

ATTACHMENT H

ODOT STATE MANAGEMENT PLAN Revised May, 2012

SMP PROPOSED SECTION REVISION:

III. Program, Grant, and Financial Management Procedures

14. Drug-Free Workplace and FTA Drug and Alcohol Testing Regulations

The Drug-Free Workplace Act and the FTA Drug and Alcohol Testing Regulations are different requirements and they affect subrecipients differently:

The Drug-Free Workplace Act is part of the federal government's effort to eliminate illegal drugs from the workplace. The Drug-Free Workplace Policy is a "first-tier" requirement applying only to ODOT and does not apply to subrecipients through PTD's grant programs. Local transit operators may have a drug-free workplace requirement established under the agency's own authority or as a condition of another federal grant.

"Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, revised by the FTA August, 2002, implement the omnibus USDOT drug and alcohol testing act. This part and 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" describe policy development and testing procedures required of any agency in receipt of FTA funds. Subrecipients receiving §5311 funds must comply. Subrecipients of §5310, §5316 or §5317 are exempted if the only source of FTA awards received is one of these three programs.

This requirement applies to all subrecipients and their contractors and/or sub-subrecipients with safety sensitive employees, with the exception of maintenance contractors, at all tiers.

Subrecipients affected by this requirement are expected to establish and manage an ongoing Drug and Alcohol testing program in compliance with the regulations. They must submit a current drug and alcohol policy and any changes or updates to the policy. They must also submit Management Information System (MIS) forms annually to FTA.

PTD Responsibilities For Drug Free Workplace:

Adopt an ODOT-wide Drug Free Workplace Policy. Post the policy in a public and conspicuous place, including the intranet.

PTD Responsibilities For FTA Drug and Alcohol Testing:

- a. Obtain annual certifications of compliance for "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655 from all 5311 subrecipients;
- b. Conduct review of *adopted* agency *drug and alcohol policies*, program policies and procedures periodically, including during site reviews;
- c. Provide regular drug and alcohol testing training for subrecipients and others who have a role in implementing the program;
- d. Provide MIS reporting information to subrecipients as necessary; assure subrecipients submit annual MIS reporting data as required.

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Subrecipient Responsibilities:

- a. Develop an *written* anti-drug use and alcohol abuse policy statement and program in accordance with FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655; and ~~require contractors and/or sub-subrecipients to develop a program;~~
- b. *Ensure that the anti-drug and alcohol abuse policy and program contain and address all the FTA-required elements, as set forth in the FTA guidance: <http://transit-safety.fta.dot.gov/DrugAndAlcohol/TechnicalAssistance/Checklist/PolicyReqsChecklist.asp> and also include an effective date, and evidence of formal adoption by the appropriate authority or governing body for the agency;*
- c. *Require any contractors and/or sub-subrecipients providing services funded through FTA §5311 funds to also adopt a policy and develop a program, as above;*
- d. Assure that subcontracts include the *anti-drug and alcohol abuse program* requirements as appropriate to the purpose of the work;
- e. Sign a certification of compliance to drug and alcohol programs, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, and testing for year of funding;
- f. Send the *adopted policy and any subsequent updates or revisions to it, promptly* to PTD upon request;
- g. Submit MIS data for the previous year (January 1 to December 31) by deadline specified by Public Transit each year. This is typically at the end of February.