



Extension of Drug and Alcohol Testing Contract

Date: June 20, 2024
To: TTC Board
From: Chief People Officer

Summary

The purpose of this report is to obtain authorization to amend the TTC's contract for drug and alcohol testing services with Driver Check Inc. The scope of the contract includes sample collection, lab and administration services, and is an essential component of the TTC's Fitness for Duty Program.

Approval is being sought to increase the contract value by \$1.699 million to cover projected program costs during the current contract year from March 18, 2024 to March 18, 2025. In addition, approval is being sought to exercise a one-year contract extension option from March 18, 2025 to March 18, 2026, and increase the total contract amount by \$3.150 million to cover projected program costs during the extension year.

Expenditures under the program have been higher than anticipated due to increased operator hiring as a part of COVID-19 recovery efforts, the associated pre-employment drug testing, and a sharp increase in aftercare testing.

Lastly, approval is also being sought to delegate authority to the TTC's Chief Executive Officer to exercise the final contract extension option from March 18, 2026 to March 18, 2027 and increase the contract value by \$3.467 million, inclusive of HST, subject to budget approvals, to cover program costs during the final contract year.

Recommendations

It is recommended that the TTC Board:

1. Authorize an amendment to increase the contract amount with Driver Check Inc. by \$1,699,000, from \$6,210,000 to \$7,909,000 inclusive of HST, to cover projected costs to March 18, 2025 for the provision of lab, sample collection, and third party administration services for TTC's Fitness for Duty Program.
2. Authorize an amendment to exercise a contract extension option from March 18, 2025 to March 18, 2026 and increase the contract amount with Driver Check Inc. by \$3,150,300, from \$7,909,000 to \$11,059,300, inclusive of HST, to cover projected costs during this option year.

3. Delegate authority to the TTC’s Chief Executive Officer to execute the final optional extension year from March 18, 2026 to March 18, 2027 and increase the contract amount with Driver Check Inc. by \$3,467,000, from \$11,059,300 to \$14,526,300 inclusive of HST, to cover projected costs during the final option year.

Financial Summary

The 2024 Operating Budget, approved by the TTC Board on December 20, 2023, and City Council on February 14, 2024, provides \$2.100 million to fund the services provided under the drug and alcohol testing contract. Based on forecasted spending, the TTC anticipates costs of approximately \$2.913 million for 2024, reflecting a projected over expenditure of \$0.813 million. This increase for 2024 will be funded through current and forecasted underspending within the People Group’s 2024 Operating Budget. The anticipated cost increase is primarily attributable to an increase in employees entering the aftercare program and more pre-placement testing due to increased hiring levels in recent years, as discussed in more detail in the Issue Background section below.

Accurate testing and consequently budget forecasts for anticipated Fitness for Duty Program costs have been challenging, as the testing program was significantly curtailed between 2020 and 2022 due to COVID-19 restrictions, as well as limitations to establish predictable hiring projections. Projected testing volumes for 2024 through 2027 are captured in Table 1 below. Projections are generally based on experience, growth, and forecasting where applicable. Details on the projection for each testing category can be found in the Issues Background section, based on current trends the increase in test requirements is approximately 10% per year.

Table 1: Actual and Projected Testing Volumes by Year

	2023 Total Tests	2024 Total Forecasted	2025 Total Forecasted	2026 Total Forecasted	2027 Total Forecasted
Pre-Employment Tests	1,494	2,100	2,200	2,300	2,400
Aftercare Urine drug	973	1,218	1,462	1,754	2,105
Aftercare Breath alcohol	852	1,164	1,397	1,676	2,011
Random Tests	2,873	3,072	3,133	3,196	3,260
Post-Incident and Reasonable Cause	378	246	283	325	374
Reanalysis	37	37	38	38	39
TOTAL	5,113	5,737	6,313	6,989	7,789

With the anticipated increase in testing shown in Table 1 above, projected spending is expected to exceed the current contract upset limit by August 2024. Based on the

projected testing volumes, Table 2 below provides a summary of the projected expenditures for the remainder of the current contract year (Year 3).

Table 2: Projected Expenditures for Current Contract Year

(in \$ thousands)	Jan - Jul 2024	Aug - Dec 2024	2024 Total	Jan - Mar 2025	Apr - Dec 2025	2025 Total
Total (without HST)	1,923	939	2,862	564	2,090	2,654
HST Non-Rebatable (1.76%)	34	17	51	10	37	47
Total (including Non-Rebatable HST)	1,957	956	2,913	574	2,127	2,701
Rebatable HST	216	105	321	63	236	299
Total Authority (including HST)	2,173	1,062	3,235	637	2,363	3,000

As shown in Table 2 above, due to higher than anticipated testing and hiring volumes over the contract term, 2024 expenditures are anticipated to be approximately \$1.957 million by August 2024 and \$2.913 million by year-end, including non-rebatable HST.

Based on forecasted testing and hiring volumes at this time, funding of approximately \$2.7 million or a \$0.6 million increase will be required in 2025. Appropriate funds will be requested in future budgets based on anticipated requirements, subject to annual budget approvals.

It is estimated that \$1.699 million is required to cover expenses from August 2024 to the current expiry date of March 18, 2025, as shown in Table 3 below:

Table 3: Projected Contract Expenditures

(in \$ thousands)	August 2024 – March 2025 (portion of Year 3 requiring approval)	March 2025 – March 2026 (Year 4 extension)	March 2026 – March 2027 (Year 5 extension)
Pre-Employment Tests	388	676	728
Aftercare Urine drug	103	203	251
Aftercare Breath alcohol	54	105	128
Random Tests	395	675	712
Post-Incident and Reasonable Cause	33	62	74
On call fees	65	121	142
Reanalysis and Medical Review Officer (MRO) Fees	28	47	48
Fixed Costs	437	730	770
25% Hiring contingency for 2025 and 2026	N/A	168	216
Total (not including HST)	1,503	2,787	3,068
HST Non-Rebatable (1.76%)	27	49	54
Total (including Non-Rebatable HST)	1,530	2,836	3,122
Rebatable HST	168	313	344
Total Authority (including HST)	1,699	3,150	3,467

As shown in Table 3 above, it is estimated that \$3.150 million will be required to cover expenses for the optional extension period (Year 4) from March 18, 2025 to March 18, 2026 and \$3.467 million is projected to be required to cover expenses for the final extension period (Year 5) from March 18, 2026 to March 18, 2027.

The Chief Financial Officer has reviewed this report and agrees with the financial summary information.

Equity/Accessibility Matters

The TTC is committed to ensuring a safe workplace for its employees, and the safe operation of its transit services for its customers and the public. Safety at work can be negatively affected by many factors, including the impairment of employees by drug and alcohol use. In an effort to deter and reduce risk in the workplace of impairment by drug and alcohol for the safety of both employees and the public, the TTC conducts random drug and alcohol testing for designated employees under its Fitness for Duty Policy.

The TTC cares about the health and safety of its employees. The TTC is committed to providing a work environment that is inclusive, respects the dignity and human rights of every individual, and is free from discrimination and harassment. The TTC provides workplace accommodation for drug and alcohol dependency, up to the point of undue

hardship, in accordance with the Ontario Human Rights Code. Employees with a drug or alcohol dependency requiring accommodation are encouraged by the TTC to seek assistance through its Occupational Health and Employee Wellbeing section, the Employee and Family Assistance Program (EFAP), and/or their physician. The TTC's drug and alcohol testing is one component of a broader health and safety program at the TTC.

Decision History

In February 2010, the TTC began pre-employment drug and alcohol testing for new hires and existing employees entering designated positions (safety-sensitive, specified management, and designated executive). In October 2010, the TTC began Post-Incident and Reasonable Cause testing for all employees in designated positions, as well as testing for any employee returning to work after receiving treatment for a substance use disorder (aftercare testing).

At its November 30, 2016 meeting, the Board approved the TTC proceeding with implementing random drug and alcohol testing and the associated budget. At that time, the TTC's service provider was Driver Check Inc. and the contract contained a provision that enabled the TTC to expand their services to include random drug and alcohol testing. The contract was amended to include the cost to implement and administer random testing. On May 8, 2017, the TTC implemented random testing for all designated positions at a rate of 20% annually.

[Random Drug and Alcohol Testing Implementation](#)

At its January 18, 2018 meeting, the Board approved the award of a competitively bid contract to Driver Check Inc. for a period of four years in the total amount of \$7.26 million (inclusive of all applicable taxes) for the provision of lab, sample collection, and third-party administration services for the TTC's Fitness for Duty Program.

[Provision of Lab, Collection and Third-Party Administration Services for Fitness for Duty Program](#)

The current contract for the Fitness for Duty Program Testing Services was awarded to Driver Check Inc., based on a competitive bid process, in the total amount of \$3.71 million for the period March 19, 2022, to March 18, 2024, and contained options to extend the contract for three additional terms of one-year each.

In February 2024, under staff authority, the first optional year term was exercised and the contract was extended to March 18, 2025, with an increase to the total contract upset limit amount of \$2.5 million, increasing the contract value to \$6.21 million from \$3.71 million. Two optional extensions remain on the contract, to March 18, 2026 (Year 4), and March 18, 2027 (Year 5), respectively.

Issue Background

The TTC has a duty of care obligation to protect the health and safety of all individuals impacted by and involved in TTC operations. To ensure employees are fit for duty and minimize the risk of unsafe performance due to illicit drug or alcohol use, the TTC utilizes the contract services of Driver Check to support the TTC's Fitness for Duty Program. The services provided by Driver Check are critical for maintaining a healthy and safe work environment and include laboratory and sample collection services (mobile collection, onsite dedicated collectors, and fixed site locations) on an as-required basis, as well as third-party administrator services through a Medical Review Officer (MRO).

The initial contract value established for the current contract was based on historical usage. Due to unprecedented hiring, the associated pre-employment drug testing, as well as a sharp increase in aftercare testing, the available funds on the contract diminished at an accelerated rate. Pre-employment drug tests spiked considerably in 2022 with an increase of 238% compared to the previous year. This is largely attributed to recruitment recovery after COVID-19.

The \$2.5 million added to the contract in February 2024 under staff authority allowed for continued services with the intent of bringing this report to the Board for a further amendment to increase the contract value and exercise a contract extension option. Although the current contract term ends in March 2025, based on the increased use of services, it is expected the contract funds will be depleted in August 2024.

Fitness for Duty Program Overview

Fitness for Duty testing, conducted by Driver Check, covers five testing programs: pre-employment testing, random testing, aftercare testing, post-incident testing, and reasonable cause testing.

All successful candidates for safety-designated roles must undergo drug testing as a precondition of employment. The TTC also aims to randomly test 20% of its safety-designated employees each year (currently there are approximately 15,000 employees that are subject to random testing). However, 2020-2022 random testing data cannot be relied on for forecasting due to pandemic measures that decreased testing volumes.

Employees who have a substance abuse disorder receive ongoing support from the TTC's Occupational Health and Employee Wellbeing (OHEW) section in the Human Resources Department. As part of their return to work obligations, they are enrolled in the aftercare program, which includes regular unannounced drug and alcohol testing to encourage and monitor compliance with their recovery, and to ensure customer and public safety. The aftercare program has seen a sharp rise in new cases over the last year. Although there is not a definitive documented reason for the increase, some contributing factors have been identified, including the effects of the pandemic on mental health and potentially the expanded availability of legal marijuana.

Post-incident testing occurs when there has been a significant incident, such as a collision, an injury requiring treatment off-scene, or a safety violation with the potential for more serious consequences. Reasonable cause testing occurs when an employee is demonstrating signs that they may be impaired at work.

Testing Projections

Pre-employment Testing Projections

In 2023, there were 1,494 new hires tested. In 2024, the current projection is that 2,100 pre-employment tests will be required based on the estimate of 1,800 new hire candidates across the TTC to be sent for pre-employment testing and a 30% discontinuation rate for new Operators. Continued staffing increases are anticipated to meet the service requirements for the opening of Lines 5 and 6. Service and staffing projections are not yet available for 2025, 2026, and 2027; as such the cost estimate includes a small contingency of 100 additional pre-employment tests in each year, as well as a 25% annual pre-employment contingency amount, to allow the FFD program to respond to any unanticipated hiring fluctuations over the next three years.

Random Testing Projections

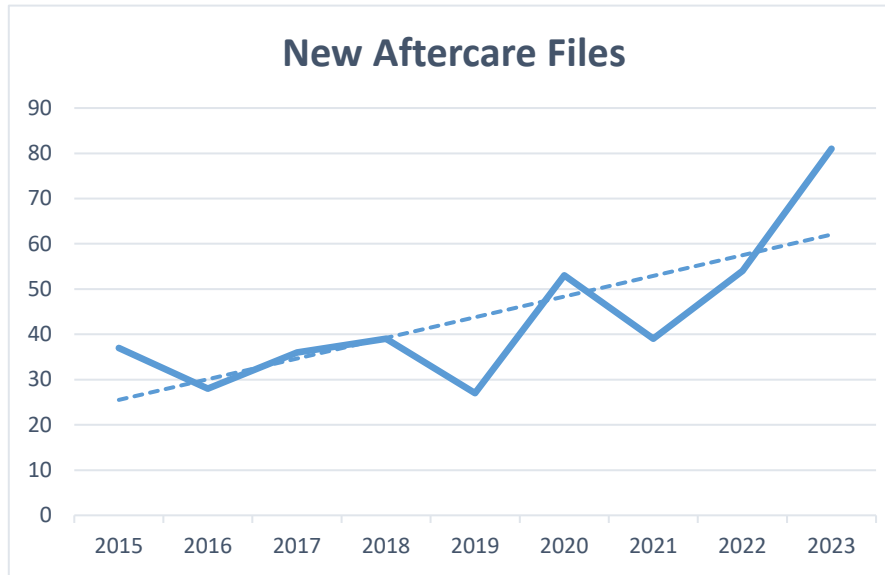
There were 2,875 random drug and alcohol tests conducted in 2023, and the annual random test total is projected to rise by 11% to 3,072 tests in 2024. This is based on available 2024 testing data. As random testing levels generally mirror the size of the overall workforce, the cost estimate includes a 2% projected increase in random testing in 2025, 2026, and 2027.

Aftercare Testing Projections

Each employee in the aftercare program is required to complete a large number of tests (usually 28-30 tests over a two-year period). The number of employees in the aftercare program has jumped significantly over the last several years.

- 2021 - 39 new files;
- 2022 - 54 new files (39% increase);
- 2023 - 81 new files (50% increase).

As of April 2024, there are 24 new aftercare files this year; with a projected 82 new files for 2024 overall. As discussed above, enrollment in aftercare testing is very difficult to predict, as there are a number of societal, personal, and medical factors that can lead to an employee entering the aftercare program. We have therefore included an anticipated increase of 20% year-over-year in the 2025, 2026, and 2027 projections, based on general historical trends that show consistent increases in testing numbers.



*Solid line - total annual number of new aftercare files
Dotted line --- trend line*

Post-Incident and Reasonable Cause Testing Projections

Reasonable cause test numbers are very low (two total in 2023; seven total in 2022), so they are counted together with post-incident. Post-incident numbers are difficult to predict. There were 376 post incident tests in 2023. Based on the average increase in tests over the last three years, the cost estimate includes a 15% increase in tests in 2025, 2026, and 2027.

Comments

Drug and Alcohol testing is a critical component of the TTC's Fitness for Duty Program that protects the health and safety of the TTC's employees and members of the public by requiring employees to report fit for duty, which includes being free from the negative effects of alcohol and other drug use, the use/misuse of and/or failure to take medications.

Driver Check Inc. is an industry leader in workplace drug and alcohol testing, collection, analysis, and administration. The company has consistently provided reliable expert services to the TTC since 2009. Driver Check provides on-site testing services across TTC locations 24 hours a day, seven days a week, and 365 days a year.

The current contract for the Fitness for Duty Program Testing Services was awarded to Driver Check based on a competitive bid process for the period March 19, 2022, to March 18, 2024. The contract contained options to extend for three additional terms of one-year each.

An unprecedented increase in volume to the program testing, mainly pre-employment and aftercare testing has resulted in increased volume and costs of the program. An increase to the upset limit of the contract is required to ensure drug and alcohol testing and laboratory services are maintained in accordance with the TTC's Fitness for Duty Program.

It is important that the TTC continue with the Fitness for Duty Program and the services provided by Driver Check are critical to the effectiveness and success of the program. Based on Driver Check's work performance, the pricing offered for the extension options and to ensure uninterrupted drug and alcohol testing, exercising the two optional year extensions is recommended.

Impact on Customers and Employees

- Our customers rely on the TTC's Fitness for Duty (FFD) Program to bring peace of mind that every time they step onto TTC property or a TTC vehicle, they are served by TTC staff and Operators who are reporting for work mentally and physically fit to perform their assigned tasks safely and reliably.
- Employees take responsibility for each other's safety at work. Employees similarly rely on the FFD Program to provide additional safeguards to ensure they are being kept safe while at work.
- Employees also rely on the FFD Program to support their health and wellness, including any recovery treatments and safe return to work.
- The TTC's Fitness for Duty Policy and drug and alcohol testing program are intended to:
 - Foster and maintain a safe and healthy workplace for TTC employees and a safe and reliable public transportation service;
 - Ensure the health and safety of TTC employees and the safety of TTC customers and members of the public by requiring employees to report fit for duty, which includes being free from the negative effects of alcohol and other drug use, the use/misuse of and/or failure to take medications, and extreme fatigue;
 - Deter unsafe behaviour and detect, early on, concerns related to drug and alcohol use by employees and ensure that employees with disabilities are provided with assistance and appropriate accommodation in employment in accordance with applicable law.

Impact on Safety

- Any disruption to the TTC's drug and alcohol testing program would have serious and immediate safety implications. Driver Check is an industry leader in workplace drug and alcohol testing, collection, analysis, and administration. The company has consistently provided reliable expert services to the TTC since 2009. Driver Check provides on-site testing services across TTC locations 24 hours a day, seven days a week, and 365 days a year. This contract extension will ensure the program continues to run uninterrupted.

Legal Implications

- Any interruption in the FFD testing programs would have considerable legal implications, given the risk associated with safety-sensitive operations continuing without having the established testing safeguards in place.

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