal.

10. Costs

Other direct costs (ODC) on contracts incurred shall be billed at cost. If travel is required, ARRC will be billed per diem for meals and incidentals using the current Department of Defense rate. Airfare will be billed at cost with coach airfare only, no first class or business class. Lodging must be reasonable. ARRC will not pay for alcohol, valet parking, or expenses it considers to be exorbitant

11. Purchase Obligation

ARRC and responding firms expressly acknowledge and agree that ARRC has made no express or implied promises to expend any dollar amounts with respect to the services addressed by this RFP. By submitting a proposal in response to this RFP, each firm acknowledges and agrees that the provisions of this RFP, and/or any communication, statement, act or omission by representatives of ARRC (including consultants) in the selection process, shall not vest any right, privilege, or right of action in any Proposer.

12. Exceptions to Terms, Conditions and Specifications

Any contract resulting from this solicitation shall incorporate the General Terms and Conditions contained in this solicitation package. Each Proposer shall indicate all exceptions to terms, conditions, and specifications of this solicitation individually in its proposal. Exceptions received or placed after the proposal submission date will be considered as counter offers and as such will render the entire proposal non-responsive.

13. Public Information

All submitted proposals will be considered confidential until notice of intent to award is issued. After notice of intent to award is issued, all proposals will become public information.

14. Qualifications of Proposers

Proposers will be evaluated by ARRC based upon their experience in performing the services requested, financial stability, appropriate personnel, responsiveness, technical knowledge and general organization. ARRC reserves the right to take any actions it deems necessary to determine if Proposers have the ability to perform the services outlined in the Scope of Work in a satisfactory manner. Such actions will include an evaluation of the Proposer's qualifications and references prior to Contract Award. Proposers may be disqualified, and their Proposals rejected, for any reason deemed appropriate by ARRC including, but not limited to, the following:

- (a) Evidence of collusion between a Proposer and any other Proposer(s).
- (b) An unsatisfactory performance record on prior projects for ARRC, or any other organization.
- (c) The appearance of financial instability (in the opinion of ARRC) and/or evidence that Proposer may not be financially able to complete the work required by the Scope of Work in a satisfactory manner.
- (d) If Proposer has failed to complete one or more public contracts in the past.
- (e) If Proposer has been convicted of a crime arising from previous public contracts.
- (f) If Proposer is not authorized to perform work in the State of Alaska.

15. References

Provide a representative list of clients including addresses, contact names and phone numbers. In case of a business entity client, provide the name of an individual familiar with the nature of your services to the entity.

16. Clients

How many clients have begun using your firms' services in the past three years? How many clients have stopped using your firm's services in the past three years? Why?

17. Conflict of Interest

Disclose any information that may pose an actual conflict of interest in providing these services or give the appearance of a conflict of interest.

18. Contract Period

The ARRC anticipates awarding a contract for three years with the possibility of two one-year extensions subject to acceptance by both parties.

Please provide any other relevant information that may assist ARRC in the selection process.

APPENDIX D

PROPOSAL FORMAT AND CONTENT

Alaska Railroad Corporation (ARRC) is requesting proposals from interested firms qualified to perform the work described in the Scope of Services. This is intended to be an unbiased evaluation. ARRC reserves the right to determine that proposed services will meet ARRC requirements. ARRC reserves the right to withdraw this RFP, reject any and all proposals, advertise for new proposals, or accomplish the work by other means including issuing only some of the tasks defined in the Scope of Services above, that ARRC in its sole discretion, determines to be in its best interest. ARRC may request additional information from any firm to make a proposal responsive to this RFP or otherwise obtain clarification or additional information that ARRC, in its sole discretion, deems necessary to analyze and compare proposals.

Proposals must be complete as to the requested information.

Failure to follow this format in a proposal or failure to include complete information as requested will result in a lower score and may result in rejection of the proposal. At a minimum your proposal shall address the following in order to be considered responsive:

Criterion

Points

1. Qualifications of the firm.

10

- a) Provide a brief summary of your firm's experience and qualifications as they apply to providing the services described in the Scope of Work in this RFP.
- b) Describe your firm, its history and size, locations in which it operates, and the number of employees in total and by location. If you use affiliates to provide counseling or other services, please enumerate their numbers and locations in addition to or in lieu of the employee numbers.
- c) Describe the ownership structure of the firm, including any parent, affiliated companies or joint ventures. If any changes in ownership are contemplated, please provide details.
- d) Please provide references from two firms for which you provide EAP services. If possible, include firms which are of similar size to the Alaska Railroad and whose programs are similar to the Scope of this RFP.

2. Experience and expertise in providing Employee Assistance Programs.

20

- a) Describe your firm's philosophy and approach and its experience in providing EAP services in an assessment and referral, or brief therapy modality.
- b) Describe the method by which you would provide services to employees stationed outside of Anchorage, Fairbanks and the Palmer/Wasilla area.
- c) Describe your firm's ability to provide the EAP services required for drug and alcohol rehabilitation programs and mandated referrals in accordance with [49 CFR Part 40, Subpart O](#). What is your familiarity with DOT safety sensitive employment provisions? Describe your firm's experience with voluntary referral, co-worker reports and mandatory referrals for drug and alcohol issues.
- d) Describe how your firm might assist patients who are transitioning from EAP-provided treatment to treatment covered by the ARRC's health plan.

- e) Describe your firm's capabilities for providing EAP information and education services as described in the Scope of Services. If you have experience or demonstrated success in improving or maintaining high utilization by your clients' employees, please tell us about that. Provide samples of typical brochures/posters or other materials. Provide a demonstration User ID to your website if possible.
- f) Describe any physical arrangements in your counseling offices to assist in maintaining client confidentiality.
- g) Describe your firm's phone system and appointment scheduling. What is the average speed of answer for phone callers? What is the average time between client call and first appointment date with an EAP counselor?
- h) Describe your firm's capabilities for reporting program usage and behavioral outcomes to the plan sponsor. Provide a sample report for EAP services.
- i) Is your firm staffed to provide information to plan sponsors on legal and regulatory requirements effecting EAP's, mental health and substance abuse treatment benefits, etc.?
- j) Describe whether and how your firm complies with the HIPAA Privacy and Security Act requirements. Provide a sample of your Business Associate Agreement.
- k) Describe your consulting services for supervisors/managers and the use of the job-jeopardy (mandatory) referral of problem employees. Provide a sample of the authorization to disclose PHI that you use for mandatory referrals.

3. **Qualifications of Staff and Affiliates or Contractors**

15

- a) Provide resumes of the experience and qualifications of the personnel who would provide in-person counseling services and account management, as well as any other key personnel who would be involved in the performance of this contract. If you subcontract or use "affiliates", include information on those individuals.
- b) Provide resumes of the experience and qualifications of the personnel who would provide Substance Abuse Professional services for this contract.
- c) Describe the education and experience requirements for other staff members or affiliates who would interact with employees, such as intake personnel, call center clinicians, supervisory consultants, etc.
- d) What is the average number of clients being seen by EAP counselors at a given time? Is there a maximum number of clients who can be assigned to each counselor?
- e) What is the average number of accounts handled by account managers? How many accounts are assigned to the manager proposed for this contract?

4. **Network and Network Analysis**

15

- a) The number of Psychiatrist/Ph.D. and Master's Degree-level psychologists and MSW's in your network in Anchorage, Fairbanks and Wasilla/Palmer (Mat-Su area)
- b) The number of Psychiatrist/Ph.D. and Master's Degree-level psychologists and MSW's in your Alaska network outside of Anchorage, Fairbanks and Wasilla/Palmer (Mat-Su area) with their locations
- c) The ability to refer members to a Premera in-network provider once the number of visits is reached
- d) The qualifications of the Substance Abuse Professionals (SAPs)

5. **Clinical Services**

30

- The company's telephonic, video and in person access to clinical services
- The turnover rate of your company's call center representatives
- The call abandonment rate for the last twelve months
- The number of providers in Fairbanks, Wasilla/Palmer (Mat-Su area) and Anchorage, along with their credentials
- The ability to coordinate comorbid referrals with the member's PCP or TelaDoc
- The reporting for face-to-face, telephonic and video consultations
- The company's ability to assist patients who are transitioning from EAP-provided treatment to treatment covered by the ARRC's health plan
- The consulting services for supervisors/managers
- The company's ability to provide the SAP services

6. **Cost / Fee Proposal**

15

- Provide complete details on how your firm is to be compensated for the services to be provided.

For the purposes of evaluating price, the proposed price of an offeror who qualifies as an Alaska Bidder shall be reduced by 5%. Offerors seeking an Alaska Bidders Preference must submit information with their proposals documenting that they meet each requirement stated in ARRC Revised Procurement Rule 1200.9(b).

APPENDIX E

SELECTION PROCESS AND EVALUATION CRITERIA

The selection of a firm to perform the requested services will be made by an ARRC appointed committee which will evaluate the proposals in accordance with the evaluation criteria specified herein and establish a ranking. Proposals will be evaluated on the basis of advantages and disadvantages to ARRC using the criteria described in this APPENDIX.

ARRC reserves the right to select the top ranked firm based solely on the scoring of the written proposals and to enter directly into negotiations with said firm. However, at its sole discretion, ARRC may require the highest ranked firms to make an oral presentation to the evaluation committee. In this event, oral presentations will be scheduled at ARRC's Board Room located at 327 West Ship Creek Avenue, Anchorage, Alaska. The selected firms will have an opportunity to summarize the information provided in their written proposals, expand on their capabilities, experience and proposed approach and work plan and answer questions from the selection committee. It is important that the primary individuals servicing the contract are present for this presentation. Scores obtained in the initial phase will not carry over to the presentation phase. Upon completion of the oral presentations, the evaluation committee will review the material presented and determine a ranking order for the firms interviewed.

EVALUATION CRITERIA

DESCRIPTION	Points
Qualifications of the Firm	10
Experience in Providing EAP	20
Qualifications of Staff and Affiliates	15
Network Analysis	15
Clinical Services	30
Fee Proposal	15
Total Possible Score	110 Points

CONTRACT AWARD

Once the committee has established a ranking, ARRC will begin negotiations with the highest ranked firm. If an agreement cannot be reached on contract terms, negotiations will be terminated, and negotiations will be conducted with the next highest ranked firm, until an agreement is reached, or until ARRC exercises its right to cancel the solicitation. ARRC will release the name of the successful firm upon award of the contract.

APPENDIX F

COST SCHEDULE

An Offeror's failure to provide the information requested in this Section shall be cause for rejection of the offer on the basis of non-responsiveness. The Cost Schedule shall be signed by a representative of the firm that has the authority to obligate the firm into a binding contract. DO NOT INCLUDE rate/price information in the technical proposal.

All costs shall be in accordance with the information provided above. The low cost will be based on Lump Sum Total **EAP Services**; below. A 5% Alaska preference shall be applied to all firm's that meet the required qualifications.

1. The number of enrolled employees is approximately 640. ARRC does not guarantee that a minimum or a maximum number of persons will be employed or enrolled during the life of any contract.
2. Enter the Per Employee Per Month (PEPM) price offers in the spaces provided below for each year of a prospective contract. For each of the three years, extend the PEPM price to a total monthly price by multiplying the estimated number of enrolled employees by the offered PEPM price. For each of the three years, extend the total monthly price to a total annual price by multiplying the monthly price by twelve. Do not leave any price spaces empty.
3. The annual price must equal the number of enrolled employees (640) multiplied by the PEPM, which equals the total monthly price, multiplied by twelve (12) months (640 PEPM x 12 = Annual price).
4. Three-year price/rate guarantees are required for these services.
5. Prices shall be firm-fixed-price which shall include all plant, labor, hardware, software, travel, shipping and administrative costs associated with providing the requested services. No additional fees, including set-up fees, shall be allowed.
6. Supplemental price information may be submitted along with this Rate Response Form in the same electronic file. However, ARRC will evaluate price offers based on the information listed on this form. ARRC reserves the right to accept all or a part of price/rate offers or to decline any or all prices/rates.

NAME AND ADDRESS:

COMPANY NAME

COMPANY ADDRESS

CONTACT PHONE NUMBER

SIGNATURE BY AND FOR THE OFFERER

PRINTED NAME

DATE OF OFFER

CONTACT E-MAIL

APPENDIX G

BIDDERS QUESTIONNAIRE

Note: Failure to provide the information requested in this questionnaire may be cause for rejection of your bid or offer on the grounds of nonresponsiveness and/or nonresponsibility.

Project _____

Name of Your Business: _____

Street Address: _____

Mailing Address if Different: _____

City: _____ State: _____ Mailing Zip: _____

Telephone: _____ Fax: _____ E-Mail: _____

Date Firm Established: _____

1 How many years has the business been under the above name? _____

Previous business name(s) if any: _____

2 Federal Tax ID Number: _____

2.1 Business License Number: _____

Bid Acceptance Period _____ Days. (Bids providing less than sixty-days (60) calendar days for acceptance may be considered nonresponsive and may be rejected.)

Discount for prompt pay _____ % _____ days.

The bidder shall list any variations from or exceptions to the Terms, Conditions or Specifications of the Solicitation

Continued on the next page

List the three most recent contracts performed by your company where the commodity or service requested in this solicitation was the primary commodity or service supplied. Include the client's name, contract amount, contract date, person to contact regarding performance, their telephone, facsimile number and e-mail.

Clients name, Contact person, Contact info. (telephone, and email)	Description of Work and Contract Amount
<u>List any other business related experience:</u>	

Are you acting as a broker or the primary supplier in this transaction?

- Broker
- Primary Supplier

Business Information (Please check all that apply):

- The business is Individual
- The business is a Partnership
- The business is a Non-Profit
- The business is a Joint-Venture
- The business is a Corporation incorporated under the laws of the State of _____
- The business is full-time
- The business is part-time
- The business is not a certified Disadvantaged Business (DBE)
- Business is a certified DBE
- DBE was certified by State of Alaska, DOTPF
- DBE was certified by the Municipality of Anchorage, AK
- Business is an 8(a)/WBE/MBE and is certified by SBA
- Business was certified by _____
- DBE Certification # is _____

Firms Annual Gross Receipts:

- <\$500,000
- \$500,000 - \$999,999
- \$1,000,000 - \$4,999,999
- \$5,000,000 - \$9,999,999
- \$10,000,000 - \$16,999,999
- >\$17,000,000

Completed by: _____ Title: _____

Signature: _____ Date: _____

**ALASKA RAILROAD CORPORATION
SERVICE BID FORM of**

NAME _____

ADDRESS _____

To the CONTRACTING OFFICER, ALASKA RAILROAD CORPORATION:

In compliance with your Invitation for Bids No. _____, dated _____, the Undersigned proposes to furnish and deliver all the services and perform all the work required in said Invitation according to the specifications and requirements contained therein and for the amount and prices named herein as indicated on the Cost Schedule, which is made a part of this Bid.

The Undersigned hereby agrees to execute said contract and bonds, if any, within **Ten (10) Calendar Days**, or such further time as may be allowed in writing by the Contracting Officer, after receiving notification of the acceptance of this Bid, and it is hereby mutually understood and agreed that in case the Undersigned does not, the accompanying bid guarantee, if any, shall be forfeited to the Alaska Railroad Corporation as liquidated damages, and said Contracting Officer may proceed to award the contract to others.

The Undersigned agrees to commence performance within **Ten (10) Calendar Days** after the effective date of the Notice to Proceed and to complete performance by _____, unless extended in writing by the Contracting Officer.

The Undersigned acknowledges receipt of the following addenda to the requirements and/or specifications for this Invitation for Bids (give number and date of each).

Addenda Number	Date Issued	Addenda Number	Date Issued	Addenda Number	Date Issued
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

NON-COLLUSION AFFIDAVIT

The Undersigned declares, under penalty of perjury under the laws of the United States, that neither he/she nor the firm, association, or corporation of which he/she is a member, has, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this Bid.

The Undersigned has read the foregoing proposal and hereby agrees to the conditions stated therein by affixing his/her signature below:

_____ Signature

_____ Facsimile Number

_____ Telephone Number

APPENDIX H

CONTRACTUAL REQUIREMENTS

Following is a list of requirements that offerors should meet or fulfill to be considered a prospective vendor. Failure to comply with or meet any one of the following items may be considered a deficiency (at the Railroad's sole discretion), or the Offeror's proposal may be removed from further consideration (at the Railroad's sole discretion).

Indicate "Yes" or "No" as to your organization's ability to meet the minimum requirements. **Failure to complete this form and include it with your response may result in elimination from consideration.**

A "YES" response shall result in the provision being adopted in the final contract. No deviations will be accepted for "YES" answers in this section.

CONTRACTUAL REQUIREMENTS	YES	NO
1. Proposal, Interview, and Best and Final Responses Become Part of Contract: Do you agree that your written response to this RFP, written information provided as part of a finalist interview (if requested by Alaska Railroad Corporation) and written responses provided during a Best and Final negotiation become part of the contract between your organization and the Alaska Railroad Corporation (ARRC)?		
2. Effective Date of Offer: Proposal terms are guaranteed for at least 120 days from the proposal due date.		
3. Variance Provision: Any provisions relating to a reevaluation of proposed rates due to variation in enrollment or other contingencies of the quote must be clearly noted in the financial section of your proposal.		
4. Proper Licensure: Do you agree to maintain proper licensure as required by state law where it relates to the services that you will be performing for the ARRC?		
5. Prior Notice of Major Operational Changes: Do you agree to provide no less than 30-day's notice to the ARRC for any changes involving the sale, merger, data breaches, large layoffs, consolidation or outsourcing of services to foreign workers that will impact the ARRC?		
6. Subcontracting: Unless otherwise explained in this RFP, do you agree that you will disclose all subcontractor arrangements and any additional fees associated with the subcontractor arrangements, that involve the services provided to the ARRC?		
7. Mutual Indemnification: Do you agree that the contract will contain a mutual indemnification/hold harmless provision?		

<p>8. HIPAA Compliance: Vendor and its subcontractors attest to meeting all applicable HIPAA EDI, Privacy, Security, and HITECH requirements and agree to hold the ARRC harmless for breaches that are the result of vendor or its subcontractor's actions. As it relates to this arrangement, for the service specified in this proposal, vendor, and its subcontractors will become a HIPAA Business Associate of the ARRC.</p>		
<p>9. No Member Communication Without Alaska Railroad Corporation Consent: The vendor will not automatically enroll the ARRC in any programs that involve any type of communication with members, without express written consent from the ARRC.</p>		
<p>10. In the event of contract termination, and related to contract termination, the vendor will be required to cooperate with the ARRC, or their representative, in the prompt, accurate, and orderly transfer of the ARRC's plan, information to the ARRC or its designated succeeding vendor at no added fee.</p>	a	
<p>11. Termination Provisions: The ARRC may terminate the contract at any time after the first complete plan year without cause. The ARRC can terminate with cause with 30-day's notice unless a proper remedy is provided by the vendor. The vendor may only terminate for cause with proper legal minimum notice requirements.</p>		
<p>12. Assignment or Transfer of Rights: Do you agree that you will not assign or transfer the rights or obligations of the contract or any portion thereof, without the prior written approval of the ARRC?</p>		
<p>13. Contract Performance: Confirm that you acknowledge that the firm will perform all duties contracted for in accordance with the standard of care for a professional with expertise in all areas contracted for.</p>		
<p>14. Accept Responsibility: Confirm that you will accept responsibility for all damages caused by proposer's own negligence, gross negligence, willful misconduct and/or breaches of the contract. The proposer will not require the ARRC to indemnify proposer for its own negligence.</p>		
<p>15. Contract Content: Confirm that the contract shall represent the complete contractual understanding of the parties and changes must be signed by both parties. The contract shall not incorporate policies or documents that are subject to unilateral change or are not agreed to in advance.</p>		
<p>16. The successful Offeror ("Contractor") agrees to match ARRC's current Employee Assistance Program (EAP) plan and provisions, at a minimum per the plan informational flyers included in this RFP. Suggestions or recommendations for improvements to the current program are welcome but must be clearly described in the Offeror's proposal.</p>		

17. The Contractor must have an existing EAP provider network in Alaska in Anchorage, Fairbanks, and the Palmer/Wasilla (Mat-Su area), and must also have a national network.		
18. The Contractor must have available a 24-hour per day 365 days per year, a toll-free telephone number for ARRC employees' and dependent use.		
19. The Contractor shall assist with review of ARRC's Benefits Journal which will be prepared (text and production) by ARRC.		
20. The Contractor shall annually conduct at least two home mailings (ARRC will provide a list of home addresses of ARRC employees) publicizing the EAP. The date of the mailings and distribution will be decided by ARRC. The costs of any brochures, posters, letters, mailing and/or other materials necessary to publicize the EAP will be the responsibility of the successful Contractor.		
21. The Contractor shall provide quarterly statistical reports stating the number of individuals participating in the program. The minimum reporting information must include age, employee, spouse and dependent breakdowns, referral source, the category of problem treated, and status (e.g. open, closed, etc.).		
22. The Contractor shall annually produce a narrative and statistical report describing program experience during the previous year. The report shall include recommendations for revisions and improvements to ARRC's EAP.		
23. The Contractor shall accept ARRC's payments based on ARRC's reporting of participants.		
24. The Contractor agrees that reports and/or information, which in any fashion identifies ARRC or its enrolled population, will not be sold, distributed, or published without the express written permission of ARRC.		
25. The prospective Contractor must be willing to make an oral presentation in person or by audio or video conference to the proposal evaluation committee if requested.		

CONTRACTUAL REQUIREMENTS	
If you answered "No" to any of the questions above, please provide an explanation below	
Requirement No.	Explanation

APPENDIX I

GENERAL TERMS AND CONDITIONS (Professional Service Contracts) (Revised 3/4/08)

The following terms and conditions supersede the terms and conditions on the reverse side of ARRC's purchase order to the extent that they are inconsistent therewith and shall be deemed to have the same force and effect as though expressly stated in any such purchase order into which this document is incorporated.

1. Definitions.

"ARRC" shall mean the Alaska Railroad Corporation.

"Contractor" shall mean the person or entity entering into the contract to perform the work or services specified therein for ARRC.

"Contract" shall mean these General Terms and Conditions, the contract form to which they are annexed, and all other terms, conditions, schedules, appendices or other documents attached to the contract form or incorporated by reference therein.

"Services" shall mean any work, direction of work, technical information, technical consulting or other services, including but not limited to design services, analytical services, consulting services, construction management services, engineering services, quality assurance and other specialized services furnished by Contractor to ARRC under the contract.

2. Inspection and Reports. ARRC may inspect all of the Contractor's facilities and activities under this contract in accordance with the provisions of ARRC Procurement Rule 1600.9. The Contractor shall make progress and other reports in the manner and at the times ARRC reasonably requires.

3. Claims. Any claim by Contractor for additional compensation or equitable adjustment arising under this contract which is not disposed of by mutual agreement must be made by Contractor in accordance with the time limits and procedures specified in sections 1800.12 et seq. of ARRC's Procurement Rules, which by this reference are hereby incorporated herein.

4. Nondiscrimination.

4.1 The Contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical or mental handicap, sex, marital status, change in marital status, pregnancy or parenthood when the reasonable demands of the positions do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, or parenthood. To the extent required by law, the Contractor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, physical or mental handicap, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.

4.2 The Contractor shall cooperate fully with ARRC efforts which seek to deal with the problem of unlawful discrimination, and with all other ARRC efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.

4.3 Full cooperation in Paragraph 4.2 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the Contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the Contractor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and state laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.

4.4 Failure to perform under this section constitutes a material breach of the contract.

5. Cancellation/Termination.

5.1 ARRC may, for its sole convenience, cancel this contract in whole or in part, at any time by giving written notice of its intention to do so. In the event of such cancellation, Contractor shall be entitled to receive payment in accordance with the payment provisions of this contract for services rendered or charges incurred prior to the effective date of termination. Contractor shall not be paid for any work done after receipt of a notice of cancellation or for any costs incurred by Contractor's suppliers or subcontractors which Contractor could reasonably have avoided. In no event shall ARRC be liable for unabsorbed overhead or anticipatory profit on unperformed services.

5.2 In addition to ARRC's right to cancel this contract for its convenience, ARRC may, by written notice of default to Contractor, terminate the contract in whole or in part in the following circumstances:

(1) The Contractor refuses or fails to perform its obligations under the contract, or fails to make progress so as to significantly endanger timely completion or performance of the contract in accordance with its terms, and Contractor does not cure such default within a period of ten (10) days after receipt of written notice of default from ARRC or within such additional cure period as ARRC may authorize; or

(2) Reasonable grounds for insecurity arise with respect to Contractor's expected performance and Contractor fails to furnish adequate assurance of due performance (including assurance of performance in accordance with the time requirements of the contract) within ten (10) days after receipt of a written request by ARRC for adequate assurance; or

(3) Contractor becomes insolvent or makes an assignment for the benefit of creditors or commits an act of bankruptcy or files or has filed against it a petition in bankruptcy or reorganization proceedings.

5.3 Upon receipt of a notice of cancellation or termination, Contractor shall immediately discontinue all service and it shall immediately cause any of its suppliers or subcontractors to cease such work unless the notice directs otherwise and deliver immediately to ARRC all reports, plans, drawings, specifications, data, summaries or other material and information, whether completed or in process, accumulated by Contractor in performance of the contract. In the event of termination for default, Contractor shall not be entitled to receive any further payment until the work is finished. If the

unpaid balance of the amount to be paid on this contract exceeds the expense of finishing the work, compensation for additional managerial and administrative services and such other costs and damages as ARRC may suffer as a result of Contractor's default, such excess shall be paid to Contractor. If such expense, compensation, costs and damages shall exceed such unpaid balance, Contractor shall be liable for and shall pay the differences to ARRC. The rights and remedies of ARRC provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

6. No Assignment or Delegation. The Contractor may not assign, subcontract or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the prior written consent of ARRC. The hiring or use of outside services, subcontractors or consultants in connection with the work shall not be permitted without the prior written approval of ARRC. No such approval shall relieve Contractor from any of its obligations or liabilities under this contract.

7. Independent Contractor. The Contractor's relationship to ARRC in performing this contract is that of an independent contractor and nothing herein shall be construed as creating an employer/employee relationship, partnership, joint venture or other business group or concerted action. The personnel performing services under this contract shall at all times be under Contractor's exclusive direction and control and shall be employees of the Contractor, and not of ARRC.

8. Payment of Taxes. As a condition of performance of this contract, the Contractor shall pay all federal, state, and local taxes incurred by the Contractor and shall require their payment by any subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by ARRC under this contract.

9. Ownership of Work Product. Except for items that have preexisting copyrights, all exhibits, drawings, plans, specifications, notes, reports, data, recommendations, artwork, memoranda and any other information prepared or furnished by Contractor to ARRC in the performance of this contract (collectively "Work Product") shall become the property of ARRC and may be used by ARRC for any other purpose without additional compensation to the Contractor. Contractor hereby grants ARRC an irrevocable, perpetual, royalty-free, fully assignable license (with full sublicense rights) to use all proprietary and confidential information and other intellectual property that may be incorporated into any of Contractor's Work Product for ARRC. Should ARRC elect to reuse said Work Product, ARRC shall indemnify, hold harmless and defend Contractor and its subcontractors against any damages or liabilities arising from said reuse. When Work Product produced by the Contractor and its Subcontractors under this Contract are reused by ARRC, the Contractor's and Subcontractor's signatures, professional seals, and dates shall be removed. If such Work Product requires professional signature and seal, it will be signed, sealed, and dated by the professional who is in direct supervisory control and responsible for the new project for which such Work Product is being reused.

Contractor hereby represents and warrants to and for the benefit of ARRC and its successors and assigns that no part of its work product for ARRC will infringe any patent rights or copyrights or utilize any proprietary, confidential or trade secret information or other intellectual property for which Contractor does not have the unqualified right to grant ARRC the license and sublicensing rights referred to above. Contractor shall defend, indemnify and hold harmless ARRC, its successors and assigns, and their respective representatives, agents and employees from and against, any and all claims, defenses, obligations and liabilities which they may have or acquire under or with respect to any patent, copyright, trade secret, proprietary or confidential information, or any other form of intellectual property that may be asserted by Contractor or any other person which arises out of, results from or is based upon the manufacture, use or sale by ARRC or any of its successors or assigns of any of Contractor's work product for ARRC. ARRC shall have the right to select its legal counsel and control its defense in any litigation resulting from any such claim.

10. Governing Law. This contract, and all questions concerning the capacity of the parties, execution, validity (or invalidity) and performance of this contract, shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Alaska.

11. Alaska Executive Branch Ethics Act Requirements. No officer or employee of the State of Alaska or of the ARRC and no director of the ARRC or legislator of the state shall be admitted to any share or part of this contract or to any benefit that may arise therefrom. Contractor shall exercise reasonable care and diligence to prevent any actions or conditions which could be a violation of Alaska Statute 39.52 et seq. Contractor shall not make or receive any payments, gifts, favors, entertainment, trips, secret commissions, or hidden gratuities for the purpose of securing preferential treatment or action from or to any party. This obligation will apply to the activities of Contractor's employees and agents in their relations with ARRC employees, their families, vendors, subcontractors, and third parties arising from this contract and in accomplishing work hereunder. Certain gratuities may be given or accepted if:

- (1) there is no violation of any law or generally accepted ethical standards;
- (2) the gratuity is given as a courtesy for a courtesy received and does not result in any preferential treatment or action;
- (3) the gratuity is of limited value (less than \$150) and could not be construed as a bribe, payoff or deal; and
- (4) public disclosure would not embarrass ARRC.

ARRC may cancel this contract without penalty or obligation in the event Contractor or its employees violate the provisions of this section.

12. Non-Disclosure of Confidential Information. Contractor acknowledges and agrees that for and during the entire term of this contract, any information, data, figures, projections, estimates, reports and the like received, obtained or generated by Contractor pursuant to the performance of this contract shall be considered and kept as the private, confidential and privileged records of ARRC and will not be divulged to any person, firm, corporation, regulatory agency or any other entity except upon the prior written consent of ARRC. Furthermore, upon termination of this contract, Contractor agrees that it will continue to treat as private, privileged and confidential any information, data, figures, projections, estimates, reports and the like received, obtained or generated by Contractor during the term of the contract and will not release any such information to any person, firm, corporation, regulatory agency or any other entity, either by statement, deposition or as a witness except upon the express written authority of ARRC. ARRC shall be entitled to an injunction by any competent court to enjoin and restrain the unauthorized disclosure of such information.

Contractor's agreement of non-disclosure as specified in this section applies except to the extent required for (1) performance of services under this contract; (2) compliance with professional standards of conduct for preservation of the public safety, health, and welfare (so long as Contractor has given ARRC prior notice of the potential hazard and ARRC has had a reasonable opportunity to correct the hazard prior to disclosure); (3) compliance with a court order or subpoena directed against Contractor (so long as Contractor has given ARRC prior notice of such and ARRC has had an opportunity to contest the same in a court of law); or (4) Contractor's defense against claims arising from performance of services under this contract.

13. Covenant Against Contingent Fees. Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or

secure this contract, and that it has not paid or agreed to pay any person, company, individual, or firm any commission, gift, percentage, fee, contingent upon or resulting from the award or making of this contract. For the breach or violation of this warranty, ARRC may terminate this contract without liability and, at its discretion, deduct from the contract price or otherwise recover the full amount of the commission, percentage, gift, or fee.

14. Standard of Performance. Contractor shall perform its services with care, skill and diligence in accordance with normally accepted industry standards and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications and other items and services furnished under this Contract. Contractor shall comply with all applicable federal, state and local laws and ordinances, codes, and regulations in performing its services. If any failure to meet the foregoing standard of performance appears within one (1) year after the services are accepted by ARRC, Contractor shall, at a minimum, reperform the work at no cost to ARRC and shall reimburse ARRC for any additional costs that may be incurred by ARRC or any of its contractors or subcontractors as a result of such substandard work. If Contractor should fail to reperform the work, or if ARRC determines that Contractor will be unable to correct substandard services before the time specified for completion of the project, if any, ARRC may correct such unsatisfactory work itself or by the use of third parties and charge Contractor for the costs thereof. The rights and remedies provided for in this section are in addition to any other remedies provided by law.

15. Warranty. In the event Contractor supplies equipment, goods, materials or other supplies in addition to services under this contract, Contractor warrants that said items: (a) shall be of good quality and free from all defects and deficiencies in workmanship, material and design; (b) shall be fit, suitable and operate successfully for their intended purpose; (c) shall be new; (d) shall be free from all liens, claims, demands, encumbrances and other defects in title; and (e) shall conform to the specifications, if any, stated in the contract. Contractor shall honor all guarantees and warranties offered by the manufacturer of the equipment, goods, materials or other supplies provided under this contract. The rights and remedies provided for in this section are in addition to any other remedies provided by law.

16. Indemnification. Contractor shall defend, indemnify and hold ARRC harmless from and against all claims and actions asserted by a third party (or parties) and related damages, losses and expenses, including attorney's fees, arising out of or resulting from the services performed or neglected to be performed by Contractor or anyone acting under its direction or control or in its behalf in the course of its performance under this contract and caused by any error, omission or negligent act, provided that Contractor's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability based upon the independent negligence of ARRC. If there is a claim of, or liability for, the joint negligent error or omission of the Contractor and the independent negligence of ARRC, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. The term "independent negligence" is negligence other than ARRC's selection, administration, monitoring, or controlling contractor and in approving or accepting Contractor's work.

17. Insurance. Without limiting Contractor's indemnification, it is agreed that Contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this contract the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the Contractor's policy contains higher limits, ARRC shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the ARRC contracting officer prior to beginning work and must provide for a 30-day prior notice of cancellation, non-renewal or material change. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach and grounds for termination of the Contractor's services.

17.1 Workers' Compensation Insurance: The Contractor shall provide and maintain, for all employees of the Contractor engaged in work under this contract, worker's compensation insurance as required by applicable law. The Contractor shall be responsible for worker's compensation insurance for any subcontractor who directly or indirectly provides services under this contract. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than \$100,000 per person, \$100,000 per occurrence. Where applicable, coverage for all federal acts (i.e. U.S.L. & H. and Jones Acts) must also be included.

17.2 Comprehensive (Commercial) General Liability Insurance: With coverage limits not less than \$1,000,000 combined single limit per occurrence and annual aggregates where generally applicable and shall include premises-operations, independent contractors, products/completed operations, broad form property damage, blanket contractual and personal injury endorsements. Said policy shall name ARRC as an additional insured and contain a waiver of subrogation against ARRC and its employees.

17.3 Comprehensive Automobile Liability Insurance: Covering all owned, hired and non-owned vehicles with coverage limits not less than \$100,000 per person/\$300,000 per occurrence bodily injury and \$50,000 property damage. Said policy shall name ARRC as an additional insured and contain a waiver of subrogation against ARRC and its employees.

17.4 Professional Liability (E&O) Insurance: Covering all errors, omissions or negligent acts of the Contractor, its subcontractor or anyone directly or indirectly employed by them, made in the performance of this contract which result in financial loss to ARRC. Limits required are per the following schedule:

<u>Contract Amount</u>	<u>Minimum Required Limits</u>
Under \$100,000	\$ 500,000 per Occurrence/Annual Aggregate
\$100,000-\$499,999	\$1,000,000 per Occurrence/Annual Aggregate
\$500,000-\$999,999	\$2,000,000 per Occurrence/Annual Aggregate
Over \$1,000,000	Negotiable-Refer to Risk Management

18. ARRC's Rights Not Waived by Payment. No payment made by ARRC shall be considered as acceptance of satisfactory performance of Contractor's obligations under this contract. Nor shall any payment be construed as acceptance of substandard or defective work or as relieving Contractor from its full responsibility under the contract.

19. Nonwaiver. A party's failure or delay to insist upon strict performance of any of the provisions of this contract, to exercise any rights or remedies provided by this contract or by law, or to notify the other party of any breach of or default under this contract shall not release or relieve the breaching or defaulting party from any of its obligations or warranties under this contract and shall not be deemed a waiver of any right to insist upon strict performance of this contract or any of the rights or remedies as to any subject matter contained herein; nor shall any purported oral modification or rescission of this contract operate as a waiver of any of the provisions of this contract. The rights and remedies set forth in any provision of this Agreement are in addition to any other rights or remedies afforded the nonbreaching or nondefaulting party by any other provisions of this contract, or by law.

20. Savings Clause. If any one or more of the provisions contained in the contract shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this contract, but this contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

21. Headings. The headings of sections and paragraphs of this contract are for convenience of

reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

22. Forum Selection. The parties shall not commence or prosecute any suit, proceeding or claim to enforce the provisions of the contract, to recover damages for breach or default under the contract, or otherwise arising under or by reason of the contract, other than in the courts of the State of Alaska for the Third Judicial District at Anchorage. The parties hereby irrevocably consent to the jurisdiction of said courts.

23. Conflict of Interest. Contractor shall act to prevent any actions or conditions which could result in a conflict with ARRC's best interests. This obligation shall apply to the activities of Contractor's employees and agents in their relationships with ARRC's employees, their families, vendors, subcontractors and third parties accomplishing work under this contract.

24. Publicity. Contractor shall not release any information for publication or advertising purposes relative to this contract or to the material, equipment and/or services furnished under this contract without the prior written consent of the ARRC.

25. Audit. ARRC has the right to audit at reasonable times the accounts and books of the Contractor in accordance with the provisions of ARRC Procurement Rule 1600.10.

26. Internal Controls and Record Keeping. Contractor shall keep full and accurate records and accounts of all of its activities in connection with this contract, including, without limitation, reasonable substantiation of all expenses incurred and all property acquired hereunder.

27. Force Majeure. Neither ARRC nor Contractor shall be responsible for failure to perform the terms of this contract when performance is prevented by force majeure, provided that: (1) notice and reasonably detailed particulars are given to the other party and (2) the cause of such failure or omission is remedied so far as possible with reasonable dispatch. The term "force majeure" shall mean acts of God, earthquakes, fire, flood, war, civil disturbances, governmentally imposed rules, regulations or other causes whatsoever, whether similar or dissimilar to the causes herein enumerated, which is not within the reasonable control of either party and which through the exercise of due diligence, a party is unable to foresee or overcome. In no event shall force majeure include normal or reasonably foreseeable or reasonably avoidable operational delays.

28. Permits and Licenses. The Contractor shall, at its own expense, obtain all necessary permits, licenses, certifications and any other similar authorizations required or which may become required by the government of the United States or any state or by any political subdivision of the United States or of any state except where laws, rules or regulations expressly require the ARRC to obtain the same.

29. Environmental Protection. When performing all obligations under the contract, Contractor shall comply with all specific instructions of ARRC with regard to environmental concerns, regardless of whether such instructions are based upon specific law, regulation or order of any governmental authority.

30. Set Off. If ARRC has any claim against the Contractor related or unrelated to this contract, it may set off the amount of such claim against any amount due or becoming due under this contract.

31. Observance of Rules. The contractor's personnel performing work or services hereunder on ARRC's premises shall observe all fire prevention, security, and safety rules in force at the site of the work.

32. No Third-Party Beneficiary Rights. No provision of this contract shall in any way inure to the

benefit of any third parties (including the public at large) so as to constitute any such person a third-party beneficiary of the contract or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

33. Entire Agreement. This contract represents the entire and integrated agreement between ARRC and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This contract may be amended only by a written instrument signed by both ARRC and the Contractor.

34. Key Personnel Changes. Contractor shall secure prior written approval from ARRC for any changes of key personnel assigned to perform services under this contract. ARRC reserves the right to reject any of Contractor's employees whose qualifications and/or experience in ARRC's good faith and reasonable judgment do not meet the standards necessary for the performance of the services required under this contract.

35. Reasonable Best Efforts. Subject to the terms and conditions herein provided, Contractor agrees to use all commercially reasonable best efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to complete the work contemplated by this Agreement.

36. Rate Sheet. Contractor shall specify the hourly rates that will be charged ARRC for the key personnel who will perform the majority of work on this project. These rates will be used for any potential changes or delays.

37. Travel Expenses. All travel expenses and direct costs for meals and incidentals under this Contract shall be reimbursed at the applicable United States, Department of Defense (USDoD) per diem meal and incidental rate in effect on the date the meals/incidentals expense is incurred. The contractor shall be responsible for knowing and adhering to all applicable rules and regulations associated with such meals and incidentals rate.

Notwithstanding any provision in the USDoD rates, regulations, or policies to the contrary, the ARRC will not reimburse Contractor for expenses associated with the purchase of alcoholic beverages.

All lodging required under this Contract shall be billed at cost and Contractor will be reimbursed up to the current USDoD rate.

Reservations for air transportation required under this Contract shall be made and paid for by the Contractor and billed to the ARRC. The ARRC will reimburse the Contractor for the cost of a coach seat only. Expenses associated with upgrades to Business Class, First Class, or any other premium class of air flight shall be the sole responsibility of the Contractor. Car rental, parking, and other applicable transportation expenses will be billed at cost.