

## WORKPLACE SUBSTANCE ABUSE PROGRAM

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**Applies to** subcontracts \$25,000 or greater and which involve: (1) access to or handling of classified information or special nuclear materials; (2) high risk of danger to life, the environment, public health and safety, or national security; (3) transportation of hazardous materials to or from a DOE site, (4) employees with L or Q clearances, or (5) construction activities at the Y-12 National Security Complex.

(a) **On-Site Work.** For purposes of this clause, “on-site work” is defined as work performed by Seller’s employee at the Y-12 National Security Complex or in Company-leased or -controlled facilities or DOE owned or controlled facilities. **Off-Site Work** is defined as work at possessing facilities but not Y-12 on-site locations, not Company leased, but have limited areas and employees with clearances and access to classified documents.

(b) **Sub-tier contractors to Seller.** The Seller shall include this requirement in its contracts with applicable lower tier subcontractors, and will require those subcontractors to include this requirement in their subcontracts, if the applicability standards listed in the “Applies to” section above are met. **References to Seller include all lower tier subcontractors falling within the “Applies to” criteria listed above.**

(c) **Company approval of Seller Program.**

(1) All work falling within the “**Applies to**” criteria above is subject to 10 CFR 707, “Workplace Substance Abuse Programs at DOE Sites.” The Seller shall develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR Part 707. In accordance with 10 CFR 707.5(d), the Seller’s program requires Company approval. The Seller’s proposed program must be submitted to the Subcontract Administrator (SA) and approved in writing by the SA before the start of work.

(2) Seller must also submit applicable lower-tier subcontractor workplace substance abuse programs for Company approval. The Seller may either include employees of some or all subcontractors in its program, or include this clause in subcontracts for on-site work and require subcontractors to submit programs for Company approval.

(d) **General Workplace Substance Abuse Program Requirements.**

(1) The Seller’s workplace substance abuse program must be consistent with the baseline elements in 10 CFR Part 707 and the guidelines of the U. S. Department of Health and Human Services.

(2) For all on-site work and off-site work, Seller’s program must provide for pre-employment testing for illegal drugs before final selection of applicants for employment, regardless of whether such applicants will fill testing designated positions as described in section (e) below. Pre-employment testing must include, at a minimum, testing for the drugs listed in 10 CFR 707.11. Specimen collection, handling, and laboratory analysis must meet the requirements of 10 CFR 707.12, and be reviewed by a Medical Review Officer in accordance with 10 CFR 707.13.

(3) The Seller must notify as appropriate either the STR or the Subcontract Administrator in writing as soon as possible, or at the latest by the next business day, after the Seller receives notice -

- Of an employee’s conviction under a criminal drug statute, or
- For employees in Testing Designated Positions (defined below), of a drug related arrest or conviction or a receipt of a positive drug test result.

(4) Seller shall maintain files of chain-of-custody records required by 10 CFR 707.12(a) and 10 CFR 707.16(d) and submit copies to the SA upon request. The Seller and lower-tier subcontractors must

require that laboratory records relating to positive drug test results be maintained in the manner and for the periods required by 10 CFR 707.16(c).

(5) The Seller must use only drug-testing laboratories certified by the Department of Health and Human Services under Subpart C of the HHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs." [See 10 CFR 707.12(a)]. The HHS Mandatory Guidelines are available at <https://www.hhs.gov/guidance/document/mandatory-guidelines-urine-testing>

The Seller shall provide a copy of the certification to the SA upon request.

Seller must retain pre-employment testing records in accordance with 10 CFR 707.16. When an applicant has been tested and determined to have used an illegal drug, the Seller must terminate processing for employment and so notify the applicant.

(6) As required by 10 CFR 707.5(d), the Company will monitor the Seller's implementation of its program for effectiveness and compliance with 10 CFR Part 707. The Seller must submit a written report, if appropriate, to the SA of drug tests completed before mobilization or commencing authorized work. At the Company's request, the Seller must submit additional reports of tests completed during performance.

(7) The Seller shall in all cases remove from on-site work at Y-12 any employee who is twice determined to have used illegal drugs.

**(e) Testing Designated Positions.**

(1) In addition to the general workplace substance abuse program provisions, Seller must determine if it has employees in testing designated positions (TDPs) as defined below and performing on-site work. If the Seller has no TDPs (potentially the case for uncleared construction subcontractors employees not possessing a Facility Clearance) the program must so state. If the Seller has employees in TDPs performing work on-site, then prior to beginning work under this subcontract, Seller must provide the SA with a list of all TDP employees, and Seller's program must comply with the provisions of 10 CFR Part 707 regarding TDPs. Thereafter, Seller must notify the SA of any additions or deletions of employees in TDPs within 48 hours.

(2) Seller's program must always identify as TDPs those positions involving certain high risk work listed in Part 707, access to classified information, construction, and crane operators, and any positions filled by employees holding an L or Q-clearance.

(3) Seller employees in TDPs who perform work on-site will be subjected to the following drug testing by Company:

- (i) Random drug testing at the rates specified in 10 CFR 707.7,
- (ii) Drug testing as a result of an occurrence (see 10 CFR 707.9), and
- (iii) Drug testing for reasonable suspicion of illegal drug use (see 10 CFR 707.10).

(4) Seller's employees located on-site will be placed in Company's pool of employees for random drug testing, and these employees will be subject to testing by Company's Occupational Health Services (OHS). Seller's representative will be notified by Company's OHS when Seller's employee is selected for random drug testing. Seller's representative will notify Company's OHS when Seller's employee has been notified of his/her duty to report to Company's OHS. Upon notification by Seller's representative, Seller's employee will have one and one-half hours to report to Company's OHS.

**(f) Other Remedies.** In addition to any other remedies available to the Company, the Seller's failure to comply with the requirements of 10 CFR Part 707 or to perform in a manner consistent with its approved program may



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render the Seller subject to suspension of payments or termination for default, or suspension and debarment.

- (g) **Notification.** (The Seller must notify the SA not later than ten days before award of any subcontract at any tier for on-site or off-site work that the Seller has reason to believe may require a program that complies with 10 CFR Part 707.

NOTE: Elements of this clause are modeled on DEAR 970.5223-4 (DEC 2000)