

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager

Cc: Shawn Smith, City Attorney
David Fernandez, Asst. City Manager
Jim Fitton, Port & Transit Director

From: Myra Wittenberg, Director / KWDoT

A handwritten signature in black ink, appearing to read "Myra Wittenberg", is written over the "From:" line.

Date: June 30, 2011

Subject: Approve and Ratify a Resolution Adopting the Substance Abuse Management Statement (SAMS) Policy Plan *Revision* of 2011 / City of Key West Department of Transportation

Action Statement:

This is a request to approve and ratify a resolution adopting the rewrite to the required City of Key West Department of Transportation (KWDoT) Substance Abuse and Management Statement (SAMS) Policy Plan as it relates to drug and alcohol test requirements and procedures mandated for Safety Sensitive employees of public transportation providers via the Federal Transit Administration (FTA), the US Department of Transportation (US DOT) and the Florida Department of Transportation (FDOT).

Project History:

As federal and state agencies update or revise requirements, the City is required to update their plan documents. Florida Administrative Code (FAC), Section 14-90, 49 CFR, Part 40, USDOT requires that all public transit providers participate in and meet compliance with mandated drug and alcohol testing as well as specific related policies and procedures. This program is referred to as the Substance Abuse and Management Statement document and is used to provide the agency with tools and resources to assure a drug and alcohol free workplace for employees in Safety Sensitive positions of public transit. Some types of tests mandated under the SAMS policy include "pre-employment screening, random drug testing, alcohol testing, and post accident and reasonable suspicion tests". All of which follow a very rigid chain of custody mandated by FTA and FDOT which make it difficult to adulterate or substitute in the approved test environment.

On June 25, 2008, the United States Department of Transportation (USDOT) published a final rule amending 49 CFR, Part 40, to make specimen validity testing mandatory. The rule that was published in the Federal Register, Volume 73, pages 35961-35975, became effective on August 25, 2008, with the exception of an extension to November 1, 2008, for final revision to program plan documents for all public transit providers as it relates to direct observation of certain types of specimens collected. Revision details to be used by KWDoT as to situations and analyses on type and method of specimen to be collected are attached hereto and made a part hereof by reference to Issue 37, FTA Drug and Alcohol Regulation Update, summer 2008.

To assure continued compliance with this program KWDoT amended their policy covering management guidelines and is required to formally distribute and reaffirm that all employees funded by transit dollars, or who provide a specific transportation related function, are included in this program.

Although policy plan document revisions are an ongoing process throughout the year, and this document was due for revision in November 2010, due to appellate court decisions pending at the state level, it was placed in a hold status until spring 2011. For that reason, KWDoT is

asking for the Commission to ratify this plan with a revised date of November 1, 2010, but an effective date of July 19, 2011, to meet all date requirements.

Option #1

Option #1 would see the City approving this resolution to adopt and ratify the revised SAMS policy for the City of Key West Department of Transportation as regulated by CFR 49, Part 40, with a rewrite date of November 1, 2010, and an effective date of July 19, 2011.

Advantages / Disadvantages and Fiscal Impact (Option #1):

The obvious advantage is that revision to KWDoT policy and management statement meets all compliance issues for Federal and State funding assistance. This will result in no interruption of grant funding assistance or reimbursements.

The apparent disadvantage is that there may be additional costs associated with some of the revised testing procedures at the collection site – but KWDoT believes these situations are few and far in between based on past experience and therefore, will not present a hardship for the city.

Please refer to statement above for reference to fiscal impact.

Option #2

Option #2 would see the city take no action to revise the SAM's policy statement and not meet requirements for grant funding programs or reimbursement at this time.

Advantages / Disadvantages and Fiscal Impact (Option #1):

No advantage to not passing this resolution would result if the city should decide to not provide public transit services any longer. Disadvantages have been previously listed above, as have the fiscal impacts.

Recommendation:

KWDoT recommends Option #1 above be approved to adopt and ratify the revised Substance Abuse and Management Statement (SAMS) for City of Key West Department of Transportation.

/MHW

Attachments (2)

File: Executive Summary (SAMS POLICY REVISION November 2010) Effective 7-19-11