

DEFENSE LOGISTICS AGENCY

DRUG-FREE WORKPLACE PLAN

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DRUG-FREE WORKPLACE PLAN

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DEFENSE LOGISTICS AGENCY  
DRUG-FREE WORKPLACE PLAN

I. INTRODUCTION

A. Background

On September 15, 1986, President Reagan signed Executive Order 12564, establishing the goal of a Drug-Free Federal Workplace. The Executive Order made it a condition of employment for all federal employees to refrain from using illegal drugs on or off-duty. In a letter dated October 4, 1986, to all Executive Branch employees, the President reiterated his goal of ensuring a safe and drug-free workplace for all federal workers.

Executive Order 12564 recognized that illegal drug use is seriously impairing a portion of the national work force, resulting in the loss of billions of dollars each year. As the largest employer in the nation, the federal government has a compelling proprietary interest in establishing reasonable conditions of employment. Prohibiting employee drug use is one such condition. The Defense Logistics Agency (DLA) is concerned with the well-being of its employees, the successful accomplishment of agency missions, and the need to maintain employee productivity. The intent of this policy is to offer a helping hand to those who need it, while sending a clear message that any illegal drug use is incompatible with federal service.

On July 11, 1987, Congress passed legislation affecting implementation of Executive Order 12564 under Section 503 of the Supplemental Appropriations Act of 1987, Public Law 100-71, (hereafter referred to as "the Act") in an attempt to establish uniformity among federal agency drug testing plans and to guarantee reliable and accurate drug testing, employee access to drug testing records, confidentiality of drug test results, and centralized oversight of the federal government's drug testing program.

The purpose of the DLA Drug-Free Workplace Plan is to set forth objectives, policies, procedures, and implementation guidelines to achieve a drug-free federal workplace, consistent with Executive Order 12564 and Section 503 of the Act.

B. Statement of Policy

It is the policy of the Defense Logistics Agency to ensure that all of its work places are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Agency.

DLA, as a result of its responsibilities in support of the national defense, as well as the sensitive nature of its work, has a compelling obligation to eliminate illegal drug use from its workplace.

Because DLA's contract administration and procurement missions put it in a position of stewardship over substantial federal funds, the Agency is under constant public scrutiny. Any perception of unreliability or illegal activity on the part of DLA employees is a matter of general public concern. That DLA operate a drug-free workplace is essential to the public confidence in our ability to perform our mission of providing the Department of Defense with the highest quality goods and services at the lowest possible cost. Because DLA employees must demand and ensure high standards of quality and professional ethics from federal contractors, it is imperative that they themselves demonstrate the highest degree of integrity.

It is therefore doubly important that DLA ensure the absence of drug abuse from positions where drug effects could result in a threat to safety or national security. A drug-related accident or security breach, be it the destruction of expensive and urgently needed equipment in a forklift accident or the leaking of information regarding a weapons system contract, sends a message to the public that one of the watchdogs assigned to guard their tax dollars and promote their security is seriously impaired.

The success of the drug-free workplace program will depend on how well DLA can inform its employees of the hazards of drug use and on how much assistance it can provide drug users. Equally important is the assurance to employees that personal dignity and privacy will be respected in reaching the DLA goal of a drug-free workplace. Therefore, this plan includes policies and procedures for: (1) employee assistance; (2) supervisory training; (3) employee education; and (4) identification of illegal drug use through drug testing on a carefully controlled and monitored basis.

#### C. Nature, Frequency, and Type of Drug Testing to be Instituted

1. The DLA Drug-Free Workplace Plan includes the following types of drug testing:

- a. Applicant testing;
- b. Random testing of employees in testing designated positions;
- c. Reasonable suspicion testing;
- d. Accident or unsafe practice testing;
- e. Voluntary testing; and
- f. Testing as part of or as a follow-up to counseling or rehabilitation.

2. The frequency of testing for random testing, voluntary testing, and follow-up testing is specified at Appendix B. The Director reserves the right to increase or decrease the frequency of testing based on the Agency's mission, availability of resources, and experience in the program, consistent with the duty to achieve a drug free workplace under the Executive Order.

D. Drugs for which Individuals Will Be Tested

Section 503 of the Act requires DLA to specify the drugs for which individuals will be tested. DLA will not test for more drugs than (1) marijuana, (2) cocaine, (3) opiates, (4) phencyclidine, and (5) amphetamines. The Director, DLA, also reserves the right to test for fewer than these five drugs.

E. Scope

When each Executive Branch agency as specified in Section 503(a) (2) of the Act has complied with the provisions of Section 503(a) of the Act, this plan shall be effective immediately for DLA Headquarters and all primary level field activities (PLFAs).

F. Union Cooperation

The active participation and support of labor organizations can contribute to the success of this program. Management will seek ways in which recognized bargaining unit representatives might assist in program implementation, such as in acquainting employees with rehabilitation facilities and by enhancing employee confidence in the program. Management will continue to observe agreements already reached, including Article 14 of the Master Agreement with the DLA Council of AFGE Locals; will include union representatives in general orientation programs; and will continue to meet its obligations under Title VII of the Civil Service Reform Act of 1978.

G. References

1. Authorities

- a. Executive Order 12564;
- b. Executive Order 10450;
- c. Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. §7301 note (1987);

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d. Scientific and Technical Guidelines For Drug Testing Programs, Alcohol, Drug Abuse and Mental Health Administration (ADAMHA), Department of Health and Human Services (HHS), as amended;

e. Standards for Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies, Alcohol, Drug Abuse and Mental Health Administration (ADAMHA), Department of Health and Human Services (HHS), as amended;

f. Civil Service Reform Act of 1978, P.L. 95-454;

g. ~~42 CFR Part 2, establishing requirements for assuring the confidentiality of alcohol and drug abuse patient treatment records;~~

h. The Privacy Act of 1974 (5 U.S.C. Section 552a), prescribing requirements governing the maintenance of records by agencies pertaining to the individuals and access to these records by the individual(s) to whom they pertain;

i. 49 CFR Part 10, implementing the Privacy Act of 1974 within the Agency;

j. Federal Employees Substance Abuse Education and Treatment Act of 1986, P.L. 99-570;

## 2. Guidance

a. Office of Personnel Management (OPM), Federal Personnel Manual (FPM) Letters 792-16 (November 28, 1986), and 792-17 (March 9, 1987), setting forth guidelines for Federal civilian agencies in establishing a drug-free workplace pursuant to Executive Order 12564;

b. FPM Chapter 792, Federal Health and Counseling Programs, providing guidance to Federal agencies in establishing alcoholism and drug abuse programs (subchapter 5) and employee counseling services programs (subchapter 6) for Federal employees with alcohol or drug problems;

c. FPM Supplement, Chapter 792-2, providing guidance for developing and maintaining appropriate prevention, treatment and rehabilitation programs and services for alcoholism and drug abuse among Federal employees;

d. DoD Instruction 1010.6, Rehabilitation and Referral Services for Alcohol and Drug Abusers.

e. DoD Directive 1010.9, DoD Civilian Employees Drug Abuse Testing Program.

f. DLAM 6055.1, DLA Safety and Health Manual.

## II. Definitions

A. Applicant means any individual tentatively selected for employment with DLA and includes any individual in the DLA who has tentatively been identified for placement in a testing designated position and who has not, immediately prior to the placement, been subject to random testing.

B. Employee Assistance Program (EAP) means the DLA counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.

C. Employee Assistance Program Administrator means the individual responsible for ensuring the development, implementation and review of the DLA EAP.

D. Employee Assistance Program Coordinator means the individual responsible for implementing and operating the EAP within the PLFA, by providing for counseling, treatment, and education services to employees and supervisors regarding the PLFA EAP.

E. Drug Program Administrator means the individual responsible for ensuring the development, implementation and review of the DLA Drug Abuse Testing Program.

F. Drug Program Coordinator means the individual responsible for implementing and operating the drug testing program within the PLFA.

G. Medical Review Official (MRO) means the individual responsible for receiving laboratory results generated from the DLA Drug-Free Workplace Program. The MRO is a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.

H. Illegal Drugs means a controlled substance included in Schedule I or II, as defined by section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of that Title. The term 'illegal drugs' does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

I. Management Official means an employee required or authorized by the DLA to formulate, determine, or influence the policies of the DLA. 5 U.S.C. §7103 (a) (11).

J. Random Testing means system of drug testing imposed without individualized suspicion that a particular individual is using

illegal drugs. Random testing may either be uniform- unannounced testing of testing designated employees occupying a specified area, element or position, or may be a statistically random sampling of such employees based on a neutral criterion, such as social security numbers.

K. Employees in Sensitive Positions means:

1. Employees in positions designated by the Director, DLA, as Special Sensitive, Critical Sensitive, or Noncritical-Sensitive under Chapter 731 of the Federal Personnel Manual or employees in positions designated by the Director, DLA, as sensitive in accordance with Executive Order No. 10450, as amended;

2. Employees granted access to classified information or who may be granted access to classified information pursuant to a determination of trustworthiness by the Director, DLA, under Section 4 of Executive Order No. 12356;

3. Individuals serving under Presidential appointments;

4. Law enforcement officers as defined in 5 U.S.C. §§ 8331(20) and 8401(17); or

5. Other positions that the Director, DLA, determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

L. Supervisor means an employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgement. 5 U.S.C. 57103 (a) (10).

M. Testing Designated Positions means employment positions within DLA which have been designated for random testing under Section IX B. of this plan.

N. Verified Positive Test Result means a test result that has been screened positive by an FDA-approved immunoassay test, confirmed by a Gas Chromatography/Mass Spectrometry assay, (or other confirmatory tests approved by HHS), evaluated by the Medical Review Official and determined by him to be unjustified under Section XIII of this plan.

### III. EMPLOYEE ASSISTANCE PROGRAMS

#### A. Function

The DLA EAP plays an important role in preventing and resolving employee drug use by: demonstrating the Agency's commitment to eliminating illegal drug use; providing employees an opportunity, with appropriate assistance, to discontinue their drug use; providing educational materials to supervisors and employees on drug use issues; assisting supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate treatment and rehabilitative facilities; and follow-up with individuals during the rehabilitation period to track their progress and encourage successful completion of the program. ~~The EAP, however, shall not be involved in the collection of urine samples or the initial reporting of test results. Specifically, the EAP shall:~~

1. Provide counseling and assistance to employees who self-refer for treatment or whose drug tests have been confirmed positive, and monitor the employees' progress through treatment and rehabilitation;

2. Provide needed education and training to all levels of DLA on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, relationship of the EAP with the drug testing program, and related treatment, rehabilitation, and confidentiality issues;

3. Ensure that confidentiality of test results and related medical treatment and rehabilitation records is maintained in accordance with Section XIV.

#### B. Referral and Availability

Any employee found to using drugs shall be referred to the EAP. The EAP shall be administered separately from the testing program, and shall be available to all employees without regard to a finding of drug use. The EAP shall provide counseling or rehabilitation for all referrals, as well as education and training regarding illegal drug use. The EAP is available not only to DLA employees, but, when feasible, to the families of employees with drug problems, and to employees with family members who have drug problems.

In the event the employee is not satisfied with the program of treatment or rehabilitation, such employee may seek review of the EAP Counselor's referral by notifying the EAP Administrator prior to completion of the program. The decision of the EAP Administrator shall be final and shall not be subject to further administrative review. Regardless of the treatment program

chosen, the employee remains responsible for successful completion of the treatment, and assertions that the counselor failed to consider one or more of the above factors in making a referral shall not constitute either an excuse for continuing to use illegal drugs or a defense to disciplinary action if the employee does not complete the treatment.

C. Leave

Employees shall be allowed up to one hour, plus travel time, for each counseling session, up to a maximum of six visits, without charge to leave during the assessment/referral phase of rehabilitation. Absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category in accordance with law and leave regulations.

D. Records and Confidentiality

All EAP operations shall be confidential in accordance with Section XIV of the Plan relating to records and confidentiality.

E. Structure

1. The DLA Headquarters Office of Civilian Personnel, DLA-K, shall be responsible for oversight and implementation of the DLA EAP, and will provide, with the support of the Director, DLA, high level direction and promotion of the EAP.

2. Heads of PLFAs will designate an individual to be PLFA EAP Counselor. Actual EAP counseling and referral services may be provided by PLFA staff, through cooperative agreement with other agencies, or through contractual support. Regardless of source, PLFA EAPs must ensure the availability of counseling and referral services to all employees, including those at remote locations.

3. EAP services for DLA Headquarters will be provided for by the DLA Administrative Support Center.

## IV. SUPERVISORY TRAINING

### A. Objectives

As supervisors have a key role in establishing and monitoring a drug-free workplace, the DLA shall provide training to assist supervisors and managers in recognizing and addressing illegal drug use by agency employees. The purpose of supervisory training is to convey an understanding of--

1. DoD and DLA policies relevant to work performance problems, drug use, and the DLA EAP;
2. The responsibility to offer EAP services;
3. How employee performance and behavioral changes should be recognized and documented;
4. The roles of the medical staff, supervisors, personnel, and EAP personnel;
5. The ways to use the EAP;
6. How the EAP is linked to the performance appraisal and the disciplinary process; and
7. The process of reintegrating employees into the workforce.

### B. Implementation

The DLA Headquarters Office of Civilian Personnel, DLA-K, shall be responsible for implementing supervisory training, and shall develop a training package to ensure that all employees and supervisors are fully informed of the DLA Drug-Free Workplace Plan.

### C. Training Package

Supervisory training shall be required of all supervisors and may be presented as a separate course, or be included as part of an ongoing supervisory training program. Training shall be provided as soon as possible after a person assumes supervisory responsibility. Training courses should include:

1. Overall DLA and DoD policies;
2. The prevalence of various employee problems with respect to drugs and alcohol;

3. The EAP approach to handling problems;
  4. How to recognize employees with possible problems;
  5. Documentation of employee performance or behavior;
  6. How to approach the employee;
  7. How to use the EAP;
  8. Disciplinary action, and removals from sensitive positions as required by Section 5(c) of the Executive Order;
- 
9. Reintegration of employees into the workforce; and
  10. Written materials which the supervisor can use at the worksite.

## V. EMPLOYEE EDUCATION

### A. Objectives

The EAP Administrator shall develop a drug education program for all DLA employees. Drug education should include education and training to all levels of the Agency on:

1. Types and effects of drugs;
2. Symptoms of drug use, and the effects on performance and conduct;
3. The relationship of the EAP to the drug testing program; and
4. Other relevant treatment, rehabilitation, and confidentiality issues.

### B. Means of Education

Drug education activities may include:

1. Distribution of written materials;
2. Videotapes;
3. Lunchtime employee forums; and
4. Employee drug awareness days.

## VI. SPECIAL DUTIES AND RESPONSIBILITIES

A. Drug Program Administrator The DLA Headquarters Office of Civilian Personnel, DLA-K, shall have a Drug Program Administrator (DPA) designated to carry out the purposes of the plan. The DPA shall be responsible for implementing, directing, administering, and managing, through the DPA, the drug program within the Agency. The DPA shall serve as the principal contact with the laboratory in assuring the effective operation of the testing portion of the program. In carrying out this responsibility, the DPA shall, among other duties:

1. Arrange for all testing authorized under this order;
2. Document, through written inspection reports, all results of laboratory inspections conducted;
3. Coordinate with and report to the Director, DLA, on DPA activities and findings that may affect the reliability or accuracy of laboratory results;
4. In coordination with the EAP Administrator, publicize and disseminate drug program educational materials, and oversee training and education sessions regarding drug use and rehabilitation; and
5. Coordinate all DPC duties in PLFAs wherever possible to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives.

B. Drug Program Coordinator Each PLFA shall have a Drug Program Coordinator (DPC) assigned to carry out the purposes of this plan within the PLFA. Under no circumstances shall an EAP Counselor also be designated the PLFA DPC. The DPC shall:

1. Coordinate testing of PLFA employees and make any necessary local arrangements for testing.
2. Insure that all employees subject to random testing receive individual notice as described in Section VII B of this Plan, prior to implementation of the program, and that such employees return a signed acknowledgment of receipt form;
3. Coordinate with and report to the DPA on all DPC activities;
4. Provide information to and respond to inquiries from PLFA employees to ensure employee understanding of the purposes of the plan.

C. Employee Assistance Program Administrator

The EAP Administrator shall:

1. Upon receipt of a verified positive test result from the MRO, transmit the test result to the appropriate management official empowered to initiate disciplinary action;
2. Assume the lead role in the development, implementation, and evaluation of the EAP;
3. Provide guidance and assistance to PLFA EAP Coordinators ~~on the development and operation of PLFA EAPs;~~
4. Advise PLFAs on the submission of annual statistical reports, and prepare consolidated reports on the Agency's EAP activity.

D. Employee Assistance Program Coordinator

The PLFA Employee Assistance Program Coordinator shall:

1. Implement and operate the EAP within the PLFA.
2. Provide for counseling and referral services for all employees referred to the EAP by their supervisors or on self-referral, and otherwise offer employees the opportunity for counseling and rehabilitation;
3. Coordinate with DLA Headquarters, the MRO and supervisors, as appropriate;
4. Work with the DPC to provide educational materials and training to managers, supervisors, and employees on illegal drugs in the workplace;
5. Assist supervisors with performance and/or personnel problems that may be related to illegal drug use;
6. Monitor or provide for the monitoring of progress of referred employees during and after the rehabilitation period;
7. Ensure that training is provided to assist supervisors in the recognition and documentation of facts and circumstances that support a reasonable suspicion that an employee may be using illegal drugs;
8. Maintain or provide for the maintenance of a list of rehabilitation or treatment organizations which provide counseling and rehabilitative programs, and include the following information on each such organization:
  - a. Name, address, and phone number;

- b. Types of services provided;
- c. Hours of operation, including emergency hours;
- d. The contact person's name and phone number;
- e. Fee structure, including insurance coverage;
- f. Client specialization; and
- g. Other pertinent information.

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9. Periodically visit rehabilitative or treatment organizations to meet administrative and staff members, tour the site, and ascertain the experience, certification and educational level of staff, and the organization's policy concerning progress reports on clients and post-treatment follow-up, except where such evaluations are performed by the EAP Counselor.

E. Employee Assistance Counselors

The Employee Assistance Counselors shall:

1. Serve as the initial point of contact for employees who ask or are referred for counseling;

2. Be familiar with all applicable law and regulations, including drug treatment and rehabilitation insurance coverage available to employees through the Federal Employee Health Benefits Program;

3. Be trained in counseling employees in the occupational setting and in identifying drug and alcohol abuse;

4. Document and sign the treatment plan prescribed for all employees referred for treatment, after obtaining the employee's signature on this document; and

5. In making referrals, consider the--

a. Nature and severity of the problem;

b. Location of the treatment;

c. Cost of the treatment;

d. Intensity of the treatment environment;

e. Availability of inpatient/outpatient care;

f. Other special needs, such as transportation and child care;

g. The preferences of the employee.

In the event the employee is not satisfied with the program of treatment or rehabilitation, such employee may seek review of the EAP Counselor's referral by notifying the DLA Headquarters Office of Civilian Personnel, DLA-K, prior to completion of the program. The decision of DLA-K shall be final and shall not be subject to further administrative review. Regardless of the treatment program chosen, the employee remains responsible for successful completion of the treatment, and assertions that the counselor failed to consider one or more of the above factors in making a referral shall not constitute either an excuse for continuing to use illegal drugs or a defense to disciplinary action if the employee does not complete treatment.

F. Medical Review Official Each PLFA shall have an MRO assigned to carry out the purposes of this Order. The MRO shall, among other duties:

1. Receive all laboratory test results;
2. Assure that an individual who has tested positive has been afforded an opportunity to justify the test result in accordance with Section XIII C of this Plan;
3. Consistent with confidentiality requirements, refer written determinations regarding all verified positive test results to the DTC, including a positive drug test result form indicating that the positive result is 'unjustified,' together with all relevant documentation and a summary of findings;
4. Confirm with the appropriate personnel official whether an individual who has been tentatively selected for employment with the Agency has obtained a verified positive test result;
5. Coordinate with and report to the DPA on all activities and findings on a regular basis;
6. Coordinate with the PLFA DPC on all activities.

G. Supervisors

Supervisors will be trained to recognize and address illegal drug use by employees, and will be provided information regarding referral of employees to the EAP, procedures and requirements for drug testing, and behavioral patterns that give rise to a reasonable suspicion that an employee may be using illegal drugs. Except as modified by the Director, DLA, to suit specific program responsibilities, first-line supervisors shall:

1. Attend training sessions on illegal drug use in the

workplace:

2. Initiate a reasonable suspicion test, after first making appropriate factual observations and documenting those observations and obtaining approval from the higher level supervisor;

3. Refer employees to the EAP for assistance in obtaining counseling and rehabilitation, upon a finding of illegal drug use;

4. Initiate appropriate disciplinary action upon a finding of illegal drug use; and

5. In conjunction with personnel specialists, assist higher level supervisors and the EAP Administrator in evaluating employee performance and or personnel problems that may be related to illegal drug use.

A higher level supervisor shall review and concur, in advance, with all reasonable suspicion tests ordered under their supervision.

#### H. Implementation

At the direction of the Staff Director, Office of Civilian Personnel, DLA-K, each PLFA shall implement the Drug-Free Workplace Plan within the PLFA, and ensure that the Plan is efficiently and effectively accomplished in accordance with this order and all other applicable regulations.

#### I. General Program/Structural Provisions

The Staff Director, Office of Civilian Personnel, DLA-K, shall develop implementation procedures to enable PLFAs efficiently and swiftly to implement all aspects of this plan, taking into account the unique geographical, personnel, budgetary and other relevant factors of the PLFAs. Such procedures will permit PLFA implementation to proceed independently of headquarters implementation, and of any other PLFA implementation. Testing may proceed under this order as soon as any field office or operating site is prepared to commence testing, and without regard to whether any other field office or operating site or headquarters is prepared to commence with testing. Such procedures shall also encourage cooperation and efficiently implement this order.

#### J. Government Contractors

1. The Staff Director, Civilian Personnel Office, DLA-K, shall ensure that contractors chosen to perform the drug screening tests are duly certified pursuant to the HHS guidelines

(reference G.l.e.) and that all contracts conform to the technical specifications of the HHS guidelines (reference G.l.d.).

2. PLFA Commanders shall establish, by contract or with Agency employees as deemed appropriate, the positions and specific responsibilities of the DPC and the MRO as required by the HHS guidelines.

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## VII. NOTICE

### A. General Notice

A general notice from the Director, DLA, announcing the testing program, as required by the Executive Order Section 4(a), will be provided to all employees no later than sixty (60) days prior to the implementation date of the plan. The notices shall be provided immediately upon completion of the congressional certification procedures pursuant to Sections 503(a)(1)(A), 503(a)(1)(B), and 503(a)(1)(C) of the Act, and shall explain:

1. ~~The purpose of the Drug-Free Workplace Plan;~~
2. That the plan will include both voluntary and mandatory testing;
3. That those who hold positions selected for random testing will also receive an individual notice, prior to the commencement of testing, indicating that their position has been designated a testing designated position;
4. The availability and procedures necessary to obtain counseling and rehabilitation through the EAP;
5. The circumstances under which testing may occur;
6. That opportunity will be afforded to submit medical documentation of lawful use of an otherwise illegal drug;
7. That the laboratory assessment is a series of tests which are highly accurate and reliable, and that, as added safeguard, laboratory results are reviewed by the MRO;
8. That positive test results verified by the MRO may only be disclosed to the employee, the appropriate EAP administrator, the appropriate management officials necessary to process an adverse action against the employee, or a court of law or administrative tribunal in any adverse personnel action;
9. That all medical and rehabilitation records in an EAP will be deemed confidential 'patient' records and may not be disclosed without the prior written consent of the patient.

### B. Individual Notice

In addition to the general notice, an individual notice will be distributed to all employees in testing designated positions explaining, in addition to the information provided above:

1. That the employee's position had been designated a testing designated position;

2. That the employee will have the opportunity to voluntarily identify himself as a user of illegal drugs and to receive counseling or rehabilitation, in which case disciplinary action is not required.

3. That the employee's position will be subject to random testing no sooner than thirty days.

#### C. Signed Acknowledgment

1. Each employee in a testing designated position shall be asked to acknowledge in writing that the employee has received and read the notice which states that the employee's position has been designated for random drug testing and that refusal to submit to testing will result in initiation of disciplinary action, up to and including removal.

2. If the employee refuses to sign the acknowledgment, the employee's supervisor shall note on the acknowledgment form that the employee received the notice. Failure to sign the notice shall not preclude testing that employee or otherwise affect the implementation of this order, since the general sixty-day notice will previously have notified all agency employees of the requirement to be drug-free.

3. All signed or annotated acknowledgement forms will be forwarded to the PLFA DPC for review prior to filing in the employee's Official Personnel Folder.

#### D. Administrative Relief

If an employee believes his or her position has been wrongly designated a testing designated position (TDP), that employee may file an administrative appeal to the designated official who has authority to remove the employee from the TDP list. The appeal must be submitted by the employee, in writing, to the designated official within 15 days of notification, setting forth all relevant information. The designated official shall review the appeal based on the criteria applied in designating that employee's position as a TDP. The official's decision is final and is not subject to further administrative review.

#### E. Notification of Testing

Before each drug test, the employee shall be informed in writing of the following:

1. The reasons for ordering the drug testing;
2. How the employee was selected for the test; e.g., random, reasonable suspicion, post-accident investigation, etc.;

3. The time at which they will be tested;
4. The consequences of a positive or negative result;
5. The consequences of a refusal to cooperate, including possible adverse action(s);
6. The opportunity for submission of supplemental medical documentation to support the legitimate use of a specific drug;
7. The availability of drug-abuse counseling and referral services available through the Employee Assistance Program;
8. The right, in the event of a positive drug test, to have a drug test by a second NIDA-certified laboratory utilizing the same sample;
9. The right to union representation at any investigatory interviews or disciplinary decision meetings which may precede or result from the drug test.

#### VIII. FINDING OF DRUG USE AND DISCIPLINARY CONSEQUENCES

##### A. Determination

An employee may be found to use illegal drugs on the basis of any appropriate evidence including, but not limited to:

1. Direct observation;
2. Evidence obtained from an arrest or criminal conviction;
3. A verified positive test result; or
4. An employee's voluntary admission.

##### B. Mandatory Administrative Actions

DLA shall refer an employee found to use illegal drugs to the EAP. Referral to the EAP will be in writing and will inform the employee of the consequences of refusal of counseling or rehabilitation. [and, i] If the employee occupies a sensitive position, the Agency shall immediately remove the employee from that position without regard to whether it is a testing designated position. At the discretion of the Director, DLA, however, and as part of an EAP rehabilitation program, an employee may return to duty in a sensitive position if the employee's return would not endanger public health or safety or national security.

Normally, employees who are not removed from Federal service will be returned to duty after successful completion of rehabilitation. The Agency will strive to place the employee in

the same or similar position occupied before the problem occurred unless sound reasons exist for alternate assignment.

#### C. Range of Consequences

The severity of the disciplinary or adverse action taken against an employee found to use illegal drugs will depend on the circumstances of each case, will be consistent with the Executive Order, and may include the full range of disciplinary actions, including removal. Disciplinary action must be initiated against any employees found to use illegal drugs, except those who ~~voluntarily admit to illegal drug use in accordance with~~ subsection VIII F of this plan. Such disciplinary action, consistent with the requirements of the Master Agreement and the Civil Service Reform Act and other statutes, DoD and DLA directives and regulations, may include any of the following measures:

1. Reprimanding the employee in writing;
2. Placing the employee in an enforce leave status;
3. Suspending the employee for 14 days or less;
4. Suspending the employee for 15 days or more;
5. Suspending the employee until the employee successfully completes the EAP or until the Agency determines that action other than suspension is more appropriate;
6. Removing the employee from service.

#### D. Initiation of Mandatory Removal From Service

1. The Agency shall initiate action to remove an employee for:

- a. Refusing to obtain counseling or rehabilitation through an Employee Assistance Program as required by the Executive Order after having been found to use illegal drugs;
- b. Having been found not to have refrained from illegal drug use after a first finding of illegal drug use.

2. Proposed notices and decision letters for removal actions based on illegal drug use should be worked out in consultation with the PLFA DPC and Office of Civilian Personnel. All such letters will be submitted to the DLA Headquarters Office of Civilian Personnel for review prior to issuance.

#### E. Refusal to Take Drug Test When Required

1. An employee who refuses to be tested when so required will be subject to the full range of disciplinary action, up to and including removal.

2. No applicant who refuses to be tested shall be extended an offer of employment.

3. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.

#### F. Voluntary Referral

1. Under Executive Order 12564, DLA is required to initiate action to discipline any employee found to use illegal drugs, except that such discipline is not required when an employee (1) voluntarily admits his or her drug use; (2) completes counseling and/or rehabilitation; and (3) and thereafter refrains from drug use.

2. The decision whether to discipline a voluntary referral will be made by the PLFA Commander on a case by case basis depending on the facts and circumstances. The decision whether to discipline a voluntary referral within DLA Headquarters will be made by the Director, DLA. Although an absolute bar to discipline cannot be provided for certain positions because of their extreme sensitivity, the Agency, in determining whether to discipline, shall consider that the employee has come forward voluntarily.

#### G. Negative Test Results

A drug test, which has not been confirmed as positive through gas chromatography/mass spectrometry, will not be used to propose any disciplinary action against an employee, unless there is clear evidence of tampering with the sample or other attempt at fraud by the employee.

### IX. RANDOM TESTING

#### A. Position Titles Designated for Random Drug Testing

The position titles designated for random drug testing are listed in Appendix A. Accompanying the list of testing designated positions are the criteria used in selecting the positions for drug testing and the justification for including them in the list of testing designated positions.

#### B. Employees in Testing Designated Positions

Executive Order 12564 requires random testing for employees in sensitive positions that have been determined to be testing

designated positions. In accordance with the provisions of the Executive Order, The Director, DLA, has determined that employees in the sensitive positions listed in Appendix A occupy testing designated positions and will be subject to random testing for illegal drug use.

C. Determining the Testing Designated Positions

Among the factors the Director, DLA, has considered in determining whether a sensitive position shall be a testing designated position, are:

1. ~~The extent to which the Agency:~~
  - a. Considers its mission inconsistent with illegal drug use;
  - b. Is engaged in law enforcement;
  - c. Must foster public trust by preserving employee reputation for integrity, honesty and responsibility;
  - d. Has national security responsibilities;
  - e. Has drug interdiction responsibilities; or
2. The extent to which the position considered:
  - a. Authorizes employees to carry firearms;
  - b. Gives employees access to sensitive information;
  - c. Authorizes employees to engage in law enforcement;
  - d. Requires employees, as a condition of employment, to obtain a security clearance;
  - e. Requires employees to engage in activities affecting public health or safety.

The positions listed in Appendix A are characterized by critical safety or security responsibilities related to the mission of the Agency. The job functions associated with these positions directly and immediately relate to public health and safety, the protection of life and property, law enforcement, or national security. These positions are singled out for random testing because they require the highest degree of trust and confidence.

The Director, DLA, reserves the right to add or delete positions determined to be testing designated positions pursuant to the criteria established in the Executive Order and this plan.

#### D. Implementing Random Testing

In implementing the program of random testing, the DLA Drug Program Administrator shall:

1. Ensure that the means of random selection remains confidential; and
2. Evaluate annually whether the numbers of employees tested and the frequency with which those tests will be administered satisfy the Agency's duty to achieve a drug-free work force.

The numbers of sensitive employees occupying testing designated positions are listed in Appendix A. The frequency with which random tests will be administered is specified in Appendix B.

#### E. Notification of Selection

1. An individual selected for random testing, and that individual's first-line supervisor, shall be notified the same day the test is scheduled, preferably within 2 hours of the scheduled testing. The supervisor shall explain to the employee that the employee is under no suspicion of taking drugs and that the employee's name was selected randomly. The employee shall be provided with written notification in accordance with Section VII.E. above.

2. In cases where employees must travel to a specimen collection site outside of their immediate commuting area, more than two hours notice may be given.

3. Employees who must travel to and from a specimen collection site will be considered to be on official duty while traveling.

#### F. Deferral of Testing

1. An employee selected for random drug testing may obtain a deferral of testing if the employee's first-line and second-line supervisors concur that a compelling need necessitates a deferral on the grounds that the employee is:

a. In a leave status (sick, annual, administrative or leave without pay).

b. In official travel status away from the test site or is about to embark on official travel scheduled prior to testing notification;

2. An employee whose random drug test is deferred will be subject to an unannounced test within the following 60 days.

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## X. REASONABLE SUSPICION TESTING

### A. Individuals Subject to Reasonable Suspicion Testing

Reasonable suspicion testing may be required of any employee in a position which is designated for mandatory random testing or which meets the criteria for such designation when there is a reasonable suspicion that the employee uses illegal drugs whether on- or off-duty. Reasonable suspicion testing may also be required of an employee in any position when there is individualized suspicion of on-duty illegal drug use or on-duty drug-related impairment.

### B. Grounds

Reasonable suspicion testing may be based upon, among other things:

1. Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug;
2. A pattern of abnormal conduct or erratic behavior consistent with the use of illegal drugs or drug-related impairment (if the employee is suspected of on-duty illegal drug use or on-duty illegal drug-related impairment, the pattern of behavior must be consistent with the use of illegal drugs or drug-related impairment in the workplace setting);
3. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;
4. Information provided whether by reliable and credible sources or independently corroborated; or
5. Newly discovered evidence that the employee has tampered with a previous drug test.

Although reasonable suspicion testing does not require certainty, mere "hunches" are not sufficient to meet this standard.

### C. Procedures

1. If an employee is suspected of using illegal drugs, the employee's supervisor will gather all pertinent information and facts regarding the circumstances leading to and supporting this suspicion.

2. Requests for reasonable suspicion testing of an employee must be approved by the employee's second level supervisor and by the Civilian Personnel Officer.

3. When reasonable suspicion has been established, the appropriate supervisor will promptly detail, for the record and in writing, the circumstances which formed the basis to warrant the testing. A written report will be prepared to include, at a minimum, the appropriate dates and times of reported drug related incidents, reliable/credible sources of information, rationale leading to the test, findings of the test, and the action taken.

D. Obtaining the Sample

~~The employee may be asked to provide the urine sample under observation in accordance with the criteria in Section XIII.B.~~

E. Supervisory Training

In accordance with Section IV, supervisors will be trained to address illegal drug use by employees, to recognize facts that give rise to a reasonable suspicion, and to document facts and circumstances to support a finding of reasonable suspicion. Failure to receive such training, however, shall not invalidate otherwise proper reasonable suspicion testing.

## XI. APPLICANT TESTING

### A. Objectives

To maintain the high professional standards of the DLA workforce, it is imperative that individuals who use illegal drugs be screened out during the initial employment process before they are placed on the employment rolls of the Agency. This procedure will have a positive effect on reducing instances of illegal drug use by employees working within DLA and will provide for a safer work environment.

### B. Extent of Testing

Drug testing shall be required of all individuals selected for employment with the Agency in testing designated positions..

### C. Vacancy Announcements

Every vacancy announcement for positions designated for applicant testing shall state:

'All applicants tentatively selected for this position will be required to submit to urinalysis to screen for illegal drug use prior to appointment.'

In addition, the applicant will be notified that appointment to the position will be contingent upon a negative drug test result. Failure of the vacancy announcement to contain this statement notice will not preclude applicant testing if advance written notice is provided applicants in some other manner.

### D. Procedures

1. The DPC shall direct applicants to an appropriate collection facility. The drug test must be undertaken as soon after notification as possible, and no later than 48 hours after notice to the applicant. Where appropriate, applicants may be reimbursed for reasonable travel expenses.

2. Applicants will be advised of the opportunity to submit medical documentation that may support a legitimate use for a specific drug and that such information will be reviewed only by the MRO or the staff of the MRO to determine whether the individual is licitly using an otherwise illegal drug.

### E. Personnel Officials

Upon notification that an individual has been tentatively

selected for employment with the Agency, the Civilian Personnel Officer shall assure, after consultation with the MRO or the staff of the MRO, that a drug test has been conducted on that individual and determine whether the test result is a verified positive result.

#### F. Consequences

The Agency will decline to extend a final offer of employment to any applicant with a verified positive test result. The staffing specialist working on the applicant's certificate shall be directed to object to the applicant on the basis of failure to pass the physical, a lack of personal characteristics necessary for public employment or failure to support the goals of the Agency. The Agency shall inform such applicant that a confirmed presence of drug in the applicant's urine precludes the Agency from hiring the applicant.

### XII. ADDITIONAL TYPES OF DRUG TESTING

*replaced.*  
*Apr 93 - See attached XII A*

#### A. Accident or Unsafe Practice Testing

1. DLA is committed to providing a safe and secure work environment. Employees involved in on-the-job accidents or who engage in unsafe on-duty job-related activities that pose a danger to others or the overall operation of the Agency may be subject to testing as follows:

a. Testing shall be required of all employees involved in Class A, B, or C mishaps.

b. Based on the circumstances of the accident or unsafe act, an employee's supervisor may initiate testing for employees involved in Class D mishaps or in unsafe acts which do not result in a mishap, but which pose an immediate and severe threat to the health or safety of DLA employees or the public in general, or an immediate and severe threat to national security.

2. Any testing of employees involved in Class E mishaps or unsafe practices not posing an immediate threat to health and safety or national security shall be conducted under the provisions of Section X, Reasonable Suspicion Testing.

3. Definitions of mishap classes are provided in DLAM 6055.1, Ch. VII, Figure 7-8, Mishap Reporting System Instruction and at Appendix D.

#### B. Voluntary Testing

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XII.A. Accident or Unsafe Practice Testing

1. DLA is committed to providing a safe and secure working environment. It also has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Post-accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, employees may be subject to testing when, based on the circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets either of the following criteria:

a. The accident results in a death or personal injury requiring immediate hospitalization; or

b. The accident results in damage to Government or private property estimated to be in excess of \$10,000.

2. If an employee is suspected of having caused or contributed to an accident meeting either of the criteria stated above, the appropriate supervisor will present the facts and circumstances leading to and supporting this suspicion to the activity commander for approval. Once approval has been obtained and the arrangements made with the DTOO for testing, the supervisor will prepare a written report detailing the facts and circumstances that warranted the testing.

## B. Voluntary Testing

1. In order to demonstrate their commitment to the Agency's goal of a drug-free workplace and to set an example for other federal employees, employees not in testing designated positions may volunteer for unannounced random testing by notifying the DPC in writing. These employees will then be included in the pool of testing designated positions subject to random testing and will be subject to the same conditions and procedures, including the same disciplinary consequences for a finding of illegal drug use.

2. Volunteers shall remain in the TDP pool for the duration of the position which the employee holds, or until the employee withdraws from participation.

3. Employees will not be coerced or otherwise required to participate in voluntary testing. Participation in voluntary testing will neither advantage nor disadvantage employees, except as may be required by a positive test result.

## C. Follow-up Testing

All employees referred through administrative channels who undergo a counseling or rehabilitation program for illegal drug use through the EAP will be subject to unannounced testing following completion of such a program for a period of one year. Such employees shall be tested at the amount stipulated in the abeyance contract or, in the alternative, at an increased frequency of at least quarterly testing. Such testing is distinct from any testing which may be imposed as a component of the EAP.

## XIII. TEST PROCEDURES IN GENERAL

### A. Technical Guidelines for Drug Testing

DLA shall adhere to all scientific and technical guidelines for drug testing programs promulgated by HHS consistent with the authority granted by Executive Order 12564, and to the requirements of Section 503 of the Act. Consistent with these requirements and where practical, with consideration for efficient testing, expense of equipment, budget constraints, and other relevant matters, the most reliable methods and equipment will be used. The Agency's drug testing program shall have professionally trained collection personnel, a laboratory certification program, rigorous analytical standards and quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

### B. Privacy Assured See Attached

~~Any individual subject to testing under this order shall be permitted to provide urine specimens in private, and in a rest~~

room stall or similar sanitary and secluded enclosure so that the employee is not observed while providing the sample. Collection site personnel of the same gender as the individual tested, however, may observe the individual provide the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen to be provided. Collection site personnel may have reason to believe that a particular individual may alter or substitute the specimen to be provided when:

1. The individual is being tested pursuant to Section X relating to reasonable suspicion testing;
2. ~~Facts and circumstances suggest that the individual is an illegal drug user;~~
3. ~~Facts and circumstances suggest that the individual is under the influence of drugs at the time of the test;~~
4. ~~The individual has previously been found by the Agency to be an illegal drug user;~~
5. ~~Facts and circumstances suggest that the individual has equipment or implements capable of tampering or altering urine samples; or~~
6. ~~The individual has previously tampered with a sample.~~

C. Sample Collection and Retention.

1. An adequate sample shall be collected to permit a retest if required during any administrative or disciplinary proceedings, as well as the initial screening and confirmatory tests. Portions retained for possible retest will be kept in frozen storage at the laboratory. If sufficient volume of urine is not able to be provided on the appointed day, the selectee shall return on the next day until the necessary amount is provided.

2. Upon a positive test, the remaining portions of the sample will be retained in freezer storage for at least one year. The employee will be given the option to have a urinalysis test by a second NIDA-certified laboratory utilizing a portion of this sample at the Agency's expense, provided that an adequate volume of urine is available.

D [C]. Failure to Appear for Testing

Failure to appear for testing without a deferral will be considered refusal to participate in testing, and will subject an employee to the range of disciplinary actions, including dismissal, and an applicant to the cancellation of an offer of

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XIII.B. Privacy Assured

Any individual subject to testing under this order shall be permitted to provide urine specimens in private, and in a rest room, stall or similar sanitary and secluded enclosure so that the employee is not observed while providing the sample. Collection site personnel of the same gender as the individual tested, however, may observe the individual provide the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen to be provided. Collection site personnel may have reason to believe that a particular individual may alter or substitute the specimen to be provided when:

1. Facts and circumstances suggest that the individual is an illegal drug user;
2. Facts and circumstances suggest that the individual is under the influence of drugs at the time of the test;
3. The individual has previously been found by the Agency to be an illegal drug user;
4. Facts and circumstances suggest that the individual has equipment or implements capable of tampering or altering urine samples; or
5. The individual has previously tampered with a sample.

Visual observation of urination will not be permitted merely on the basis that a DLA employee is being tested pursuant to the reasonable suspicion testing procedure in Section X.

employment. If an individual fails to appear at the collection site at the assigned time, the collector shall contact the DPC to obtain guidance on action to be taken.

E [D]. Opportunity to Justify a Positive Test Result

1. When a confirmed positive result has been returned by the laboratory, the MRO shall perform the duties set forth in the HHS Guidelines. For example, the MRO may choose to conduct employee medical interviews, review employee medical history, or review any other relevant biomedical factors. The MRO must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication.

2. Individuals are not entitled, however, to present evidence to the MRO in a trial-type administrative proceeding, although the MRO has the discretion to accept evidence in any manner the MRO deems most efficient or necessary.

3. If the MRO determines there is no justification for the positive result, such result will then be considered a verified positive test result. The MRO shall immediately contact the EAF Administrator, upon obtaining a verified positive test result.

F [E]. Employee Counseling and Assistance

While participating in a counseling or rehabilitation program, and at the request of the program, the employee may be exempted from the random testing designated position pool for a period not to exceed sixty days, or for a time period specified in an abeyance contract or rehabilitation plan approved by the Agency head. Upon completion of the program, the employee immediately shall be subject to follow-up testing pursuant to Section XII(C).

G. Official Time

Participation in any required drug testing is part of an employee's official duties; consequently, there will be no charge to leave for participation in the testing program. Union representatives will be granted official time when representing employees at any investigatory interviews or disciplinary decision meetings which may precede or result from a drug test.

H [F]. Savings Clause

To the extent that any of the procedures specified in this section are inconsistent with any of those specified in the Scientific and Technical Guidelines promulgated by the Department of Health and Human Services, or any subsequent amendment thereto, such HHS Guidelines or amendment shall supersede the procedures specified in this section, but only to the extent of the inconsistency.

#### XIV. RECORDS AND REPORTS

##### A. Confidentiality of Test Results

1. The laboratory may disclose confirmed laboratory test results only to the MRO or the staff of the MRO. Any positive result which the MRO justifies by licit and appropriate medical or scientific documentation to account for the result as other than the intentional ingestion of an illegal drug will be treated as a negative test result and may not be released for purposes of identifying illegal drug use. Test results will be protected under the provisions of the Privacy Act, 5 U.S.C. 552a, et seq., and Section 503(e) of the Act, and may not be released in violation of either Act. The MRO or the staff of the MRO may maintain only those records necessary for compliance with this order. Any records of the MRO, including drug test results, may be released to any management official for purposes of auditing the activities of the MRO, except that the disclosure of the results of any audit may not include personal identifying information on any employee.

2. In order to comply with Section 503(e) of the Act, the results of a drug test of a DLA employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be:

- a. To the MRO;
- b. To the Counselor or Coordinator of the EAP in which the employee is receiving counseling or treatment or is otherwise participating;
- c. To any supervisory or management official within the Agency having authority to take adverse personnel action against such employee; or
- d. Pursuant to the order of a court of competent jurisdiction or where required by the United States Government to defend against any challenge against any adverse personnel action.

For the purposes of this Section, "management official" includes any management or government official whose duties necessitate review of the test results in order to process adverse personnel action against the employee.

3. In addition, test results with all identifying information removed shall also be made available to Agency personnel, including the DPC, for data collection and other activities necessary to comply with Section 503(f) of the Act.

B. Employee Access to Records

1. Any employee who is the subject of a drug test shall, upon written request, have access to any records relating to:

a. Such employee's drug test; and

b. The results of any relevant certification, review, or revocation of proceedings, as referred to in Section 503(a)(1)(A)(ii)(III) of the Act.

2. The employee shall be informed in writing of his/her right to receive the above information.

3 [2]. Except as authorized by law, an applicant who is not a DLA employee and who is the subject of a drug test, however, shall not be entitled to this information.

C. Confidentiality of Records in General

1. All drug testing information specifically relating to individuals is confidential and should be treated as such by anyone authorized to review or compile program records. In order to efficiently implement this order and to make information readily retrievable, the DPC shall maintain all records relating to reasonable suspicion testing, suspicion of tampering evidence, and any other authorized documentation necessary implement this order.

2. All records and information of the personnel actions taken on employees with verified positive test results shall remain confidential and shall be maintained by the Civilian Personnel Office in a locked combination safe, with only authorized individuals who have a 'need-to-know' having access to them.

D. Employee Assistance Program Records

The EAP Administrator shall maintain only those records necessary to comply with this order. After a supervisor refers an employee to an EAP, the EAP will maintain all records necessary to carry out its duties. All medical and or rehabilitation records concerning the employee's drug abuse, including EAP records of the identity, diagnosis, prognosis, or treatment, are confidential and may be disclosed only as authorized by 42 C.F.R. Part 2, including the provision of written consent by the employee. With written consent, the patient may authorize the disclosure of those records to the patient's employer for verification of treatment or for a general evaluation of treatment progress. (42 C.F.R. 2.1 et seq. (1986), revised regulations promulgated at 52 F.R. 21796, June 9, 1987).

E. Maintenance of Records

1. DLA shall establish or amend a recordkeeping system to maintain the records of the Agency's Drug Free Workplace Program consistent with the Agency's Privacy Act System of Records and with all applicable federal laws, rules and regulations regarding confidentiality of records including the Privacy Act 5 U.S.C. 552a. If necessary, records may be maintained as required by subsequent administrative or judicial proceedings, or at the discretion of the Director, DLA. The recordkeeping system should capture sufficient documents to meet the operational and statistical needs of this order, and include:

- a [1]. Notices of verified positive test results referred by the MRO;
- b [2]. Written materials justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen;
- c [3]. Anonymous statistical reports; and
- d [4]. Other documents the DPA, MRO, or EAP Administrator deems necessary for efficient compliance with this order.

2. No employee records shall be kept concerning non-confirmed test results. Any such records, except the record that the test was conducted and that the test result was negative, shall be destroyed, to the extent that such destruction is allowed by relevant regulations.

F. Records Maintained by Government Contractors

Any contractor hired to satisfy any part of this order shall comply with the confidentiality requirements of this order, and all applicable federal laws, rules, regulations and guidelines.

G. Statistical Information

The DPC shall collect and compile anonymous statistical data for reporting the number of:

- 1. Random tests, reasonable suspicion tests, accident or unsafe practice tests, follow-up tests, or applicant tests administered;
- 2. Verified positive test results;
- 3. Voluntary drug counseling referrals;

4. Involuntary drug counseling referrals;
5. Terminations or denial of employment offers resulting from refusal to submit to testing;
6. Terminations or denial of employment offers resulting from alteration of specimens;
7. Terminations or denial of employment offers resulting from failure to complete a drug abuse counseling program; and
8. Employees who successfully complete EAP.

This data, along with other pertinent information, shall be compiled for inclusion in the DLA's annual report to Congress required by Section 503(f) of the Act. This data shall also be provided to HHS on a semiannual basis to assist in overall program evaluation and to determine whether changes to the HHS guidelines may be required.