

City of Key West Transit Department Substance Abuse Management Policy

In accordance with USDOT and FTA Regulations

The City of Key West Transit Department (KWT) is dedicated to providing safe, dependable, and economical transportation service to its patrons. The City of Key West Transit employees are a valuable resource and it is our agency's goal to provide a safe, healthy and satisfying working environment, free of the potential dangers posed by a safety-sensitive employee's use of prohibited drugs or misuse of alcohol.

This policy is established to comply with the Federal Transit Administration regulations codified as 49 CFR Part 655, as amended and USDOT regulations codified as 49 CFR Part 40, as amended. ***Policy provisions authorized by City of Key West Transit Department are italicized and bolded throughout this policy.*** All other policy provisions are implemented under the authority of the United States Department of Transportation (USDOT) and the Federal Transit Administration (FTA).

This policy is approved by:

Title of approving official:

Signature of approving official:

Date Signed:

Policy effective date:

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1. **Testing Program Background**

The Omnibus Transportation Employee Testing Act of 1991 (OTETA) directed the United States Department of Transportation (USDOT) to promulgate regulations outlining the procedures for transportation workplace drug and alcohol testing. The USDOT regulations titled, “Procedures for Transportation Workplace Drug and Alcohol Testing” are codified as 49 CFR Part 40. The regulations ensure uniform practices for specimen collections, laboratory analysis, medical review, result reporting and the Return-to-Duty process for violating employees. The regulations are applicable to safety-sensitive employees in transportation workplaces throughout the nation (transit, railroad, aviation, commercial drivers, etc.).

The OTETA also directed each transportation administration to craft industry-specific regulations that define which employees are subject to testing, the testing circumstances, policy statement requirements and training requirements, relevant to that industry. The City of Key West Transit Department is required to comply with both the USDOT regulations described above, as well as the Federal Transit Administration regulations “Prevention of Prohibited Drug Use and Alcohol Misuse in Transit Operations” which are codified as 49 CFR Part 655.

2. **Employee Applicability**

This policy and the USDOT/FTA testing program apply to all safety-sensitive Key West Transit employees. The policy also applies to volunteers who are required to hold a Commercial Drivers License (CDL) and volunteers that receive remuneration in excess of actual expenses accrued while carrying out assigned duties. Adherence to this policy and the USDOT/FTA testing program is a condition of employment in a safety-sensitive position with KWT. All employees of KWT who perform, or could be called upon to perform, any of the following duties are defined as safety-sensitive employees:

1. Operate a public transportation vehicle, while in or out of service
2. Operate an ancillary vehicle when the vehicle requires a commercial driver’s license
3. Control the movement of a public transportation vehicle
4. Perform maintenance on a vehicle or equipment used in public transportation
5. Carry a firearm for security purposes

The City of Key West Transit Department positions classified as safety-sensitive include:

- Example job title: Drivers
- Example job title: Dispatchers
- Example job title: Maintenance personnel and Maintenance Supervisor
- Example job title: Safety Training Officer

3. **USDOT/FTA Prohibited Drug Classes**

- Amphetamines
- Cocaine
- Marijuana
- Opioids
- Phencyclidine (PCP)

4. **Pre-employment Drug and Alcohol Background Checks**

In accordance with 49 CFR Part 40.25, Key West Transit Department must make and document good faith efforts to perform drug and alcohol background checks for all applicants applying for a safety-sensitive position and all current employees applying for transfer into a safety-sensitive position. Testing information will be requested from each of the applicant's previous DOT covered employers during the two years prior to the date of application. The City of Key West Transit Department must obtain the applicant's written consent for the release of their drug and alcohol testing information from their previous DOT covered employers to KWT. Applicants refusing to provide written consent are prohibited from performing safety-sensitive functions for KWT.

Safety-sensitive applicants who have previously violated the USDOT testing program must provide documentation that they have successfully completed the USDOT's Return-to-Duty process with a DOT-qualified Substance Abuse Professional (SAP). Failure to provide satisfactory documentation will exclude the applicant from being hired or transferred into a safety-sensitive position with KWT.

5. **Pre-Employment Testing**

All applicants for safety-sensitive positions shall undergo a pre-employment urine drug test. The City of Key West Transit Department must receive an MRO-verified negative drug test result prior to the applicant's first performance of any safety sensitive function, including behind-the-wheel training.

If an applicant's pre-employment urine drug test result is verified as positive, the applicant will be excluded from consideration for employment in a safety-sensitive position with KWT. The applicant will be provided a list of USDOT-qualified Substance Abuse Professionals.

An employee returning from an extended leave period of 90 consecutive days or more, and whose name was also removed from the random testing pool for 90 days or more, must submit to a pre-employment urine drug test. The City of Key West Transit Department must be in receipt of a negative drug test result prior to the employee resuming any safety-sensitive function. A verified positive pre-employment drug test is a violation of the USDOT/FTA testing program. Violating current employees will be required to successfully complete the USDOT's return-to-duty process prior to resuming safety-sensitive functions. ***Per The City of Key West Transit Department authority, a disciplinary suspension may be imposed.***

6. **Random Testing**

Safety-sensitive employees will be subject to random, unannounced testing. KWT will perform random testing in a manner that meets or exceeds the FTA minimum annual testing requirements, as amended. The selection of employees for random testing will be made using a scientifically valid method. All safety-sensitive employees will have an equal chance of being selected each time a random draw is performed. Random alcohol tests will be conducted just before, during or just after the employee's performance of a safety-sensitive function. Random drug tests may be conducted anytime an employee is on duty, on call for duty or on standby for duty.

Once an employee is notified that they have been selected for a random test, they must proceed immediately to the testing location. Failure to proceed immediately may be deemed a refusal to test.

7. Reasonable Suspicion Testing

All safety-sensitive employees must submit to reasonable suspicion drug and/or alcohol testing when a supervisor or company official trained in detecting signs and symptoms of drug use or alcohol misuse has made specific, contemporaneous, articulable observations concerning an employee's appearance, speech, behavior and/or body odor. Reasonable suspicion testing for alcohol misuse will occur when observations are made just before, during, or just after the employee's performance of a safety-sensitive function. Reasonable suspicion testing for prohibited drugs may be conducted anytime an employee is on duty or on standby for duty and a trained supervisor has made the observations.

8. Post-Accident Testing

Fatal Accidents: Safety-sensitive employees must submit to post-accident drug and alcohol testing following an accident involving a public transportation vehicle that results in the loss of human life. In addition to a surviving operator of the vehicle, any other surviving safety-sensitive employee whose performance could have contributed to the accident must also be tested.

Non-Fatal Accidents: All safety-sensitive employees whose actions cannot be completely discounted, as a contributing factor must submit to post-accident drug and alcohol testing when a non-fatal accident meets one or more of the following thresholds:

1. An individual suffers bodily injury and immediately receives medical treatment away from the scene
2. One or more vehicles incurs disabling damage that requires the vehicle(s) to be towed away from the accident scene
3. If the public transportation vehicle is a rail car, trolley car, trolley bus or vessel and has been removed from service.

Key West Transit officials will use the best information available at the scene, to determine if a safety-sensitive employee's performance can be completely discounted as a contributing factor to the accident.

Post-accident drug and alcohol tests will be conducted as soon as practicable following the accident. Any safety-sensitive employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until the employee undergoes a post-accident alcohol test. Any safety-sensitive employee, who leaves the scene of the accident without a justifiable reason or explanation prior to submitting to drug and alcohol testing, will be deemed to have refused the test. However, employees are not prohibited from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

9. **Urine Specimen Collections**

Urine specimen collections will be conducted in accordance with USDOT rule, 49 CFR Part 40, as amended. Collectors will be appropriately trained and qualified to perform urine specimen collections for USDOT covered employers. Urine specimen collectors will use the split-specimen collection method and will afford the donor (employee) the greatest degree of privacy permitted per 49 CFR Part 40, as amended. When an observed collection is required, the observer will be of the same gender as the donor (employee).

10. **Refusal to Submit to Urine Drug Testing**

The following actions constitute a “refusal to test” in accordance with 49 CFR Part 40, as amended:

- (1) Failure to appear for any test within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer (pre-employment testing not applicable).
- (2) Failure to remain at the testing site until the testing process is completed (after the process has been started)
- (3) Failure to provide a urine specimen for any drug test required by this part or DOT agency regulations
- (4) In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen
- (5) Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- (6) Failure or decline to take an additional drug test the employer or collector has directed you to take
- (7) Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by KWT
- (8) Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- (9) For an observed collection, failure to follow the observer’s instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
- (10) Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process.
- (11) Admitting to the collector or MRO that you adulterated or substituted the specimen.
- (12) When the MRO verifies your drug test result as adulterated or substituted.

Refusing to submit to a USDOT/FTA required test is a violation of USDOT/FTA testing program. Employees are required to be immediately removed from safety-sensitive duty and provided a list of USDOT-qualified Substance Abuse Professionals. Violating employees will be required to successfully complete the USDOT’s return-to-duty process prior to resuming safety-sensitive functions. ***Per The City of Key West Transit Department authority, a disciplinary suspension may be imposed.***

11. **Urine Specimen Analysis**

All specimens will be transported or shipped to a laboratory certified by the Department of Health and Human Services (DHHS). All specimens will be analyzed at the laboratory in accordance with 49 CFR Part 40, as amended. The procedures that will be used to test for the presence of prohibited drugs will protect the employee and the integrity of the drug testing process, safeguard the validity of the test results, and ensure that the test results are attributed to the correct employee. Laboratory confirmed drug test results will be released only to a certified Medical Review Officer (MRO) for review and verification.

Negative-Dilute Specimens

Upon receipt of an MRO verified negative-dilute drug test result with creatinine levels greater than 5 mg/dl and less than 20 mg/dl, KWT require applicants and employees to submit to a second urine collection per 49 CFR Part 40.197. The collection of the second specimen will not be conducted using direct observation procedures. The MRO verified result of the second urine drug test will be accepted by KWT as the final result and the test of record. ***KWT will apply this policy provision uniformly for all pre-employment and random urine drug tests reported by the Medical Review Officer to have creatinine levels greater than 5mg/dl but less than 20mg/dl (negative-dilute results).*** Once notified that a second collection is required, employees must proceed immediately for testing. An employee's failure to report immediately may be deemed as a refusal to submit to testing, which is a violation of the USDOT/FTA testing program.

12. **Role of the Medical Review Officer (MRO)**

The role of the Medical Review Officer is to review and verify laboratory confirmed test results obtained through a DOT-covered employer's testing program. When a non-negative drug test result is received, the MRO will communicate with the donor (employee) to determine if a legitimate medical explanation exists. When a legally prescribed medication has produced a non-negative result, the MRO will verify the prescription and report the result as "negative" to KWT. Medical conditions and other information obtained by the MRO during the interview with the donor will be maintained in a confidential manner. However, if the MRO believes that a medication prescribed to the donor may pose a significant safety risk, the MRO will require the donor to contact his/her prescribing physician and request that the physician contact the MRO within 5 business days. The MRO and prescribing physician will consult to determine if the employee's medication use presents a significant safety risk. KWT will be notified by the MRO when the outcome of the consultation results in a determination that the donor's medication use presents a significant safety risk. If the employee's prescribing physician fails to respond, the safety concern will be reported to KWT. Based on the MRO recommendation, KWT may deem the employee medically disqualified from performing safety-sensitive functions. The MRO assigned to review and verify laboratory drug test results for The City of Key West Transit Department is:

Dr. Natalie Hartenbaum
Highpoint Business Campus
100 Highpoint Drive, Suite 102
Chalfont, PA 18914
888-676-7616 / (215) 396-5495 Secure Fax

13. **Consequence for MRO Verified Positive Drug Test**
When KWT is notified of an MRO verified positive drug test, or a test refusal due to adulteration or substitution; the violating employee will be immediately removed from safety-sensitive duty and provided a list of DOT-qualified Substance Abuse Professionals. Applicants will be excluded from hire and provided a list of DOT-qualified Substance Abuse Professionals. Violating employees will be required to successfully complete the USDOT return-to-duty process prior to resuming safety-sensitive functions. ***Per The City of Key West Transit Department authority, a disciplinary suspension may be imposed.***
14. **Split Specimen Testing**
As an important employee protection, split specimen collection procedures will be used for all USDOT/FTA urine collections. When an employee challenges an MRO verified result, he/she may request that the split specimen (bottle B) be tested at a different DHHS certified laboratory that conducted the test of the primary specimen (bottle A). Instructions for requesting the split specimen test will be provided by the Medical Review Officer during his/her interview with the donor (employee). In accordance with USDOT rule, KWT will ensure that the fee to process the split specimen test is covered in order for a timely analysis of the split specimen. ***The City of Key West Transit Department may seek reimbursement for the cost of the split specimen test.***
15. **Alcohol Prohibition**
Safety-sensitive employees are prohibited from consuming alcohol while performing safety-sensitive functions, within (4) four hours prior to performing a safety sensitive function, or during the hours that they are on call or standby for duty. No safety-sensitive employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater. Safety-sensitive employees must not consume alcohol within eight (8) hours following an accident or until the employee submits to post-accident testing, whichever occurs first.
16. **Alcohol Testing**
All alcohol screening tests and confirmation tests will be performed in accordance with USDOT rule, 49 CFR Part 40. The procedures that will be used to test for alcohol misuse will protect the employee and the integrity of the testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct employee.

When an alcohol-screening test indicates a blood alcohol concentration (BAC) of 0.02 or greater, a confirmation test will be performed using an evidential breath testing device listed on the USDOT/ODAPC webpage as an "Approved Evidential Breath Measurement Device". The confirmed blood alcohol concentration (BAC) result will be transmitted by the technician to KWT in a confidential manner. A safety-sensitive employee who has a confirmed blood alcohol concentration (BAC) of 0.02 or greater but less than 0.04 will be removed from safety-sensitive duties for a period of at least (8) eight hours or until test results fall below 0.02.
17. **Consequence for a USDOT/FTA Alcohol Violation**
A safety-sensitive employee who has a confirmed blood alcohol concentration (BAC) of 0.04 or greater has violated the USDOT/FTA testing program and will be removed from safety-sensitive duty and provided a list of DOT-qualified Substance Abuse Professionals. Violating employees will be required to successfully complete the USDOT return-to-duty process prior to resuming

safety-sensitive functions. ***Per The City of Key West Transit Department authority, a disciplinary suspension may be imposed.***

18. **Refusal to Submit to Alcohol Testing**

The following actions constitute a refusal to submit to an alcohol test:

- (1) Fail to appear for any test within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer.
- (2) Fail to remain at the testing site until the testing process is complete
- (3) Fail to provide an adequate amount of saliva or breath for any USDOT required alcohol test
- (4) Fail to provide a sufficient breath specimen, and the physician has determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- (5) Fail to undergo a medical examination or evaluation, as directed by the [Agency]
- (6) Fail to sign the certification at Step 2 of the ATF
- (7) Fail to cooperate with any part of the testing process.

Refusing to submit to a USDOT/FTA required test is a violation of USDOT/FTA testing program. Employees must be immediately removed from safety-sensitive duty and provided a list of USDOT-qualified Substance Abuse Professionals. Violating employees will be required to successfully complete the USDOT return-to-duty process prior to resuming safety-sensitive functions. ***Per The City of Key West Transit Department authority, a disciplinary suspension may be imposed.***

19. **USDOT Return-to-Duty Process**

When KWT is notified of an employee's MRO verified positive drug test or an employee's confirmed blood alcohol concentration (BAC) of 0.04 or greater, the employee will be immediately removed from safety-sensitive duties and will be provided a list of DOT-qualified Substance Abuse Professionals. Violating employees will be required to successfully complete the USDOT's Return-to-Duty process prior to returning to safety-sensitive duty. The Return-to-Duty process must be in accordance with USDOT rule, 49 CFR Part 40, Subpart O.

Return-to-Duty Tests

Upon successful completion of the USDOT Return-to-Duty process, employees must submit to a Return-to-Duty drug and/or alcohol test (test types will be determined by the DOT-qualified SAP who evaluated the employee). The City of Key West Transit Department must receive an MRO verified negative drug test result and/or a confirmed blood alcohol concentration (BAC) result of less than 0.02, prior to the employee's return to safety-sensitive duties. In accordance with USDOT rule, return-to-duty drug testing will be conducted using direct observation collection procedures.

Follow-up Tests

Once the violating employee has resumed safety-sensitive duties, he/she will be subject to unannounced drug and/or alcohol testing referred to in the regulation as follow-up testing. The frequency of the follow-up tests and the duration of the follow-up testing will be determined by the USDOT-qualified Substance Abuse Professional who evaluated the employee. In accordance with USDOT rule, all follow-up drug testing will be conducted using direct

observation collection procedures.

20. **The City of Key West Transit Department Contacts**

Designated Employer Representative (Drug & Alcohol Program Manager)

Carolyn Haia

305-809-3913 / 305-292-8285 Fax

chaia@cityofkeywest-fl.gov

Alternate (back-up) Program Manager

Regina Scott

305-809-3911

rscott@cityofkeywest-fl.gov

Rogelio Hernandez

305-809-3915

rhernandez@cityofkeywest-fl.gov

The referenced USDOT and FTA regulations, as well informational material related to this testing program are available for review and/or download from the Florida Department of Transportation's Substance Abuse Management Website: <http://sam.cuttr.usf.edu>. Further information may be obtained from the USDOT's Office of Drug and Alcohol Policy and Compliance website: <https://www.transportation.gov/odapc> and the Federal Transit Administration's (FTA) website: <https://transit-safety.fta.dot.gov/DrugAndAlcohol/Default.aspx>

Employee Acknowledgement of Receipt of City of Key West Transit Department's
Substance Abuse Management Policy

I have received a legible copy of the City of Key West Transit Department's Substance Abuse Management Policy. I understand that my employment in a safety-sensitive position with City of Key West Transit Department's is conditioned upon full adherence to this policy.

Employee's Printed Name: _____

Employee's Signature: _____

Date: _____

ONE CHANCE AGREEMENT

The parties to this agreement are the City of Key West ("Employer") and _____ ("Employee")

The parties agree that Federal Law implemented by Chapter 49 of the Code of Federal Regulations, parts 40, 653, 654 and 655 require all safety-sensitive transportation workers to be tested for drug and alcohol under certain circumstances. The parties agree that Employee is a safety-sensitive transportation worker who is subject to such drug and alcohol testing.

Employee agrees to be tested for drugs and/or alcohol as is requires by Chapter 49 of the Code of Federal Regulations, Parts 40, 653, 654, and 655 including pre-employment testing, random resting, reasonable suspicion testing, post-accident testing and return-to-duty testing.

By Resolution 13-234, enacted by the City Commission of Key West, Employer adopted a Workplace Drug and Alcohol Testing Program for the testing of transportation employees. The Program is described in the document titled "Procedures for Transportation Workplace Drug and Alcohol Testing Programs, Handbook for Employees of the City of Key West." Employee acknowledges receipt of a copy of such Handbook, that he or she has reviewed it and agrees to comply with the procedures stated therein.

Employee agrees that if any drug or alcohol test is positive for alcohol or a controlled substance, he or she shall be: (a) removed from duty, (b) required to have treatment with and approved Substance Abuse Professional at his or her own expense, and (c) required to sign a Last Chance Agreement and Re-Entry Contract prior to returning to work with Employer.

Employee agrees that he or she shall be terminated from employment with Employer if any two tests within a twenty-four (24) month period are positive for alcohol or a controlled substance.

Employee:

Employer:

Transit Operations Manager

BEFORE ME the undersigned authority personally appeared, () to me well known or () who produced _____ as identification and who did take an oath that the signature above was his/her free act and deed.

Witness my hand and official seal this _____ day of _____, 2_____.

Notary Public, State of Florida at Large
My Commission Expires:

In lieu of Notary; two witnesses suffice

Witness _____

Witness _____

RE-ENTRY CONTRACT

The parties to this Agreement are the City of Key West ("Employer") and _____
("Employee")

Employee tested positive for unauthorized drug and/or alcohol use. This positive confirmation for unauthorized drug and/or alcohol use is Employee's first such occurrence.

Prior to returning to work for Employer, Employee must:

1. Provide Employer with a "Release to Work Statement" from an Employer-approved Substance Abuse Professional (SAP);
2. Submit to drug and alcohol test with an Employer-approved testing facility and produce to Employer the negative confirmation of drug and alcohol use;
3. Execute a "Last Chance Agreement";
4. Submit a statement of intent to refrain from unauthorized drug and alcohol use in compliance with the Substance Abuse Professional's requirements;
5. Agree to follow the rehabilitation program prescribed by the Substance Abuse Professional and/or Employer.

Employer and Employee agree that violation of any provision of the Re-Entry Agreement shall be grounds for Employee's termination.

This Re-Entry Agreement is entered into in Key West, Florida, this _____ day of _____, 20_____.

Employee:

Employer:

Supervisor, KWT, City of Key West

BEFORE ME the undersigned authority personally appeared, () to me well known or () who produced as identification and who did take an oath that the signature above was his/her free act and deed.

Notary Public, State of Florida at Large
My Commission Expires:

In lieu of Notary; two witnesses suffice.

Witness _____

Witness _____

CITY OF KEY WEST
Last Chance Agreement

The parties to this Agreement are the City of Key West ("Employer") and _____
("Employee")

The parties agree that:

1. Upon successful completion of the rehabilitation treatment program, Employee will be reinstated to his/her former position.
2. Upon reinstatement, Employee shall serve in a probationary capacity, which will extend for twenty-four (24) months.
3. During the twenty-four (24) month probationary period, Employee will be periodically tested for unauthorized drug and/or alcohol use on an unannounced basis.
4. Employee's failure to submit to periodic unannounced drug and/or alcohol testing shall violate this Agreement and shall constitute Employee's voluntary resignation from employment with Employer. This voluntary resignation is non-grievable.
5. If Employee tests positive for alcohol and/or a controlled substance anytime after the date of this Agreement, Employee shall be terminated. Termination is non-grievable.
6. This Last Chance Agreement is the final opportunity for rehabilitation and no further opportunities will be given to Employee by Employer.

This Last Chance Agreement shall not be modified, amended or revoked without written agreement by both parties.

This Last Chance Agreement is voluntarily entered into in Key West, Florida, this _____ day of _____, 20____.

Employee:

Employer:

By: _____

Title: _____

City of Key West

BEFORE ME the undersigned authority personally appeared, _____,
() to me well known or () who produced _____ as identification and
who did take an oath that the signature above was his/her free act and deed.

Notary Public, State of Florida at Large
My commission expires: