

BUREAU  
OF THE  
PUBLIC DEBT

Drug-Free Workplace Plan

BUREAU OF THE PUBLIC DEBT  
DRUG-FREE WORKPLACE PLAN

I. INTRODUCTION

- A. Background
- B. Statement of Policy
- C. Nature, Frequency, and Type of Drug Testing to be Instituted
- D. Drugs for Which Individuals Are Tested
- E. Scope
- F. Union Cooperation
- G. References

II. DEFINITIONS

III. EMPLOYEE ASSISTANCE PROGRAMS

- A. Function
- B. Referral and Availability
- C. Leave Allowance
- D. Records and Confidentiality
- E. Structure

IV. SUPERVISORY TRAINING

- A. Objectives

- B. Implementation
- C. Training Package

V. EMPLOYEE EDUCATION

- A. Objectives
- B. Means of Education

VI. SPECIAL DUTIES AND RESPONSIBILITIES

- A. Drug Program Coordinator
- B. Employee Assistance Program Administrator
- C. Employee Assistance Program Coordinator
- D. Medical Review Officer
- E. Supervisors

VII. NOTICE

- A. General Notice
- B. Individual Notice
- C. Signed Acknowledgment
- D. Administrative Relief

VIII. FINDINGS OF ILLEGAL DRUG USE AND DISCIPLINARY CONSEQUENCES

- A. Determination
- B. Mandatory Administrative Action
- C. Range of Consequences
- D. Initiation of Mandatory Removal From Federal Service
- E. Refusal To Take Drug Test When Required
- F. Voluntary Referral

IX. RANDOM TESTING

- A. Position Titles Designated for Random Drug Testing
- B. Sensitive Employees in Testing Designated Positions
- C. Determining the Testing Designated Positions
- D. Implementing Random Testing
- E. Notification of Selection
- F. Deferral of Testing

X. REASONABLE SUSPICION

- A. Grounds
- B. Procedures
- C. Obtaining the Sample
- D. Supervisory Training

XI. APPLICANT TESTING

- A. Objectives
- B. Vacancy Announcements
- C. Procedures
- D. Personnel Officer
- E. Consequences

XII. ADDITIONAL TYPES OF DRUG TESTING

- A. Injury, Illness, Unsafe or Unhealthful Practice Testing
- B. Voluntary Testing
- C. Follow-up Testing

XIII. TEST PROCEDURES IN GENERAL

- A. Technical Guidelines for Drug Testing
- B. Privacy Assured
- C. Failure to Appear for Testing
- D. Opportunity to Justify a Positive Test Result
- E. Employee Counseling and Assistance
- F. Savings Clause

XIV. RECORDS AND REPORTS

- A. Disclosure of Positive Test Results

- B. Employee Access to Records
- C. Confidentiality of Records in General
- D. Employee Assistance Program Records
- E. Maintenance of Records
- F. Records Maintained By Government Contractors
- G. Statistical Information

APPENDIX A

APPENDIX B

## I. INTRODUCTION

### A. Background

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

The Executive Order 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 Bureau of the Public Debt 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 program is to offer a helping hand to those who need it, while sending a clear message that any illegal drug use is, quite simply, incompatible with federal service.

The purpose of Public Debt's 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 Supplemental Appropriations Act of 1987, 5 U.S.C. 7301.

### B. Statement of Policy

Public Debt as a result of its fiscal responsibility has an obligation to eliminate illegal drug use from its workplace.

The mission of Public Debt is to borrow money needed to operate the Federal government and to account for the resulting public debt. In support of this mission, Public Debt prepares Department of the Treasury circulars offering public debt securities, directs the handling of subscriptions and making of allotments, formulates instructions and regulations pertaining to security issues, and conducts or directs the conduct of transactions in outstanding securities.

Public Debt performs the final audits of retired securities and interest coupons, maintains accounting control over public debt receipts and expenditures, securities, and interest cost, maintains individual accounts of owners of book-entry and registered securities and authorizes the payment of principal and

interest, and adjudicates claims resulting from lost, stolen, destroyed or mutilated securities.

Public Debt is sensitive to the impact that illegal drug use can have on its effectiveness. In an effort to confront these potential problems, Public Debt has put together a plan that it feels responds to its specific needs. Public Debt's plan calls for mandatory random testing for certain positions where illegal drug usage by the incumbent would pose a threat. The incumbents operate independently and have a significant degree of responsibility to the extent that illegal drug usage by the incumbents could lead to a threat to life and public safety inherent in the operation of a motor vehicle.

Public Debt's plan calls for testing those employees whom management reasonably suspects of illegal drug usage. Public Debt expects that this aspect of the plan will address and correct isolated instances of illegal drug usage.

Public Debt's plan also calls for applicant testing of prospective selectees to testing designated positions (TDP) as a condition of employment, and for voluntary drug testing. In addition, the plan calls for extensive use of the Employee Assistance Program (EAP) to assist those employees who do test positive for illegal drug use or who admit to a drug problem.

It is the policy of Public Debt that its workplace be free from the illegal use, possession, or distribution of controlled substances, (as specified in Schedules I through V, as defined in 21 U.S.C. 802 (6) and listed in Part b, Subchapter 13 of that Title) by the officers and employees of the Bureau of the Public Debt. The possession and distribution of controlled substances will be dealt with promptly in accordance with legal and administrative disciplinary procedures. However, the policy's primary goal is to ensure that illegal drug use is eliminated and that the Bureau of the Public Debt workplace be safe, healthful, productive and secure.

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

Public Debt's plan includes the following types of drug testing: (1) Applicant testing; (2) Random testing of employees in testing designated positions; (3) Reasonable suspicion testing; (4) Accident or unsafe practice testing; (5) Voluntary testing, and (6) Testing as part of or as a follow-up to counseling or rehabilitation.

The frequency of testing for random testing, voluntary testing, and follow-up testing is specified in Appendix A, Section XII (B) and Section XII (C) respectively. The Bureau Chief reserves the right to increase or decrease the frequency of testing based on the Bureau's mission, need, 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 are Tested

Section 503 of the Act requires Public Debt's Plan to specify the drugs for which individuals shall be tested. These are listed in Appendix B.

E. Scope

This order is effective upon completion of impact and implementation bargaining for all Public Debt offices, both in Washington and Parkersburg and upon completion of Health & Human Services certification.

F. Union Cooperation

The active participation and support of labor organizations can contribute to the success of this program. Therefore, 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, will include union representatives in general orientation programs, and will continue to meet its obligation under Title VII of the Civil Service Reform Act.

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);
- 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, 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, and; Mandatory Guidelines for Federal Workplace Drug Testing Programs, which includes Scientific and Technical Requirements and Certification of Laboratories Engaged in Urine Drug Testing, 53 FR 11970 (1988) as revised (1994).

- e. Civil Service Reform Act of 1978, P.L. 95-454;
- f. 42 CFR Part 2, establishing requirements for assuring the confidentiality of alcohol and drug abuse patient treatment records;
- g. 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;
- h. 31 CFR Part 1, implementing the Privacy Act of 1974 within Public Debt;
- i. Federal Employees Substance Abuse Education and Treatment Act of 1986, P.L. 99-570;
- j. Department of Treasury Directive, No. 61-10, dated September 24, 1987;
- k. Section 628 of the Treasury, Postal Service and General Government Appropriations Act of 1989, Pub. L. 100-440, as amended.

2. Guidance

Chapter 792-1, Bureau Personnel Directives System, Alcohol and Drug Abuse.

## II. DEFINITIONS

- A. Applicant means any individual tentatively selected for a testing designated position and includes any individual in the Bureau who has tentatively been promoted or reassigned to a testing designated position and who has not, immediately prior to the selection, been subject to random testing.
- B. Employee Assistance Program (EAP) means the Public Debt based counseling program that offers assessment, short-term counseling, and referral services to employees on 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 agency EAP.

- D. Employee Assistance Program Coordinator means the individual designated by the Employee Assistance Program Administrator responsible for implementing and operating the EAP within the Public Debt component assigned to the coordinator, by providing counseling, treatment, and education services to employees and supervisors regarding Public Debt's EAP.
- E. Medical Review Officer (MRO) means the individual responsible for receiving laboratory results generated from Public Debt's Drug-Free Workplace Program who 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.
- F. 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 controlled substance pursuant to a valid prescription or other uses authorized by law.
- G. Management Official means an employee required or authorized by Public Debt to formulate, determine or influence the policies of Public Debt. 5 U.S.C. 7103 (a) (11).
- H. Random Testing means a 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 statistically random sampling of such employees based on a neutral criterion, such as social security numbers.
- I. Employees in Sensitive Positions mean:
1. Employees in positions designated as Special Sensitive, Critical Sensitive, or Noncritical-Sensitive or employees in positions designated 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 under Section 4 of Executive Order No. 12356;
  3. Other positions determined to 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.

- J. 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 judgment. 5 U.S.C. 7103 (a) (10).
- K. Testing Designated Positions means employment positions within Public Debt, which have been designated for random testing under Section IX B. of this plan.
- L. 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 Spectatrometry assay, (or other confirmatory tests approved by HHS), evaluated by the Medical Review Official and determined by him or her to be unjustified under Section XIII. D. of this plan.

### III. EMPLOYEE ASSISTANCE PROGRAMS

#### A. Function

Public Debts EAP plays an important role in preventing and resolving employee drug use by: demonstrating Public Debt'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 and 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 Public Debt on types and effects of drugs, symptoms of drug use and its impact on performance and conduct, on the relationship of the EAP with the drug testing program, and on related treatment, rehabilitation, and confidentiality issues;

3. Ensure that confidentiality of test results and related medical treatment and rehabilitation records are maintained in accordance with Section XIV;
4. Provide and distribute EAP information to supervisors and employees.

B. Referral and Availability

Any employee found to be using illegal 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.

C. Leave Allowance

Employees shall be allowed up to two (2) hours of excused absence for each counseling session, up to a maximum of six (6) counseling sessions, during the assessment/referral phase of rehabilitation. Absences during duty hours for rehabilitation or treatment not provided by EAP counselors 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

The Labor-Employee Relations Branch (LERB) shall be responsible for oversight and implementation of Public Debt's EAP and will provide, with the support of the Commissioner, high level direction and promotion of the EAP.

#### IV. SUPERVISORY TRAINING

A. Objectives

Public Debt, in conjunction with the EAP, will provide training to assist supervisors and managers in recognizing and addressing illegal drug use by agency employees.

B. Implementation

The EAP and LERB shall be responsible for implementing supervisory

training, and shall develop a training package to ensure that all employees and supervisors are fully informed of Public Debt's Drug-Free Workplace Plan.

C. Training Package

Supervisory training shall be required of all supervisors and may be presented as a separate course to be included as part of an ongoing supervisory training program. Training shall be provided as soon as possible after a person assumes supervisory responsibility. This training shall include, but not be limited to:

1. The EAP approach to handling problems;
2. How to recognize employees with possible problems;
3. How to document employee performance or behavior;
4. How to approach the employee;
5. How to use EAP;
6. Disciplinary actions and removals from sensitive positions, as required by Section 5 ( C ) of the Executive Order.

V. EMPLOYEE EDUCATION

A. Objectives

The EAP Administration shall offer drug education to all Public Debt employees. Drug education should include education and training to all levels of the Public Debt 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 Coordinator

Public Debt shall have a Drug Program Coordinator (DPC) assigned to carry out the provisions of this plan. The DPC shall be responsible for implementing, directing, administering, and managing the drug program at each Public Debt location. The DPC shall serve as the principle contact with the laboratory in assuring the effective operation of the testing portion of the program. In carrying out this responsibility, the DPC shall, among other duties:

1. Arrange for all testing authorized under this order;
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. Document, through written inspection reports, all results of laboratory inspections conducted;
4. Coordinate with and report to the Commissioner on DPC activities;
5. Coordinate all DPC duties in field offices wherever possible to conserve resources and to efficiently and speedily accomplish reliable and accurate testing objectives.

### B. Employee Assistance Program Administrator

The Employee Assistance Program Administrator shall:

1. Assume the lead role in the development, implementation, and evaluation of the EAP;
2. Designate and monitor EAP Coordinators and counselors;

3. In coordination with the DPC, ensure the development and implementation of an educational program to include dissemination of materials, supervisory training, and employee education sessions;
4. Advise Public Debt components on the submission of annual statistical reports, and prepare consolidated reports on Public Debt's EAP activity;
5. Otherwise administer Public Debt's EAP.

C. Employee Assistance Program Coordinator

The Employee Assistance Program Coordinator shall:

1. Implement and operate the EAP within each Public Debt component assigned to the coordinator;
2. Provide counseling and treatment services to all employees referred to the EAP by their supervisors or on self-referral, and otherwise offer employees the opportunity for counseling and rehabilitation;
3. Work with EAP administrator to provide educational materials and training to managers, supervisors, and employees on illegal drugs in the workplace;
4. Assist supervisors with performance and/or personnel problems that may be related to illegal drug use;
5. Monitor the progress of referred employees during and after the rehabilitation period;
6. Maintain 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.
7. Ensure that rehabilitative or treatment organizations are properly certified, physically acceptable, and that progress reports and post-treatment follow-up are provided when appropriate.

D. Medical Review Officer

Each Bureau office shall have a 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. D. of this Plan;
- 3. Consistent with confidentiality requirements, refer written determinations regarding all verified positive test results to the DPC including a positive drug test result indicating that the positive result is unjustified together with all relevant documentation and a summary of findings;
- 4. Confirm with the DPC whether an individual who has been tentatively selected for employment with the Bureau has obtained a verified negative or positive test result.

E. Supervisors

Supervisors will be trained to recognize and address illegal drug use by employees, 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, and will generally comply with the provisions of this plan.

VII. NOTICE

A. General Notice

A general notice from the Commissioner 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. This general notice shall not be issued prior to the completion of Congressional Certification procedures pursuant to Section 503 (a) (1) (A), (B) and (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 an 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, and 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. Except for test results, 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 has 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, and shall not be subject to disciplinary action;
3. That the employee's position will be subject to random testing no sooner than thirty (30) days from the date of this notice.

C. Signed Acknowledgment

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 dismissal.

If the employee refuses to sign the acknowledgement, the employee's supervisor shall note on the acknowledgment form that the employee received the notice. This acknowledgement shall not preclude testing that employee, or otherwise affect the implementation of this Order since the general sixty (60) day notice will previously have notified all agency employees of the requirements of the Drug-Free Workplace Plan

.

D. Administrative Relief

If an employee believes his or her position has been wrongly classified as a testing designated position, that employee may file a grievance under the negotiative grievance procedure or agency grievance procedure, as appropriate.

VIII. FINDINGS OF ILLEGAL 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

Public Debt shall refer an employee found to use illegal drugs to the EAP and immediately reassign the employee from his/her position without regard to whether it is a testing designated position. At the discretion of the Commissioner, however, and as part of an EAP, an employee may return to duty in his/her position if the employee's return would not endanger public health or safety or national security.

C. Range of Consequences

The severity of the disciplinary action taken against an employee found to use illegal drugs will depend on the circumstances of each case, and will be consistent with the Executive Order, and includes the full range of disciplinary actions, including reducing the employee in pay or grade or removal. Public Debt shall initiate disciplinary action against any employee found to use illegal drugs but not against an employee who voluntarily admits to illegal drug use in accordance with subsection VIII. F. of this Plan.

Such disciplinary action, consistent with the requirements of Public Debt's Labor-Management Agreement and the Civil Service Reform Act, other statutes, Public Debt directives, and regulations, may include any of the following measures, but some disciplinary action must be initiated:

1. Reprimanding the employee in writing;
2. Placing the employee in an enforced 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 Public Debt determines that action other than suspension is more appropriate;
6. Removing the employee from Federal service.

D. Initiation of Mandatory Removal From Federal Service

Public Debt shall initiate action to remove an employee for:

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

All letters to propose and decide on a separation action should be worked out in consultation with Public Debt's Labor-Employee Relations Officer.

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 actions, including removal.
2. No selectee for a vacancy who refuses to be tested shall be extended an offer of employment, promotion, or reassignment.
3. Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.

F. Voluntary Referral

Under Executive Order 12564, Public Debt is required to initiate action to discipline any employee found to use illegal drugs in every circumstance except the following: If an employee (1) voluntarily admits his or her drug use; (2) completes counseling or an EAP; and (3) thereafter refrains from drug use, such discipline is not required.

1. Because the Order permits an agency to create a "safe harbor" for an employee who meets all three of these conditions, Public Debt has decided to create such a "safe harbor" and will not initiate disciplinary action against employees who satisfy these provisions.
2. A fundamental purpose of Public Debt's drug testing Plan is to assist employees who themselves are seeking treatment for drug use. For this reason, Public Debt will not initiate disciplinary action against any employee who meets all three of the above conditions.

This self-referral option allows any employee to step forward and identify him/herself as an illegal drug user for the purpose of entering a drug treatment program under the EAP. In stepping forward, and consistent with Section X. B. an employee may volunteer for a drug test as a means of identification. Although this self-identification test

may yield a verified positive test result, such result shall not subject the employee to discipline assuming the three safe harbor requirements are met.

3. Since the key to this provision's rehabilitative effectiveness is an employee's willingness to admit his or her problem, this provision will not be available to an employee who is asked to provide a urine sample when required, or who is found to have used illegal drugs pursuant to Sections VIII (A) (1) or VIII (A) (2), and who thereafter requests protection under this provision.

## IX. RANDOM TESTING

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

Reasonable suspicion testing may be required of an employee in a position which is designated for random testing 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 any employee in any position when there is a reasonable suspicion of on-duty use or on-duty impairment.

### B. Sensitive Employees in Testing Designated Positions

The Executive Order requires random testing for employees in sensitive positions that have been designated testing designated positions. As further specified in Appendix A, the Commissioner has determined that these positions are testing designated positions that will be randomly tested. Accompanying the list of testing designated positions are the criteria and procedures used in designating such positions, pursuant to the Act including the justification for such criteria and procedures.

### C. Determining the Testing Designated Position

Among the factors the Commissioner has considered in determining a testing designated position are:

1. The extent to which Public Debt --
  - a. Considers its mission inconsistent with illegal drug use;
  - b. Must foster public trust by preserving employee reputation for integrity, honesty and responsibility; and
2. The extent to which the position considered --
  - a. Gives employees access to sensitive information;

- b. Requires employees, as a condition of employment, to obtain a security clearance;
- c. Requires employees to engage in activities affecting public health or safety.

These positions are characterized by critical safety or security responsibilities as related to the mission of Public Debt. The job functions associated with these positions directly and immediately relate to public health and safety, and the protection of life and property. These positions are identified for random testing because they require the highest degree of trust and confidence. The Commissioner 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. Moreover, pursuant to 42 U.S.C. 290ee-1(b) (2), and the pertinent provisions of the Federal Personnel Manual, the Commissioner has determined that all positions which have been or will be designated as testing designated positions under this plan are “sensitive positions,” and are therefore exempted from coverage under 42 U.S.C. 290ee-1(b) (1) which provides that no person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the basis of prior drug abuse.

D. Implementing Random Testing

In implementing the program of random testing the Drug Program Coordinator shall –

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

The number of sensitive employees occupying testing designated positions and the frequency with which random tests will be administered are specified in Appendix A.

E. Notification of Selection

An individual selected for random testing, and the individual’s first-line supervisor, shall be notified the same day the test is scheduled, preferably within two (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 and/or date of the test was selected randomly.

F. Deferral of Testing

An employee selected for random 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:

1. In a leave status (sick, annual, administrative or leave without pay); and
2. In official travel status away from the test site or is about to embark on official travel scheduled prior to testing notification.

An employee whose random drug test is deferred will be subject to testing at the very first opportunity within the next 24 hours or if this is not possible, to be an unannounced test within the following 60 days.

X. REASONABLE SUSPICION TESTING

A. Grounds

Reasonable suspicion testing may be required of an employee in a position which is designated for random testing 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 any employee in any position when there is a reasonable suspicion of on-duty use or on-duty impairment.

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;
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 and/or distribution or illegal use, possession, or distribution of a controlled substance;
4. Information provided either 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.

B. Procedures

If an employee is suspected of using illegal drugs, the immediate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion. This information should then be reviewed by the second-level supervisor in consultation with the LERB and the Chief Counsel’s Office. A decision will then be made by the second-level supervisor as to whether or not reasonable suspicion has been established.

When reasonable suspicion has been established, the appropriate supervisor will promptly detail, for the record, 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.

C. Obtaining the Sample

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

D. 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

Individuals who use illegal drugs must be screened out during the initial employment process before they are placed in a testing designated position. Drug testing shall be required of all applicants for testing designated positions.

B. Vacancy Announcements

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

“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 testing if advance written notice is provided to applicants in some other manner.

C. Procedures

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 of notice to the applicant. Where appropriate, applicants may be reimbursed for reasonable travel expenses.

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 to determine whether the individual is legally using an otherwise illegal drug.

D. Personnel Officer

Upon notification that an individual has been tentatively selected for employment with Public Debt, the Personnel Officer shall assure, after consultation with the MRO, that a drug test has been conducted on that individual and determine whether the test result is a verified positive result.

E. Consequences

Public Debt will decline to extend a final offer of employment, promotion or reassignment to any applicant with a verified positive test result and such applicant may not reapply to Public Debt for a period of six (6) months. In the case of a competitive appointment, the Personnel Officer will object to the applicant on the basis of failure to pass the urine test, a lack of personal characteristics necessary to relate to public employment or failure to support the goals of Public Debt. Public Debt shall inform such applicant that a confirmed presence of an illegal drug in the applicant’s urine precludes the Bureau from hiring the applicant.

XII. ADDITIONAL TYPES OF DRUG TESTING

A. Injury, Illness, Unsafe, or Unhealthful Practice Testing

Public Debt is committed to providing a safe and secure work 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 upon the circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets the following criteria:

1. The accident results in a death or personal injury requiring immediate hospitalization; or
2. The accident results in damage to government or private property estimated to be in excess of \$10,000.

If an employee is suspected of having caused or contributed to an accident meeting the above criteria, the appropriate supervisor will present the facts leading to this suspicion to the Manager of LERB for approval. Once approval has been obtained and arrangements made for testing, the supervisor will prepare a written report detailing the facts and circumstances that warrant the testing.

#### B. Voluntary Testing

In order to demonstrate their commitment to Public Debt'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.

These employees will then be included in the group of testing designated positions subject to random testing, and be subject to the same conditions and procedures, including the provisions of Section VIII (F). Volunteers shall remain in the pool for the duration of the position which the employee holds, or until the employee withdraws from participation by notifying the DPC of such intent at least 48 hours prior to a scheduled test.

#### 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 at an increased frequency of no less than three (3) times per year through placement in a separate random pool. Such testing is distinct from testing which may be imposed as a component of the EAP.

### XIII. TEST PROCEDURES IN GENERAL

#### A. Technical Guidelines for Drug Testing

Public Debt 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. Public Debt's drug testing program will use 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

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 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 Public Debt 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.

C. Failure to Appear for Testing

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

D. Opportunity to Justify a Positive Test Result

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 interviews, review medical history of the individual, or any other biomedical factors. The MRO must review all medical records made available by the individual when a confirmed positive test could have resulted from legally prescribed medication. The MRO also may require an individual to submit additional evidence to justify a confirmed positive test result received from a laboratory. Evidence to justify a positive result may include, but is not limited to:

1. A valid prescription; or
2. A verification from the individual's physician verifying a valid prescription.

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.

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 EAP Administrator with the results.

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.

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 amendment shall supersede the procedures specified in this section, but only to the extent of the inconsistency.

XIV. RECORDS AND REPORTS

A. Disclosure of Positive Test Results

The laboratory may disclose confirmed laboratory test results only to 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 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 purpose 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.

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

1. To the MRO;
2. To the EAP Administrator in which the employee is receiving counseling or treatment or is otherwise participating;
3. To any supervisory or management official within Public Debt having authority to take adverse personnel action against such an employee; or
4. 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 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. In addition, test results with all identifying information removed shall also be made available to Public Debt 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

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

1. Such employee’s drug test;
2. 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.

Except as authorized by law, an applicant who is the subject of a drug test, however, shall not be entitled to this information.

C. Confidentiality of Records in General

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 to implement or monitor this Plan. Documents will be locked in a combination safe, with only authorized individuals who have a “need-to-know” having access to them.

D. Employment Assistance Program Records

The EAP Administrator shall maintain only those records necessary to comply with this Order. After a supervisor refers an employee to the 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

Public Debt shall establish or amend a record keeping system to maintain the records of Public Debt’s Drug Free Workplace Program consistent with Public Debt’s Privacy Act System of Records and 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 Commissioner. The record keeping system should capture sufficient documents to meet the operation and statistical needs of this Order, and include:

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

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 including in Public Debt'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.

APPENDIX A

The Bureau of the Public Debt has determined that those employees who routinely and regularly transport Bureau employees from one location to another are subject to mandatory random drug testing. The Bureau concludes that because of the threat to life and public safety inherent in the operation of a motor vehicle, all motor vehicle operators and employees occupying any other position in which they routinely and regularly transport Bureau employees

from one location to another should be subject to mandatory random drug testing.

## APPENDIX B

At a minimum, Public Debt will test for the following items. This list is not all inclusive:

1. Marijuana
2. Cocaine
3. Phencyclidine (PCP)
4. Opiates
5. Amphetamines