



Taylor County Drug – Free Workplace Standards

Taylor County takes the importance of having a Drug – Free Workplace very seriously for both employees and contractors. In addition to ensuring for a safe, healthy, and productive work environment, Title 49, Code of Federal Regulations, Part 29 requires the County will be, and will continue to be a drug – free work place. Compliance with the Regulation is a requirement to receive federal funding assistance. The majority of federal grant applications and/or grant contracts/agreements require the County to execute a Sponsor Certification verifying the County is a Drug-Free Workplace. A sample of the Sponsor Certification is an attachment to this standards guide.

Employees

Each employee receives a Manual upon hire and the County's policy for all employees is clearly outlined in Section V Policy Statements; Alcohol/Drug Abuse Policy (Page 27). In addition to being provided a copy of the Manual, employees periodically receive Drug – Free Workplace training, and signage is posted promoting a Drug-Free Workplace. The County has a Safety Committee which meets several times a year and drug-free workplace issues are discussed as so needed.

The County adheres to Drug – Free Workplace program requirements and standards of Chapter 440 Florida Statutes as well as the federal Drug – Free Workplace Act of 1988. As per Chapter 440 F.S. and County Policies the definition of "drug" is as follows:

"Drug" means alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph. An employer may test an individual for any or all of such drugs.

As a Drug – Free Workplace, job applicants who have received a conditional offer of employment will be drug tested. Ads and notices of employment opportunities include notice of the County being a Drug – Free Workplace.

In compliance with Chapter 440 F.S., employees will be tested under the following circumstances:

- On reasonable suspicion of drug use (reasons for suspicion include observable phenomena, erratic or abnormal behavior, or a report of drug use.)

- As part of a routinely scheduled fitness-for-duty medical examination
- After the employee returns to work following rehabilitation for a positive drug test. Testing is not required if the employee entered rehab voluntarily, rather than after a positive drug test.

In addition to the above the County may conduct random drug testing.

As per Chapter 440 F.S. 627.0915, if an employee or job applicant refuses to submit to a drug test, the County is not barred from discharging or disciplining the employee or from refusing to hire the job applicant. However, the County must still follow all standards and policies of Chapter 440 F.S. or will be in violation of the rights and remedies of the employee or job applicant. As per federal guidelines and the Drug-Free Workplace Act of 1988, the following Employee Sanctions and Remedies shall be adhered to:

§ 703. Employee sanctions and remedies

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to Section 701(a)(1)(D)(ii) or 702(a)(1)(D)(ii) of this title—

- (1) take appropriate personnel action against such employee up to and including termination; or
- (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(Pub. L. 100–690, title V, §5154, Nov. 18, 1988, 102 Stat. 4307.)

Failure to comply with the requirements of the Drug Free Workplace Act may result in suspension of payments, termination of contract or grant, suspension or debarment if the head of the contracting or granting organization determines that the employer has made any type of false certification to the contracting or grant office, has not fulfilled the requirements of the law, or has excessive drug violation convictions in the workplace. Penalties may also be imposed upon those employing a number of individuals convicted of criminal drug offenses as this demonstrates a lack of good faith effort to provide a drug-free workplace. Employers who are debarred are ineligible for other Federal contracts or grants for up to five (5) years.

Under Florida law, employees who voluntarily seek treatment for substance abuse cannot be fired, disciplined, or discriminated against unless they have tested positive or been in treatment in the past. An applicant or employee who is taking medication for a disability is protected by the Americans with Disabilities Act (ADA). Some prescribed medications turn up on drug tests, and some drugs that would otherwise be illegal (such as opiates) are legitimately prescribed for certain conditions. If an applicant is turned down because of a positive drug test, and the applicant's medication was legally prescribed for a disability, the County could be liable.

In addition to the County's insurance drug and alcohol counseling and treatment assistance, free and confidential treatment and assistance resources include:

- First United Methodist Church
317 N Orange Street
Perry, FL 32347
Fridays at 8:00 PM
850-584-3028
- Serenity House
1824 N Jefferson Street
Perry, FL 32347
Mondays and Thursdays at 7:00 PM
- Immaculate Conception Catholic Church
2750 S Byron Butler Parkway
Perry, FL 32348
Tuesdays and Saturdays at 7:00 PM
850-584-3169
- Intergroup 5 Inc.
Tallahassee, Florida
850-224-1818
www.intergroup5.org
- Substance Abuse Treatment Locator
1-800-662-HELP
www.findtreatment.samhsa.gov
- Alcoholics Anonymous (AA)
844-461-8218
www.aa.org
- Narcotics Anonymous
818-773-9999
www.na.org
- Al-Anon
1-888-4AL-ANON
www.al-anon.alateen.org
- National Council on Alcoholism and Drug
Dependence Hopeline
1-800-NCA-CALL
www.ncadd.org

Taylor County is committed to making a “good faith” effort to comply with all the requirements as set forth in the Drug – Free Workplace Act. Every effort will be made to educate County employees on the importance of complying with Drug – Free Workplace standards.

Contractors, Subcontractors, Consulting Firms, Temporary Personnel, and all applicable entities receiving payment from the County for federal or state grant funded projects

Taylor County makes every effort to ensure all County vendors/contractors comply with Drug – Free Workplace Act standards. However, this is strictly enforced for vendor/contractors who provide services which will be paid for with federal and/or state grant funds. Per Title 41 – Public Contracts the following applies to all individuals and entities who received any form of payment from the County for federal or state grant funded programs or projects.

§ 706. Definitions

For purposes of this chapter—

- (1) the term “drug-free workplace” means a site for the performance of work done in connection with a specific grant or contract described in Section 701 or 702 of this title of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act;
 - (2) the term “employee” means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in Section 701 or 702 of this title;
 - (3) the term “controlled substance” means a controlled substance in Schedules I through V of Section 812 of Title 21;
 - (4) the term “conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;
 - (5) the term “criminal drug statute” means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;
 - (6) the term “grantee” means the department, division, or other unit of a person responsible for the performance under the grant;
 - (7) the term “contractor” means the department, division, or other unit of a person responsible for the performance under the contract.
- (Pub. L. 100–690, title V, §5157, Nov. 18, 1988, 102 Stat. 4308.)

All County Requests for Proposals (RFP), Requests for Qualifications (RFQ), and bid documents require an executed Drug – Free Workplace Certificate/Certification upon submission of RFP and RFQ documents, and bid packages. A sample of the required Certification is included in the attachments of this standards guide.

In addition to the Drug – Free Workplace Certification, contracts executed with awardees of County RFPs, RFQs, or bids will contain an additional drug – free workplace clause.

An executed Standard Assurance form is also required to be submitted with a proposers RFP, RFQ, or bid documents which includes the following statement:

“The proposer is in full compliance with all federal, state, and local laws and regulations and intends to fully comply with the same during the entire term of the contract.”

The Standard Assurance form provides additional measures to ensure awardees of County projects understand being in full compliance of federal, state, and local laws is essential for all awardees of Taylor County contracts. All awardees of County contracts which are funded in part or in full with federal or state contracts must be in full compliance with the Drug – Free Workplace Act of 1988 regardless of dollar/value of the contract or grant.

As with direct employees of Taylor County, the County is committed to making a “good faith” effort to ensure all awardees of RFPs, RFQs, and bids comply with all requirements of the Drug – Free Workplace Act.

Attachments

1. Taylor County Employee Manual Section V Policy Statements; Alcohol/Drug Abuse Policy (Page 27)
2. Chapter 440 Florida Statutes
3. Drug – Free Workplace Act 1988
4. Drug – Free Workplace Certification Example
5. Standard Assurances Example
6. Miscellaneous/Training manuals

**TAYLOR COUNTY
BOARD OF COUNTY COMMISSIONERS**

Personnel Policies

**Adopted: September 16, 2014
Effective: October 1, 2014
Sunset: None**

WELCOME

It is my pleasure to welcome you as an employee of Taylor County Government. We hope that you have found the kind of challenging work and organizational philosophy that will enable you to enjoy your career with Taylor County. We are pleased with your selection because you have demonstrated that you are the one best suited to fill the position for which you were hired.

This manual provides answers to some of the most frequently asked employee questions. It is a quick reference to some of the policies and procedures with which you should be familiar. Please read your manual carefully and discuss any questions you might have with your Supervisor or the Office of Human Resources.

The Human Resources Department exists to provide service to your hiring department and to you. In short, your work direction, job counseling, performance evaluation and pay changes come from within your own department, and we provide support and assistance to your department and to you.

Our primary job as County employees is to give prompt, courteous and efficient service to our fellow citizens. As we share in the experience of working together, you will be making an important contribution to the growth and well-being of Taylor County.

I hope that you will take pride in your new job and that you will find your work interesting, satisfying and rewarding.

I wish you every success in your career with Taylor County Government.

Sincerely,

County Administrator

compliance with the Americans with Disabilities Act (ADA).

ALCOHOL/DRUG ABUSE POLICY

The purpose of this policy is to define Taylor County's position regarding employees whose job performance is adversely affected by alcohol/drug abuse, or engaging in illegal drug activity, as both subjects are addressed in Florida Statute 440 Drug-Free Workplace.

Illegal drug use and/or alcohol abuse, whether on or off the job, may be subject to disciplinary action up to and including termination.

Being under the influence of alcoholic beverages, or possession or being under the influence of illegal drugs¹ on County property or any work site, or while on duty is a serious violation of this policy, and will subject the employee to disciplinary action up to and including termination.

An employee will be required by his or her supervisor to submit to a blood/urine or other test for alcohol or illegal drugs¹ if reasonable suspicion exists to believe the employee is under the influence of alcohol or drugs. Employees who are directed to submit to tests for alcohol or illegal drugs under these circumstances and who test positive, as determined by the County, or refuse or fail to submit to these tests when and as directed, will be subject to immediate termination.

Employees who are convicted or sentenced for on or off the job illegal drug activity will be considered in violation of this policy and subject to termination of employment.

Employees must notify their supervisor when under medically prescribed treatment with a controlled substance that may limit their ability to perform their job. Verification of required medication under these circumstances will be submitted by providing a prescription copy or physician's statement showing medication required and dates of use. Failure to do so will result in appropriate disciplinary action.

SMOKING POLICY

The use of tobacco products is prohibited in all enclosed indoor workplaces as established by State law and in compliance with the Florida Clean Indoor Act and to protect the health and safety of employees and the general public. Signs prohibiting the use of tobacco products shall be conspicuously posted in every facility and work area, which includes all County owned, leased or rented vehicles and County owned, leased or rented mobile equipment. Smoking of tobacco products shall only occur at a reasonable distance (i.e. 20 feet or more) outside any enclosed area where smoking is prohibited to insure that tobacco smoke does not enter the area through entrances, windows, ventilation systems or any other means. Ashtrays will be made available and maintained in a safe manner in the outdoor designated smoking areas and are to remain in the designated areas at all times.

The use of tobacco, smoking and smoking-alternative products (such as e-cigarettes and similar vapor inhaling products) are not permitted anywhere within the buildings occupied by Taylor County, i.e. in the offices, warehouse, break room, restrooms, hallways, etc. Tobacco, smoking, and smoking-alternative products are also prohibited in any Taylor County owned or leased vehicles.

Complaints of violation of this policy should be directed to the supervisor responsible for the particular work area or facility involved in the complaint. The responsible supervisor shall be charged with notifying the violator of the pertinent portions of this policy, and violator will be subject to disciplinary action.

SAFETY AND LOSS CONTROL POLICY

Taylor County recognizes the necessity for a safe and healthful work place, through the adherence to sound

¹ Any drug which (a) is not legally obtainable; (b) may be legally obtainable but which has not been legally obtained; or (c) is being used in a manner or for purposes other than as prescribed or intended.

The Florida Senate

2011 Florida Statutes

Title XXXI LABOR	Chapter 440 WORKERS' COMPENSATION Entire Chapter	SECTION 102 Drug-free workplace program requirements.
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440.102 Drug-free workplace program requirements.— The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) **DEFINITIONS.**— Except where the context otherwise requires, as used in this act:

(a) “Chain of custody” refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, and storing specimens and reporting test results.

(b) “Confirmation test,” “confirmed test,” or “confirmed drug test” means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity, and quantitative accuracy.

(c) “Drug” means alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph. An employer may test an individual for any or all of such drugs.

(d) “Drug rehabilitation program” means a service provider, established pursuant to s. [397.311](#)(33), that provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.

(e) “Drug test” or “test” means any chemical, biological, or physical instrumental analysis administered, by a laboratory certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration, for the purpose of determining the presence or absence of a drug or its metabolites.

(f) “Employee” means any person who works for salary, wages, or other remuneration for an employer.

(g) “Employee assistance program” means an established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and followup services for employees who participate in the program or require monitoring after returning to work. If, in addition to the above activities, an employee assistance program provides diagnostic and treatment services, these services shall in all cases be provided by service providers pursuant to s. [397.311](#)(33).

(h) “Employer” means a person or entity that employs a person and that is covered by the Workers’ Compensation Law.

(i) “Initial drug test” means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens, using an immunoassay procedure or an equivalent, or a more accurate scientifically accepted method approved by the United States Food and Drug Administration or the Agency for Health Care Administration as such more accurate technology becomes available in a cost-effective form.

(j) “Job applicant” means a person who has applied for a position with an employer and has been offered employment conditioned upon successfully passing a drug test, and may have begun work pending the results of the drug test. For a public employer, “job applicant” means only a person who has applied for a special-risk or safety-sensitive position.

(k) “Medical review officer” or “MRO” means a licensed physician, employed with or contracted with an employer, who has knowledge of substance abuse disorders, laboratory testing procedures, and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to

interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.

(l) "Prescription or nonprescription medication" means a drug or medication obtained pursuant to a prescription as defined by s. [893.02](#) or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

(m) "Public employer" means any agency within state, county, or municipal government that employs individuals for a salary, wages, or other remuneration.

(n) "Reasonable-suspicion drug testing" means drug testing based on a belief that an employee is using or has used drugs in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.
2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.
3. A report of drug use, provided by a reliable and credible source.
4. Evidence that an individual has tampered with a drug test during his or her employment with the current employer.
5. Information that an employee has caused, contributed to, or been involved in an accident while at work.
6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the employer's premises or while operating the employer's vehicle, machinery, or equipment.

(o) "Safety-sensitive position" means, with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to s. [110.1127](#); or a position in which a momentary lapse in attention could result in injury or death to another person.

(p) "Special-risk position" means, with respect to a public employer, a position that is required to be filled by a person who is certified under chapter 633 or chapter 943.

(q) "Specimen" means tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites, as approved by the United States Food and Drug Administration or the Agency for Health Care Administration.

(2) DRUG TESTING.—An employer may test an employee or job applicant for any drug described in paragraph (1)(c). In order to qualify as having established a drug-free workplace program under this section and to qualify for the discounts provided under s. [627.0915](#) and deny medical and indemnity benefits under this chapter, an employer must implement drug testing that conforms to the standards and procedures established in this section and all applicable rules adopted pursuant to this section as required in subsection (4). However, an employer does not have a legal duty under this section to request an employee or job applicant to undergo drug testing. If an employer fails to maintain a drug-free workplace program in accordance with the standards and procedures established in this section and in applicable rules, the employer is ineligible for discounts under s. [627.0915](#). All employers qualifying for and receiving discounts provided under s. [627.0915](#) must be reported annually by the insurer to the department.

(3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—

(a) One time only, prior to testing, an employer shall give all employees and job applicants for employment a written policy statement which contains:

1. A general statement of the employer's policy on employee drug use, which must identify:
 - a. The types of drug testing an employee or job applicant may be required to submit to, including reasonable-suspicion drug testing or drug testing conducted on any other basis.
 - b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.
 3. A general statement concerning confidentiality.
 4. Procedures for employees and job applicants to confidentially report to a medical review officer the use of prescription or nonprescription medications to a medical review officer both before and after being tested.
 5. A list of the most common medications, by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications as developed by the Agency for Health Care Administration shall be available to employers through the department.
 6. The consequences of refusing to submit to a drug test.
 7. A representative sampling of names, addresses, and telephone numbers of employee assistance programs and local drug rehabilitation programs.
 8. A statement that an employee or job applicant who receives a positive confirmed test result may contest or explain the result to the medical review officer within 5 working days after receiving written notification of the test result; that if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the employer; and that a person may contest the drug test result pursuant to law or to rules adopted by the Agency for Health Care Administration.
 9. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.
 10. A list of all drugs for which the employer will test, described by brand name or common name, as applicable, as well as by chemical name.
 11. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission or applicable court.
 12. A statement notifying employees and job applicants of their right to consult with a medical review officer for technical information regarding prescription or nonprescription medication.
 - (b) An employer not having a drug-testing program shall ensure that at least 60 days elapse between a general one-time notice to all employees that a drug-testing program is being implemented and the beginning of actual drug testing. An employer having a drug-testing program in place prior to July 1, 1990, is not required to provide a 60-day notice period.
 - (c) An employer shall include notice of drug testing on vacancy announcements for positions for which drug testing is required. A notice of the employer's drug-testing policy must also be posted in an appropriate and conspicuous location on the employer's premises, and copies of the policy must be made available for inspection by the employees or job applicants of the employer during regular business hours in the employer's personnel office or other suitable locations.
- (4) TYPES OF TESTING.—
- (a) An employer is required to conduct the following types of drug tests:
 1. Job applicant drug testing.—An employer must require job applicants to submit to a drug test and may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusing to hire a job applicant.
 2. Reasonable-suspicion drug testing.—An employer must require an employee to submit to reasonable-suspicion drug testing.
 3. Routine fitness-for-duty drug testing.—An employer must require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.
 4. Followup drug testing.—If the employee in the course of employment enters an employee assistance program for drug-related problems, or a drug rehabilitation program, the employer must require the employee to submit to a drug test as a followup to such program, unless the employee voluntarily entered the program. In those cases, the employer has the option to not require followup testing. If followup testing is required, it must be conducted at least once a year for a 2-year period after completion of the program. Advance notice of a followup testing date must not be given to the employee to be tested.

(b) This subsection does not preclude a private employer from conducting random testing, or any other lawful testing, of employees for drugs.

(c) Limited testing of applicants, only if it is based on a reasonable classification basis, is permissible in accordance with law or with rules adopted by the Agency for Health Care Administration.

(5) **PROCEDURES AND EMPLOYEE PROTECTION.**— All specimen collection and testing for drugs under this section shall be performed in accordance with the following procedures:

(a) A sample shall be collected with due regard to the privacy of the individual providing the sample, and in a manner reasonably calculated to prevent substitution or contamination of the sample.

(b) Specimen collection must be documented, and the documentation procedures shall include:

1. Labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results.

2. A form for the employee or job applicant to provide any information he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. The form must provide notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. The providing of information shall not preclude the administration of the drug test, but shall be taken into account in interpreting any positive confirmed test result.

(c) Specimen collection, storage, and transportation to the testing site shall be performed in a manner that reasonably precludes contamination or adulteration of specimens.

(d) Each confirmation test conducted under this section, not including the taking or collecting of a specimen to be tested, shall be conducted by a licensed or certified laboratory as described in subsection (9).

(e) A specimen for a drug test may be taken or collected by any of the following persons:

1. A physician, a physician assistant, a registered professional nurse, a licensed practical nurse, or a nurse practitioner or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment.

2. A qualified person employed by a licensed or certified laboratory as described in subsection (9).

(f) A person who collects or takes a specimen for a drug test shall collect an amount sufficient for two drug tests as determined by the Agency for Health Care Administration.

(g) Every specimen that produces a positive, confirmed test result shall be preserved by the licensed or certified laboratory that conducted the confirmation test for a period of at least 210 days after the result of the test was mailed or otherwise delivered to the medical review officer. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180-day period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee's or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory that performed the test for the employer is responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.

(h) Within 5 working days after receipt of a positive confirmed test result from the medical review officer, an employer shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant. The employer shall provide to the employee or job applicant, upon request, a copy of the test results.

(i) Within 5 working days after receiving notice of a positive confirmed test result, an employee or job applicant may submit information to the employer explaining or contesting the test result, and explaining why the result does not constitute a violation of the employer's policy.

(j) The employee's or job applicant's explanation or challenge of the positive test result is unsatisfactory to the employer, a written explanation as to why the employee's or job applicant's explanation is unsatisfactory, along with the report of positive result, shall be provided by the employer to the employee or job applicant; and all such documentation shall be kept confidential by the employer pursuant to subsection (8) and shall be retained by the employer for at least 1 year.

(k) An employer may not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test and by a medical review officer.

(l) An employer that performs drug testing or specimen collection shall use chain-of-custody procedures established by the Agency for Health Care Administration to ensure proper recordkeeping, handling, labeling, and identification of all specimens tested.

(m) An employer shall pay the cost of all drug tests, initial and confirmation, which the employer requires of employees. An employee or job applicant shall pay the costs of any additional drug tests not required by the employer.

(n) An employer shall not discharge, discipline, or discriminate against an employee solely upon the employee's voluntarily seeking treatment, while under the employ of the employer, for a drug-related problem if the employee has not previously tested positive for drug use, entered an employee assistance program for drug-related problems, or entered a drug rehabilitation program. Unless otherwise provided by a collective bargaining agreement, an employer may select the employee assistance program or drug rehabilitation program if the employer pays the cost of the employee's participation in the program.

(o) If drug testing is conducted based on reasonable suspicion, the employer shall promptly detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of this documentation shall be given to the employee upon request and the original documentation shall be kept confidential by the employer pursuant to subsection (8) and shall be retained by the employer for at least 1 year.

(p) All authorized remedial treatment, care, and attendance provided by a health care provider to an injured employee before medical and indemnity benefits are denied under this section must be paid for by the carrier or self-insurer. However, the carrier or self-insurer must have given reasonable notice to all affected health care providers that payment for treatment, care, and attendance provided to the employee after a future date certain will be denied. A health care provider, as defined in s. [440.13\(1\)\(h\)](#), that refuses, without good cause, to continue treatment, care, and attendance before the provider receives notice of benefit denial commits a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(6) CONFIRMATION TESTING. —

(a) If an initial drug test is negative, the employer may in its sole discretion seek a confirmation test.

(b) Only licensed or certified laboratories as described in subsection (9) may conduct confirmation drug tests.

(c) All positive initial tests shall be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent or more accurate scientifically accepted method approved by the Agency for Health Care Administration or the United States Food and Drug Administration as such technology becomes available in a cost-effective form.

(d) If an initial drug test of an employee or job applicant is confirmed as positive, the employer's medical review officer shall provide technical assistance to the employer and to the employee or job applicant for the purpose of interpreting the test result to determine whether the result could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

(7) EMPLOYER PROTECTION. —

(a) An employee or job applicant whose drug test result is confirmed as positive in accordance with this section shall not, by virtue of the result alone, be deemed to have a "handicap" or "disability" as defined under federal, state, or local handicap and disability discrimination laws.

(b) An employer who discharges or disciplines an employee or refuses to hire a job applicant in compliance with this section is considered to have discharged, disciplined, or refused to hire for cause.

(c) No physician-patient relationship is created between an employee or job applicant and an employer or any person performing or evaluating a drug test, solely by the establishment, implementation, or administration of a drug-testing program.

(d) Nothing in this section shall be construed to prevent an employer from establishing reasonable work rules related to employee possession, use, sale, or solicitation of drugs, including convictions for drug-related offenses, and taking action based upon a violation of any of those rules.

(e) This section does not operate retroactively, and does not abrogate the right of an employer under state law to conduct drug tests, or implement employee drug-testing programs; however, only those programs that meet the criteria outlined in this section qualify for reduced rates under s. [627.0915](#).

(f) If an employee or job applicant refuses to submit to a drug test, the employer is not barred from discharging or disciplining the employee or from refusing to hire the job applicant. However, this paragraph does not abrogate the rights and remedies of the employee or job applicant as otherwise provided in this section.

(g) This section does not prohibit an employer from conducting medical screening or other tests required, permitted, or not disallowed by any statute, rule, or regulation for the purpose of monitoring exposure of employees to toxic or other unhealthy substances in the workplace or in the performance of job responsibilities. Such screening or testing is limited to the specific substances expressly identified in the applicable statute, rule, or regulation, unless prior written consent of the employee is obtained for other tests. Such screening or testing need not be in compliance with the rules adopted by the Agency for Health Care Administration under this chapter or under s. [112.0455](#). A public employer may, through the use of an unbiased selection procedure, conduct random drug tests of employees occupying safety-sensitive or special-risk positions if the testing is performed in accordance with drug-testing rules adopted by the Agency for Health Care Administration and the department. If applicable, random drug testing must be specified in a collective bargaining agreement as negotiated by the appropriate certified bargaining agent before such testing is implemented.

(h) No cause of action shall arise in favor of any person based upon the failure of an employer to establish a program or policy for drug testing.

(8) CONFIDENTIALITY.—

(a) Except as otherwise provided in this subsection, all information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received or produced as a result of a drug-testing program are confidential and exempt from the provisions of s. [119.07](#)(1) and s. 24(a), Art. I of the State Constitution, and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with this section or in determining compensability under this chapter.

(b) Employers, laboratories, medical review officers, employee assistance programs, drug rehabilitation programs, and their agents may not release any information concerning drug test results obtained pursuant to this section without a written consent form signed voluntarily by the person tested, unless such release is compelled by an administrative law judge, a hearing officer, or a court of competent jurisdiction pursuant to an appeal taken under this section or is deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must contain, at a minimum:

1. The name of the person who is authorized to obtain the information.
2. The purpose of the disclosure.
3. The precise information to be disclosed.
4. The duration of the consent.
5. The signature of the person authorizing release of the information.

(c) Information on drug test results shall not be used in any criminal proceeding against the employee or job applicant. Information released contrary to this section is inadmissible as evidence in any such criminal proceeding.

(d) This subsection does not prohibit an employer, agent of an employer, or laboratory conducting a drug test from having access to employee drug test information or using such information when consulting with legal counsel

in connection with actions brought under or related to this section or when the information is relevant to its defense in a civil or administrative matter.

(9) DRUG-TESTING STANDARDS FOR LABORATORIES.—

(a) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to this section and part II of chapter 408 and to entities licensed by or applying for such licensure from the agency pursuant to this section. A license issued by the agency is required in order to operate a drug-free workplace laboratory.

(b) A laboratory may analyze initial or confirmation test specimens only if:

1. The laboratory obtains a license under part II of chapter 408 and s. [112.0455](#)(17). Each applicant for licensure and each licensee must comply with all requirements of this section, part II of chapter 408, and applicable rules.

2. The laboratory has written procedures to ensure the chain of custody.

3. The laboratory follows proper quality control procedures, including, but not limited to:

a. The use of internal quality controls, including the use of samples of known concentrations which are used to check the performance and calibration of testing equipment, and periodic use of blind samples for overall accuracy.

b. An internal review and certification process for drug test results, conducted by a person qualified to perform that function in the testing laboratory.

c. Security measures implemented by the testing laboratory to preclude adulteration of specimens and drug test results.

d. Other necessary and proper actions taken to ensure reliable and accurate drug test results.

(c) A laboratory shall disclose to the medical review officer a written positive confirmed test result report within 7 working days after receipt of the sample. All laboratory reports of a drug test result must, at a minimum, state:

1. The name and address of the laboratory that performed the test and the positive identification of the person tested.

2. Positive results on confirmation tests only, or negative results, as applicable.

3. A list of the drugs for which the drug analyses were conducted.

4. The type of tests conducted for both initial tests and confirmation tests and the minimum cutoff levels of the tests.

5. Any correlation between medication reported by the employee or job applicant pursuant to subparagraph (5)(b) 2. and a positive confirmed drug test result.

A report must not disclose the presence or absence of any drug other than a specific drug and its metabolites listed pursuant to this section.

(d) The laboratory shall submit to the Agency for Health Care Administration a monthly report with statistical information regarding the testing of employees and job applicants. The report must include information on the methods of analysis conducted, the drugs tested for, the number of positive and negative results for both initial tests and confirmation tests, and any other information deemed appropriate by the Agency for Health Care Administration. A monthly report must not identify specific employees or job applicants.

(10) RULES.—The Agency for Health Care Administration shall adopt rules pursuant to s. [112.0455](#), part II of chapter 408, and criteria established by the United States Department of Health and Human Services as general guidelines for modeling drug-free workplace laboratories, concerning, but not limited to:

(a) Standards for licensing drug-testing laboratories and suspension and revocation of such licenses.

(b) Urine, hair, blood, and other body specimens and minimum specimen amounts that are appropriate for drug testing.

(c) Methods of analysis and procedures to ensure reliable drug-testing results, including standards for initial tests and confirmation tests.

(d) Minimum cutoff detection levels for each drug or metabolites of such drug for the purposes of determining a positive test result.

- (e) Chain-of-custody procedures to ensure proper identification, labeling, and handling of specimens tested.
- (f) Retention, storage, and transportation procedures to ensure reliable results on confirmation tests and retests.
- (11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR SPECIAL-RISK POSITIONS.—

(a) If an employee who is employed by a public employer in a safety-sensitive position enters an employee assistance program or drug rehabilitation program, the employer must assign the employee to a position other than a safety-sensitive position or, if such position is not available, place the employee on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.

(b) An employee who is employed by a public employer in a special-risk position may be discharged or disciplined by a public employer for the first positive confirmed test result if the drug confirmed is an illicit drug under s. [893.03](#). A special-risk employee who is participating in an employee assistance program or drug rehabilitation program may not be allowed to continue to work in any special-risk or safety-sensitive position of the public employer, but may be assigned to a position other than a safety-sensitive position or placed on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.

(12) DENIAL OF BENEFITS.—An employer shall deny an employee medical or indemnity benefits under this chapter, pursuant to this section.

(13) COLLECTIVE BARGAINING RIGHTS.—

(a) This section does not eliminate the bargainable rights as provided in the collective bargaining process if applicable.

(b) Drug-free workplace program requirements pursuant to this section shall be a mandatory topic of negotiations with any certified collective bargaining agent for nonfederal public sector employers that operate under a collective bargaining agreement.

(14) APPLICABILITY.—A drug testing policy or procedure adopted by an employer pursuant to this chapter shall be applied equally to all employee classifications where the employee is subject to workers' compensation coverage.

(15) STATE CONSTRUCTION CONTRACTS.—Each construction contractor regulated under part I of chapter 489, and each electrical contractor and alarm system contractor regulated under part II of chapter 489, who contracts to perform construction work under a state contract for educational facilities governed by chapter 1013, for public property or publicly owned buildings governed by chapter 255, or for state correctional facilities governed by chapter 944 shall implement a drug-free workplace program under this section.

History.—s. 13, ch. 90-201; s. 13, ch. 91-1; s. 1, ch. 91-201; s. 4, ch. 91-429; s. 9, ch. 93-415; s. 3, ch. 95-119; s. 3, ch. 96-289; s. 284, ch. 96-406; s. 198, ch. 96-410; s. 1050, ch. 97-103; s. 99, ch. 97-264; s. 3, ch. 99-186; s. 14, ch. 2000-320; s. 1, ch. 2002-14; s. 5, ch. 2002-78; s. 16, ch. 2002-194; s. 8, ch. 2002-196; s. 51, ch. 2003-1; s. 60, ch. 2004-5; s. 7, ch. 2005-55; s. 178, ch. 2007-230; s. 1, ch. 2009-127; s. 49, ch. 2009-132.

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CHAPTER 10—DRUG-FREE WORKPLACE

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 703. Employee sanctions and remedies.
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§ 701. Drug-free workplace requirements for Federal contractors

(a) Drug-free workplace requirement

(1) Requirement for persons other than individuals

No person, other than an individual, shall be considered a responsible source, under the meaning of such term as defined in section 403(8) of this title, for the purposes of being awarded a contract for the procurement of any property or services of a value greater than the simplified acquisition threshold (as defined in section 403(11) of this title) by any Federal agency, other than a contract for the procurement of commercial items (as defined in section 403(12) of this title), unless such person agrees to provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about—

(i) the dangers of drug abuse in the workplace;

(ii) the person's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment on such contract, the employee will—

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the contracting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program

by, any employee who is so convicted, as required by section 703 of this title; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

(2) Requirement for individuals

No Federal agency shall enter into a contract with an individual unless such individual agrees that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

(b) Suspension, termination, or debarment of contractor

(1) Grounds for suspension, termination, or debarment

Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder or the individual who entered the contract with the Federal agency, as applicable, shall be subject to suspension or debarment in accordance with the requirements of this section if the head of the agency determines that—

(A) the contractor violates the requirements of subparagraph (A), (B), (C), (D), (E), or (F) of subsection (a)(1) of this section; or

(B) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a) of this section.

(2) Conduct of suspension, termination, and debarment proceedings

(A) If a contracting officer determines, in writing, that cause for suspension of payments, termination, or suspension or debarment exists, an appropriate action shall be initiated by a contracting officer of the agency, to be conducted by the agency concerned in accordance with the Federal Acquisition Regulation and applicable agency procedures.

(B) The Federal Acquisition Regulation shall be revised to include rules for conducting suspension and debarment proceedings under this subsection, including rules providing notice, opportunity to respond in writing or in person, and such other procedures as may be necessary to provide a full and fair proceeding to a contractor or individual in such proceeding.

(3) Effect of debarment

Upon issuance of any final decision under this subsection requiring debarment of a contractor or individual, such contractor or individual shall be ineligible for award of any contract by any Federal agency, and for participation in any future procurement by any Federal agency, for a period specified in the decision, not to exceed 5 years.

(Pub. L. 100-690, title V, § 5152, Nov. 18, 1988, 102 Stat. 4304; Pub. L. 103-355, title IV, § 4104(d), title VIII, § 8301(f), Oct. 13, 1994, 108 Stat. 3342, 3397; Pub. L. 104-106, div. D, title XLIII, §§ 4301(a)(3), 4321(i)(13), Feb. 10, 1996, 110 Stat. 656, 677.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-106, § 4321(i)(13), substituted “(as defined in section 403(12) of this title)” for “as defined in section 403 of this title” in introductory provisions.

Pub. L. 104-106, § 4301(a)(3)(A), substituted “agrees to” for “has certified to the contracting agency that it will” in introductory provisions.

Subsec. (a)(2). Pub. L. 104-106, § 4301(a)(3)(B), substituted “individual agrees” for “contract includes a certification by the individual”.

Subsec. (b)(1). Pub. L. 104-106, § 4301(a)(3)(C), redesignated subpar. (B) as (A), struck out “such certification by failing to carry out” after “contractor violates”, redesignated subpar. (C) as (B), and struck out former subpar. (A) which read as follows: “the contractor or individual has made a false certification under subsection (a) of this section;”.

1994—Subsec. (a)(1). Pub. L. 103-355 substituted “greater than the simplified acquisition threshold (as defined in section 403(11) of this title) by any Federal agency, other than a contract for the procurement of commercial items as defined in section 403 of this title,” for “of \$25,000 or more from any Federal agency” in introductory provisions.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date and applicability of amendment by Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 251 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of this title.

EFFECTIVE DATE

Section 5160 of Pub. L. 100-690 provided that: “Sections 5152 and 5153 [enacting this section and section 702 of this title] shall be effective 120 days after the date of the enactment of this subtitle [Nov. 18, 1988].”

SHORT TITLE

Section 5151 of Pub. L. 100-690 provided that: “This subtitle [subtitle D (§§ 5151-5160) of title V of Pub. L. 100-690, enacting this chapter] may be cited as the ‘Drug-Free Workplace Act of 1988.’”

CONSISTENCY OF REGULATIONS WITH INTERNATIONAL OBLIGATIONS OF UNITED STATES; EXTRATERRITORIAL APPLICATION

Section 4804 of Pub. L. 100-690 required that regulations promulgated by agency heads be consistent with international obligations of United States, prior to repeal by Pub. L. 103-447, title I, § 103(b), Nov. 2, 1994, 108 Stat. 4693.

§ 702. Drug-free workplace requirements for Federal grant recipients

(a) Drug-free workplace requirement

(1) Persons other than individuals

No person, other than an individual, shall receive a grant from any Federal agency unless such person agrees to provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about—

(i) the dangers of drug abuse in the workplace;

(ii) the grantee's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment in such grant, the employee will—

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the granting agency within 10 days after receiving notice of a conviction under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 703 of this title; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

(2) Individuals

No Federal agency shall make a grant to any individual unless such individual agrees as a condition of such grant that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in conducting any activity with such grant.

(b) Suspension, termination, or debarment of grantee

(1) Grounds for suspension, termination, or debarment

Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to suspension or debarment, in accordance with the requirements of this section if the agency head of the granting agency or his official designee determines, in writing, that—

(A) the grantee violates the requirements of subparagraph (A), (B), (C), (D), (E), (F), or (G) of subsection (a)(1) of this section; or

(B) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a)(1) of this section.

(2) Conduct of suspension, termination, and debarment proceedings

A suspension of payments, termination, or suspension or debarment proceeding subject to

this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

(3) Effect of debarment

Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years.

(Pub. L. 100-690, title V, § 5153, Nov. 18, 1988, 102 Stat. 4306; Pub. L. 105-85, div. A, title VIII, § 809, Nov. 18, 1997, 111 Stat. 1838.)

REFERENCES IN TEXT

Executive Order 12549, referred to in subsec. (b)(2), is set out as a note under section 6101 of Title 31, Money and Finance.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105-85, § 809(1)(A), substituted “agrees to” for “has certified to the granting agency that it will” in introductory provisions.

Subsec. (a)(2). Pub. L. 105-85, § 809(1)(B), substituted “agrees” for “certifies to the agency”.

Subsec. (b)(1)(A). Pub. L. 105-85, § 809(2)(C), struck out “such certification by failing to carry out” after “violates”.

Pub. L. 105-85, § 809(2)(A), (B), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: “the grantee has made a false certification under subsection (a) of this section;”.

Subsec. (b)(1)(B), (C). Pub. L. 105-85, § 809(2)(B), redesignated subpars. (B) and (C) as (A) and (B), respectively.

EFFECTIVE DATE

Section effective 120 days after Nov. 18, 1988, see section 5160 of Pub. L. 100-690, set out as a note under section 701 of this title.

§ 703. Employee sanctions and remedies

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 701(a)(1)(D)(ii) or 702(a)(1)(D)(ii) of this title—

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(Pub. L. 100-690, title V, § 5154, Nov. 18, 1988, 102 Stat. 4307.)

§ 704. Waiver

(a) In general

A termination, suspension of payments, or suspension or debarment under this chapter may be waived by the head of an agency with respect to a particular contract or grant if—

(1) in the case of a waiver with respect to a contract, the head of the agency determines under section 701(b)(1) of this title, after the issuance of a final determination under such section, that suspension of payments, or termination of the contract, or suspension or de-

barment of the contractor, or refusal to permit a person to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension of payments, termination of the grant, or suspension or debarment of the grantee would not be in the public interest.

(b) Exclusive authority

The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

(Pub. L. 100-690, title V, § 5155, Nov. 18, 1988, 102 Stat. 4307.)

§ 705. Regulations

Not later than 90 days after November 18, 1988, the governmentwide regulations governing actions under this chapter shall be issued pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(Pub. L. 100-690, title V, § 5156, Nov. 18, 1988, 102 Stat. 4308.)

REFERENCES IN TEXT

The Office of Federal Procurement Policy Act, referred to in text, is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (§ 401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 401 of this title and Tables.

§ 706. Definitions

For purposes of this chapter—

(1) the term “drug-free workplace” means a site for the performance of work done in connection with a specific grant or contract described in section 701 or 702 of this title of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act;

(2) the term “employee” means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 701 or 702 of this title;

(3) the term “controlled substance” means a controlled substance in schedules I through V of section 812 of title 21;

(4) the term “conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

(5) the term “criminal drug statute” means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

(6) the term “grantee” means the department, division, or other unit of a person responsible for the performance under the grant;

(7) the term “contractor” means the department, division, or other unit of a person re-

sponsible for the performance under the contract; and

(8) the term "Federal agency" means an agency as that term is defined in section 552(f) of title 5.

(Pub. L. 100-690, title V, §5157, Nov. 18, 1988, 102 Stat. 4308.)

REFERENCES IN TEXT

This Act, referred to in par. (1), is Pub. L. 100-690, Nov. 18, 1988, 102 Stat. 4181, known as the Anti-Drug Abuse Act of 1988. For complete classification of this Act to the Code, see Short Title note set out under

former section 1501 of Title 21, Food and Drugs, and Tables.

§ 707. Construction of chapter

Nothing in this chapter shall be construed to require law enforcement agencies, if the head of the agency determines it would be inappropriate in connection with the agency's undercover operations, to comply with the provisions of this chapter.

(Pub. L. 100-690, title V, §5158, Nov. 18, 1988, 102 Stat. 4308.)

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Drug-Free Workplace Act of 1988

Requirements for Organizations

All organizations covered by the Drug-Free Workplace Act of 1988 are required to provide a drug-free workplace by taking the following steps:

1. Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.
2. Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
3. Notify employees that as a condition of employment on a Federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within five calendar days, if he or she is convicted of a criminal drug violation in the workplace.
4. Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
5. Impose a penalty on—or require satisfactory participation in a drug abuse assistance or rehabilitation program by—any employee who is convicted of a reportable workplace drug conviction.
6. Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the Act.

Note: A contractor or grantee who fails to comply with these requirements is subject to certain penalties.

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Drug-Free Workplace Act of 1988

Penalties

A contractor or grantee who fails to carry out the requirements of the Drug-Free Workplace Act of 1988 can be penalized in one or more of the following ways:

- Payments for contract or grant activities may be suspended.
- Contract or grant may be suspended or terminated.
- Contractor or grantee may be prohibited from receiving, or participating in, any future contracts or grants awarded by any Federal agency for a specified period, not to exceed five years.

Compliance with the Act's requirements is reviewed as part of normal Federal contract and grant administration and auditing procedures.

The Federal agency head is responsible for deciding whether a violation has occurred. If the contract or grant officer determines—in writing—that cause exists, an appropriate action shall be initiated and conducted in accordance with the Federal Acquisition Regulation and applicable agency procedures. For further information about compliance monitoring procedures, please contact the contract or grant officer in the agency from which the contract/grant was awarded.

To learn what actions would be grounds for these penalties, choose the situation that applies to you:

- [I am an individual with a contract or grant](#)
- [My organization has a contract or grant](#)

Drug-Free Workplace Advisor Main Menu

DRUG FREE WORKPLACE CERTIFICATE

I, the undersigned, in accordance with Florida Statute 287.087, hereby certify that, (print or type name of firm)

-
- Publishes a written statement notifying that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace named above, and specifying actions that will be taken against violations of such prohibition.
 - Informs employees about the dangers of drug abuse in the work place, the firm's policy of maintaining a drug free working environment, and available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug use violations.
 - Gives each employee engaged in providing commodities or contractual services that are under bid or proposal, a copy of the statement specified above.
 - Notifies the employees that as a condition of working on the commodities or contractual services that are under bid or proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, pleas of guilty or nolo contendere to, any violation of Chapter 1893, or of any controlled substance law of the State of Florida or the United States, for a violation occurring in the work place, no later than five (5) days after such conviction, and requires employees to sign copies of such written (*) statement to acknowledge their receipt.
 - Imposes a sanction on, or requires the satisfactory participation in, a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
 - Makes a good faith effort to continue to maintain a drug free work place through the implementation of the drug free workplace program.

"As a person authorized to sign this statement, I certify that the above named business, firm or corporation complies fully with the requirements set forth herein".

Authorized Signature

Date Signed

State of: _____

County of: _____

Sworn to and subscribed before me this _____ day of _____, 20__

Personally known _____ or Produced Identification _____
(Specify Type of Identification)

Signature of Notary

My Commission Expires _____

DRUG-FREE WORKPLACE CERTIFICATION

THE BELOW SIGNED BIDDER CERTIFIES that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection 1.
4. In the statement specified in subsection 1, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, to any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

DATE: _____

COMPANY: _____

SIGNATURE: _____

ADDRESS: _____

NAME: _____
(Typed or Printed)

TITLE: _____

PHONE #: _____

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT IMPROVEMENT PROGRAM
SPONSOR CERTIFICATION

DRUG-FREE WORKPLACE

Taylor County

(Sponsor)

Perry Foley Airport

(Airport)

(Project Number)

Description of Work:

Concrete Apron Rehabilitation

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within Federal grant programs are described in Title 49, Code of Federal Regulations, Part 29. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standards.

	Yes	No	N/A
1. A statement has been (will be) published notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. An ongoing drug-free awareness program has been (will be) established to inform employees about:			
a. The dangers of drug abuse in the workplace;			
b. The sponsor's policy of maintaining a drug-free workplace;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Any available drug counseling, rehabilitation, and employee assistance programs; and			
d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.			
3. Each employee to be engaged in the performance of the work has been (will be) given a copy of the statement required within item 1 above.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Employees have been (will be) notified in the statement required by item 1 above that, as a condition employment under the grant, the employee will:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Abide by the terms of the statement; and			

	Yes	No	N/A
b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.			
5. The FAA will be notified in writing within ten calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title of the employee, to the FAA. Notices shall include the project number of each affected grant.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. One of the following actions will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:			
a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.			
7. A good faith effort will be made to continue to maintain a drug-free workplace through implementation of items 1 through 6 above.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I have prepared documentation attached hereto with site(s) for performance of work (street address, city, county, state, zip code). There are no such workplaces that are not identified in the attachment. I have prepared additional documentation for any above items marked "no" and attached it hereto. I certify that, for the project identified herein, responses to the forgoing items are accurate as marked and attachments are correct and complete.

Taylor County

(Name of Sponsor)

(Signature of Sponsor's Designated Official Representative)

Ms. Patricia Patterson

(Typed Name of Sponsor's Designated Official Representative)

BCC Chairperson

(Typed Title of Sponsor's Designated Official Representative)

(Date)

EXHIBIT C

STANDARD ASSURANCES

Name of Proposer:

At this time, we understand all requirements and state that as a serious proposer we will comply with all the stipulations included in the proposal package.

The above-named Proposer affirms and declares:

1. That the Proposer is of lawful age and that no other person, agency, firm or corporation has any interest in this Proposal or in the Contract that may result from this Proposal; other than as described in Item 11, Exhibit B.
2. That this Proposal is made without any understanding, agreement or connection with any other person, agency, firm or corporation making a Proposal for the same project and is in all respects fair and without collusion or fraud.
3. That the Proposer has carefully examined the site of the work and that from his/her investigations has been satisfied as to the nature and location of the work, the kind and extent of the equipment and other facilities needed for the performance of the work, the general and local conditions, all difficulties to be encountered and all other items which in any way affect the work or its performance.
4. That the Proposer is in full compliance with all federal, state and local laws and regulations and intends to fully comply with same during the entire term of the contract.

In witness whereof, this Proposal is hereby signed by the duly authorized representative of the Proposer and sealed as of the date indicated.

ATTEST:

PROPOSER:

(Seal)

Witness Signature

By:

Date

Typed Name and Title

ASSURANCES - CONSTRUCTION PROGRAMS

OMB Number: 4040-0009
Expiration Date: 06/30/2014

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
20. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

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NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.



First-Line Fact Sheet

Keeping Your Worksite Drug and Alcohol Free

When a worker is impaired by the use of drugs or alcohol, he or she threatens the safety and well-being of everyone at a worksite. While it is the responsibility of every employee to work drug free, supervisors can be the first line of defense by taking appropriate action when a worker may be impaired.

Understanding Drug-Free Workplace Policies

Implementing and enforcing a drug-free workplace policy is one important way employers can protect worker safety and health. Though policies may vary from one worksite to the next, prohibitions against drinking alcohol or using illicit drugs during or prior to reporting to work are becoming standard practice in many workplaces.

The goal of these policies is to prevent impairment and improve safety by setting standards and holding workers accountable. Some policies include drug testing, while others do not; and some offer treatment and one or more chances to get help. But no matter how a program is structured, all policies are intended to protect workers and promote safe workplaces.

As a supervisor, it is your job to familiarize yourself with your company's drug-free workplace policy and be able to explain it to others. In addition, you must ensure that your workers understand their responsibility to:

- Know your company's drug-free workplace policy;
- Follow it and set a good example for others;
- Seek help if they or their co-workers need it; and
- Notify you/management if they observe drug or alcohol use or impairment that threatens safety.

Signs That Drug or Alcohol Use is Becoming a Safety or Health Hazard at Work

Supervisors can play a powerful role in improving workplace safety by intervening and encouraging workers with alcohol or drug problems to seek help. But just how can you tell whether a worker is misusing drugs or alcohol?

Both on and off the job, symptoms of alcohol or drug use may be **physical** (chills, smell of alcohol, sweating, weight loss, physical deterioration); **emotional** (increased

aggression, anxiety, burnout, denial, depression, paranoia); and/or **behavioral** (excessive talking, impaired coordination, irritability, lack of energy, limited attention span, poor motivation).

While different types of drugs produce different physical symptoms or behaviors, there are numerous ways that misuse affects work behavior—and ultimately job performance and safety. It could be a sign of a drug or alcohol problem if a worker is:

- Arriving late, leaving early and/or often absent.
- Unreliable and often away from assigned job.
- Careless and repeatedly making mistakes.
- Argumentative and uncooperative.
- Unwilling or unable to follow directions.
- Avoiding responsibilities.
- Making excuses that are unbelievable or placing blame elsewhere.
- Taking unnecessary risks by ignoring safety and health procedures.
- Frequently involved in mishaps and accidents or responsible for damage to equipment or property.

It is important to note that if an employee displays these signs, *it does not necessarily mean he/she has a drug or alcohol problem, but the possibility should not be overlooked.*

Supervisor Roles and Responsibilities

Because you have day-to-day responsibility over what goes on in the workplace, you play a critical role in enforcing your employer's drug-free workplace policy. However, you are not expected to perform the role of police officer or counselor. Since it is part of your job to assess employees' job performance to ensure that all necessary tasks are completed in accordance with specifications and deadlines, your primary role in enforcing the policy is to be observant.

When an employee begins to show a consistent pattern of problem behavior, you should take action. Focusing on job performance, even when you think the problem may be caused by drugs or alcohol, allows you to balance both the rights of the individual employee to privacy and fair treatment and the rights of the work group to a safe, secure and productive environment.

What to Do When You Suspect Drug or Alcohol Misuse

Do not wait until someone gets hurt to address a worker's drug or alcohol misuse. And, no matter how badly you want to shield your workers from disciplinary action, you should not make the problem worse by covering up or making excuses for someone whose use has impaired their job performance. If you suspect a worker has a problem, follow company guidelines, which may include these steps:

- Start documenting evidence of declining job performance. List specific incidents (include date and time) and be concrete about what job functions/responsibilities were affected.
- Share this documentation with the appropriate company or union official who is qualified to advise you on how to handle the situation (this could be a shop steward, employee assistance professional, human resources manager, substance abuse program administrator, etc.).
- Meet with the employee and tell him/her that you are concerned about his/her job performance. Describe specific incidents and problems using your documentation as a guide.
- Ask the employee if he/she has any explanation for the problem. Offer the opportunity to make the connection between alcohol/drug use and performance, but don't accuse the employee—unless you have “reasonable suspicion” and are going to require a drug test (see following *Note*).
- Define what must be done to correct the performance problem and specify the consequences for the employee if the problem is not corrected.
- Refer the employee for professional assistance if he/she has admitted that drug or alcohol use is the root cause of the performance problem. Even if the employee has not admitted he/she has a problem, reconfirm your concern and suggest he/she seek assistance since personal problems—including, but not limited to, alcohol and drug use—are often the root causes of these types of job performance issues.
- Set a time frame for improvement and be willing and able to follow through on your promises about consequences.

Note: There may be instances where there is concrete evidence that a worker is using drugs or alcohol and is impaired by recent use—these should not be ignored. If you directly observe a clear policy violation and/or unsafe behavior that may pose an imminent threat, company management should be notified. The worker may need to be removed from the site and/or sent for a reasonable suspicion drug test. (*“Reasonable suspicion” is defined as a belief that an employee is using or has used drugs in violation of the employer’s policy drawn from specific, objective and articulable facts and reasonable inferences drawn from those facts in light of experience.*) Be sure you know your company’s procedures (if any) for having an employee tested and consult with human resources or other designated company management prior to confronting the employee.

Sources of Help

When a worker has a problem with alcohol or drugs, company employee assistance or union member or labor assistance programs are generally the best places to turn for help since they provide confidential services. If these are not available, supervisors might want to consider calling a local drug and alcohol treatment provider who may be able to help determine whether some type of treatment intervention is advisable and, if so, how to get the worker to consider accepting help. Some free and confidential resources include:

- **Substance Abuse Treatment Locator**
1-800-662-HELP
www.findtreatment.samhsa.gov
- **Alcoholics Anonymous (AA)**
(212) 870-3400
www.aa.org
- **Narcotics Anonymous**
(818) 773-9999
www.na.org
- **Al-Anon**
1-888-4AL-ANON
www.al-anon.alateen.org
- **National Council on Alcoholism and Drug Dependence Hopeline**
1-800-NCA-CALL
www.ncadd.org

For more information, visit the U.S. Department of Labor's Working Partners for an Alcohol- and Drug-Free Workplace Web site. Located at www.dol.gov/workingpartners, it helps employers establish drug-free workplace programs that protect worker safety and health.





National Drug-Free Workplace Alliance

DRUG-FREE WORKPLACE ACT OF 1988

THE FEDERAL LAW

This law, enacted November 1988, with subsequent modification in 1994 by the Federal Acquisition Streamlining Act (raising the contractor amount from \$25,000 to \$100,000), requires compliance by all organizations contracting with any U. S. Federal agency in the amount of \$100,000 or more that does not involve the acquisition of commercial goods via a procurement contract or purchase order, and is performed in whole in the United States. It also requires that *all* organizations receiving federal grants, regardless of amount granted, maintain a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988. The Law further requires that all *individual* contractors and grant recipients, regardless of dollar amount/value of the contract or grant, comply with the Law.

Certification that this requirement is being met must be done in the following manner:

By publishing a statement informing all covered employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the covered workplace, and what actions will be taken against employees in the event of violations of such statement.

By providing **ALL** covered employees with a copy of the above-described statement, including the information that as a condition of employment on the Federal contract or grant, the employee must abide by the terms and conditions of the policy statement.

For Federal contractors this encompasses employees involved in the performance of the contract. For Federal grantees all employees must come under this requirement as the act includes all "direct charge" employees (those whose services are directly & explicitly paid for by grant funds), and "indirect charge" employees (members of grantee's organization who perform support or overhead functions related to the grant and for which the Federal Government pays its share of expenses under the grant program).

Among "indirect charge" employees, those whose impact or involvement is insignificant to the performance of the grant are exempted from coverage. Any other person who is on the grantee's payroll and works in any activity under the grant, even if not paid from grant funds, is also considered to be an employee. Temporary personnel and consultants who are on the grantee's payroll are covered. Similar workers who are not on the grantee's payroll, but on the payroll of contractors working for the grantee, are not covered even if physical place of employment is in the grantee's workplace.

By establishing a continuing, drug-free awareness program to inform employees of the dangers of drug abuse; the company's drug-free workplace policy; the penalties for drug abuse violations occurring in the workplace; the availability of any drug counseling, rehabilitation, and/or employee assistance plans offered through the employer.

By requiring each employee directly involved in the work of the contract or grant to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not less than five (5) calendar days after such conviction.

By notifying the Federal agency with which the employer has the contract or grant of any such conviction within ten (10) days after being notified by an employee or any other person with knowledge of a conviction.

By requiring the imposition of sanctions or remedial measures, including termination, for an employee convicted of a drug abuse violation in the workplace. These sanctions may be participation in a drug rehabilitation program if so stated in the company policy.

By continuing to make a "good-faith" effort to comply with all of the requirements as set forth in the Drug-Free Workplace Act.



Taylor County is a Drug



Free Workplace





Taylor County is a Drug Free Workplace





Taylor County is a



Drug Free Workplace