



The State of New Hampshire  
**Department of Environmental Services**



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**Robert R. Scott, Commissioner**

July 26, 2019

His Excellency, Governor Christopher T. Sununu  
and The Honorable Council  
State House  
Concord, NH 03301

**REQUESTED ACTION**

Authorize the Department of Environmental Services (DES) to enter into a **Sole Source** Memorandum of Agreement (MOA) with the Department of Health and Human Services (DHHS), Division of Public Health Services, Bureau of Laboratory Services (BLS), Concord, NH (VC# 177921-B001), in the amount of \$117,641.00, to perform laboratory services, effective upon approval by Governor and Council through June 30, 2021. 100% General Funds.

Funds to support this request are anticipated to be available in the following accounts in FY 2020 and FY2021 upon the availability and continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between State Fiscal Years through the Budget Office, if needed and justified:

	<u>FY 2020</u>	<u>FY 2021</u>
03-44-44-442010-15230000-020-500239	\$41,070.00	\$41,610.00
Dept Environmental Services, Shellfish Protection Program/Healthy Tidal Waters, Current Expense		
	<u>FY 2020</u>	<u>FY 2021</u>
03-44-44-442010-15230000-049-584990	\$10,857.00	\$24,104.00
Dept Environmental Services, Shellfish Protection Program/Healthy Tidal Waters, Transfer to Other State Agencies		

**EXPLANATION**

Commercial and recreational shellfish harvesting is a valuable part of New Hampshire's seacoast culture, and an important economic activity. The shellfish beds are closed for various times of the year due to a variety of public health concerns, including Paralytic Shellfish Poisoning (PSP) events, water quality problems stemming from wastewater treatment plant upsets, and other factors. The State of New Hampshire utilizes a set of national guidelines known as the National Shellfish Sanitation Program (NSSP) to evaluate the suitability of shellfish growing areas for harvest. Proper evaluation of areas includes regular testing of seawater and shellfish tissue samples to ensure areas meet standards for human consumption. This agreement is **Sole Source** because the DHHS-BLS is the only laboratory in New Hampshire that is certified by the U.S. Food and Drug Administration (FDA) to analyze seawater and shellfish tissue samples. Use of a certified laboratory is required by the NSSP and the FDA.

This agreement provides funds for the DHHS-BLS to analyze seawater and shellfish tissue samples for Paralytic Shellfish Poisoning toxin, for *Vibrio* bacteria, for fecal coliform bacteria, and for male-specific coliphage. The laboratory results will be used by DES to determine appropriate classification of shellfish growing waters and to determine when shellfish growing areas may be reopened for harvesting following pollution-generating events such as wastewater treatment facility upsets. The agreement also provides funds for the purchase of equipment, support for part-time laboratory staff, overtime costs for laboratory staff, and expenses related to travel to conferences and meetings relating to shellfish sanitation and laboratory training.

The attached memorandum of agreement (MOA) between DES and DHHS will provide for completion of laboratory tasks, as outlined in items A, B, C and D of the MOA.

This agreement has been approved by the Office of the Attorney General as to its form, substance, and execution.

We respectfully request your approval.



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Robert R. Scott, Commissioner  
Department of Environmental Services

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES  
AND  
THE DEPARTMENT OF ENVIRONMENTAL SERVICES (WATER DIVISION)**

**PROJECT: Laboratory Analysis of Shellfish Tissue Samples and Seawater Samples for Paralytic Shellfish Poison, *Vibrio* Bacteria, and Fecal Coliform Bacteria.**

This Memorandum of Understanding (MOU) between the NH Department of Health and Human Services' (DHHS) Division of Public Health Services (DPHS), Public Health Laboratories (PHL), Bureau of Laboratory Services (BLS), and the Department of Environmental Services (DES) Water Division, describes the responsibilities of each department in analyzing shellfish tissue and seawater samples for the purposes of shellfish water classification and management.

Pursuant to RSA 143:21, RSA 143:21-a, and RSA 487:34, DES is responsible for classifying shellfish harvest waters used for human consumption. Classification requires the laboratory analysis of tissue samples for Paralytic Shellfish Poison toxin, *Vibrio* bacteria, male specific coliphage, and fecal coliform bacteria. DES also conducts seawater samples for fecal coliform bacteria Most Probable Number, fecal coliform bacteria plate counts, and male specific coliphage. DES is required to (1) test shellfish tissue samples for Paralytic Shellfish Poisoning (PSP) toxin to determine when shellfish beds need to be closed and/or reopened following a red tide event; (2) assess *Vibrio* bacteria levels in shellfish under various environmental conditions to assess risk of illness outbreaks, (3) conduct analysis of shellfish tissue and seawater samples for fecal coliform bacteria to determine when it is appropriate to reopen shellfish harvesting areas following a pollution event, (4) conduct analysis of seawaters for fecal coliform bacterial testing to maintain the proper classifications of shellfish growing waters, and (5) conduct analysis of shellfish tissue, seawater samples, and other water samples such as wastewater treatment facility effluent, for male specific coliphage, a viral indicator that provides information on when disease-causing viruses may be present in seawater and/or shellfish. Because these tests must be conducted in an FDA evaluated laboratory in accordance with National Shellfish Sanitation Program specifications, DHHS will perform the required tests on behalf of DES in accordance with this MOU.

For the purpose of this MOU, DHHS and DES understand the following:

A. DES will:

1. For State fiscal year (SFY) 2020:

- Collect and submit to DHHS up to 65 shellfish tissue samples for Paralytic Shellfish Poison testing, 8 shellfish tissue samples for *Vibrio* bacteria testing, 50 shellfish tissue samples for fecal coliform MPN testing, 1,000 seawater samples for fecal coliform MPN testing, 319 seawater samples for male specific coliphage testing, and 75 seawater samples for fecal coliform plate count testing.

- Provide DHHS up to \$44,890 to conduct shellfish tissue *Vibrio* testing, shellfish tissue fecal coliform testing, seawater male specific coliphage testing, and seawater fecal coliform testing.
  - Provide DHHS with up to \$ 7,037 for purchase of equipment, part-time laboratory staff, overtime costs for laboratory staff, and expenses related to travel to conferences and meetings relating to shellfish sanitation and laboratory training.
2. For SFY 2021,
- Collect and submit to DHHS up to 65 shellfish tissue samples for Paralytic Shellfish Poison testing, 48 shellfish tissue samples for *Vibrio* bacteria testing, 50 shellfish tissue samples for fecal coliform MPN testing, 1,000 seawater samples for fecal coliform MPN testing, 337 seawater samples for male specific coliphage testing, 30 shellfish tissue samples for male specific coliphage testing, and 75 seawater samples for fecal coliform plate count testing.
  - Provide DHHS with up to \$51,930 to conduct shellfish tissue *Vibrio* testing, shellfish tissue fecal coliform testing, shellfish tissue male specific coliphage testing, seawater male specific coliphage testing, and seawater fecal coliform testing.
  - Provide DHHS with up to \$13,784 for part-time laboratory staff, overtime costs for laboratory staff, and expenses related to travel to conferences and meetings relating to shellfish sanitation and laboratory training.
3. Pay DHHS for each tissue or seawater test performed at DHHSs PHL per sample based on the following fee schedule:
- *Vibrio* Bacteria in tissue - \$140
  - Male Specific Coliphage in tissue - \$30
  - Fecal Coliform Bacteria in tissue - \$60
  - Fecal Coliform Bacteria Most Probable Number in Seawater - \$30
  - Fecal Coliform Bacteria Plate Counts in Seawater - \$20
  - Male Specific Coliphage in Seawater - \$30
4. For SFY20, provide additional funding to DHHS for the following purposes:
- The purchase of Water Analysis Laboratory equipment and supplies - \$1,000;
  - Overtime pay for staff who must come in on the weekends - up to \$1,198 for Public Health Laboratory staff, and \$1,147 for Water Analysis Laboratory staff;
  - Funding for the hiring of a part-time Water Analysis Laboratory staff member - up to \$3,392; and
  - Travel expenses to attend shellfish sanitation meetings and training sessions - up to \$300.
5. For SFY21, provide additional funding to DHHS for the following purposes:

- Overtime pay for staff who must come in on the weekends - up to \$1,263 for Public Health Laboratory staff, and \$1,198 for Water Analysis Laboratory staff;
- Funding for the hiring of a part-time Water Analysis Laboratory staff member - up to \$11,023; and
- Travel expenses to attend shellfish sanitation meetings and training sessions - up to \$300.

B. DHHS will:

1. Provide laboratory analyses for each test requested by DES in accordance with this MOU, not to exceed the limits detailed in (A) above.
2. Provide written results to DES of all analyses as they are completed.
3. For each SFY, provide, at no charge, laboratory analyses of up to 50 shellfish tissue samples per year for fecal coliform Most Probable Number testing (valued at \$60 per sample) and laboratory analysis of up to 65 shellfish tissue samples per year for Paralytic Shellfish Poison toxin testing (valued at \$200 per sample) to determine the proper classification of shellfish growing waters.
4. Submit invoices to DES on a quarterly basis.

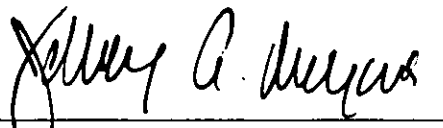
C. The total funding for this project shall not to exceed \$117,641 over the two fiscal years. All payments are subject to the approval of the Project Coordinator at DES.

D. Other terms and conditions.

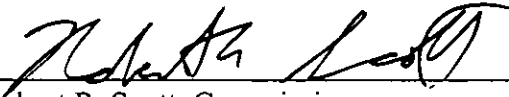
1. The duration of this MOU shall be from the date of Governor and Council approval through June 30, 2021.
2. Either party cannot terminate this MOU, in whole or in part, unless both parties agree in writing to the termination or it becomes unfeasible for DHHS or DES to continue its obligations under this MOU.

IN WITNESS WHEREOF, the parties have agreed to the terms of this MOU on the dates indicated.

Date 7/22/19

  
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Jeffrey A. Meyers, Commissioner  
Department of Health and Human Services

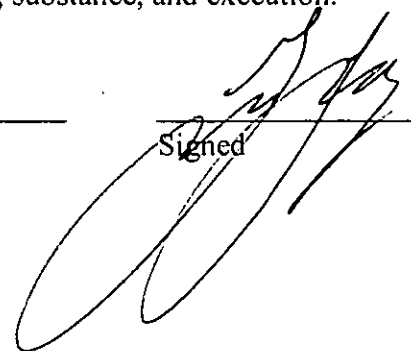
Date 7/31/19

  
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Robert R. Scott, Commissioner  
Department of Environmental Services

Approval by Attorney General's Office

This is to certify that the above Memorandum of Understanding has been reviewed by this office and is approved as to form, substance, and execution.

Date 8/5/19

  
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Signed