

1. DRUG AND ALCOHOL TESTING

The U.S. Department of Transportation and Federal Transit Administration (DOT/FTA) require that employees, Contractors and their agents who perform safety-sensitive functions be enrolled in a drug and alcohol testing program that complies with 49 C.F.R. Parts 40 and 655. Certain positions under this Contract may be safety-sensitive.¹ If so, the Contractor must institute a drug and alcohol testing program, supported by a detailed policy statement, consistent with the DOT/FTA regulations at 49 CFR Part 40 and Part 655.

All offerors must certify that, if their company is awarded the contract, they will comply with the drug and alcohol testing program plan and procedural requirements listed in Appendix A during the period of performance.

Attached is a copy of the Washington Metropolitan Area Transit Authority (WMATA) Drug and Alcohol Testing Policy. This document can serve as a guide for developing the Contractor's testing policy so that it meets the applicable DOT/FTA regulations. The information below outlines the policy and program items required by the FTA.

2. POLICY AND PROGRAM REQUIREMENTS

If WMATA finds that the Contractor's plan does not comply with DOT/FTA requirements, the Contractor will be provided the opportunity to take corrective actions required by WMATA and obtain WMATA's approval prior to implementation. Failure to obtain the requisite approval will result in a finding of Contractor non-compliance.

The Contractor must provide the following:

- A. Copy of the Contractor's drug and alcohol policy that includes the following information:
 - 1) Proof of policy approval and adoption by the Contractor's governing body that includes the effective date of adoption. The Contractor must disseminate the approved policy to all of its safety-sensitive employees, subContractors and other agents.
 - 2) Identity of the person, office, or position designated by the Contractor to answer questions about the anti-drug and alcohol misuse program;
 - 3) Categories of Contractor employees and agents who are subject to testing;

¹ See Combined Glossary of Definitions for a definition of safety sensitive.

- 4) Prohibited behavior, including when the regulations prohibit the use of alcohol and drugs;
- 5) Testing circumstances for drugs and alcohol (i.e., pre-employment, random, post- accident, reasonable suspicion, return-to-duty (only for Contractors with a second- chance policy), and follow-up testing (only for Contractors with a second-chance policy);
- 6) Drug and alcohol testing procedures consistent with 49 C.F.R. Part 40, as amended;
- 7) Requirement that covered Contractor employees and agents submit to drug and alcohol testing administered in accordance with FTA/DOT regulations;
- 8) Description of the behavior and circumstances that constitute a refusal to take a drug and/or alcohol test and a statement that a refusal is equivalent to a verified positive test result;
- 9) Description of the consequences for a Contractor employee or agent who has a verified positive drug test result or a confirmed alcohol test with an alcohol concentration of 0.04 or greater, including the mandatory requirements that the Contractor employee or agent be immediately suspended from his or her safety-sensitive function and be evaluated by a substance abuse professional. If the Contractor has a second chance policy, a description of the evaluation and treatment processes must be included;
- 10) Description of the consequences for Contractor employees and agents found to have an alcohol concentration of 0.02 or greater but less than 0.04;
- 11) Policy regarding retesting of negative dilute urine collections as required by 49 C.F.R. § 40.197 that states that if the Medical Review Officer (MRO) informs the Contractor that a negative drug test was diluted, the Contractor may, but is not required to, direct the Contractor employee or agent to take another test immediately. All Contractor employees and agents must be treated the same for this purpose. The Contractor may retest for some types of tests (e.g., pre-employment tests) and not others. The policy should state whether or not immediate retesting for negative dilutes is required and, if so, whether the second test will be the test of record;
- 12) Time periods for when the drug and alcohol testing must take place;
- 13) Training/education that will be required concerning the testing program and the effects/symptoms of the misuse of drugs and alcohol on a person's health, safety, and work environment. The training shall also include methods of intervening when an alcohol misuse problem is suspected; and

- 14) If the Contractor maintains an anti-drug and alcohol misuse program that exceeds the DOT/FTA requirements, it shall specify which requirements are mandated by the DOT/FTA regulations and which ones exceed FTA requirements.
- B. Copy of the Contractor's drug and alcohol testing program implementation plan (which may be contained within the policy) for the following items:
- 1) Pre-employment testing;
 - 2) Reasonable suspicion testing;
 - 3) Post-accident testing;
 - 4) Random testing;
 - 5) Return-to-duty testing;
 - 6) Follow-up testing;
 - 7) Certification that breath alcohol testing machines used are approved by the DOT/National Highway Traffic Safety Administration (NHTSA), including quality assurance statements for the machines and records of calibration;
 - 8) Records of current certifications for Breath Alcohol Technicians;
 - 9) Determination of consortium-type partnership involvement;
 - 10) Name, address, and telephone number of organization which executes the program for the Contractor if done by an outside party or consortium;
 - 11) Name of the U.S. Department of Health and Human Services (DHHS)-certified laboratory used by the Contractor;
 - 12) Name, address, and telephone number of Medical Review Officer(s) (MRO) and a description of the functions, duties, and responsibilities of the MRO;
 - 13) Name, address, and telephone number of Substance Abuse Professional(s) (SAP) and a description of the functions, duties, and responsibilities of the SAP; and
 - 14) A list of the consequences for Contractor employees and agents who fail a drug or alcohol test.
- C. If applicable, a copy of the Contractor's current Employee Assistance Program (EAP) policy and/or procedures.

3. Drug and Alcohol Contract Clause

WMATA is responsible for certifying to FTA that Contractors performing safety-sensitive functions are in compliance with DOT/FTA drug and alcohol testing regulations. This requirement also applies to subContractors and agents utilized by the prime Contractor performing safety-sensitive work under the Contract.

WMATA will monitor the Contractor's drug and alcohol program throughout the period of performance to ensure compliance with the DOT/FTA regulations. The Contractor is required to adhere to the requirements in the drug and alcohol testing clause in the contract, and to ensure the clause is included in all of its subcontracts.