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## Header 2

[List View](#)**General Information** | [Contact](#) | [Default Values](#) | [Discount](#) | [Document Information](#) | [Clarification Request](#)**Procurement Folder:** 868304**Procurement Type:** Central Master Agreement**Vendor ID:** 000000172976 **Legal Name:** RLS & ASSOCIATES INC**Alias/DBA:****Total Bid:** \$47,450.00**Response Date:** 05/11/2021 **Response Time:** 11:49**Responded By User ID:** rsarles **First Name:** Robbie**Last Name:** Sarles**Email:** rlsasc@rlsandassoc.com**Phone:** 937-299-5007**SO Doc Code:** CRFQ**SO Dept:** 0805**SO Doc ID:** PTR2100000010**Published Date:** 5/5/21**Close Date:** 5/11/21**Close Time:** 13:30**Status:** Closed**Solicitation Description:** Coordination Drug and Alcohol Oversight **Total of Header Attachments:** 2**Total of All Attachments:** 2



Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

**State of West Virginia  
 Solicitation Response**

**Proc Folder:** 868304  
**Solicitation Description:** Coordination Drug and Alcohol Oversight  
**Proc Type:** Central Master Agreement

Solicitation Closes	Solicitation Response	Version
2021-05-11 13:30	SR 0805 ESR05112100000007564	1

**VENDOR**  
 000000172976  
 RLS & ASSOCIATES INC

**Solicitation Number:** CRFQ 0805 PTR2100000010  
**Total Bid:** 47450  
**Response Date:** 2021-05-11  
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**Comments:**

**FOR INFORMATION CONTACT THE BUYER**

Toby L Welch  
 (304) 558-8802  
 toby.l.welch@wv.gov

**Vendor Signature X** **FEIN#** **DATE**

All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	Coordination Drug & Alcohol Oversight				47450.00

Comm Code	Manufacturer	Specification	Model #
94131504			

**Commodity Line Comments:**

**Extended Description:**

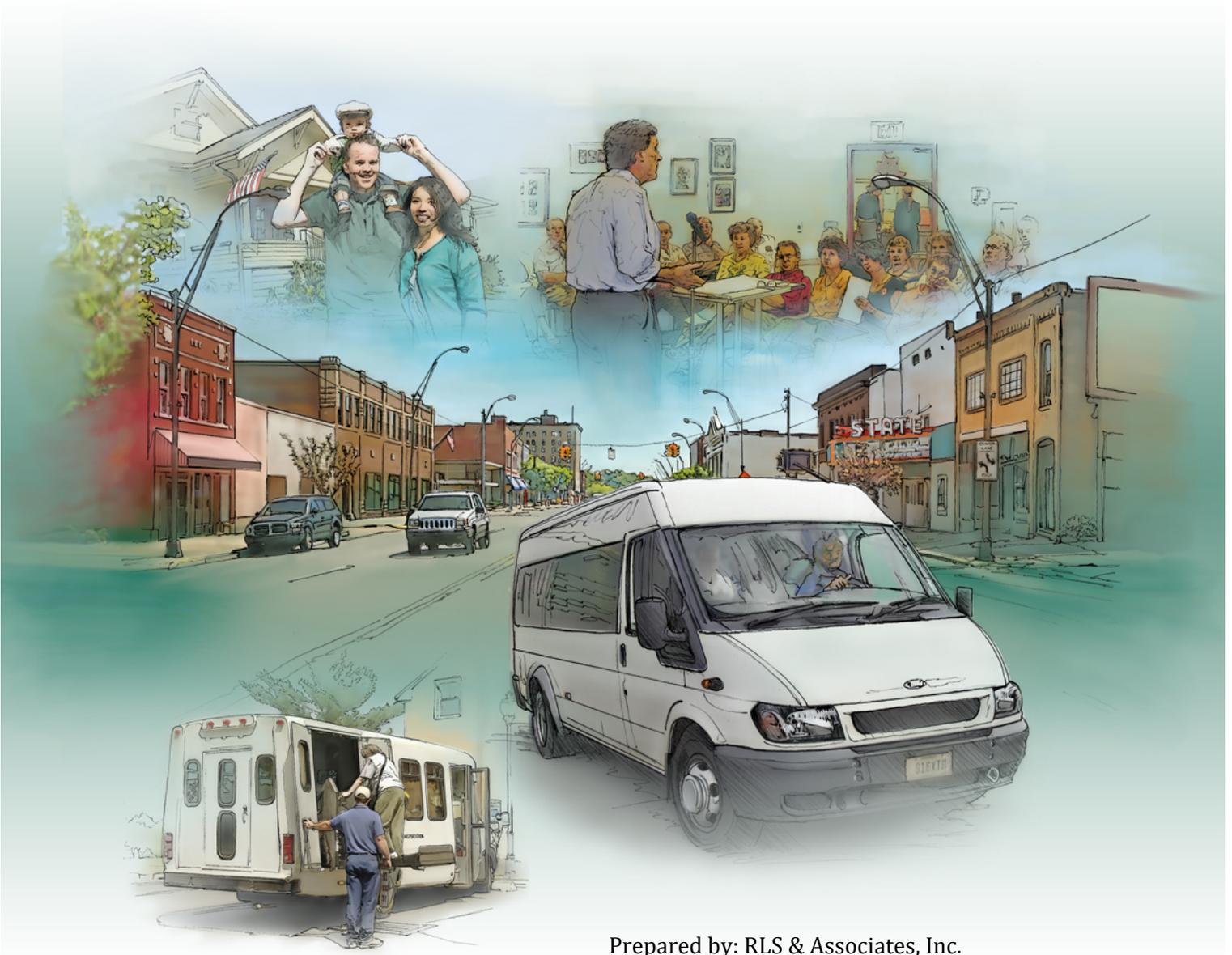
Coordination Drug & Alcohol Oversight As per Exhibit A pricing page



**Request for Quotation: Coordination Drug &  
Alcohol Oversight  
CRFQ 0805 PTR210000010**

**Prepared for the West Virginia Department of  
Transportation (WVDOT), Division of Public Transit**

**May 11, 2021**



Prepared by: RLS & Associates, Inc.



## Moving Public Transportation Into the Future

BID CLERK  
Department of Administration  
Purchasing Division  
2019 Washington Street East  
Charleston, WV 25305

May 11, 2021

Dear Mr. Welch:

RLS & Associates, Inc. (RLS) is pleased to submit to the West Virginia Department of Transportation (WVDOT), Division of Public Transit (DPT) its proposal in response to Solicitation No. CRFQ PTR210000010 for "Coordination for Drug and Alcohol Program Oversight"

RLS is a woman-owned, business enterprise, with DBE certifications in 34 states including West Virginia, established in September 1987, and incorporated in 1990 in the State of Ohio. Since its inception almost three decades ago, RLS has remained steadfast in its established mission to assist the transit community in identifying, facing, and meeting current and future challenges in an affordable, practical, and high quality manner while maintaining the highest standard of integrity and professionalism. RLS is not certified as an SWAM with the WV Purchasing Division.

RLS is one of the nation's foremost authorities on United States Department of Transportation (USDOT) and Federal Transit Administration (FTA) Drug and Alcohol Regulations, having conducted over 2,000 individual FTA drug and alcohol program and policy compliance reviews for State Departments of Transportation (DOTs) and FTA-covered transit systems across the country. Indeed, RLS has been one of the leaders in the provision of technical assistance and training in the field of USDOT/FTA Drug and Alcohol Program for over 28 years, well exceeding the minimum requirement of 3 years.

Ms. Robbie Sarles, President, will serve as the project's Principal-in-Charge. Mr. Sean Oswald, Chief of Operations/Director of Drug & Alcohol Initiatives will serve as the Project Manager for this engagement. Ms. Sarles and Mr. Oswald are not only knowledgeable and experienced in the FTA Drug and Alcohol Program in general, but very familiar and knowledgeable with West Virginia's program for its subrecipients. The remaining staff proposed for this project, and described in the enclosed proposal, are also very knowledgeable and experienced in the field of drug and alcohol and, together with Ms. Sarles and Mr. Oswald, comprise a team we believe is second to none in the required disciplines.

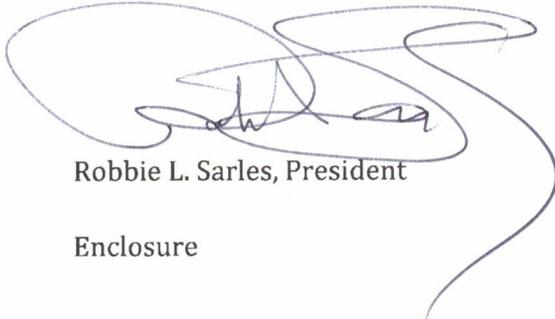
In addition, as a natural result of working since its inception on national transit projects, RLS has a solid and diverse network of contacts in the transit industry, including the FTA. RLS maintains a close working relationship with officials at the FTA and other industry experts that can provide additional insight and clarification on regulatory compliance and other issues that may arise during

the conduct of this project, as well as benchmarks for establishing project recommendations and alternatives.

The enclosed proposal details RLS' qualifications as well as RLS' response to the mandatory requirements, and Exhibit A – Pricing Page.

RLS looks forward to the opportunity to continue its working relationship with the WVDOT/DPT. As President of RLS, I am the official representative and the individual authorized to negotiate this offer; by signing this bid, I certify that RLS and the included staff have the capacity to perform the services in the bid response. You may contact me at (937) 299-5007 or [rlsasc@rlsandassoc.com](mailto:rlsasc@rlsandassoc.com).

Respectfully submitted,

A large, stylized handwritten signature in blue ink, appearing to read 'Robbie L. Sarles', is written over a large, light blue circular scribble. The signature is positioned above the printed name 'Robbie L. Sarles, President'.

Robbie L. Sarles, President

Enclosure



## *Moving Public Transportation Into the Future*

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# 1. EXPERIENCE, MANAGEMENT & TECHNICAL QUALIFICATIONS

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In this Section, RLS details its over three decades of work experience in the transit industry in general, and specifically, its over 28 years of experience with the FTA Drug and Alcohol regulations.

## **WORK EXPERIENCE (RESPONSE TO CRFQ SECTION 3.1)**

RLS has provided training, technical assistance, and oversight support to State DOTs across the country to implement an ongoing administration of FTA Drug and Alcohol Oversight Programs. RLS is one of the nation's foremost authorities on United States Department of Transportation (USDOT) and Federal Transit Administration (FTA) Drug and Alcohol Regulations. RLS has conducted over 2,000 individual FTA drug and alcohol program and policy compliance reviews for State Departments of Transportation (DOTs) and FTA-covered transit systems across the country. Indeed, RLS has been one of the leaders in the provision of technical assistance and training in the field of USDOT/FTA Drug and Alcohol Program for over 28 years, well exceeding the minimum requirement of 3 years.

Ms. Robbie Sarles, President, will serve as the project's Principal-in-Charge. Mr. Sean Oswald, Chief of Operations/Director of Drug & Alcohol Initiatives, will serve as the Project Manager for this engagement. Ms. Sarles and Mr. Oswald are not only knowledgeable and experienced in the FTA Drug and Alcohol Program in general, but they are very familiar and knowledgeable with West Virginia's program for its subrecipients. The remaining staff proposed for this project, and described in the enclosed proposal, are also very knowledgeable and experienced in the field of drug and alcohol and, together with Ms. Sarles and Mr. Oswald, comprise a team we believe is second to none in the required disciplines.

In addition, as a natural result of working since its inception on national transit projects, RLS has a solid and diverse network of contacts in the transit industry, including the FTA. RLS maintains a close working relationship with officials at the FTA and other industry experts that can provide additional insight and clarification on regulatory compliance and other issues that may arise during the conduct of this project, as well as benchmarks for establishing project recommendations and alternatives.

Ms. Sarles, the Project Principal for this work effort, was a co-author of the *Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit* and the *FTA Drug and Alcohol Best Practices Manual*. She was also the primary contributor to FTA's *Prescription and Over-the-Counter Medication Tool Kit*, developed in 2002 and updated in 2011. Ms. Sarles developed a model Fitness for Duty Policy that addresses prescription and over-the-counter medication use. Ms. Sarles led a national project to assess the impact prescription and over-the-counter medication use has on transit system safety. The project also quantifies the number of systems that have implemented Rx/OTC policies, and the extent that Rx/OTC medication use was addressed as part of post-accident

investigations. Following this study, Ms. Sarles worked with the FTA TRACS Working Group that was tasked with assisting the FTA Drug and Alcohol Program Manager with reviewing the study and providing recommendations for improving the development of non-regulatory employer Rx/OTC policies, employee Rx/OTC notification, training, and employee reported information in accident/incident investigations. Ms. Sarles was for many years the editor for the RLS-produced *Drug and Alcohol Program Quarterly Updates*. She continues to write for this newsletter now published in-house by FTA.

### **Similar Projects**

The following paragraphs represent a small sample of RLS' most recent firm qualifications that have aspects that are relevant to this project. All of the listed projects are either currently in progress or have been completed within the last three (3) years.

#### **Ohio Department of Transportation - Drug and Alcohol Program**

##### **FTA D&A Program Oversight, Technical Assistance, and Oversight (1996 to Present)**

RLS & Associates, Inc. has been contracted by the Ohio Department of Transportation's Office of Transit for over 25 years to provide drug and alcohol policy reviews, onsite drug & alcohol compliance reviews, and technical assistance on an as-needed basis. RLS also provides multiple one-day refresher training on substance abuse management and compliance with the FTA drug and alcohol regulations and reviewed drug and alcohol testing policies for each Section 5311 system. RLS staff also review DAMIS reports and assisted Ohio DOT through an FTA Federal Drug and Alcohol program audit by providing pre-audit and post-audit assistance.

#### **Indiana Department of Transportation**

##### **FTA D&A Program Oversight: Medical Qualification Program (2004 to Present)**

RLS & Associates, Inc. has been contracted by the Indiana Department of Transportation's Office of Transit since 2004 to manage INDOT's FTA Drug and Alcohol Program Oversight Program, providing ongoing drug and alcohol policy reviews, onsite compliance reviews, and technical assistance and training. In this capacity, RLS provides multiple refresher trainings on substance abuse management and compliance with the FTA drug and alcohol regulations and reviewed drug and alcohol testing policies for each Section 5311 system. RLS has developed and continuously updated all required FTA forms for use in Indiana, including a model Prescription and Over-the-Counter Medication Policy. RLS also reviews DAMIS reports and assisted INDOT through an FTA Federal Drug and Alcohol audit by providing pre-audit and post-audit assistance. RLS was also instrumental in assisting INDOT with the development, implementation, and oversight of the Indiana Medical Qualification Program, the first such program in the country that combines medical qualifications with fitness for duty requirements.

#### **Oregon Department of Transportation**

##### **FTA D&A Program Oversight, Technical Assistance, and Oversight, (2010 to Present)**

RLS manages the Oregon DOT's FTA Drug and Alcohol Program Oversight Program, providing training, technical assistance, and oversight to the DOT staff and Oregon's subrecipients. This includes providing onsite and virtual drug & alcohol program/policy oversight reviews for all section 5311 subrecipients and contractors. In addition, RLS developed an online, interactive training module originally developed for the Oregon DOT that fulfills the FTA's requirement for 60

minutes of training on substance abuse and alcohol misuse. This training module is now available nationwide through the National RTAP Program.

**New York State Department of Transportation (NYSDOT)**

**FTA D&A Program Oversight, Technical Assistance, and Oversight (2012 – Present)**

RLS assisted NYSDOT Section 5311 and 5311(f) subrecipients in achieving compliance with the Federal Transit Administration’s drug and alcohol testing regulations. RLS’ focus was on each subrecipient’s drug and alcohol programs, policies, and oversight. On-site and/or virtual reviews were completed for all Section 5311/5311(f) subrecipients and applicable service agents. Upon completing the onsite reviews, RLS provided a detailed report of compliance efforts to NYSDOT’s contract manager.

RLS then provided each subrecipient with the tools necessary to achieve compliance, along with instructions on how the system should proceed. Finally, RLS worked one-on-one with each system until regulatory compliance was achieved. In addition, RLS’ project manager conducted drug and alcohol program regulatory compliance and reasonable suspicion training outlining the issues found during the onsite reviews. RLS also assisted NYSDOT through an FTA Federal Drug and Alcohol program audit by providing pre-audit and post-audit assistance.

**West Virginia Specific Drug and Alcohol Projects**

**West Virginia Department of Transportation (WVDOT)**

**FTA D&A Program Oversight, Technical Assistance, and Oversight (2010 to Present)**

RLS has previously been under contract with WVDOT to perform drug and alcohol compliance reviews for each of the transit system operators in the state. Onsite reviews are currently underway. The review teams travel to each transit system location and perform a drug and alcohol program manager review, as well as a records management review. RLS focuses on the current status of the transit system drug and alcohol program, policies, and program oversight. In conjunction with the transit system operator reviews, RLS reviews the service agents used to administer the program. RLS provides a detailed report of the compliance issues to the WVDOT/Division of Public Transit for review. In addition, RLS provides each transit system with the tools necessary to achieve compliance and how each system should proceed. At the request of the transit system and/or the WVDOT/DPT, RLS provides electronic copies of model policies, forms, tools, guidelines, and any other materials needed for compliance. RLS conducted numerous training sessions on drug and alcohol program management regulations as well as Reasonable Suspicion determinations. RLS also assisted WVDOT through an FTA Federal Drug and Alcohol program audit by providing pre-audit and post-audit assistance.

**Other State DOT D&A Projects**

In addition to the five (5) Statewide DOT drug & alcohol oversight projects highlighted above, RLS has also provided ongoing training, technical assistance, and oversight support to at least eleven (11) other State DOTs in the previous three years, including but not limited to Alaska, Arizona, California, Colorado, Georgia, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, and Utah. Additional information on these projects is available upon request.

## **MANAGEMENT AND TECHNICAL ABILITY (RESPONSE TO CRFQ SECTION 3.1.1.2)**

RLS understands that the first step in any project is developing a well-organized, clearly defined project management plan, which is critical to the conduct of the proposed work effort in an effective, cost-efficient manner. To this end, a project team has been assembled with the best combination of experts with the extraordinary skills and expertise required for the areas specified in the Request for Quotation (RFQ). The RLS Project Principal, Robbie L. Sarles, and Project Manager Sean K. Oswald will work together to ensure that the project is completed on time and within or under budget and on the assignment of staff and production of deliverables. See the Staffing Section for staff bios. Resumes are included in the Appendix.

RLS prides itself on its experienced and professional staff that is proficient in a wide variety of disciplines, poising RLS to quickly and effectively respond to its clients' needs. RLS has been providing drug and alcohol compliance oversight and technical assistance services since the inception of the Federal drug and alcohol regulations, perfecting the system and process and continuing to update and customize it as needed. This combination of staff and a tried and proven system of implementation and monitoring places RLS ahead of many of its competitors. RLS has put together a team for this FTA project that continues RLS' history of success.

### **Key Staff**

#### **Ms. Robbie L. Sarles, RLS President, Project Principal**

Ms. Robbie L. Sarles is the President and owner of RLS. Ms. Sarles is a nationally recognized trainer and expert in the Federal Transit Administration's (FTA's) drug and alcohol testing programs. She is the Principal-in-Charge for statewide drug and alcohol testing regulatory compliance assessments for 25 state DOTs. She has personally conducted more than a thousand drug and alcohol program assessments, policy reviews, and training programs throughout the nation.

#### **Mr. Sean K. Oswald, RLS Chief of Operations / Director of Drug & Alcohol Initiatives, Project Manager**

Mr. Sean Oswald is located in the Dayton, Ohio RLS Headquarters and has over ten (10) years of experience in public transit and USDOT-FTA drug & alcohol testing regulations. He directs all of RLS' drug and alcohol program engagements. In this capacity, he provides overall project management and technical assistance, training, and compliance oversight related to the FTA Drug and Alcohol program for local transit systems and State Departments of Transportation. Mr. Oswald has extensive experience in Federal regulatory drug and alcohol compliance assessments, having conducted over a thousand annual and quarterly compliance and policy drug & alcohol reviews for over 15 state DOTs. He also provides technical assistance to both local transit systems and the State Departments of Transportation during Federal drug and alcohol testing program audit procedures.

#### **Ms. Lucy Bowman, RLS Associate, Project Reviewer**

Ms. Lucy Bowman is located in the Dayton, Ohio RLS Headquarters and has over five (5) years of experience in public transit and USDOT-FTA drug & alcohol testing regulations. She is a Lead Drug and Alcohol Reviewer for all of RLS' StateDOT drug & alcohol oversight projects and supports RLS'

survey and data collection projects. Ms. Bowman's recent projects assisted in updating a Federal Transit Administration/Department of Transportation drug and alcohol testing response handbook. As a member of the RLS drug and alcohol compliance review team, she has conducted reviews under contract to State DOTs in California, Nevada, New York, North Carolina, Ohio, Oregon, Texas, and West Virginia.

**Ms. Linda De Herrera, Reviewer**

Ms. Linda De Herrera is an experienced and nationally recognized professional in FTA Drug and Alcohol program regulations and has over 40 years of experience in the transit industry. As manager and supervisor for the Regional Transportation District in Denver, CO, Ms. De Herrera was responsible for implementing and compliance of the RTD's drug and alcohol program for all safety-sensitive employees. For the past eight years, she has assisted State DOTs and FTA subrecipients across the country with policy development, training, recordkeeping, and compliance requirements for the FTA Drug and Alcohol program.

**Ms. Vicky Warner, Reviewer**

Ms. Vicky Warner has over 25 years of transit experience in training, technical assistance, and compliance. She is responsible for the administration and daily operations of RLS' Columbus, Indiana, office and is project manager for the Indiana RTAP Program. In this capacity, Ms. Warner provides a comprehensive assistance program through training and scholarships, technical assistance, and compliance oversight. She administers the Indiana DOT's state oversight program for drug and alcohol testing compliance for all Indiana rural and small urban systems, including the conduct of all FTA Drug and Alcohol program training and policy and compliance reviews. Ms. Warner is also overseeing the Indiana Medical Qualification Program, a state-mandated fitness for duty program which includes a Prescription and Over-the-Counter Medication Use component. In addition, Ms. Warner conducts drug and alcohol program reviews for the states of California, Massachusetts, North Carolina, Oregon, and West Virginia; conducts drug and alcohol training for the Georgia DOT; and passenger assistance techniques training for the Ohio DOT.

**Support Staff**

The RLS team will also include several support staff available to assist as needed. Their resumes are included in the Appendix.

**Staff Availability**

As is the case in any long-term engagement of this type, there may be occasions when a previously assigned staff member is unable to undertake a previously assigned set of tasks. This situation may arise due to unforeseen illness, vacation scheduling, or excessive technical assistance demands from a previously completed task. In these circumstances, the RLS project manager will consult with the WVDOT/DPT Contract Administrator and re-assign the tasks. In all cases, the WVDOT/DPT shall have approval authority over all staff assignments.

**Cost-Effective Consulting Services**

RLS & Associates, Inc. has continuously strived to maintain a reasonable pricing and overhead rate structure throughout its corporate history. Because of RLS' in-depth knowledge and experience, the

Scope of Work can be streamlined. This added efficiency will allow RLS to provide a unique and cost-effective service to the WVDOT/DPT, with unparalleled results.

As with any consulting engagement undertaken outside RLS' home state of Ohio, expenses associated with travel to/from client locations are always an important issue, and the firm is sensitive to this concern. RLS compensates for its out-of-state location with the following factors:

- ◆ Given the firm's specialization in this area, RLS personnel are generally more efficient than lesser qualified individuals who, although based in or near West Virginia, may need to charge more time to accomplish similar purposes. You will find RLS 'value added' service throughout this proposal.
- ◆ RLS maintains one of the lowest corporate overhead rates among all transportation planning and management consulting firms in the United States. Even when RLS must travel from distant locations to a client job site, its overall costs are often lower than many in-state competitors due to RLS' low overhead expenses.

### **Project Team and Availability**

In developing a response to this Request for Quotation, RLS has assembled a project team with extraordinary skills and expertise in the area of USDOT-FTA drug and alcohol program compliance. Proposed members have a proven record of conducting drug and alcohol reviews and positively communicating any identified deficiencies to facilitate compliance.

## **2. PROJECT UNDERSTANDING**

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RLS & Associates, Inc. understands that the West Virginia Department of Transportation, Division of Public Transit (WVDOT/DPT), seeks a vendor to conduct oversight activities regarding transit system compliance with USDOT Drug and Alcohol Testing Regulations, 49 CFR Parts 40 and 655. This oversight will include but is not limited to the review of policies and procedures at the State and local level, the conduct of onsite visits, the development and conduct of training, and other tasks related to assisting the WVDOT/DPT with overseeing the compliance of the State's Drug and Testing program. Additional tasks include but are not limited to assistance with development, review, and maintenance of the State's model drug & alcohol policy; preparation for the FTA Drug and Alcohol program compliance audit, if scheduled; providing FTA drug & alcohol program training; updating and maintaining the Drug & Alcohol Testing Response Handbook; and providing technical assistance and guidance with FTA drug & alcohol program compliance

RLS' complete detailed scope of work is included in Section 4 of this proposal.

### 3. PROJECT APPROACH

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RLS' mission in all projects is to:

- ◆ First, fully understand the client's needs;
- ◆ Second, to produce a product that is uniquely designed to meet those needs;
- ◆ Third, to not only meet the intent of the project, but to produce a product that is both realistic and implementable; and
- ◆ Fourth and finally, perform the work on time and within the established budget. RLS has a documented record of success in meeting all of these goals.

To accomplish this, RLS first draws from its corporate experience from close to three decades of assisting transportation organizations with diverse and challenging issues to develop a well-organized, clearly defined project management plan which will be critical to the conduct of the proposed work effort in the most effective, cost-efficient manner possible. As such, the RLS team that has been assembled has a collective experience in the transit industry and possesses expertise in drug and alcohol program compliance for recipients of FTA §5311/5311(f) funding and FTA §5307 systems.

RLS & Associates, Inc. (RLS) will conduct a series of tasks as specified in Section 4, Mandatory Requirements of the RFQ. Efforts will be directed toward assisting WVDOT/DPT in ensuring that the State and each subrecipient comply with all applicable Federal regulations related to the FTA Drug and Alcohol program. Once given the notice to proceed, RLS & Associates, Inc. (RLS) will immediately contact the WVDOT/DPT to schedule a kick-off teleconference so that work can begin as soon as possible. Concurrently, RLS will begin the development/compilation of deliverables in Section 4 for review by the WVDOT/DPT. RLS has had an established toll-free telephone line and email address for West Virginia DOT's Section 5311 subrecipients; therefore, there will be no interruption of technical assistance. Many of the current subrecipient managers are already familiar with and accustomed to reaching out to RLS for technical assistance needs, and no doubt will continue.

## 4. MANDATORY REQUIREMENTS (RESPONSE TO CRFQ SECTION 3.2-3.7)

In accordance with the Request for Quotations, RLS has in the paragraphs below outlined its plan to provide oversight activities for the WVDOT/DPT to ensure transit system compliance with USDOT Drug and Alcohol Testing Regulations, 49 CFR Parts 40 and 655.

### **Task 3.2.1: Onsite Visits**

RLS will oversee compliance with 49 CFR Part 40 and Part 655 and FTA's interpretations of the regulations for West Virginia's Section 5311 subrecipients and rural transit systems. If specifically requested by the WVDOT/DPT, RLS will also oversee compliance for West Virginia's Section 5307 subrecipients and transit systems. To achieve this, RLS will conduct onsite visits to verify that all Section 5311 subrecipients and contractors comply with the FTA regulations and ensure that all subrecipients perform the necessary oversight functions to verify that the FTA regulations are being followed.

RLS will submit site visit plans for approval by WVDOT/DPT. RLS will provide the proposed travel schedule to the WVDOT/DPT within a minimum of 14 days' advance notice of site visits. Once WVDOT/DPT approves the travel schedule, RLS will provide a minimum of 10 days advance notice of the site visit to each subrecipient. RLS will send each subrecipient an electronic notice that the interview will take place and a list of questions. The questionnaires that RLS will use include Drug and Alcohol Program Management, Records Management, Urine Collection, Breath Alcohol Test and Saliva Test Technician, Medical Review Officer, Substance Abuse Professional, and Consortium/Third-Party Administrator. **Copies of these questionnaires are provided as an attachment to this proposal. RLS requests that WVDOT/DPT maintain the confidentiality of these questionnaires, as cited in section 3.2.1.1 of the CRFQ.**

The site visit plan will be developed geographically to allow the grouping of transit systems into clusters, providing a uniform and more efficient use of resources. The onsite reviews will focus on ensuring that the procedures and requirements for USDOT-FTA Pre-Employment, Random, Post-Accident, Reasonable Suspicion, Return-to-Duty, Follow-Up drug/alcohol testing are in accordance with 49 CFR Parts 40 and 655; Interviewing the designated employer representative for assessment of system management and employee training; Conducting an evaluation to determine that the security of drug and alcohol test records is not compromised; reviewing records to determine if the retention requirements of the FTA and DOT have been met.

***Phase I - Initiation:*** This phase includes preliminary work necessary to communicate with the transit system, agree on key milestones associated with the review, assign consultant staff to conduct the review, and communicate the document request information to local transit officials. RLS will provide an online file storage system so that transit officials can conveniently upload the requested documents.

The RLS Project Manager will draft a letter containing all required RFQ information and forward it to the WVDOT/DPT for approval. This letter will announce the contract. It will also clearly state RLS'

position with the WVDOT/DPT as a contractor for this project and include pertinent information about RLS and its experience in related activities. This letter will also serve as a request for subrecipient drug and alcohol program information, including the subrecipient's policy, service agent information, and the date that the information is to be submitted. RLS will review all comments and changes made by the WVDOT/DPT, develop a final letter, and submit it to the WVDOT/DPT for final approval. RLS will then send the letter to all Section 5311 funded subrecipients. RLS will send the letter to any other identified subrecipients (Section 5307, new Section 5311, etc.) as directed by the WVDOT/DPT.

*Step 1: Assignment of Staff and Internal Preparation* - Upon identifying the transit systems to be reviewed, WVDOT will communicate to the RLS Project Manager any unique issues or problems at the organization to ensure that RLS assigns staff to conduct the review with the proper credentials expertise.

*Step 2: Consultant Follow-Up Email* - RLS will follow up the initial notification letter with an email that will provide:

- ◆ Details and an anticipated schedule for the site visit, a list of documents requested to be uploaded for desk review, step-by-step instructions on how to upload documents, and a detailed schedule for the entire review process

*Step 3: System Upload of Documents* - Using the step-by-step instructions, the transit system under the review will upload documents to the RLS web-based storage tool (FTP site). Access to the information uploaded is limited to the transit system, WVDOT personnel, and RLS staff.

*Step 4: Catalog Documents* - RLS staff assigned to the review will catalog all uploaded documents organized around the relevant topics. Additionally, if the transit system has not uploaded the requested documents, staff will reach out to WVDOT officials for assistance.

*Step 5: Desk Review* - RLS staff will conduct a detailed review of all uploaded documents in preparation for Phase II.

**Phase II – Site Review:** Phase II consists of all site review activities.

*Step 6: Travel to Transit System Site* - The RLS Reviewer assigned to conduct the review will travel to the transit system location the day before to ensure on-time performance. Alternatively, if an in-person meeting is not feasible due to national or State travel restrictions, RLS will offer a video conference meeting for the site review.

*Step 7: Conduct Entrance Interview* - During each site visit, the RLS compliance reviewer will meet with system management to conduct an “entrance interview.” During this interview, the lead reviewer will define the scope of the review, describe the schedule, and delineate the objectives of the review. The meeting will also enable the reviewer to obtain more information from the system management regarding future expectations of the system and perceived system strengths and weaknesses in D&A compliance.

RLS will provide a summary of any items of perceived concern or items requiring follow-up which may have been discovered during the Desk Review process described above.

*Step 8: Conduct the Site Review* - The RLS lead interviewer will solicit information through a professional and interactive discussion format that encourages the transfer of information. Interrogation style reviews can result in the alienation of the interviewee and usually constrains the information flow. Consequently, the experienced RLS interviewer will conduct the review in a relaxed manner that puts the interviewee at ease while obtaining the necessary information. This style also promotes the acceptance of recommendations and a more positive outlook on the whole compliance review process.

RLS has a proven method of administering questionnaires and conducting site visits when interviewing subrecipients and service agents. RLS will ensure that all site visits are conducted efficiently and in the least intrusive manner possible to be respectful of each subrecipient's time and resources. The RLS Project Manager will prepare and submit the draft site visit questionnaires to the WVDOT/DPT for approval in accordance with the deliverable schedule. All questionnaires will be developed using a standard format intended to maintain uniform and well-constructed information. The questionnaires will be used as a basis for this assessment.

In addition to the question-and-answer element of each D&A site review, the RLS team will conduct a review of D&A-related records, if applicable. These records may include, but are not limited to:

- ◆ D&A
  - Charting tests to determine compliance with timelines and random spreads;
  - Review of pre-employment, random, post-accident, reasonable suspicion, return-to-duty, and follow-up records to assess compliance with USDOT-FTA regulations;
  - D&A training files;
  - Service agent/contractor oversight files; and
  - As part of the records management review, RLS will use the USDOT's Drug Testing Custody and Control Form (CCF) and Alcohol Testing Form (ATF) Review Checklist as a basis to verify that all CCFs and ATFs were completed correctly and in compliance with 49 CFR Part 40. RLS will also instruct the DAPM/DER on how to correct the CCFs/ATFs when necessary.

For all D&A compliance site reviews, RLS will visit the main collection site utilized by each agency. D&A collection site visits include a mock alcohol test and mock urine collection, and interviews with the corresponding technicians (Breath Alcohol Technicians (BATs), Specimen Collectors, Saliva Screening Test Technicians (STT, if applicable)). Upon arrival, RLS will require the collection site technician(s) to conduct a mock breath alcohol test and urine collection in accordance with USDOT procedures. The collection site technician(s) will be instructed to conduct the mock test/collection just as if they were conducting an actual test/collection for one of the transit operator's safety-sensitive employees. RLS will not allow the collection site technician(s) to simply explain the procedure, but they will be required to conduct 100% of the normal testing process. While onsite, RLS will review the credentials of all service agents to verify compliance with 49 CFR Part 40 and to ensure all required ongoing education requirements are met.

RLS also reviews the compliance of Medical Review Officers (MROs), Substance Abuse Professionals (SAPs), and Consortium/TPA (C/TPAs), as appropriate, and any other service agents.

*Step 9: Identify Compliance Deficiencies* - Following the interviews and review of documents, the Project Team will compile all findings and advisory recommendations that can be identified from the desk and onsite review.

*Step 10: Exit Conference* - After the site review, an exit interview will be conducted to summarize the review's preliminary findings.

***Follow-Up to Site Visit and Assessment Reports***

***Phase III – Assessment Report and WVDOT Review:*** Phase III consists of preparing an assessment report that addresses all findings from the D&A review.

*Step 11: Preliminary Assessment Report/Corrective Action Plan* - After each site review, within the timeframe identified by WVDOT and RLS during the kick-off meeting (for example, 30 days), RLS will issue the preliminary assessment report to WVDOT. This report will be in a format mutually agreed upon by WVDOT and RLS during the Project Kick-Off meeting. This period will enable the reviewer to more thoroughly review documents collected onsite and/or allow subrecipient follow-up of requested documents that were not readily available during the site visit.

*Step 12: Review and Edit of Preliminary Assessment Report* - WVDOT staff will be provided a minimum of two weeks for review. Following WVDOT's review, any necessary corrections or edits will be made, and the draft final report will be issued to the subrecipient. A key element of the compliance report will be a summary schedule of all findings, the regulatory citation for the finding, the recommended corrective action, and the recommended timeframe for remedy.

***Phase IV – Post Compliance Assessment Assistance:*** Phase IV involves the subrecipient resolving any compliance findings rendered in the Assessment Report.

*Step 13: Subrecipient Remedial Actions* - The subrecipient will be provided 30-90 days to respond to all items by providing corrective actions.

*Step 14: Technical Assistance and Best Practice Examples* - During Phase IV, the RLS review team will be available to answer questions about the findings and provide technical assistance to the subrecipient on how to best approach the deficiency.

During the remedy period, the RLS Team will be available to discuss proposed actions and strategies to remedy the findings. As new policies are written and adopted to address D&A compliance deficiencies, the system may transmit the policy directly to the Project Team for evaluation. If the new policy or system action satisfactorily addresses the compliance deficiency, then the Project Team will close the finding. At the end of the remedy period, the Project Team will transmit a status report to WVDOT indicating all corrective actions and a list of any findings that may remain open.

Where appropriate, the reviewer will provide “best practice” examples of policies and procedures that will facilitate the subrecipient's efforts to address each finding.

*Step 15: Close Findings* - As the subrecipient develops the requisite policy or takes the necessary corrective action to close a finding, RLS' will work with the subrecipient on the necessary corrective actions to close the finding.

**Task 3.3: Develop, Review, and Maintain a Model Drug and Alcohol Policy**

RLS will prepare a set of questions that will be used to determine the subrecipient's level of compliance with 49 CFR Part 655 and other technical needs. This questionnaire will be titled "Policy Review and Communication Questionnaire." RLS will collect all drug and alcohol policies from the subrecipients. This information will then be distributed to each investigator according to the onsite visits assigned. This will ensure that each investigator will review the policy of the system that he or she visits.

RLS is thoroughly familiar with policy review, regulatory requirements, and FTA-auditor expectations. Furthermore, RLS has the advantage of having previously reviewed the WVDOT/DPT's Section 5311 subrecipients' drug and alcohol policies since 2010. RLS' familiarity with and insights gained from previous reviews of the existing subrecipient's drug and alcohol policies will make RLS' review and analysis both efficient and unique.

Throughout the contract period, each investigator will keep transit systems and WVDOT/DPT informed of any updates or changes to the regulations requiring a policy modification.

RLS will extend this assistance to Section 5307 subrecipients at the WVDOT/DPT's request and direction.

**A. Ensure that the State's existing Model Drug and Alcohol policy remains current with any changes to the regulations; conduct reviews of all existing systems' policies.**

RLS will conduct an initial review of the WVDOT/DPT's policy template and update it as necessary to ensure compliance with all current FTA Drug and Alcohol program regulations. This model policy will include an over-the-counter and prescription drug policy. This template will be based on RLS' experience with the development of similar policies and best practices collected from transit systems throughout the country. Once approved by the WVDOT/DPT, RLS can, at WVDOT/DPT's direction, work with subrecipients in the development, review, and implementation of an Rx/OTC medication policy locally.

**B. Assist any new transit system/grantee with policy development, review, and implementation.**

As directed by the WVDOT/DPT, RLS will assist all new Section 5311 subrecipients with initial policy development, ongoing review, and policy implementation.

**C. Review each system's policy to ensure it is compliant with current regulations.**

This will be done during the onsite reviews

### **Task 3.4: Provide Technical and Administrative Assistance with FTA D&A Audit**

The staff at RLS are experts in the area of FTA drug and alcohol compliance audits and legal issues surrounding testing programs. Key staff have served on several FTA audit teams over the last two decades. Should a Federal audit occur, RLS will, after being notified by the WVDOT/DPT, assist with preparation for the audit, including, but not limited to, contacting each Section 5311 system selected for the audit; gathering and compiling materials from the WVDOT/DPT and the selected transit systems; performing onsite reviews as necessary to ensure that the system is prepared for the audit. RLS will submit to the WVDOT/DPT the requested documentation and responses to questions within a timeframe agreed upon between the WVDOT/DPT and RLS. Additionally, RLS will assist the WVDOT/DPT and the selected transit systems with resolving any audit issues and findings. RLS will provide the WVDOT/DPT and the transit systems with all tools and resources necessary to understand the regulations and create a compliant system. RLS will also assist any non-Section 5311 rural (e.g., Section 5307 urban) systems to prepare for similar audits. RLS will assist the WVDOT/DPT, as requested, with any other miscellaneous administrative matters that may arise as a result of the FTA audit. RLS will be prepared to make additional transit system onsite visits as related to audit follow-up and resolution to findings to ensure a compliant Drug and Alcohol program.

### **Task 3.5: FTA Drug and Alcohol Training Sessions**

RLS will conduct Drug and Alcohol training with emphasis placed on the specific areas and subjects unique to West Virginia's needs and the WVDOT/DPT's program requirements. RLS can quickly and comprehensively develop training for any drug and alcohol subject area and, at the request of the WVDOT/DPT, could deliver such training immediately. At a minimum, RLS will, at the WVDOT/DPT's request and direction:

- A. Conduct Supervisory Awareness Training sessions for those employees authorized to make reasonable suspicion determinations.
- B. Conduct Drug and Alcohol Program Manager
- C. Conduct urine collection technician service agent trainings, including qualified as specified in 49 CFR Part 40.
- D. Conduct conference/annual meetings training on special topics as requested. This will may include (but will not be limited to) the following value-added topics:
  - i. A review of any onsite findings;
  - ii. Updates and/or new regulation interpretations or regulation changes;
  - iii. Information for any new subrecipients/transit systems regarding FTA's Drug and Alcohol program regulations;
  - iv. An overview of the risks of using Rx/OTC medications.

RLS will provide all training materials, including sign-in sheets, PowerPoint presentations, handouts, and training evaluations.

### **Task 3.6: Update the Drug and Alcohol Testing Response Handbook**

RLS will update as necessary or requested by the WVDOT/DPT the current West Virginia Drug and Alcohol Testing Response Handbook, a quick reference tool for West Virginia transit system DAPMs and DERs. RLS will provide a list of all potential updates and/or changes to the Handbook to the WVDOT/DPT for review and, following WVDOT/DPT approval, will provide a draft Handbook for review. If the WVDOT/DPT desires, RLS can conduct a brief survey of the subrecipients for any input regarding revisions or improvements to the Handbook.

### **Task 3.7: Technical Assistance & Guidance**

RLS will provide technical assistance to the WVDOT/DPT and its Section 5311 subrecipients/transit systems and its Section 5307 systems, as appropriate and requested. This technical assistance will include staying up to date with FTA D&A changes, trends, laws, regulations, and any other procedures needed in a manner that provides expert subject matter technical assistance. This may also include providing guidance and direction to both the WVDOT/DPT and transit systems to develop programs to address Medical Qualification, Fitness for Duty, Post-Accident, and Rx/OTC medication programs as they relate to the USDOT and FTA regulations and safety initiatives. RLS will assist with developing forms and reference materials and can suggest other technical assistance aids/tools to enhance West Virginia's Drug and Alcohol program on an as-needed basis.

## 5. VALUE ADDED

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Because of RLS' long history and experience working with the Federal Transit Administration as well as assisting State DOTs and transit systems across the country with the implementation of the FTA Drug and Alcohol program, RLS can offer many value-added services that will enhance West Virginia's implementation and oversight of its Drug and Alcohol program.

### STAFFING

First is the RLS team itself proposed for this contract. Key and support staff represent over 150 years of experience in the transit industry, more than two-thirds of working specifically with the FTA Drug and Alcohol program. Ms. Robbie L. Sarles, RLS President and Principal for this project, is a nationally recognized trainer and expert in the Federal Transit Administration's (FTA's) drug and alcohol testing programs. Ms. Sarles has worked in transit drug and alcohol testing since the first version of the Federal Drug and Alcohol program regulations were issued. She was a co-author of the *Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit* and the *FTA Drug and Alcohol Best Practices Manual*. She is also a recognized expert in two focus areas of this project: Prescription and Over-the-Counter Medications and their impact on transit system safety and Medical Qualification and its relation to Fitness-for-Duty and transit system safety. For the former, Ms. Sarles was the author of FTA's *Prescription and Over-the-Counter Medication Tool Kit*, developed in 2002 and updated in 2011. For the latter, Ms. Sarles was the lead researcher for the FTA's Prescription and Over-the-Counter Medication Study and was an advisor to the FTA Transit Rail Advisory Committee for Safety (TRACS) as it studied potential recommendations for addressing Rx/OTC medication use in the transit industry. Finally, Ms. Sarles assisted the Indiana DOT with the development and implementation of the Indiana Statewide Medical Qualification Program, the first program of its kind to mandate medical qualification requirements for Section 5311 safety-sensitive employees.

Mr. Sean Oswald, the proposed Project Manager for this project, is the Director for all RLS drug and alcohol program engagements. In this capacity, he provides overall project management and technical assistance, training, and compliance oversight related to the FTA Drug and Alcohol program for local transit systems and State Departments of Transportation. Across several years, Mr. Oswald has risen through the ranks to become a respected expert in FTA's Drug and Alcohol regulations and program requirements. An experienced and nationally recognized trainer, Mr. Oswald developed the curriculum for the Drug and Alcohol Testing Industry Association's (DATIA) *Substance Abuse Professional Training Manual and Course* and continues to be a primary trainer on this topic. Other nationally significant projects that Mr. Oswald has led include an online, interactive training module originally developed for the Oregon DOT that fulfills the Federal Transit Administration's requirement for 60 minutes of training on substance abuse and alcohol misuse available nationwide through the National RTAP Program. He was also an investigator on the 2011-12 Prescription and Over-the-Counter and Post Accident Follow-Up Study for the FTA and is a CTAA

Certified Safety and Security Officer and member of the RLS safety and security team that conducts transit safety and security reviews and assessments.

Ms. Linda De Herrera and Ms. Vicky Warner are seasoned Drug and Alcohol program reviewers and investigators. In addition, Ms. De Herrera is a TSI Associate Instructor, and Ms. Warner is a Certified Community Transit Manager (CCTM); Certified Passenger Assistance Techniques Instructor; CTAA PASS Master Trainer; and CTAA Certified Safety and Security Officer Training.

## **INDUSTRY INSIGHTS**

Next, as a natural result of working for many years on national transit projects, RLS has a solid and diverse network of contacts in the transit industry, including the Federal Transit Administration. RLS maintains a close working relationship with FTA officials and other industry experts that can provide additional insight and clarification on regulatory compliance and other issues that may arise during the conduct of the project, as well as benchmarks for establishing project recommendations and alternatives. These contacts can be vital when important issues arise that need immediate attention or clarification.

Although the WVDOT/DPT already envisions what areas or issues of importance will be addressed by this contract, findings may occur in unexpected areas. In these cases, the RLS team will prove to be an invaluable asset with its vast experience and network of contacts in the industry. Further, while RLS has crafted a team to address the identified areas for this project, specifically if issues arise that could benefit from the expertise of other RLS staff members, the WVDOT/DPT would have access to these individuals as well, if it so desires.

## **RESOURCES**

Finally, RLS offers value-added resources and tools to enhance and improve the WVDOT/DPT's and its subrecipient's drug and alcohol programs, as illustrated below:

### **Questionnaires and Technical Materials**

The effectiveness and efficiency of the scope of work listed within this RFQ is directly related to the quality of the underlying review documents used to conduct the different policy and program reviews. Two key aspects of conducting effective, efficient, and value-added compliance reviews are (1) the comprehensiveness of the questionnaires used to conduct the compliance reviews and (2) the consistency with which those questionnaires can be applied across all WVDOT/DPT subrecipients that have varying levels of service, personnel, and resources. Because of RLS' vast experience in the field of drug and alcohol compliance, WVDOT/DPT will have the benefit of the most current technical documents and questionnaires available. The questionnaires have been proven consistently effective over the decades as RLS has used them in more than 40 different states worldwide. The questionnaires will serve as the basis for the reviews, with modifications made as necessary to meet the WVDOT/DPT's specific requirements. All technical documents used will be based on the FTA's audit checklist and requirements.

All materials have been developed to ensure a standardized approach to the reviews and ensure that all areas are reviewed thoroughly and with a high degree of understanding of the FTA Drug and

Alcohol Regulations and the required compliance. All questionnaires outlined below have already been developed using a standard format to maintain uniform and well-constructed information.

### **Questionnaires**

The FTA originally developed all questionnaires. RLS modifies the format and content of the questionnaires to be used successfully in performing drug and alcohol reviews consistently across all subrecipients of multiple State DOTs. All sample questionnaires are set up in the same format to deliver the same purpose. Each questionnaire is broken down into columns. The first column states the compliance question to be asked. The second column states the findings, including the answer to each question and a yes/no to denote compliance with the Drug and Alcohol regulations. This section will be in bold print after completing the review to stand out from the rest of the questions. The third column cites the regulations and gives reference to the section from which they came. Upon completion of each review, a fourth column will be added entitled "Action Item." The project investigator will use this space to explain the appropriate actions to correct the finding. The following questionnaires will be used:

- ◆ Policy Review and Communication Questionnaire
- ◆ Drug and Alcohol Program Management Questionnaire
- ◆ Records Management Questionnaire
- ◆ Urine Collection Questionnaire
- ◆ Breath Alcohol Test and Saliva Test Technician Questionnaire
- ◆ Medical Review Officer Questionnaire
- ◆ Substance Abuse Professional Questionnaire
- ◆ Consortium/Third Party Administrator Questionnaire

### **Technical Materials**

The proposed project principal, Ms. Robbie L. Sarles, has personally authored or co-authored many resource materials published by FTA in regard to its Drug and Alcohol program. RLS has used many technical materials over the years to educate Section 5311 subrecipients on the FTA drug and alcohol requirements and regulations. Many of them were developed by RLS as requested by FTA. Following is a detailed description of the materials that RLS is proposing to use to perform drug and alcohol reviews/technical assistance in West Virginia:

- ◆ National Rural Transit Assistance Program's "Substance Abuse Awareness Training." This online training was initially developed by Oregon DOT in partnership with RLS & Associates, Inc., and has since been adopted by National RTAP for widespread use.
- ◆ "Drug and Alcohol Model Policy," written by RLS in 2004 and continually updated until the present day. This is a policy to be used as a template to assist transit agencies in obtaining a compliant policy without having to "reinvent the wheel."
- ◆ "Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit," written by RLS & Associates, Inc. under the supervision of the U.S. Department of Transportation in 1994, updated in 2002. Provides guidance on maintaining compliance with the FTA drug and alcohol regulations.
- ◆ "FTA Drug & Alcohol Regulation Updates," newsletter published by the FTA quarterly. Many of the articles are authored by RLS staff assigned to this project.

- ◆ Sample Model Forms. The model forms were all written by RLS and will be used as a reference when completing the reviews to assist transit agencies in meeting individual compliance requirements. These were developed with the express purpose and have been proven effective since creation to withstand challenge.
- ◆ “Best Practices Manual: FTA Drug and Testing Program,” written by EG&G Technical Services under supervision of the U.S. Department of Transportation, March 2002. Provides a guideline for the subrecipients of FTA funding to use in the day-to-day operation of drug and alcohol programs.
- ◆ “Prescription and Over-the-Counter Medications Toolkit,” written by RLS & Associates, Inc. under contract to the U.S. Department of Transportation, Federal Transit Administration, March 2003 and updated April 2011. This document provides examples and descriptions of model prescription and over-the-counter medication policies and procedures.
- ◆ West Virginia’s own “Designated Employer Representative/Drug and Alcohol Program Manager Handbook,” developed by RLS & Associates, Inc. for DAPMs and DERs as an easy reference, action-oriented guide to assist them in efficiently managing their drug and alcohol testing programs in compliance with USDOT-FTA regulations.

## 6. REQUIRED FORMS

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In the following pages, you'll find all required forms for this proposal.

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: PTR210000010**

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input type="checkbox"/> Addendum No. 2            | <input type="checkbox"/> Addendum No. 7  |
| <input type="checkbox"/> Addendum No. 3            | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4            | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5            | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

RLS & Associates, Inc.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature

5/5/2021

\_\_\_\_\_  
Date

**NOTE:** This addendum acknowledgment should be submitted with the bid to expedite document processing.  
Revised 6/8/2012

REQUEST FOR QUOTATION  
Coordination Drug & Alcohol Oversight

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**BID FORM #1**  
**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

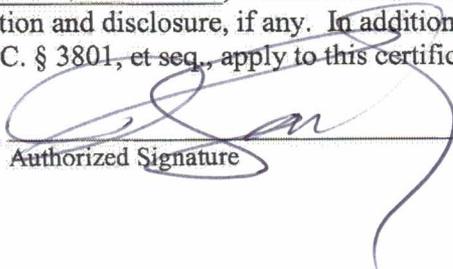
The undersigned Vendor certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. [as amended by "Government Wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. [Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Vendor, RLS & Associates, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Vendor understands and agrees that the provisions of 31 U.S.C. § 3801, et seq., apply to this certification and disclosure, if any.

5/5/2021  
Date

  
Authorized Signature

REQUEST FOR QUOTATION  
**Coordination Drug & Alcohol Oversight**

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**6 PAYMENT:**

**6.1 Payment:** Vendor shall accept payment in accordance with all payment procedures of the State of West Virginia.

**7 VENDOR DEFAULT:**

**7.1** The following shall be considered a vendor default under this Contract.

- 7.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.
- 7.1.2** Failure to comply with other specifications and requirements contained herein.
- 7.1.3** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 7.1.4** Failure to remedy deficient performance upon request.

**7.2** The following remedies shall be available to Agency upon default.

- 7.2.1** Immediate cancellation of the Contract.
- 7.2.2** Immediate cancellation of one or more release orders issued under this Contract.
- 7.2.3** Any other remedies available in law or equity.

**8 MISCELLANEOUS:**

- 8.1 No Substitutions:** Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.
- 8.2 Capacity to Perform:** By signing its bid, Vendor certifies that it has the capacity to perform the services in its bid response.
- 8.3 Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:** Robbie Sarles  
**Telephone Number:** 937-299-5007  
**Fax Number:** \_\_\_\_\_  
**Email Address:** rlsasc@rlsandassoc.com

**DESIGNATED CONTACT:** Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.



(Name, Title)

Robbie Sarles, President

(Printed Name and Title)

3131 S. Dixie Hwy, Suite 545, Dayton, OH 45439

(Address)

Phone: 937-299-5007

(Phone Number) / (Fax Number)

rlsasc@rlsandassoc.com

(email address)

**CERTIFICATION AND SIGNATURE:** By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

RLS & Associates, Inc.

(Company)



(Authorized Signature) (Representative Name, Title)

Robbie Sarles, President

(Printed Name and Title of Authorized Representative)

5/5/2021

(Date)

Phone: 937-299-5007

(Phone Number) (Fax Number)



Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

State of West Virginia  
 Centralized Request for Quote  
 Service - Prof

<b>Proc Folder:</b> 868304		<b>Reason for Modification:</b>	
<b>Doc Description:</b> Coordination Drug and Alcohol Oversight		Addendum No. 1 issued to publish vendors questions with responses.	
<b>Proc Type:</b> Central Master Agreement			
<b>Date Issued</b>	<b>Solicitation Closes</b>	<b>Solicitation No</b>	<b>Version</b>
2021-05-05	2021-05-11 13:30	CRFQ 0805 PTR2100000010	2

**BID RECEIVING LOCATION**

BID CLERK  
 DEPARTMENT OF ADMINISTRATION  
 PURCHASING DIVISION  
 2019 WASHINGTON ST E  
 CHARLESTON WV 25305  
 US

**VENDOR**

**Vendor Customer Code:** 172976  
**Vendor Name :** RLS & Associates, Inc.  
**Address :**  
**Street :** 3131 S. Dixie Hwy, Suite 545  
**City :** Dayton  
**State :** OH **Country :** United States **Zip :** 45439  
**Principal Contact :** Robbie Sarles  
**Vendor Contact Phone:** 937-299-5007 **Extension:**

**FOR INFORMATION CONTACT THE BUYER**  
 Toby L Welch  
 (304) 558-8802  
 toby.l.welch@wv.gov

**Vendor Signature X**  **FEIN#** 31-1287821 **DATE** 5/5/2021

All offers subject to all terms and conditions contained in this solicitation

**ADDITIONAL INFORMATION**

Addendum #1 issued to modify the solicitation identified by the following:

1. To publish a copy of vendor questions with responses.

no other changes

INVOICE TO		SHIP TO	
PUBLIC TRANSIT DIVISION OF BLDG 5 RM 650 1900 KANAWHA BLVD E CHARLESTON US	WV	PUBLIC TRANSIT DIVISION OF BLDG 5 RM 650 1900 KANAWHA BLVD E CHARLESTON US	WV

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Coordination Drug & Alcohol Oversight				

Comm Code	Manufacturer	Specification	Model #
94131504			

**Extended Description:**

Coordination Drug & Alcohol Oversight As per Exhibit A pricing page

**SCHEDULE OF EVENTS**

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Technical Questions due by 4:00 p.m.	2021-05-04

	Document Phase	Document Description	Page 3
PTR2100000010	Final	Coordination Drug and Alcohol Oversight	

**ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**CONSTRUCTION CONTRACTS:** Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

**ALL CONTRACTS:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

**"Debt"** means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"Related party"** means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: RLS & Associates, Inc.

Authorized Signature: [Signature] Date: 5/5/2021

State of Ohio

County of Montgomery, to-wit:

Taken, subscribed, and sworn to before me this 5 day of May, 2021.

My Commission expires August 31, 2021.



ZACH KINGADE, Notary Public  
In and for the State of Ohio  
My Commission Expires Aug. 31, 2021

NOTARY PUBLIC [Signature]

## 7. RESUMES

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# Resumes

In the following pages, you'll find the resumes for all staff mentioned in this proposal.



Ms. Robbie Sarles is the Founder and President of RLS & Associates, Inc. (RLS), a transit consulting firm in Dayton, Ohio specializing in the provision of technical assistance to rural and urban transit systems, Federal agencies, and State DOTs. She has over 38 years of experience in transit operations, management, training, and consulting. Ms. Sarles is a national expert for FTA's Drug and Alcohol Testing Regulations and a highly regarded and sought after trainer on a variety of topic areas, including Drug and Alcohol Regulations and Reasonable Suspicion Training, Civil Rights, ADA, diversity, and workplace harassment. She currently leads the Ohio Mobility Transformation project, a vision to align the elements of policies, funding, planning, and technology into Statewide coordinated service transportation. This project has attracted the attention of Federal Transit Administration leadership. Ms. Sarles is currently leading the efforts to test this alignment vision in two pilot areas in the state. Finally, Ms. Sarles is the Project Manager for the FTA Comprehensive Oversight Review and Technical Assistance Program (CORTAP).

## ROBBIE L. SARLES

*President*

### EDUCATION

- ◆ M.S., Transportation Engineering, The Ohio State University
- ◆ M.S., City and Regional Planning, The Ohio State University
- ◆ B.S., Geography and Psychology, Western Kentucky University

### YEARS OF TRANSPORTATION EXPERIENCE

40

### AFFILIATIONS

- ◆ CTAA Member & Instructor
- ◆ DATIA Member
- ◆ NRTAP Instructor

### PUBLICATIONS

- ◆ "Prescription/Over-the-Counter Medications Toolkit," FTA 2002; updated 2011
- ◆ "It's Time to Coordinate" Coordination Toolkit, West Virginia Department of Transportation, 2006
- ◆ "Minnesota Coordination Study and Toolkit," Minnesota Department of Transportation, 2005
- ◆ "Implementation Guidelines for Drug and Alcohol Regulations in Mass Transit," FTA 4/94; 2001
- ◆ "A Handbook for Coordinating Transportation Services," Ohio Department of Transportation, October 1991; rev. October 1997
- ◆ "A Guide for Implementing Coordinated Transportation Systems," Ohio Department of Transportation; October 1997

### PROFESSIONAL EXPERIENCE

**President, RLS & Associates, Inc., 1987 — Present** – Ms. Sarles is highly regarded in the transit industry for her development of sound, practical solutions that are both realistic and implementable. During her career, Ms. Sarles has conducted hundreds of projects in the areas of service analysis, route and schedule design, transit plan development, regulatory compliance, mobility management, marketing, human service coordination, maintenance recordkeeping, drug and alcohol testing programs, Americans with Disabilities Act regulatory compliance, Title VI, safety and risk management, innovative services, and all aspects of operations. She has personally developed dozens of feasibility plans and customer surveys, coordination plans, and transit development and service plans to both implement new and enhance and expand existing transit service. Recently, she was the Project Manager and lead for the CTAA E-Learning project to develop an on-line module to assist mobility managers in being more effective in facilitating meetings among community partners and negotiating differences that arise. In addition to overseeing RLS' 19 Drug and Alcohol technical assistance and training contracts, 12 on-call assistance contracts, and RLS' compliance and planning contracts.

Currently, Ms. Sarles is the Project Manager as well as a Lead Reviewer, and Subject Matter Expert for the FTA Comprehensive Oversight Review and Technical Assistance Program (**CORTAP**), FTA's systematic oversight program to ensure State DOT and transit system compliance with Federal transit program regulations. This is in addition to overseeing compliance monitoring projects in Oregon, Tennessee, New Jersey, North Carolina, Illinois, and Wisconsin and Drug and Alcohol Compliance Review and Training projects in Alaska, Nevada, Indiana, North Carolina, Oregon, West Virginia, Georgia, and New York, she conducts training across the country on a wide variety of topics including Drug and Alcohol, Title VI, Performance Measurements, Customer Service, and many, many more.

Finally, Ms. Sarles is directing the Ohio Mobility Transformation project for the Ohio DOT, which has significant importance and potential impact for not only the state, but nationally, regarding how human service transportation is funded and provided. The project is entering the implementation phase, where project successes to date will be carried forth in a policy alignment initiative that will be realized through the development of necessary policy, tools, technical assistance and procedures to meet the needs of agencies, service providers, drivers, customers and ODOT. The goal is to improve the quality and safety of human service transportation services within Ohio to create a simpler, level playing field for service providers while reducing the administrative burden on state agencies.

PROFESSIONAL EXPERIENCE (Continued)

**Transportation Management Services, Inc., a Division of Multisystems; Manager, Support Services, June 1986 — Sept. 1987**—Ms. Sarles supervised and assisted TMSI managers in the performance of specific systems analysis, i.e., maintenance, scheduling, marketing, customer relations, service development, operations analysis, training, accounting, and NTD reporting. She also served as project director on other projects. Completed projects included:

- ◆ Assisted in the initiation of the Specialized Transportation Assistance for Richmond (STAR) service for the Greater Richmond Transit Company.
- ◆ Initiation, operations, and supervision of all aspects of the Tysons Shuttle (Fairfax County, Virginia) commuter service, Reston Internal Bus Service, Arlington Community Services Board specialized transportation program, Rocky Mount Transit System, and special needs transportation for the Northern Virginia Training Center.
- ◆ Assisted in the completion of an evaluation of the Indianapolis Public Transportation Corporation's OPEN DOOR service for handicapped residents of Marion County including the preparation of an alternatives analysis and development of recommendations.
- ◆ Developed an operations plan for the expansion of the Fairfax County (VA) specialized transportation service from 53 vehicles to 120 vehicles.
- ◆ Assisted in the completion of the Wisconsin statewide transit maintenance study where the maintenance programs of all 19-transit systems in the state were evaluated.
- ◆ Assisted in an operational analysis of the O-Bahn Busway in Adelaide, South Australia.
- ◆ Assisted in the design of a wage and work conditions plan for a new consolidated transportation system in Waterloo, Iowa.
- ◆ Assisted in the design of a system map and customer information aids for the Montgomery County (MD) Ride-On System.
- ◆ Conducted a system management study of the City Bus Service of Springfield, Ohio; Transit Development Plans for the Janesville Transit System, Beloit Transit System, La Crosse Municipal Transit Utility and the Nash and Edgecombe Counties coordinated transportation system, and management performance review for the Polk County Transportation Authority in Tryon, NC and the Anson County Transportation Authority in Wadesboro, NC.

**National Transit Services, Inc.; Director, East Coast Consulting Services, June 1983 — May 1986**

Project Director of all East Coast consulting efforts. Responsible for support services to NTS consulting clients and management properties in the areas of service analysis, service planning, route and schedule design, marketing/public information programs, preparation of written documents, and oral presentations.

**Central Ohio Transit Authority; Senior Service Analyst, December 1980 — May 1983**

Initiated and supervised a series of comprehensive transit corridor studies to determine transit demand, route productivity and service developments.



Mr. Sean Oswald joined RLS in 2011 as an associate for drug & alcohol (D&A) training and compliance. Today, Mr. Oswald is a **nationally respected and recognized expert** on FTA D&A regulations and the RLS Chief of Operations/Director of D&A Initiatives. With excellent skills in **problem solving, leadership, organizational planning, implementation, management, team building, and communications**, he is a member of the RLS executive management team, helping to direct and coordinate RLS' strategic and operational activities, and **identifying and implementing operational change to meet current and future requirements**. He is the Project Manager for many of the firm's largest multi-year compliance oversight projects, and Lead Reviewer for RLS' D&A projects for transit systems and State DOTs, and plays a lead role in many of the firm's other State DOT projects. He is currently the **task manager for the Ohio DOT Facility Project Support-Phase I task**, providing technical assistance for the coordination, administration and oversight of the ODOT Section 5311 capital grant application process for facility projects. Mr. Oswald is a **Certified Safety and Security Officer** and a member of the RLS Safety and Security team.

## SEAN OSWALD

*Chief of Operations/Director of Drug & Alcohol Initiatives*

### EDUCATION

- ◆ University of Cincinnati - B.S., Substance Abuse Counseling, 2015
- ◆ Certified Drug & Alcohol Program Administrator, Certification Commission for Drug & Alcohol Program Professionals (CCDAPP)
- ◆ Certified Safety and Security Officer training, CTAA
- ◆ U.S. Marine Corps - Honor Graduate: Analysis and Reporting Certificate Course; Honors completion: Communication and Signals Collection; GIS Training: Basic, Intermediate and Advanced Geospatial Metadata Analysis courses

### YEARS OF TRANSPORTATION EXPERIENCE

10

### AFFILIATIONS

- ◆ Legislative and Regulatory Guidance Committee Member (DATIA, 2012 - Present)

### PUBLICATIONS

- ◆ West Virginia Drug & Alcohol Testing Response Handbook, update 2012

### PROFESSIONAL EXPERIENCE

**Chief of Operations/Director of Drug & Alcohol Initiatives, RLS & Associates, Inc., 2011 — Present** – Mr. Oswald is an experienced leader, project manager, compliance reviewer, and trainer with extensive experience in Federal regulatory assessments, having **conducted over 1,000 compliance and policy reviews across the country**. An excellent presenter and skilled trainer, Mr. Oswald is known for his friendly demeanor and **ability to put people at ease and explain complex regulations and concepts**. As indicated above, he is responsible for many of RLS' large scale compliance engagements and task order contracts, providing overall **project management, budget creation and oversight, staff assignments, workforce optimization, ongoing process improvements**, deliverables, technical assistance, training, and compliance oversight. These projects include, but are not limited to:

- ◆ **Project Manager** for many of the firm's largest multi-year task order and compliance oversight projects, including those for Arizona DOT, Georgia DOT, Massachusetts DOT, New Jersey Transit, and Oregon DOT. In this role, he provides **overall project management, budget creation and oversight, staff assignments/workforce optimization, ongoing process improvements, deliverables, technical assistance and training**.
- ◆ **Lead D&A Trainer** on required FTA courses, including Substance Abuse Management, Reasonable Suspicion, DAPM training, etc. In addition, Mr. Oswald has **developed and conducts training** on related topics, including Marijuana Legalization, CBD Products and Workplace Concerns, Drugs on the Bus, Emerging Drug Trends & Shifting Demographics, and Opioid Epidemic.
- ◆ **Lead Trainer** on a variety of other topics, including but not limited to Title VI, DBE, Financial Management, Maintenance, State Management Plan Updates, FTA Program Guidance Updates, Transit Asset Management, and more. In response to the COVID-19 pandemic, he **developed and conducted "Taking Care of Ourselves: Mental Health and COVID-19"** for RLS staff as well as for the staffs of the Texas and Ohio DOTs and the Association of Washington Cities. He will be presenting this course for the Community Transportation Association of Virginia spring 2021.
- ◆ **Lead Consultant** assisting the New York State DOT, Alaska DOT, Georgia DOT, Ohio DOT, Virginia DOT, **West Virginia DOT** and North Carolina DOT with preparations and follow-up for their **FTA drug and alcohol audits**.
- ◆ **Program Coordinator** for a first of its kind, online, interactive training module that fulfills the Federal Transit Administration's requirement for 60 minutes of training on substance abuse and alcohol misuse. This training program is now hosted by National RTAP and used by states

PROFESSIONAL EXPERIENCE (Continued)

across the country.

- ◆ **Lead Consultant** for development of a Federal Transit Administration/Department of Transportation **drug and alcohol testing response handbook** for the West Virginia DOT to give designated employer representatives and drug and alcohol program managers an easy reference, action-oriented, guide that assists them in efficiently managing the State's drug and alcohol testing program.
- ◆ **Lead Consultant** for development of a **pocket-sized reference cards for FTA post-accident and reasonable suspicion determinations**, customized drug and alcohol program forms, and a record keeping system. These resources were designed to capture all the necessary information and documentation necessary to effectively demonstrate compliance with Federal regulations and to withstand challenge.
- ◆ Primary Investigator on the 2011-12 **Prescription and Over-the-Counter and Post Accident Follow-Up Study** for the FTA. This study helped determine the extent that prescription and over-the-counter medication use can be documented in post-accident investigations and the potential impact this has on transit system safety. The study looked at the different prescription and over-the-counter medications documented as part of post-accident investigations and the most common side effects associated with these medications.

In addition, Mr. Oswald's diverse training experience and expertise in Federal drug and alcohol testing program administration enables him to provide high quality training sessions to a wide variety of audiences. Some of his specific training experience includes the following:

- ◆ Presented at **FTA's National Drug & Alcohol Conference** for several years.
- ◆ **Developed the curriculum** for the Drug and Alcohol Testing Industry Association's (DATIA) Substance Abuse Professional Training Manual and Course.
- ◆ **Conducts a variety of training sessions at State Transit Conferences** for over ten different states around the country covering all topics related to USDOT Agency Drug & Alcohol regulations, as well as many other general substance use and addiction topics.
- ◆ Conducts **countless half & full day regulatory training sessions that enable supervisors and company officials to make reasonable suspicion testing determinations**, as required and in accordance with 49 CFR Part 655.14(b)(2). The session covers the facts, circumstances, physical evidence, physical signs and symptoms, patterns, and/or behaviors that are associated with prohibited drug use and/or alcohol misuse.
- ◆ **Conducts countless 1-3 day training workshops for statewide audiences covering all program areas of USDOT-FTA- FMCSA drug and alcohol program management and regulatory compliance.** These sessions are often customized to the local needs; however, they commonly cover topics such as drug & alcohol policy development and implementation, drug and alcohol testing procedures, procurement of testing services, providing oversight of vendors and service agents, employer/supervisor training, and record keeping among others. These trainings were designed to keep transit managers up-to-date and knowledgeable about current federal drug and alcohol compliance issues and the federal audit process.
- ◆ **Provided training support** on multiple training sessions for Indiana Department of Transportation titled "Passenger Assistance Techniques for Transit Operations." Training included both classroom instruction and "hands-on" practice to **address Americans with Disabilities Act (ADA) regulations and requirements, passenger sensitivity, lift operation, and mobility aid securement.**

**Training Manager, United States Marine Corps, October 2008 — March 2011** – As the training manager for over 90 personnel, Mr. Oswald prepared, **conducted and supervised required organizational training events; delivered vital training to 1,000 personnel on travel operational risk management, traffic safety, terrorism awareness, suicide awareness, and stress management;** and prepared and disseminated policy and guidance for the conduct of training by planning, scheduling, and executing mission-related and directed requirements. Mr. Oswald provided an anchor within the organization's training division during a time of leadership transition that prevented any lapses in required training.

**GIS Analyst, United States Marine Corps, April 2006 — March 2011** – Mr. Oswald **created and implemented original processes and operating procedures in order to utilize new technology data within ArcGIS** that previously had never been implemented. These operating procedures and processes became the standard for all similar companies and field-teams.

**Signals Intelligence Analyst, United States Marine Corps, August 2006 — March 2011**



Ms. Bowman is a Lead Reviewer for RLS drug and alcohol projects and is also part of the RLS survey and data collection and training teams. She is a certified Passenger Assistance, Defensive Driving, and Pre-Trip Inspections instructor. Prior to joining RLS, Ms. Bowman was an Intern at Green CATS, the Section 5307 public transit system in Greene County, Ohio assisting the General Manager with various responsibilities.

## LUCY SHERMAN BOWMAN

Associate

### EDUCATION

- ◆ B.A., Urban Affairs, Wright State University - 2015
- ◆ Public and Social Services Transportation Certificate, Wright State University

### YEARS OF TRANSPORTATION EXPERIENCE

5

### PROFESSIONAL EXPERIENCE

**Associate, RLS & Associates, Inc., March 2016 — Present** – Ms. Bowman joined RLS as a part-time intern and quickly advanced to full-time Associate. She is an RLS Lead Reviewer and Lead Trainer, and provides support to RLS Senior Associates on various projects. Her past and current projects include:

- ◆ Reviewer for the Greater Dayton RTA Performance Evaluations in which she worked with RTA operations to evaluate drivers, ambassadors, and customer service staff performance levels.
- ◆ Data collector of the Survey Distribution and Analysis for Greater Dayton RTA Title VI.
- ◆ Inspector for the Ohio Department of Transportation Buy America Pre-Delivery Bus Inspections.
- ◆ Assisted in the update of a Federal Transit Administration (FTA)/ Department of Transportation (DOT) drug and alcohol testing response handbook. This handbook was originally designed for the West Virginia DOT to give designated employer representatives and drug and alcohol program managers an easy reference, action-oriented, guide that assists them in efficiently managing their drug and alcohol testing program. It has been adopted as a best practice by several states.
- ◆ Conducted 26 drug and alcohol program compliance and policy reviews in Ohio, North Carolina, New York, and California.
- ◆ Attended Substance Abuse Management Training, Georgia DOT, May 2016.
- ◆ Attended Reasonable Suspicion Supervisor Training, Georgia DOT, May 2016.
- ◆ Became a Certified Trainer for PAT (Passenger Assistance Training), Defensive Driving, and Pre-Trip Inspections, April 2017.

#### **Greene CATS Public Transit**

**Intern & Part-Time, August 2015 — June 2016**

- ◆ Reviewed RFPs.
- ◆ Verified driver manifests.
- ◆ Reviewed and evaluated existing Flex Routes' on-time performance.
- ◆ Coordinated and assisted with customer requests.

#### **Old Navy**

**Sales Associate, July 2013 — April 2016**

- ◆ Provided customer service.
- ◆ Performed money management.
- ◆ Coordinated store pricing and signage.
- ◆ Conducted shipment inventories.



Ms. Linda De Herrera is an experienced and nationally recognized professional in the field of FTA Drug and Alcohol Program regulations, and has over 38 years of experience in the transit industry. As manager and supervisor for the Regional Transportation District in Denver, CO, Ms. De Herrera was responsible for the implementation and compliance of the RTD's drug and alcohol program for all safety-sensitive employees. For the past five and one-half years, she has assisted State DOTs and FTA subrecipients across the country with policy development, training, recordkeeping and compliance requirements for the FTA Drug and Alcohol Program.

**LINDA DE HERRERA**

*Senior Consultant*

EDUCATION

Associates in Business, Red Rocks Community College

Certificate from Parks Business School

YEARS OF TRANSPORTATION EXPERIENCE

41

AFFILIATIONS

TSI Associate Staff Instructor

AWARDS

2002 Outstanding Achievement Award – Regional Transportation District, Denver, CO

PROFESSIONAL EXPERIENCE

**Senior Consultant, RLS & Associates, Inc., January 2017 to Present** – Ms. De Herrera is a lead senior consultant for RLS' Drug and Alcohol Division, assisting DOTs across the country with training and compliance issues related to the requirements of FTA's Drug and Alcohol regulations. Additionally, she is a nationally recognized speaker and presenter on this topic.

**Precision Compliance, Senior Consultant, July 2011 – December 2016** - Ms. De Herrera provided full service FTA drug and alcohol program compliance services to transit systems nationwide. These services included:

- Policy Development
- Employee & Management training
- Program implementation
- Program management and record keeping
- Technical assistance.

**Transportation Safety Institute (TSI), Associate Staff Instructor, 1998 – Present**

- Conducts the TSI Substance Abuse Management Training Course for transit agencies throughout the United States. The course is designed as an evaluation and self-assessment of the agency's substance abuse program and its compliance with FTA regulations.
- Documents and maintains training records for TSI-related courses.

**Regional Transportation District (RTD), Manager & Supervisor, Substance Abuse Program, 1980 – 2011**

- Administered and enforced the RTD Drug and Alcohol Policy and Procedures.
- Planned and conducted orientation training for new employees on Drug and Alcohol testing procedures.
- Conducted on-site audits of contractors' Substance Abuse Programs and provided necessary feedback and technical assistance.
- Planned and conducted Reasonable Suspicion training for all Supervisors and Managers.
- Served as liaison with the Substance Abuse Professional and Employee Assistance Program.
- Provided expert advice for contractors who were obligated to meet Federal regulations.
- Maintained and updated all RTD materials associated with the Drug and Alcohol Policy and Procedures guide for testing.
- Managed support staff, both salaried and hourly.
- Hired, assigned work, evaluated performance, and enforced the RTD's discipline policies, as needed.

PROFESSIONAL EXPERIENCE (Continued)

- Coordinated assignments and work load with staff absences and leave requests.
- Administered all budget-related activities for the Substance Abuse and Office Services departments.
- Managed Department of Transportation (DOT) files.



Ms. Warner has over 28 years of experience in the transit industry beginning her career at Developmental Services Inc. as a Transportation Coordinator and quickly moving into the Transportation Manager's role. In this capacity, Ms. Warner operated a sixteen route system in seven counties and supervised seventeen staff including a mechanic and maintenance facilities. After five years at DSI, Ms. Warner was instrumental in the creation of the drug and alcohol oversight program and the establishment of the third party administered consortium for the Indiana Rural Transportation Assistance Program.

Ms. Warner manages the training programs for RLS' Indiana, Wisconsin, and Tennessee RTAP contracts providing technical assistance and scheduling and conducting training, as needed. She is a Certified Community Transit Manager with CTAA and a CTAA PASS Master Trainer.

## VICKY WARNER

Senior Associate

### EDUCATION

- ◆ Certified Community Transit Manager (CCTM)
- ◆ Certified Passenger Assistance Techniques Instructor
- ◆ CTAA PASS Master Trainer
- ◆ CTAA Certified Safety and Security Officer Training

### YEARS OF TRANSPORTATION EXPERIENCE

28

### AFFILIATIONS

- ◆ Certified Community Transit Manager

### PUBLICATIONS

### PROFESSIONAL EXPERIENCE

**Senior Associate, RLS & Associates, Inc., 2004 — Present** – Ms. Warner manages the RLS Columbus, Indiana office and the Indiana Rural Transportation Assistance Program. This program has been recognized by the Federal Transit Administration as an Outstanding State RTAP Program. As RTAP Coordinator, Ms. Warner provides consultation and technical assistance to Indiana's transit systems and special transportation providers, identifying needs, conducting research, coordinating training programs and serving as a liaison with local, state and federal agencies. Ms. Warner coordinates all substance abuse management oversight activities for Indiana's Section 5311 properties and assures compliance with the USDOT and FTA Drug and Alcohol program regulations (49 CFR Parts 40 and 655) and provides technical assistance as required. In addition, she administers the training fellowship program, identifying available training resources, disseminating information, and soliciting and evaluating fellowship applications and coordinates travel, registration, and reimbursement arrangements, facilitates peer-to-peer exchanges following trainings, and publishes a quarterly newsletter. She provides management oversight and training support to the Wisconsin, New Hampshire, and Tennessee RTAP Programs, conducts Passenger Assistance Training and Train the Trainer sessions in Ohio and Nevada; drug and alcohol training in Georgia; and conducts drug and alcohol compliance reviews for California, Massachusetts, North Carolina, Oregon, and West Virginia.

**Safety and Security Program Manager, Indiana University, 1997 — 2004** – Because of Ms. Warner's expertise in the safety and security areas of transportation, she coordinated all substance abuse management oversight activities for Indiana's Section 5311 properties and assured compliance with program regulations and provides technical assistance as needed and maintained the drug and alcohol files associated with reviews on behalf of INDOT. She also provided substance abuse awareness and reasonable suspicion supervisor training for transit systems, as needed. She also served as RTAP Coordinator. In this role, she:

- ◆ Planned project activities and developed work strategies. Monitored project level budgets and allocated resources to meet established objectives.
- ◆ Performed various activities to provide management assistance to operators of Indiana transit systems and social service transportation providers, primarily through on-site, phone, mail and electronic methods.
- ◆ Served as liaison between IUT, Indiana Department of Transportation (INDOT), and Indiana transit systems to exchange information and coordinate activities. Attended policy meetings and issued progress reports.
- ◆ Coordinated all substance abuse management oversight activities for

PROFESSIONAL EXPERIENCE (Continued)

- Indiana's 5311 properties. Assured compliance with program regulations and provided technical assistance as required.
- ◆ Administered the training fellowship program. Identified available training resources, disseminated information, and solicited and evaluated fellowship applications. Coordinated travel, registration and reimbursement arrangements and facilitated information exchange with peers following training.
  - ◆ Published a quarterly newsletter.
  - ◆ Performed various activities to provide management assistance to operators of Indiana transit systems and human service transportation providers, primarily through on-site, phone, mail, and electronic methods.
  - ◆ Surveyed transit providers to determine their training and technical assistance needs. Conducted informational research. Directed, coordinated, and implemented education and training programs to disseminate relevant research results and resolve transportation management problems.
  - ◆ Administered training networks as established in Indiana. Coordinated trainer meetings, monitored training schedules, and ordered new supplies, as needed.
  - ◆ Delivered presentations to transit association boards, project training programs, and other agencies or prospective clients.
  - ◆ Served as first contact with counties and cities investigating transportation options. Provided technical assistance as required.
  - ◆ Functioned as INDOT adjunct staff, as necessary.

**Transportation Manager, Developmental Services, Inc., Columbus, IN, 1993—1997**

## 8. PROPOSED ONSITE REVIEW QUESTIONNAIRES

In the following pages, you will find copies of our proposed onsite review questionnaires. RLS & Associates, Inc. (RLS) respectfully requests that WVDOT/DPT maintain the confidentiality of the questionnaires as cited in Section 3.2.1.1 of the CRFQ.

[TYPE THE COMPANY NAME]

# Policy Manual Review Interview Questions

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[Type the author name]

[Pick the date]

#	Question	Response	Regulation	Finding/FollowUp
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#	Question	Response	Regulation	Finding/FollowUp
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#	Question	Response	Regulation	Finding/FollowUp
1	LOCAL BOARD ADOPTION: Has the policy, as most recently revised, been adopted by the local governing board of the employer or operator, or other responsible individual with appropriate delegation of authority?		Section 655.12, Required Elements of an anti-drug use and alcohol misuse program states: "(a) A statement describing the employer's policy on prohibited drug use and alcohol misuse in the workplace, including the consequences associated with prohibited drug use and alcohol misuse. This policy statement shall include all of the elements specified in section 655.15 of this subpart. Each employer shall disseminate the policy consistent with the provisions of section 655.16 of this subpart." Section 655.16 states: "Each employer shall provide written notice to every covered employee and to representatives of employee organizations of the employer's anti-drug and alcohol misuse policies and procedures."	
2	CONTACT PERSON: Does the policy identify the person, office, branch or position designated by the employer to answer employee questions about the anti-drug and alcohol misuse prevention program?		Section 655.15(a) states that the policy shall provide: "The identity of the person, office, branch and/or position designated by the employer to answer employee questions about the employers anti-drug use and alcohol misuse programs."	

#	Question	Response	Regulation	Finding/FollowUp
3	COVERED EMPLOYEES: Does the policy correctly and completely list, or describe, the categories of employees (covered employees) who are subject to the provisions of the anti-drug and alcohol misuse prevention program?		Section 655.15(b) states the policy shall include: "The categories of employees who are subject to the provisions of this part." Safety-sensitive functions are described in Section 655.4, Definitions, under "Safety-sensitive." The policy should clarify which jobs are covered because they do or may involve the performance of safety-sensitive duties.	
4	Does the category of covered activities include operating a revenue service vehicle, whether in or out of service?		Section 655.4 defines safety-sensitive functions as including "Operating a revenue service vehicle, including when not in revenue service."	
5	Does the category of covered activities include maintaining a revenue service vehicle or equipment used in revenue service?		Section 655.4 defines safety-sensitive functions as including "Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service."	

#	Question	Response	Regulation	Finding/FollowUp
6	Does the category of covered activities include controlling the dispatch or movement of a revenue service vehicle, and if so, is the category description consistent with Part 655?		Section 655.4 defines safety-sensitive functions as including "Controlling dispatch or movement of a revenue service vehicle." Part III, Subpart A of the preamble to Part 655 states with regard to dispatchers that "Since each employer uses its own terminology to describe job categories that involve safety-sensitive functions, each employer must continue to decide whether a particular employee performs any of the functions listed in the definition of safety-sensitive function, including bus dispatchers. FTA will allow each employer to determine whether a particular dispatcher performs or may perform a safety-sensitive function."	
7	Does the category of covered activities include operating a non-revenue service vehicle that requires a CDL?		Section 655.4 defines safety-sensitive functions as including "Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License."	
8	Does the category of covered activities include carrying a firearm for security purposes?		Section 655.4 defines safety-sensitive functions as including "Carrying a firearm for security purposes."	

#	Question	Response	Regulation	Finding/FollowUp
9	COVERED VOLUNTEERS: If an operator has volunteers performing safety-sensitive duties, are the volunteers classified with covered employees (subject to drug and alcohol testing) if: 1) the volunteer is required to hold a CDL, or; 2)the volunteer receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity?		Section 655.4 defines covered employee, stating that "A volunteer is a covered employee if: (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity."	
10	ANALYSIS OF SAFETY-SENSITIVE JOB FUNCTIONS: Does the policy indicate which job titles are covered because the employer has determined that the duties require or may require the performance of safety-sensitive duties?		Section 655.15(b) indicates that the categories of employees (covered employees) who are subject to the provisions of the anti-drug and alcohol misuse prevention program shall be included in the policy. The key issue is the type of work performed rather than any particular job title (See preamble to Part 655).Part III, Subpart A of the preamble to Part 655 states ..."Since each employer uses its own terminology to describe job categories that involve safety-sensitive functions, each employer must continue to decide whether a particular employee performs any of the functions listed in the definition of safety-sensitive function..."	

#	Question	Response	Regulation	Finding/FollowUp
11	PROHIBITED DRUG USAGE: Does the policy indicate that employees are prohibited from using the five listed drugs at all times, and that a covered employee may be tested for these drugs any time while on duty?		Section 655.21(c) states: "Consumption of these products is prohibited at all times." Section 655.45(i) states "A covered employee may be randomly tested for prohibited drug use anytime while on duty."	
12	PROHIBITED BEHAVIOR - ALCOHOL: Does the policy adequately contain specific information concerning employee conduct that is prohibited by the alcohol misuse prevention portion of FTAs rule? The topics include the following periods of compliance: 1) No performance of safety-sensitive function while having an alcohol concentration of 0.04 or greater; 2) No usage four hours before performing and while performing a safety-sensitive duty; and 3) No usage for eight hours following an accident or until a post-accident alcohol test is performed.		Sections 655.32, 655.33, 655.34, 655.43(c) and 655.45(i) as detailed below.	
13	ALCOHOL USAGE: Does the policy indicate that covered employees are prohibited from performing safety-sensitive functions while having an alcohol concentration of 0.04 or greater?		Section 655.31(b) states: "Each employer shall prohibit a covered employee, while having an alcohol concentration of 0.04 or greater, from performing or continuing to perform a safety-sensitive function."	

#	Question	Response	Regulation	Finding/FollowUp
14	ALCOHOL USAGE: Does the policy indicate that alcohol use is impermissible for 4 hours prior to performing a safety-sensitive duty, while on-call to perform a safety-sensitive duty and while performing a safety-sensitive duty?		Section 655.33(a) states: "Each employer shall prohibit a covered employee from using alcohol within 4 hours prior to performing safety-sensitive functions. No employer having actual knowledge that a covered employee has used alcohol within four hours of performing a safety-sensitive function shall permit the employee to perform or continue to perform safety-sensitive functions." Section 655.33(b) states: "An employer shall prohibit the consumption of alcohol for the specified on-call hours of each covered employee who is on-call. The procedure shall include (1) The opportunity for the covered employee to acknowledge the use of alcohol at the time he or she is called to report to duty and the inability to perform his or her safety-sensitive function [and] (2) The requirement that the covered employee take an alcohol test, if the covered employee has acknowledged the use of alcohol, but claims ability to perform his or her safety-sensitive function." Section 655.32 states: "Each employer shall prohibit a covered employee from using alcohol while performing safety-sensitive functions."	

#	Question	Response	Regulation	Finding/FollowUp
15	ALCOHOL TESTING: Does the policy indicate that alcohol use by any covered employee required to take a post-accident alcohol test is prohibited for 8 hours following the accident or until the alcohol test is performed, whichever occurs first?		Section 655.34 states: "Each employer shall prohibit alcohol use by any covered employee required to take a post-accident alcohol test under Section 655.44 for eight hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first."	
16	CIRCUMSTANCES OF TESTING: PRE-EMPLOYMENT: Does the policy provide a complete and detailed discussion of the following requirements for pre-employment testing: Negative drug test result received before 1st performance of a safety-sensitive duty; Evidence of successful completion of a rehabilitation program from an applicant or employee who has previously failed a DOT drug test; Testing for an employee who has not performed safety-sensitive duties for 90 consecutive days and has not been in the random pool; and Part 40 compliant if the employer chooses to do alcohol testing?		Section 655.15(d) states that the policy shall include "The specific circumstances under which a covered employee will be tested for prohibited drugs or alcohol misuse under this part."	

#	Question	Response	Regulation	Finding/FollowUp
17	<p>PRE-EMPLOYMENT DRUG TESTING: Does the policy state that: The candidate must produce a negative drug test result prior to first performing a safety-sensitive duty; and an employee being transferred must provide a verified negative drug test prior to performing a safety-sensitive function?</p>		<p>Section 655.41(a)(1) states: "Before allowing a covered employee or applicant to perform a safety-sensitive function for the first time, the employer must ensure that the employee takes a pre-employment drug test administered under this part with a verified negative result. An employer may not allow a covered employee, including an applicant, to perform a safety-sensitive function unless the employee takes a drug test administered under this part with a verified negative result." If the policy specifies that an applicant may not be hired until after a verified negative drug test result, that is an acceptable alternative to the first performance of a safety-sensitive duty. Section 655.41(c) states: "If a pre-employment drug test is canceled, the employer shall require the covered employee or applicant to take another pre-employment drug test administered under this part with a verified negative result." Section 655.41(b) states: "An employer may not transfer an employee from a non-safety-sensitive function to a safety-sensitive function until the employee takes a pre-employment drug test administered under this part with a verified negative result."</p>	

#	Question	Response	Regulation	Finding/FollowUp
18	PRE-EMPLOYMENT DRUG TESTING: Does the procedure for a covered employee or applicant who has previously failed or refused a DOT pre-employment drug test include requiring evidence that the employee has successfully completed a referral, evaluation and treatment plan?		Section 655.41(a)(2) states: "When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in Section 655.62."	
19	PRE-EMPLOYMENT DRUG TESTING: Does the policy include the provision that a covered employee who has not performed a safety-sensitive duty for 90 consecutive days or more and has not been in the employers random selection pool shall take a pre-employment drug test with a verified negative result before returning to safety-sensitive duties?		Section 655.41(d) states: "When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result."	

#	Question	Response	Regulation	Finding/FollowUp
20	<p>PRE-EMPLOYMENT ALCOHOL TESTING: If the employer chooses to conduct pre-employment alcohol testing, are all the following requirements covered:1) Testing before the first performance of a safety-sensitive function for every covered employee;2) Testing all covered employees for this type of alcohol testing;3) Testing conducted after the employer makes a contingent offer of employment or transfer subject to the employee passing this alcohol test;4) Testing must follow the procedures described in Part 40; and 5) The covered employee must not be allowed to begin performing safety-sensitive duties unless the result is a BAC below 0.02.</p>		<p>Section 655.42 states: "An employer may, but is not required to, conduct pre-employment alcohol testing under this part. If an employer chooses to conduct pre-employment alcohol testing, the employer must comply with the following requirements: (a) The employer must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions). (b) The employer must treat all covered employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., you must not test some covered employees and not others). (c) The employer must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test. (d) The employer must conduct all pre-employment alcohol tests using the alcohol testing procedures set forth in 49 CFR Part 40. (e) The employer must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.02."</p>	

#	Question	Response	Regulation	Finding/FollowUp
21	CIRCUMSTANCES; RANDOM TESTING FOR DRUGS AND ALCOHOL: Does the policy describe random testing as: Scientifically valid; Reasonably spread; Unannounced and immediate; and With no discretion by managers (i.e., all covered employees having an equal chance of being selected)?		Section 655.45(e), (g), and (h) state that a compliant random testing program must include the following: (1) selections made using a scientifically valid method; (2) testing spread reasonably throughout all periods of the calendar year; (3) testing is unannounced and immediate; and (4) allows no discretion by personnel as to who is selected or notified to proceed for testing.	
22	RANDOM SELECTION METHOD: Does the policy state that random selection shall be by a scientifically valid method, such as a random number table or a computer-based random number generator?		Section 655.45(e) states: "The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers."	
23	NO DISCRETION: Does the policy state that each covered employee shall have an equal chance of being tested each time selections are made?		Section 655.45(e) states "The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator ... , each covered employee shall have an equal chance of being tested each time selections are made."	

#	Question	Response	Regulation	Finding/FollowUp
24	REASONABLY SPREAD: Does the policy state that random tests are to be spread reasonably throughout the year? Operationally, this means that: (1) Testing is continuous throughout the year (i.e., testing starts in January and there is no period during which testing is halted); and (2) Testing is conducted on all days and hours during which safety-sensitive functions are performed.		Section 655.45(g) states "Each employer shall ensure that ... the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed." This ensures that employees will have a reasonable expectation that they might be called for a test on any day and at any time they are at work.	
25	UNANNOUNCED AND IMMEDIATE: Does the policy state that random test dates are unannounced and immediate? (Employees are required to go for the test upon notification, and to have little opportunity to circumvent the test procedures.)		Section 655.45(g) states: "Each employer shall ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable ... ." Section 655.45(h) further states: "Each employer shall require that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately."	
26	RANDOM ALCOHOL TESTING: Does the policy indicate that random alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed covered duties?		Section 655.45(i) states: "A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions."	

#	Question	Response	Regulation	Finding/FollowUp
27	CIRCUMSTANCES: POST-ACCIDENT: REQUIRED TESTING FOR DRUGS AND ALCOHOL. Does the policy describe post-accident testing as: Meeting FTA thresholds; Meeting drug and alcohol testing time limits; and Requiring employees to remain "readily available" for testing?		Section 655.44 outlines the FTA criteria for conducting post-accident tests.	

#	Question	Response	Regulation	Finding/FollowUp
28	<p>FTA THRESHOLDS: Does the policy state the FTA post-accident testing thresholds as follows: A fatality; Bodily injury requiring medical attention away from the scene of the accident or if the mass-transit vehicle is a rubber-tire vehicle and any of the involved vehicles is towed away; If the mass transit vehicle is a rail vehicle or vessel and the mass transit vehicle is removed from revenue service?</p>		<p>Section 655.4 (Accident) defines the FTA criteria for a covered accident after which drug and alcohol testing must be conducted, as follows:.</p> <p>"Accident means an occurrence associated with the operation of a vehicle, if as a result:(1) An individual dies; or(2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or(3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or(4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation." If company-specific elements are also included, these must be identified as the employers own criteria for completing post accident tests under the employers own authority.</p>	

#	Question	Response	Regulation	Finding/FollowUp
29	<p>WHO MUST BE TESTED: FATALITY?</p> <p>Does the policy state that, in a fatality, the following individuals must be tested: All surviving covered employees operating the mass transit vehicle at the time of the accident; and All other covered employees whose performance could have contributed to the accident?</p>		<p>Section 655.44(a)(1)(i) states: "As soon as practicable following an accident involving the loss of human life, an employer shall conduct drug and alcohol tests on each surviving covered employee operating the mass transit vehicle at the time of the accident. Post-accident drug and alcohol testing of the operator is not required under this section if the covered employee is tested under the fatal accident testing requirements of the Federal Motor Carrier Safety Administration rule 49 CFR 389.303(a)(1) or (b)(1)." Section 655.44(a)(1)(ii) states: "The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision."</p>	

#	Question	Response	Regulation	Finding/FollowUp
30	<p>WHO MUST BE TESTED: NON-FATALITY? Does the policy state that, in a non-fatal accident, the following individuals must be tested: All covered employees operating the mass transit vehicle unless their performance can be completely discounted as a contributing factor based on the best information available at the time of the decision; and All other covered employees whose performance could have contributed to the accident?</p>		<p>Section 655.44(a)(2)(i) states: "As soon as practicable following an accident not involving the loss of human life in which a mass transit vehicle is involved, the employer shall drug and alcohol test each covered employee operating the mass transit vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision."</p>	
31	<p>REQUIREMENT TO REMAIN "READILY AVAILABLE" FOR TESTING: Does the policy state that a covered employee subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or the employer representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the employer to have refused to submit to testing?</p>		<p>Section 655.44(c) states: "A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or the employer representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the employer to have refused to submit to testing."</p>	

#	Question	Response	Regulation	Finding/FollowUp
32	<p>REQUIREMENT TO REMAIN "READILY AVAILABLE" FOR TESTING: Does the policy state that accident testing is stayed while employee assists in resolution of the accident or receives medical attention following the accident?</p>		<p>Section 655.44(e) states: "Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care."</p>	
33	<p>CIRCUMSTANCES: REASONABLE SUSPICION: Does the policy state that reasonable suspicion testing is required when: One or more trained supervisors or company officials can articulate and substantiate physical, behavioral and performance indicators of probable drug use or alcohol misuse by observing the appearance, behavior, speech or body odors of the covered employee?</p>		<p>Section 655.43(b) states: "An employer's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor(s), or other company official(s) who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations." Further, Part III, Subpart E, Section C of the preamble to Part 655 states: "FTA also notes that the proposed bar to an employer requiring two or more trained supervisors to make such referrals is not included in the final rule. FTA also agrees that an employer should be permitted to authorize and train other company officers to make reasonable suspicion observations ..."</p>	

#	Question	Response	Regulation	Finding/FollowUp
34	<p>REASONABLE SUSPICION ALCOHOL TESTING: Does the policy indicate that reasonable suspicion alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed covered duties; and that the observations leading to that testing must be made during, just preceding, or just after the period of the workday that the employee is required to be in compliance with Part 655?</p>		<p>Section 655.43(c) states: "Alcohol testing is authorized under this section only if the observations required by paragraph (b) of this section are made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this part. An employer may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions."</p>	

#	Question	Response	Regulation	Finding/FollowUp
35	CIRCUMSTANCES: RETURN-TO-DUTY AND FOLLOW-UP TESTS (DRUG AND ALCOHOL): If the company has a second-chance policy, does the policy require that these tests be conducted as specified in 49 CFR Part 40?		The policy should be clear on whether an employee who refuses or fails a test may be permitted to return to safety-sensitive duties. Section 655.15 -Policy statement contents-states: "The ... policy...shall include the following:(h) The consequences for a covered employee who has a verified positive drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit to a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, as required by 49 CFR Part 40." If there is a second chance policy, Section 655.46 states: "Where a covered employee refuses to submit to a test, has a verified positive drug test result, and/or has a confirmed alcohol test result of 0.04 or greater, the employer, before returning the employee to duty to perform a safety-sensitive function, shall follow the procedures outlined in 49 CFR Part 40."	

#	Question	Response	Regulation	Finding/FollowUp
36	<p>PROCEDURES: Does the policy include a statement that all drug and alcohol testing will be conducted in accordance with 49 CFR Part 40? This covers the requirement of Section 655.15(e) to include the procedures that will be used to test for the presence of illegal drugs or alcohol misuse, protect the employee and the integrity of the drug and alcohol testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct employee.</p>		<p>Section 655.51 states: "The drug and alcohol testing procedures in 49 CFR Part 40 apply to employers covered by this part, and must be read together with this part, unless expressly provided otherwise in this part." The preamble to Part 655, Part III, Subpart B, Section A states: "FTA also believes that it is reasonable for employers to incorporate by reference 49 CFR Part 40 in their Policy Statements and make it available for review by employees when requested."</p>	
37	<p>REQUIREMENT TO SUBMIT- DRUG TESTING: Does the policy include the requirement that a covered employee submit to drug and alcohol tests administered in accordance with Part 655?</p>		<p>Section 655.49(a) states: "Each employer shall require a covered employee to submit to a post-accident drug and alcohol test required under Section 655.44, a random drug and alcohol test required under Section 655.45, a reasonable suspicion drug and alcohol test required under Section 655.43, or a follow-up drug and alcohol test required under Section 655.47. No employer shall permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions."</p>	

#	Question	Response	Regulation	Finding/FollowUp
38	ALCOHOL TESTING: Does the policy indicate that random and reasonable suspicion alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed covered duties?		Section 655.45(i) states: "A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions." Section 655.43(c) contains a similar statement for reasonable suspicion alcohol testing.	
39	REFUSALS DEFINED: Does the policy state that the following elements are circumstances constituting a refusal: Refusals for both drug and alcohol testing; Drug testing - additional refusals; Alcohol testing - additional refusals; and no claim that refusal to take a test required under company authority will be considered as a refusal to take a DOT-required test.		Section 655.15(g) requires that the policy include "A description of the kind of behavior that constitutes a refusal to take a drug or alcohol test, and a statement that such a refusal constitutes a violation of the employer's policy." Refusals are defined in Sections 40.191 and 40.261. Under Sections 40.191(e) and 40.261(d), the refusal to take a non-DOT drug or alcohol test or sign a non-DOT form is not a refusal to take a DOT test.	

#	Question	Response	Regulation	Finding/FollowUp
40	REFUSALS: Does the policy state that failure to appear in a timely fashion (except for pre-employment tests) for drug and alcohol tests is a refusal?		Section 40.191(a) states: "As an employee, you have refused to take a drug test if you: (1) Fail to appear for any test (except a pre-employment 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. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see Section 40.61(a))." A similar statement for alcohol testing is found in Section 40.261(a)(1).	
41	REFUSALS: Does the policy state that the failure to remain until the testing process is complete for drug and alcohol tests is a refusal?		Section 40.191(a)(2) states: "As an employee, you have refused to take a drug test if you: Fail to remain at the testing site until the testing process is complete. Provided, that an employee who leaves the testing site before the testing process commences (see Section 40.63(c) of this part) for a pre-employment test is not deemed to have refused to test." A similar statement for alcohol testing is found in Section 40.261(a)(2).	

#	Question	Response	Regulation	Finding/FollowUp
42	REFUSALS: Does the policy state that failure to attempt to provide a breath or urine specimen in alcohol and drug testing is a refusal?		Section 40.191(a)(3) states: "As an employee, you have refused to take a drug test if you: Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations. Provided, that an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see Section 40.63(c) of this part) for a pre-employment test is not deemed to have refused to test." A similar statement for alcohol testing is found in Section 40.261(a)(3).	
43	REFUSALS: Does the policy state that failure to provide a sufficient quantity of urine or breath without a valid medical explanation in drug and alcohol tests is a refusal?		Section 40.191(a)(5) states: "As an employee, you have refused to take a drug test if you: Fail 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 (see Section 40.193(d)(2))." A similar statement for alcohol testing is found in Section 40.261(a)(4).	

#	Question	Response	Regulation	Finding/FollowUp
44	REFUSALS: Does the policy state that failure to undergo a medical evaluation as required by the MRO or DER for drug and alcohol testing is a refusal?		Section 40.191(a)(7) states: "As an employee, you have refused to take a drug test if you: Fail to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER under Section 40.193(d) of this part. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment." A similar statement for alcohol testing is found in Section 40.261(a)(5).	
45	REFUSALS: Does the policy state that failure to cooperate with any part of the testing process for drug and alcohol testing is a refusal?		Section 40.191(a)(8) states: "As an employee, you have refused to take a drug test if you: Fail to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)." A similar statement for alcohol testing is found in Section 40.261(a)(7).	
46	REFUSALS: Does the policy state that the failure to permit monitoring or observation under drug testing is a refusal?		Section 40.191(a)(4) states: "As an employee, you have refused to take a drug test if you: In a 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 (see Sections 40.67(i) and 40.69(g))."	

#	Question	Response	Regulation	Finding/FollowUp
47	REFUSALS: Does the policy state that failure to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test is a refusal?		Section 40.191(a)(9) states: "For an observed collection, fail 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."	
48	REFUSALS: Does the policy state that possessing or wearing a prosthetic or other device used to tamper with the testing process is a refusal?		Section 40.191(a)(10) states: "Possess or wear a prosthetic or other device that could be used to interfere with the collection process."	
49	REFUSALS: Does the policy state that failure to take a second test as directed by the collector or employer under drug testing is a refusal?		Section 40.191(a)(6) states" "As an employee, you have refused to take a drug test if you: Fail or decline to take a second test the employer or collector has directed you to take."	
50	REFUSALS: Does the policy state that admitting the adulteration or substitution of a specimen to the collector or MRO is a refusal?		Section 40.191(a)(11) states: "Admit to the collector or MRO that you adulterated or substituted the specimen."	
51	REFUSALS: Does the policy state that that the MROs verification of a test as adulterated or substituted constitutes a refusal?		Section 40.191(b) states: "As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test."	

#	Question	Response	Regulation	Finding/FollowUp
52	REFUSAL - ALCOHOL TESTING: Does the policy state that refusal to sign the certification at Step 2 of the ATF constitutes a refusal?		Section 40.261(a)(6) states: "As an employee, you are considered to have refused to take an alcohol test if you: Fail to sign the certification at Step 2 of the ATF (see Sections 40.241(g) and 40.251(d))."	

#	Question	Response	Regulation	Finding/FollowUp
53	<p>CONSEQUENCES OF A FAILED OR REFUSED DRUG TEST: Does the policy describe the consequences for a covered employee who has a verified positive drug test result, who has violated the alcohol use prohibitions, or who refuses to submit to a drug or alcohol test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function; and Does the policy state that the individual will be referred to a substance abuse professional?</p>		<p>Section 655.61(a)(1) states "Immediately after receiving notice from a medical review officer (MRO) or a consortium/third party administrator (C/TPA) that a covered employee has a verified positive drug test result, the employer shall require that the covered employee cease performing a safety-sensitive function." Section 655.61(a)(3) states "If an employee refuses to submit to a drug or alcohol test required by this part, the employer shall require that the covered employee cease performing a safety-sensitive function." Section 655.62 states "If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test required by this part, the employer shall advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs."</p>	

#	Question	Response	Regulation	Finding/FollowUp
54	<p>CONSEQUENCES OF BREATH ALCOHOL CONCENTRATION (BAC) IN RANGE OF .02 TO .039: Does the policy describe the consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04; including the requirement that any action taken against the employee based on this result be under company authority.</p>		<p>Section 655.35(a) states: "No employer shall permit a covered employee tested under the provisions of subpart E of this part who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 to perform or continue to perform safety-sensitive functions, until (1) The employee's alcohol concentration measures less than 0.02; or (2) The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test. Section 655.35(b) states: "Except as provided in paragraph (a) of this section, no employer shall take any action under this part against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an employer with authority independent of this part from taking any action otherwise consistent with law."</p>	

#	Question	Response	Regulation	Finding/FollowUp
55	EMPLOYER SPECIFIC ELEMENTS: If the employer implements elements of an anti-drug program and alcohol misuse prevention program that are in addition to those required by Section 655, does the policy give covered employees specific information concerning which provisions are mandated by the FTA rules and which are not? Are any such additional policies or consequences clearly and obviously described as being based on independent authority?		Section 655.15(j) states: "The employer shall inform each covered employee if it implements elements of an anti-drug use or alcohol misuse program that are not required by this part. An employer may not impose requirements that are inconsistent with, contrary to, or frustrate the provisions of this part."	
56	PROVISIONS CONTRARY TO FTA REGULATIONS: Do any provisions found in the policy have the effect of thwarting the FTA regulations?		Section 655.6(a) states: "Except as provided in paragraph (b) of this section, this part preempts any state or local law, rule, regulation, or order to the extent that: (1) Compliance with both the state or local requirement and any requirement in this part is not possible; or (2) Compliance with the state or local requirement is an obstacle to the accomplishment and execution of any requirement in this part."	
0	THIS CONCLUDES THE REVIEW OF THE ANTI-DRUG AND ALCOHOL MISUSE PREVENTION POLICY STATEMENT			

#	Question	Response	Regulation	
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# Drug and Alcohol Program Manager Questionnaire

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**DAPM:**

**Transit System:**

**Interviewer:**

**Date of Completion:**

#	Question	Response	Regulation
1.	Do you have an updated copy of the DOT and Federal Transit Administration testing regulations 49 CFR Parts 40 and 655?		Section 655.11 states: "Each employer shall establish an anti-drug use and alcohol misuse program consistent with the requirements of this part." The DAPM should have available 49 CF Part 655 to use as a resource in complying with the FTA drug and alcohol testing requirements.
2.	<p>A. Do you make available and provide written notice of the availability of the adopted FTA anti-drug and alcohol misuse policy (including revisions) to all covered employees and representatives of any employee organizations?</p> <p>B. How?</p>		Section 655.16 states: "Each employer shall provide written notice to every covered employee and to representatives of employee organizations of the employer's anti-drug and alcohol misuse policies and procedures."
3.	Where do you display informational material and a community service hotline telephone number for employee assistance?		Section 655.14 states: "Each employer shall establish an employee education and training program for all covered employees, including: (a) <i>Education.</i> The education component shall include display and distribution to every covered employee of: informational material and a community service hot-line telephone number for employee assistance, if available."

#	Question	Response	Regulation	
4.	Do you maintain a record that each employee has received a copy of the anti-drug and alcohol misuse policy (Including revisions), or a written notice that the policy is available for review?		<p>Section 655.15 states: "The local governing board of the employer or operator shall adopt an anti-drug and alcohol misuse policy statement. The statement must be made available to each covered employee ..."</p> <p>Section 655.16 states: "Each employ shall provide written notice to every covered employee and to representatives of employee organizations of the employer's anti-drug and alcohol misuse policies and procedures."</p>	
5.	Do you require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by Part 40 (including, but not limited to, collections, laboratory testing, MRO or SAP services)?		Section 40.27 states: "No, as an employer, you must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory testing, MRO and SAP services)."	

#	Question	Response	Regulation	
6.	What job categories are considered safety-sensitive at this agency?		<p>Section 655.15 states: "...The [policy] statement must be made available to each covered employee, and shall include the following: ... (b) The categories of employees who are subject to the provisions of this part."</p> <p>Section 655.4 defines "covered employee" as "a person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to this part."</p>	
7.	Do you utilize volunteers and are they FTA-covered employees subject to 49 CFR Part 40 testing?		<p>Section 655.4 defines covered employee stating "volunteer is a covered employee if: (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity."</p>	

#	Question	Response	Regulation	
8.	Are you notified of all FTA testing results, so as to take immediate action, if necessary?		Section 40.3 defines "Designated employer representative (DER)" as "An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs."	
9.	Do DOT tests take priority (i.e. DOT tests conducted and completed before a non-DOT test is begun, urine collected in a DOT test not used or a non-DOT test?)		Section 40.13(b) states: "OT tests must take priority and must be conducted and completed before a non-DOT test is begun. For example, you must discard any excess urine left over from a DOT test and collect a separate void for the subsequent non-DOT test."	

#	Question	Response	Regulation
10.	Can excess urine from a DOT test ever be used for any other purpose?		Section 40.13(c) states: "Except as provided in paragraph (d) of this section [when a DOT drug test collection is conducted as part of a physical examination required by DOT agency regulations], you must not perform any tests on DOT urine or breath specimens other than those specifically authorized by this part or DOT agency regulations. For example, you may not test a DOT urine specimen for additional drugs, and a laboratory is prohibited from making a DOT urine specimen available for a DNA test or other types of specimen identity testing."
11.	<p>Do you ever perform testing above and beyond what is required by FTA? (E.g., testing after an accident that does not meet FTA thresholds, but is authorized by agency policy.)</p> <p>If so, is this testing identified as non-DOT, using non federal CCFs and ATF?</p>		<p>Section 40.47(a) states: "... as an employer, you are prohibited from using CCF for non-DOT urine collections. You are also prohibited from using non-Federal forms for DOT urine collections. Doing either subjects you to enforcement action under DOT agency regulations."</p> <p>Section 40.227(a) states: "... as an employer, BAT, or STT, you are prohibited from using the FTA for non-DOT alcohol tests. You are also prohibited from using non-DOT forms for DOT urine collections. Doing either subjects you to enforcement action under DOT agency regulations."</p>

#	Question	Response	Regulation	
12.	Are the Federal Drug Testing Custody and Control Form (CCF) and DOT Alcohol Testing Form(ATF) only used for DOT tests, and are they always used when it is a DOT test?		Section 40.13(f) states: "As an employer, you must not use the CCF [Federal Drug Testing Custody and Control Form] or the ATF [The DOT Alcohol Testing Form] in your non-DOT drug and alcohol testing programs. This prohibition includes the use of the DOT forms with references to DOT programs and agencies crossed out. You also must always use the CCF and ATF for all your DOT-mandated drug and alcohol tests."	

#	Question	Response	Regulation
13.	What do the regulations require be done to correct a flaw if a non-DOT CCF or ATF is used for a DOT test?		<p>Section 40.205(b)(2) states: "If the problem is the use of a non-Federal form or an expired Federal form, you must provide a signed statement (i.e., a memorandum for the record). It must state that the incorrect form contains all the information needed for a valid DOT drug test, and that the incorrect form was used inadvertently or as the only means of conducting a test, in circumstances beyond your control. The statement must also list the steps you have taken to prevent future use of non-Federal forms or expired Federal forms for DOT tests. For this flaw to be corrected, the test of the specimen must have occurred at a HHS-certified laboratory where it was tested consistent with the requirements of this part. You must supply this information on the same business day on which you are notified of the problem, transmitting it by fax or courier."</p> <p>Section 40.271.(b)(2) states: "If the problem is the use of a non-DOT form, you must, as the person responsible for the use of the incorrect form, certify in writing that the incorrect form contains all the information needed for a valid DOT alcohol test. You must also provide a signed statement that the incorrect form was used</p>

#	Question	Response	Regulation	
			<p>inadvertently or as the only means of conducting a test, in circumstances beyond your control, and the steps you have taken to prevent future use of non-DOT forms for DOT tests. You must supply this information on the same business day on which you are notified of the problem, transmitting it by fax or courier." If the problem is not corrected, the test is canceled.</p>	
14.	<p>A. Before performing a drug or alcohol test, how does the transit system inform each employee of the testing authority (i.e., FTA authority, transit system authority)?</p> <p>B. Does this process involve any type of form? If so, please provide a sample copy of this form.</p>		<p>Section 655.17 states:  "Before performing a drug or alcohol test under this part, each employer shall notify a covered employee that the test is required by this part. No employer shall falsely represent that a test is administered under this part."</p>	

#	Question	Response	Regulation	
15.	<p>A. What information do you provide to the collection site for each DOT test you are requesting?</p> <p>B. Does this process involve any type of form? If so, please provide a sample copy of this form.</p>		<p>Section 40.14 states: "As an employer, or an employer's service agent – for example a C/TPA, you must ensure the collector has the following information when conducting a urine specimen collection for you: (a) Full name of the employee being tested. (b) Employee SSN or ID number. (c) Laboratory name and address (can be pre-printed on the CCF). (d) Employer name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-A). (e) DER information required at § 40.35 of this part. (f) MRO name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-B). (g) The DOT Agency which regulates the employee's safety-sensitive duties (the checkmark can pre-printed in the appropriate box on the CCF at Step 1-D). (h) Test reason, as appropriate: Pre-employment; Random; Reasonable Suspicion/Reasonable Cause; Post-Accident; Return-to-Duty; and Follow-up. (i) Whether the test is to be observed or not (see § 40.67 of this part). (j) (Optional) C/TPA name, address, phone, and fax number (can be pre-printed on the CCF)."</p>	

#	Question	Response	Regulation
16.	<p>A. Who at the transit agency would be notified of non-negative alcohol test results are equal to or greater than 0.02 BAC?</p> <p>B. What actions would be taken upon verbal notificaiton that an employee had a non-negative alcohol test of equal to or greater than 0.02 but less than 0.04?</p> <p>C. What actions would you take upon verbal notification that an employee had a positive alcohol test result of equal to or greater than 0.04?</p>		<p>Section 40.255(a)(5) states:  "Immediately transmit the result directly to the DER in a confidential manner.  (i) You [the BAT] may transmit the results using Copy 1 of the ATF, in person, by telephone, or by electronic means. In any case, you must immediately notify the DER of any result of 0.02 or greater by any means (e.g., telephone or secure fax machine) that ensures the result is immediately received by the DER. You must not transmit these results through C/TPAs or other service agents."  Section 40.23(c) states "As an employer who receives an alcohol test result of 0.04 or higher, you must immediately remove the employee involved from performing safety-sensitive functions. If you receive an alcohol test result of 0.02—0.039, you must temporarily remove the employee involved from performing safety-sensitive functions, as provided in applicable DOT agency regulations. Do not wait to receive the written report of the result of the test"</p>

#	Question	Response	Regulation	
17.	<p>A. Outside of your primary collection site, do you ever use a hospital or secondary collection site for testing on a contingency basis?</p> <p>B. Have you verified that this location(s) has documented trained collectors/technicians for DOT testing/specimen collection?</p>		<p>Section 40.33(g) states " You [the collector] must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or negotiating to use your services.."</p> <p>Section 40.213(g) states: "You [the BAT] must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are negotiating to use your services.</p>	

#	Question	Response	Regulation	
18.	<p>A. Can you demonstrate/document that all safety-sensitive employees received at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use?</p> <p>B. Is additional training provided on the effects and consequences of prohibited alcohol use? (This is not a finding as long as this training is in addition to the 60-minutes of drug training.)</p>		Section 655.14(b)(1) states: "Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use. "	
		<b>NOW, I WOULD LIKE TO ASK A COUPLE QUESTIONS ABOUT REASONABLE SUSPICION TRAINING.</b>		
19.	Can you demonstrate/document that all employees authorized to initiate FTA reasonable suspicion testing have received at least 60 minutes of training on the indicators of probable drug use, and 60 minutes of training on the indicators of probable alcohol misuse?		Section 655.14(b)(2) states: "Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.	

#	Question	Response	Regulation
20.	<p>A. How does/would this transit agency document Reasonable Suspicion determination referrals?</p> <p>B. Does this process involve any type of standard form? If so, please provide a sample copy of this form.</p>		<p>Section 655.71(c) states: "The following specific records must be maintained:  (1) Records related to the collection process: ...  (iii) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests."</p>
21.	<p>Do the records indicate that if the reasonable suspicion alcohol test was not administered within two hours, there is a record stating the reasons the alcohol test was not promptly administered?  (Based on a review of records)</p>		<p>Section 655.43(d) states: "If an alcohol test required by this section is not administered within two hours following the determination [to test], the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination [to test], the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test."</p>

#	Question	Response	Regulation	
22.	If a reasonable suspicion alcohol test is not administered within eight hours, do you cease attempts to administer an alcohol test and state in the record the reasons for not administering the test?		Section 655.43(d) states: "If an alcohol test required by this section is not administered within two hours following the determination [to test], the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination [to test], the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test."	
		<b>NOW, I WOULD LIKE TO ASK SOME QUESTIONS ABOUT THE PRE-EMPLOYMENT DRUG TESTING PROCESS.</b>		

#	Question	Response	Regulation	
23.	At what point in the hiring process do you require applicants for safety-sensitive positions to pass a FTA pre-employment drug test?		Section 655.41(a)(1) states: "Before allowing a covered employee or applicant to perform a safety-sensitive function for the first time, the employer must ensure that the employee takes a pre-employment drug test administered under this part with a verified negative result. An employer may not allow a covered employee, including an applicant, to perform a safety-sensitive function unless the employee takes a drug test administered under this part with a verified negative result."	
24.	Do you record the first date that new hires or transferees begin safety-sensitive functions? If so, how?		Section 655.41(a)(1) states: "Before allowing a covered employee or applicant to perform a safety-sensitive function for the first time, the employer must ensure that the employee takes a pre-employment drug test administered under this part with a verified negative result. An employer may not allow a covered employee, including an applicant, to perform a safety-sensitive function unless the employee takes a drug test administered under this part with a verified negative result."	

#	Question	Response	Regulation
25.	Do the records indicate that, if a pre-employment drug test is canceled, the employer requires the covered employee take another pre-employment drug test administered under this part with a verified negative result? (Based on records review)		Section 655.41(c) states: "If a pre-employment drug test is canceled, the employer shall require the covered employee or applicant to take another pre-employment drug test administered under this part with a verified negative result."
26.	<p>A. Do you perform pre-employment alcohol testing for all/any safety-sensitive positions?</p> <p>B. If so, how are you documenting a contingent offer of employment to the applicant/transferee prior to the pre-employment alcohol test?</p>		<p>Section 655.42 states "An employer may, but is not required to, conduct pre-employment alcohol testing under this part."</p> <p>Section 655.42 (d) states "The employer must conduct all pre-employment alcohol tests using the alcohol testing procedures set forth in 49 CFR Part 40. "</p>
27.	If a non-safety-sensitive employee transfers to a safety-sensitive position what testing requirements, do you administer prior to allowing the employee to perform safety-sensitive duties?		Section 655.41(b) states: "An employer may not transfer an employee from a non-safety-sensitive function to a safety-sensitive function until the employee takes a pre-employment drug test administered under this part with a verified negative result."

#	Question	Response	Regulation	
28.	<p>A. When a safety-sensitive employee is not performing a safety-sensitive function for an extended period of time (90 or more consecutive days), how would you handle their placement in the DOT random testing pool?</p> <p>B. Would you be required to do anything upon their return and prior to their performance of safety-sensitive functions?</p>		<p>Section 655.41(d) states: "When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result."</p>	

#	Question	Response	Regulation
29.	<p>A. Do you ask the applicant or transferee whether or not they have failed or refused a DOT pre-employment test in the previous two years?</p> <p>B. Does this process involve any type of standard form? If so, please provide a sample copy of this form.</p>		<p>Section 40.25(j) states: "As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section)."</p>

#	Question	Response	Regulation	
30.	<p>A. At what point in the hiring process do you obtain specific written consent from the applicant or employee to request information about prior DOT drug and alcohol test records from all DOT-regulated employers who employed the individual within the two years prior to the date of application?</p> <p>B. How do you document a “good faith effort” that you tried to obtain the requested information back from the previous DOT-regulated employers?</p> <p>C. Do either or both of the processes referenced in A and B above involve any type of standard form? If so, please provide a sample copy of this form.</p>		<p>Section 40.25(a) states: “you must, after obtaining an employee's written consent, request the information about the employee listed in paragraph (b) of this section. This requirement applies only to employees seeking to begin performing safety-sensitive duties for you for the first time (i.e., a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this written consent, you must not permit the employee to perform safety-sensitive functions.”</p> <p>Section 40.25(i) states: “As the employer requesting the information required under this section, you must maintain a written, confidential record of the information you obtain or of the good faith efforts you made to obtain the information. You must retain this information for three years from the date of the employee's first performance of safety-sensitive duties for you.”</p>	
		<p><b>NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT THE RANDOM SELECTION PROCESS.</b></p>		

#	Question	Response	Regulation	
31.	<p>A. When and how do you update your DOT random testing pool used for random selections?</p> <p>B. Are your employees in a larger "consortium" with other systems or are they in a random testing pool by themselves?</p>		<p>Section 655.45(e) states: "Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made."  The requirement of Section 655.45(e) that "each covered employee shall have an equal chance of being tested each time selections are made" can only be met by the transit system if all employees performing safety-sensitive duties are included in the random testing pool each time random selections are made.</p>	

#	Question	Response	Regulation
32.	How frequently do you or the C/TPA make random selections?		<p>Section 655.45(e) states: "... Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made."</p> <p>Generating random selection lists infrequently increases the chance t employee turnover will make meeting Section 655.45(e) unattainable because the transit system does not have an effectively updated testing pool.</p> <p>The preamble to Part 655 states: "FTA believes that the public safety interest is promoted with random testing that is truly random and unpredictable. However, FTA believes that requiring random testing to be conducted at least quarterly strikes a reasonable balance while considering the rule's impact on employers in rural areas."</p>

#	Question	Response	Regulation
33.	How is the random selection list transmitted to the DAPM and who has access to the list?		<p>Section 655.71(a) states: "An employer shall maintain records of its anti-drug and alcohol misuse program as provided in this section. The records shall be maintained in a secure location with controlled access."</p> <p>To ensure that the random testing process is not compromised, random testing lists should be transmitted by a secure means and only to individuals authorized to receive such information.</p>
34.	If selection is conducted by a TPA or Consortium: are the random selection lists provided in a consistent and timely fashion, allowing the employer the ability to spread random testing throughout the year?		<p>The preamble to Part 655 states: "FTA believes that requiring random testing to be conducted at least quarterly strikes a reasonable balance while considering the rule's impact on employers in rural areas." Section 655.45(g) states: "Each employer shall ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed."</p>

#	Question	Response	Regulation
35.	<p>What method is used to ensure that DOT tests are being conducted at all times when safety-sensitive functions may be performed? (I.e., late night, weekends, holidays, maintenance hours, etc., if applicable.)</p>		<p>Section 655.45(g) states: "Each employer shall ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed."</p>
36.	<p>A. After being notified of their selection for a random drug and/or alcohol test, how long until the employee proceeds to the collection site?</p> <p>B. How long is the employee given to arrive at the collection site?</p>		<p>Section 655.45(h) states: "Each employer shall require that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the employer shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately."</p>

#	Question	Response	Regulation
37.	<p>A. Does the collection site know who is coming for a test and when that individual should arrive?</p> <p>B. How does the collection site inform you if the employee arrives late or does not arrive at all?</p>		<p>Section 655.45(h) states: "Each employer shall require that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately."</p> <p>Section 40.191(a) states: "As employee, you have refused to take a drug test if you fail to appear for any test (except a pre-employment 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."</p> <p>Section 40.61(a) states: "As the collector, you must take the following steps before actually beginning a collection: When a specific time for an employee's test has been scheduled, or the collection site is at the employee's work site, and the employee does not appear at the collection site at the scheduled time, contact the DER to determine the appropriate interval within which the DER has determined the employee is authorized to arrive. If the employee's arrival is delayed beyond that time, you must notify the DER that the employee has not reported for testing."</p>

#	Question	Response	Regulation	
38.	<p>A. If you are in the random test pool, how are you made aware if your name is selected for a random test?</p> <p>B. Do you receive the random selection list showing that you have been selected?</p>		<p>Section 655.45(h) states: "Each employer shall require that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the employer shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately."</p>	
39.	<p>Does the selection process provide each covered employee with an equal chance of being tested each time selections are made?</p>		<p>Section 655.45(e) states: "The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made."</p>	

#	Question	Response	Regulation	
40.	<p>A. When, if ever, would you excuse an employee from random testing?</p> <p>B. How is this documented?</p>		<p>Section 655.45(e) states: "... Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made."</p> <p>The requirements in Section 655.45(e) can not met if employees can be excused when they are legitimately at the work site and available for testing. A valid excusal from testing can result if an employee is not working the day of the test (e.g., vacation, long term disability, illness). Excused employees must be tested when they return to work provided the employee returns before the next random selection list is generated. For instance, if a new list is generated each week, the old list expires when the new list arrives. Likewise if a new list is generated each month or each quarter, the previous list expires when the new list is provided.</p>	

#	Question	Response	Regulation
41.	If you or another non-active safety-sensitive employee is notified to proceed for random alcohol testing, how does this system ensure that you are subject to alcohol testing just before, during, or just after the performance of safety-sensitive functions?		Section 655.45(h) states: "Each employer shall require that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the employer shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately."
42.	<p>A. Do you use alternates in your random selection process?</p> <p>B. If so, what is the process for selecting an employee from a list of alternates?</p>		Section 655.45(e) states: "... Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made."
43.	After the testing is complete, for how long do you maintain a copy of each random selection draw list (e.g., paper copy, electronic file)?		Section 655.71(c) states: "The following specific records must be maintained: (1) Records related to the collection process: (i) Collection logbooks, if used. (ii) Documents relating to the random selection process."

#	Question	Response	Regulation	
44.	Did the transit system (and contractors, if applicable) meet the FTA's minimum random testing rates last year? (Submit a copy of the previous year's DAMIS as evidence.)		Section 655.45(a) states: "Except as provided in paragraphs (b) through (d) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees; the random alcohol testing rate shall be 10 percent. As provided in paragraph (b) of this section, this rate is subject to annual review by the Administrator."	
	<b>NOW, I WOULD LIKE TO ASK SOME QUESTIONS ABOUT POST-ACCIDENT TESTING.</b>			
45.	<p>A. Who is responsible for deciding if an FTA post-accident test is performed?</p> <p>B. Who has the primary responsibility for assuring that post-accident testing is accomplished?</p>		Section 40.3 defines "Designated employer representative (DER)" as "An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs."	

#	Question	Response	Regulation
46.	<p>A. What are the different thresholds defined by FTA which would require you to send a covered employee for a USDOT-FTA post-accident drug and alcohol test?</p> <p>B. What is the definition of “disabling damage”?</p>		<p>Section 655.4 defines the term “Accident” as “an occurrence associated with the operation of a vehicle, if as a result:</p> <p>(1) An individual dies; or</p> <p>(2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or</p> <p>(3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or</p> <p>(4) With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.”</p> <p>Section 655.4 defines the term "Disabling damage" as "damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.</p> <p>(1) Inclusion. Damage to a motor vehicle where the vehicle could have been driven, but would have been further damaged if so driven.</p>

#	Question	Response	Regulation	
			<p>(2) Exclusions. (i) Damage that can be remedied temporarily at the scene of the accident without special tools or parts.</p> <p>(ii) Tire disablement without other damage even if no spare tire is available.</p> <p>(iii) Headlamp or tail light damage.”</p> <p>(iv) Damage to turn signals, horn, or windshield wipers, which makes the vehicle inoperable.”</p>	
47.	<p>A. Does this transit system have some method to document the post-accident decision-making process, especially decisions <b>not</b> to conduct a drug and alcohol test following an accident that reaches an FTA threshold?</p> <p>B. If this process involves a form, please provide a sample copy</p>		<p>Section 655.44(d) states: "The decision not to administer a drug and/or alcohol test under this section shall be based on the employer's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test."</p> <p>Section 655.71(c) states: "The following specific records must be maintained:</p> <p>(1) Records related to the collection process: ...</p> <p>(iv) Documents generated in connection with decisions on post-accident drug and alcohol testing."</p>	

#	Question	Response	Regulation
48.	<p>Do records indicate that the employer conducts post-accident testing using a federal CCF after an accident that <u>did not</u> meet an FTA post-accident threshold, or after a qualifying accident in which the employee has been discounted? (Determined through a record check) If so, was there documentation indicating the error was corrected?</p>		<p>Section 40.13(f) states: "As an employer, you must not use the CCF or the ATF in your non-DOT drug and alcohol testing programs. This prohibition includes the use of the DOT forms with references to DOT programs and agencies crossed out. You also must always use the CCF and ATF for all your DOT-mandated drug and alcohol tests." An "Accident" is defined in Section 655.4 as: "an occurrence associated with the operation of a vehicle, if as a result: (1) An individual dies; or (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or (4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation"</p>

#	Question	Response	Regulation
49.	Describe what it means to “completely discount” an employee’s performance as a factor contributing to an accident.		Section 655.44(a)(2)(i) states: “As soon as practicable following an accident not involving the loss of human life in which a public transportation vehicle is involved, the employer shall drug and alcohol test each covered employee operating the public transportation vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

#	Question	Response	Regulation	
50.	<p>A. In addition to the operator of a transit vehicle, can other covered employees be post-accident tested under FTA authority?</p> <p>B. If so, under what circumstances?</p>		<p>Section 655.44(a) states: "(1) Fatal accidents...</p> <p>(ii) The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision."</p> <p>Section 655.44(a) states: "(2) Nonfatal accidents.</p> <p>(i) The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision."</p>	

#	Question	Response	Regulation	
51.	Can an FTA post-accident drug test be performed on an employee who is unable to give consent due to death or unconsciousness?		<p>Section 655.44(a)(1)(i) states: "As soon as practicable following an accident involving the loss of human life, an employer shall conduct drug and alcohol tests on each surviving covered employee operating the mass transit vehicle at the time of the accident."</p> <p>Section 40.61(b)(3) states: "You [the collector] must not collect, by catheterization or other means, urine from an unconscious employee to conduct a drug test under this part. Nor may you catheterize a conscious employee..."</p>	

#	Question	Response	Regulation
52.	When would you commence drug and alcohol testing after an accident?		<p>Section 655.44(a) states: "(1) Fatal accidents. (i) As soon as practicable following an accident involving the loss of human life, an employer shall conduct drug and alcohol tests ..."</p> <p>(2) Nonfatal accidents. (i) As soon as practicable following an accident not involving the loss of human life in which a mass transit vehicle is involved, the employer shall drug and alcohol test ...".</p> <p>Section 655.44(e) further states: "Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care."</p>

#	Question	Response	Regulation
53.	What are the time limits for drug and alcohol post-accident testing?		<p>Section 655.44 (ii) states: "(ii) If an alcohol test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and maintain the record.</p> <p>Section 655.44(b) states: "An employer shall ensure that a covered employee required to be drug tested under this section is tested as soon as practicable but within 32 hours of the accident."</p>
54.	What would be the result if an employee fails to remain "readily available" for testing after an accident?		<p>Section 655.44(c) states: "A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or the employer representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the employer to have refused to submit to testing."</p>

#	Question	Response	Regulation	
55.	If the employer is unable to perform a post-accident test within the required timeframe and the employer uses the results of a blood, urine, or breath test conducted by Federal, State, or local officials having independent authority for the test, do such tests conform to the applicable Federal, State, or local testing requirements, and are the test results obtained by the employer?		Section 655.44(f) states: "The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section provided such test conforms to the applicable Federal, State, or local testing requirements, and that the test results are obtained by the employer. Such test results may be used only when the employer is unable to perform a post-accident test within the required period noted in paragraphs (a) and (b) of this section."	
		<b>NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT RETURN-TO-DUTY AND FOLLOW-UP TESTING</b>		

#	Question	Response	Regulation	
56.	<p>A. Does the employer provide each employee who violates a DOT drug and/or alcohol regulation a list of SAPs readily available to the employee and acceptable to the employer, including names, addresses, and telephone numbers?</p> <p>B. Would this also occur on a non-negative pre-employment test?</p> <p>C. Would this occur even if the employee is being terminated?</p>		<p>Section 655.62(a) states: "If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test required by this part, the employer shall advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs."</p> <p>Section 40.287 states: "As an employer, you must provide to each employee (including an applicant or new employee) who violates a DOT drug and alcohol regulation a listing of SAPs readily available to the employee and acceptable to you, with names, addresses, and telephone numbers. You cannot charge the employee any fee for compiling or providing this list. You may provide this list yourself or through a C/TPA or other service agent."</p>	

#	Question	Response	Regulation	
57.	Who is the person responsible for ensuring that an employee, who had a positive drug or alcohol test, or refused a test, was referred to the Substance Abuse Professional?		Section 655.62(a) states: "If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test required by this part, the employer shall advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs."	
58.	<p>Does this transit system have a second chance policy for employees who refuse or test positive on an FTA drug and/or alcohol test?</p> <p><b>If the system has a "Zero Tolerance" Policy, skip to Question #69.</b></p>		The ... policy ... should include the following: (h) The consequences for a covered employee who has a verified positive drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, as required by 49 CFR Part 40.	

#	Question	Response	Regulation	
59.	Does the employer ensure that before an employee returns to safety sensitive duties following a regulatory violation, the employee receives an evaluation by a SAP.		Section 40.305(b) states: "As an employer, you must not return an employee to safety-sensitive duties until the employee meets the conditions of paragraph (a) of this section. However, you are not required to return an employee to safety-sensitive duties because the employee has met these conditions. That is a personnel decision that you have the discretion to make, subject to collective bargaining agreements or other legal requirements.	

#	Question	Response	Regulation	
60.	If the SAP determines that an employee is eligible to be reinstated, who determines that the employee is ready to be sent for a Return-to-Duty test and makes the final "fitness for duty" determination?		<p>Section 40.305 states: "(a) As the employer, if you decide that you want to permit the employee to return to the performance of safety-sensitive functions, you must ensure that the employee takes a return-to-duty test. This test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.</p> <p>(b) As an employer, you must not return an employee to safety-sensitive duties until the employee meets the conditions of paragraph (a) of this section. However, you are not required to return an employee to safety-sensitive duties because the employee has met these conditions. That is a personnel decision that you have the discretion to make, subject to collective bargaining agreements or other legal requirements.</p> <p>(c) As a SAP or MRO, you must not make a "fitness for duty" determination as part of this re-evaluation unless required to do so</p>	

#	Question	Response	Regulation	
			under an applicable DOT agency regulation. It is the employer, rather than you, who must decide whether to put the employee back to work in a safety-sensitive position."	

#	Question	Response	Regulation
61.	Do you receive a written SAP evaluation of an employee's readiness to return to duty and a follow-up testing plan? (If Yes, submit the appropriate files for review.)		<p>Section 40.307 states: "(a) As a SAP, for each employee who has committed a DOT drug or alcohol regulation violation, and who seeks to resume the performance of safety-sensitive functions, you must establish a written follow-up testing plan. You do not establish this plan until after you determine that the employee has successfully complied with your recommendations for education and/or treatment."</p> <p>(b) You [the SAP] must present a copy of this plan directly to the DER (see Section 40.311(d)(9))."</p> <p>Section 40.311(d) states: "The SAP's written report concerning a follow-up evaluation that determines the employee has demonstrated successful compliance must be on the SAP's own letterhead (and not the letterhead of another service agent), signed by the SAP and dated, and must contain the following items: ...</p> <p>(8) SAP's clinical determination as to whether the employee has demonstrated successful compliance;</p> <p>(9) Follow-up testing plan... "</p>

#	Question	Response	Regulation	
62.	Whose responsibility is it to determine the number of follow-up tests for an individual returning to duty?		Section 40.307(c) states: "You are the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation. For example, if the employee had a positive drug test, but your evaluation or the treatment program professionals determined that the employee had an alcohol problem as well, you should require that the employee have follow-up tests for both drugs and alcohol."	
63.	Is the returning employee made aware of the specifics of the follow-up testing schedule (days and times of tests) or is the employee unaware until notification, similarly to random testing?		Section 40.309(b) states: "(b) You should schedule follow-up tests on dates of your own choosing, but you must ensure that the tests are unannounced with no discernable pattern as to their timing, and that the employee is given no advance notice."	
64.	Do you review each return-to-duty plan/schedule submitted by the SAP?		Section 40.309(a) states: "As the employer, you must carry out the SAP's follow-up testing requirements."  In order to comply with Section 40.309(a), the employer must review and understand the SAP's return-to-duty plan for each employee.	

#	Question	Response	Regulation	
65.	Who is responsible for ensuring that the SAP's follow-up testing plan for each employee is followed?		Section 40.309(a) states: "As the employer, you must carry out the SAP's follow-up testing requirements. You may not allow the employee to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP."	
66.	<p>A. Who is responsible for determining when an employee must actually go for a follow-up test?</p> <p>B. What would you do if you found out the SAP's follow-up testing plan was not accurately followed?</p>		<p>Section 40.309 states: "(a) As the employer, you must carry out the SAP's follow-up testing requirements. You may not allow the employee to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP. (b) You should schedule follow-up tests on dates of your own choosing, but you must ensure that the tests are unannounced with no discernable pattern as to their timing, and that the employee is given no advance notice."</p> <p>Section 40.307(d)(3) states: "You [the SAP] are not to establish the actual dates for the follow-up tests you prescribe. The decision on specific dates to test is the employer's."</p>	
67.	Do you always conduct return-to-duty and follow-up tests under Direct Observation conditions?		Section 40.67(b) states: "As an employer, you must direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test."	

#	Question	Response	Regulation	
68.	What would you do if you found out that a return-to-duty or follow-up test was not conducted under Direct Observation conditions?		40.67(b) states: "(b) As an employer, you must direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test."	
		<b>NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT COMMUNICATION WITH THE MRO AND/OR C/TPA</b>		

#	Question	Response	Regulation
69.	If you utilize a C/TPA, how do you monitor its compliance with federal regulations?		<p>Section 40.11 states: "(a) As an employer, you are responsible for meeting all applicable requirements and procedures of this part.</p> <p>(b) You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations.</p> <p>(c) All agreements and arrangements, written or unwritten, between and among employers and service agents concerning the implementation of DOT drug and alcohol testing requirements are deemed, as a matter of law, to require compliance with all applicable provisions of this part and DOT agency drug and alcohol testing regulations. Compliance with these provisions is a material term of all such agreements and arrangements.</p>

#	Question	Response	Regulation
70.	By what method and how soon after a positive test is verified, does the MRO or C/TPA notify the transit system?		<p>Section 40.167(a) and (b) state: "As the MRO or C/TPA who transmits drug test results to the employer, you must comply with the following requirements:</p> <p>(a) You must report the results in a confidential manner.</p> <p>(b) You must transmit to the DER on the same day the MRO verifies the result or the next business day all verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted specimen results, and other refusals to test.</p> <p>(1) Direct telephone contact with the DER is the preferred method of immediate reporting. Follow up your phone call with appropriate documentation (see §40.163).</p> <p>(2) You are responsible for identifying yourself to the DER, and the DER must have a means to confirm your identification.</p> <p>(3) The MRO's report that you transmit to the employer must contain all of the information required by §40.163"</p>
71.	Upon receiving notice that a covered employee has refused to submit to a test, does the DER immediately remove the employee from performing safety-sensitive functions?		<p>Section 655.61(a)(3) states: "If an employee refuses to submit to a drug or alcohol test, the employer shall require that the covered employee cease performing a safety-sensitive function."</p>

#	Question	Response	Regulation	
72.	What password or other verification method has the transit system and the MRO or C/TPA established to ensure that verbal transmission of positive test results from the MRO is secure?		<p>Section 40.167(b) states: "You (the MRO or C/TPA) must transmit to the DER on the same day the MRO verifies the result or the next business day all verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted specimen results, and other refusals to test.</p> <p>(1) Direct telephone contact with the DER is the preferred method of immediate reporting. Follow up your phone call with appropriate documentation (see Section 40.163).</p> <p>(2) You are responsible for identifying yourself to the DER, and the DER must have a means to confirm your identification."</p>	

#	Question	Response	Regulation	
73.	How do you ensure that the MRO or C/TPA has provided a test result in a reasonable period after the test?		Section 40.17 states: "... as an employer, you are responsible for obtaining information required by this part from your service agents. This is true whether or not you choose to use a C/TPA as an intermediary in transmitting information to you. For example, suppose an applicant for a safety-sensitive job takes a pre-employment drug test, but there is a significant delay in your receipt of the test result from an MRO or C/TPA. You must not assume that "no news is good news" and permit the applicant to perform safety-sensitive duties before receiving the result. This is a violation of the Department's regulations."	

#	Question	Response	Regulation
74.	What is the response if you receive the report of a dilute-negative drug test result?		Section 40.197(b) states: "If the MRO informs you [the employer] that a negative drug test was dilute, you may, but are not required to, direct the employee to take another test immediately. Such recollections must not be collected under direct observation, unless there is another basis for use of direct observation." Section 40.197(c) states: "You [the employer] must treat all employees the same for this purpose. For example, you must not retest some employees and not others. You may, however, establish different policies for different types of tests (e.g., conduct retests in pre-employment test situations, but not in random test situations). You must inform your employees in advance of your decisions on these matters."
75.	If the MRO requires an immediate observed collection, do you direct an immediate collection under direct observation with no advance notice to the employee, and ensure that the specimen was properly obtained?		Section 40.67(a) states: "As an employer you must direct an immediate collection under direct observation with no advance notice to the employee, if: ... (2) The MRO reported to you that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed."

#	Question	Response	Regulation	
76.	<p>A. After receipt of a canceled test result when a negative result is required (i.e. pre-employment, return-to-duty, or follow-up test), do you direct the employee to provide another specimen immediately?</p> <p>B. Is this collection conducted under direct observation?</p>		<p>Section 40.23(g) states: "As an employer who receives a cancelled test result when a negative result is required (e.g., pre-employment, return-to-duty, or follow-up test), you must direct the employee to provide another specimen immediately."</p>	

#	Question	Response	Regulation	
77.	<p>A. What do you do if the MRO contacts you because they are unable to reach an employee?</p> <p>B. How many times, and over what period of time, must you attempt to contact the employee?</p>		<p>Section 40.131(d) states: "(d) As the DER, you must attempt to contact the employee immediately, using procedures that protect, as much as possible, the confidentiality of the MRO's request that the employee contact the MRO. If you successfully contact the employee (i.e., actually talk to the employee), you must document the date and time of the contact, and inform the MRO. You must inform the employee that he or she should contact the MRO immediately. You must also inform the employee of the consequences of failing to contact the MRO within the next 72 hours (see §40.133(a)(2)).</p> <p>(1) As the DER, you must not inform anyone else working for the employer that you are seeking to contact the employee on behalf of the MRO.</p> <p>(2) If, as the DER, you have made all reasonable efforts to contact the employee but failed to do so, you may place the employee on temporary medically unqualified status or medical leave. Reasonable efforts include, as a minimum, three attempts, spaced reasonably over a 24-hour period, to reach the employee at the day and evening telephone numbers listed on the CCF.</p>	

#	Question	Response	Regulation
			<p>(i) As the DER, you must document the dates and times of these efforts.</p> <p>(ii) If, as the DER, you are unable to contact the employee within this 24-hour period, you must leave a message for the employee by any practicable means (e.g., voice mail, e-mail, letter) to contact the MRO and inform the MRO of the date and time of this attempted contact.”</p>
78.	Does any employee serve as a urine collector, BAT or STT? If so, how do you ensure that no employee with direct immediate supervisory responsibility or authority over another safety-sensitive employee will conduct a test on such an employee?		<p>Section 40.31(c) states: “As the immediate supervisor of an employee being tested, you may not act as the collector when that employee is tested, unless no other collector is available and you are permitted to do so under DOT agency drug and alcohol regulations.”</p> <p>Section 40.211(c) states: “As a BAT- or STT-qualified immediate supervisor of a particular employee, you may not act as the STT or BAT when that employee is tested, unless no other STT or BAT is available and DOT agency regulations do not prohibit you from doing so.”</p>
		<p><b>NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT CONTRACTORS THAT PROVIDE SAFETY-SENSITIVE SERVICES FOR THIS TRANSIT SYSTEM.</b></p>	

#	Question	Response	Regulation	
79.	<p>If you use a contractor to perform safety-sensitive duties, how do you monitor the contractor's compliance with Parts 40 and 655?</p> <p><b>If the agency does not use contractors, skip to Question #82.</b></p>		<p>Section 40.11 states: "(b) You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations. (c) All agreements and arrangements, written or unwritten, between and among employers and service agents concerning the implementation of DOT drug and alcohol testing requirements are deemed, as a matter of law, to require compliance with all applicable provisions of this part and DOT agency drug and alcohol testing regulations. Compliance with these provisions is a material term of all such agreements and arrangements."</p> <p>Section 655.81 states: "A grantee shall ensure that the recipients of funds under 49 U. S. C. 5307, 5309, 5311 or 23 U.S.C. 103(e)(4) comply with this part [49 CFR Part 655]."</p> <p>Correctly identifying contractors who must comply with FTA drug and alcohol testing requirements is the first step in the oversight process."</p>	

#	Question	Response	Regulation	
80.	Did you receive this year's Drug and Alcohol MIS reports or MIS data from all of your contractors in a timely manner and were they submitted to FTA by March 15th?		Section 655.72(c) states: "Each recipient shall be responsible for ensuring the accuracy and timeliness of each report submitted by an employer, contractor, consortium or joint enterprise or by a third party service provider acting on the recipient's or employer's behalf."	
81.	How do you ensure your covered contractors and vendors in compliance with the FTA drug and alcohol rules?		Section 40.11(b) states: "You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations." Section 655.81 states: "A grantee shall ensure that the recipients of funds under 49 U. S. C. 5307, 5309, 5311 or 23 U.S.C. 103(e)(4) comply with this part [49 CFR Part 655]."	
		<b>NOW, I WOULD LIKE TO ASK YOU A FEW QUESTIONS ABOUT THIS COMPANY'S RECORDS MANAGEMENT AS WELL AS DRUG AND ALCOHOL MIS REPORT.</b>		

#	Question	Response	Regulation
82.	Did you complete and submit your DAMIS report to the FTA by March 15 <sup>th</sup> ?		<p>Section 655.72 states: "(a) Each recipient shall annually prepare and maintain a summary of the results of its anti-drug and alcohol misuse testing programs performed under this part during the previous calendar year.</p> <p>(b) When requested by FTA, each recipient shall submit to FTA's Office of Safety and Security, or its designated agent, by March 15, a report covering the previous calendar year (January 1 through December 31) summarizing the results of its anti-drug and alcohol misuse programs.</p> <p>(c) Each recipient shall be responsible for ensuring the accuracy and timeliness of each report submitted by an employer, contractor, consortium or joint enterprise or by a third party service provider acting on the recipient's or employer's behalf."</p>
83.	<p>A. Do you maintain all records related to the drug and alcohol program in a secure location with controlled access (including any records which may be moved to a "longer-term" storage location")?</p> <p>B. Please provide a detailed description of how this requirement is met.</p>		<p>Section 655.71(a) states: "An employer shall maintain records of its anti-drug and alcohol misuse program as provided in this section. The records shall be maintained in a secure location with controlled access."</p>

#	Question	Response	Regulation
84.	Do you review CCFs and ATFs to identify and correct any errors in the testing process, even if the errors are not considered problems that will cause a test to be canceled?		Section 40.209(a) states: "As a collector, laboratory, MRO, employer or other person administering the drug testing process, you must document any errors in the testing process of which you become aware, even if they are not considered problems that will cause a test to be cancelled as listed in this subpart. Decisions about the ultimate impact of these errors will be determined by other administrative or legal proceedings, subject to the limitations of paragraph b of this section [40.209(b)]." Section 40.275(a) states: "As an STT, BAT, employer, or a service agent administering the testing process, you must document any errors in the testing process of which you become aware, even if they are not fatal flaws or correctable flaws."

#	Question	Response	Regulation	
85.	<p>Do you maintain current DOT training Credentials for:</p> <ul style="list-style-type: none"> <li>A. Medical Review Officer (MRO)</li> <li>B. Urine Collectors</li> <li>C. Breath Alcohol Technicians</li> <li>D. Saliva Screening Technicians (If applicable)</li> <li>E. Two Substance Abuse Professionals (including professional license and training credentials)</li> </ul> <p>Please provide copies.</p>		<p>Sections 40.33(g), 40.121(e), 40.213(g) and 40.281(e) state: "You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or negotiating to use your services."</p>	
86.	<p>How do you ensure that any urine collector, BAT or STT, who has caused a test to be canceled or rejected due to a fatal or uncorrected flaw, has undergone error correction training within the time allotted?</p>		<p>Section 40.11 states: "(a) As an employer, you are responsible for meeting all applicable requirements and procedures of this part. (b) You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations."</p>	

#	Question	Response	Regulation
87.	<p>Are the following records maintained for a minimum of <u>five years</u> from the date they were created?</p> <ul style="list-style-type: none"> <li>A. Covered employee verified positive drug and alcohol test results;</li> <li>B. Documentation of refusals to take required drug or alcohol tests;</li> <li>C. Covered employee referrals to the SAP;</li> <li>D. Employer reports from SAPs; and</li> <li>E. Copies of annual DAMIS reports submitted to FTA?</li> </ul>		<p>Section 655.71(b) states, "In determining compliance with the retention period requirement, each record shall be maintained for the specified minimum period of time as measured from the date of the creation of the record. Each employer shall maintain the records in accordance with the following schedule:  (1) Five years. Records of covered employee verified positive drug or alcohol test results, documentation of refusals to take required drug or alcohol tests, and covered employee referrals to the substance abuse professional, and copies of annual MIS reports submitted to FTA."</p>
88.	<p>Do you maintain all drug and alcohol test results obtained from previous employers for new hires or transfers into safety-sensitive positions for a minimum of <u>three years</u>?</p>		<p>40.333(a) states, "As an employer, you must keep the following records for the following periods of time:... (2) You must keep records for three years of information obtained from previous employers under §40.25 concerning drug and alcohol test results of employees."</p>

#	Question	Response	Regulation
89.	Do you maintain records of the collection process and employee training for at least <u>two years</u> ?		<p>Section 655.71(c) states: "The following specific records must be maintained: ...</p> <p>(4) Records related to employee training: ...</p> <p>(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion."</p> <p>Section 655.71(b) states: "In determining compliance with the retention period requirement, each record shall be maintained for the specified minimum period of time as measured from the date of the creation of the record. Each employer shall maintain the records in accordance with the following schedule: ...</p> <p>(2) Two years. Records related to the collection process and employee training."</p>

#	Question	Response	Regulation	
90.	Do you maintain negative drug and alcohol test results for at least <u>one year</u> ?		Section 655.71(b) states, "In determining compliance with the retention period requirement, each record shall be maintained for the specified minimum period of time as measured from the date of the creation of the record. Each employer shall maintain the records in accordance with the following schedule: (3) One year. Records of negative drug or alcohol test results.	
91.	Would you only release drug and alcohol testing information related to covered employees as permitted by law or in accordance with the circumstances described in Section 655.73?		Section 655.73(a) states, "Except as required by law, or expressly authorized or required in this section, no employer may release information pertaining to a covered employee that is contained in records required to be maintained by §655.71."	
		<b>THAT WAS THE LAST QUESTION. THANK YOU FOR YOUR TIME AND INPUT.</b>		

[TYPE THE COMPANY NAME]

# Records Management Interview Questions

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[Type the author name]

**\*\*NOTE\*\*** Questions highlighted in yellow indicate critical areas.

#	Question	Response	Regulation	Finding/Followup
1	<p>APPROPRIATENESS OF RECORDS MAINTENANCE: Does the auditor observe that a set of records has been established with the following characteristics:1) Secure location and access controlled to those few individuals with a need to know;2) Information released only as appropriate;3) Federally required tests and testing has priority and is separate from non-DOT testing;4) Records are maintained for the proper length of time.</p>			
2	<p>Does the employer maintain records of its anti-drug and alcohol misuse program in a secure location with controlled access?</p>		<p>Section 655.71(a) states: "An employer shall maintain records of its anti-drug and alcohol misuse program as provided in this section. The records shall be maintained in a secure location with controlled access."</p>	
3	<p>Does the employer only release drug and alcohol testing information related to covered employees as permitted by law or in accordance with the circumstances described in Section 655.73?</p>		<p>Section 655.73(a) states: "Except as required by law, or expressly authorized or required in this section, no employer may release information pertaining to a covered employee that is contained in records required to be maintained by Section 655.71 of this subpart."</p>	

#	Question	Response	Regulation	Finding/Followup
4	Are DOT tests separate from non-DOT tests in all respects, and do DOT tests take priority (i. e. DOT tests conducted and completed before a non-DOT test is begun, urine collected in a DOT test not used for a non-DOT test)?		Section 40.13(a) states: "DOT tests must be completely separate from non-DOT tests in all respects." Section 40.13(b) states: "DOT tests must take priority and must be conducted and completed before a non-DOT test is begun. For example, you must discard any excess urine left over from a DOT test and collect a separate void for the subsequent non-DOT test."	
5	Are the following records maintained for a minimum of five years from the date of creation: (1) covered employee verified positive drug and alcohol test results; (2) documentation of refusals; (3) covered employee referrals to an SAP; (4) employer reports from SAPs; and (5) copies of annual MIS reports submitted to FTA?		Section 655.71(b)(1) states: "Records of covered employee verified positive drug or alcohol test results, documentation of refusals to take required drug or alcohol tests, and covered employee referrals to the substance abuse professional, and copies of annual MIS reports submitted to FTA [must be maintained for five years]." Section 40.311(h) states: "As an employer, you must maintain your reports from SAPs for 5 years from the date you received them."	
6	Does the employer maintain for three years all drug and alcohol test results obtained from previous employers for new hires or transfers into safety-sensitive positions?		Section 40.333(a)(2) states: "You must keep records for three years of information obtained from previous employers under Section 40.25 concerning drug and alcohol test results of employees."	

#	Question	Response	Regulation	Finding/Followup
7	Does the employer maintain records of the collection process and employee training for at least two years?		Section 655.71(b)(2) states: "Records related to the collection process and employee training [must be maintained for two years]."	
8	Does the employer maintain negative drug and alcohol test results for at least one year?		Section 655.71(b)(3) states: "Records of negative drug or alcohol test results [must be maintained for one year]."	
9	EMPLOYEE AND SUPERVISOR TRAINING: Do the records indicate that the employer complies with the employee and supervisor education and training requirements, including:1) Displaying and distributing drug and alcohol informational material? 2) Providing and documenting 60 minutes of employee drug awareness training? 3) Providing and documenting 120 minutes of supervisor reasonable suspicion drug and alcohol training? 4) Not requiring employees to sign drug and alcohol testing consent forms, except the required "prior employer" records release forms?			

#	Question	Response	Regulation	Finding/Followup
10	Do supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse?		Section 655.14 states: "Each employer shall establish an employee education and training program for all covered employees, including: (b) Training. (2) Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse."	
11	PRE-EMPLOYMENT RECORDS REQUESTS Does the employer:1) Obtain a specific written release from applicants for safety-sensitive positions;2) Request the information from all listed covered employers who employed the individual within the past two years; and3) Ask the applicant whether they have ever been denied a position on the basis of a positive drug or alcohol test?			

#	Question	Response	Regulation	Finding/Followup
12	<p>Since August 1, 2001, has the employer obtained specific written consent from the applicant or employee to obtain information about prior DOT drug and alcohol test records from all DOT-regulated employers who employed the individual within the two years prior to the date of application?</p>			
13	<p>Does the employer perform the requests required by this part for all safety-sensitive applicants/transferees, or only those applying to a driver/cdl position?</p>		<p>Section 40.25(b) states: "You must request the information listed in this paragraph (b) from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer."</p>	
14	<p>Does the employer ask each applicant or transferee whether he or she has tested positive, or refused a test, on any pre-employment drug or alcohol test administered by an employer to which the applicant or transferee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years?</p>		<p>Section 40.25(j) states: "As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years."</p>	

#	Question	Response	Regulation	Finding/Followup
15	<p>PRE-EMPLOYMENT TESTING: Does the auditor observe that the pre-employment testing program has the following characteristics: 1) Notification of FTA authority; 2) Verified negative result is received before the employee performs a safety-sensitive duty (or is hired if the transit system continues with the previous policy); 3) Cancelled tests, if any, must be retaken and passed before the employee performs a safety-sensitive duty (or is placed on the payroll); 4) No more than 90 days between the pre-employment test and the date the employee becomes subject to random testing.</p>			

#	Question	Response	Regulation	Finding/Followup
16	Does the employer receive a verified negative pre-employment drug test result for each applicant or transferee before the individual performs a safety-sensitive function for the first time?		Section 655.41(a)(1) states: "Before allowing a covered employee or applicant to perform a safety-sensitive function for the first time, the employer must ensure that the employee takes a pre-employment drug test administered under this part with a verified negative result. An employer may not allow a covered employee, including an applicant, to perform a safety-sensitive function unless the employee takes a drug test administered under this part with a verified negative result." Section 655.41(b) states: "An employer may not transfer an employee from a non-safety-sensitive function to a safety-sensitive function until the employee takes a pre-employment drug test administered under this part with a verified negative result." Safety-sensitive function includes the operation of a revenue-service vehicle, whether or not in revenue service. A pre-employment test result must be received before the employee first performs this function in training or as part of a road test.	

#	Question	Response	Regulation	Finding/Followup
17	Do the records indicate that no more than 90 days elapse between the receipt of the negative pre-employment test and the date the employee first performs a safety-sensitive duty and is placed into the random testing pool?		Section 655.41(d) states: "When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result."	
18	Do the records indicate that, if a pre-employment drug test is cancelled, the employer requires the covered employee to take another pre-employment drug test administered under this part with a verified negative result?		Section 655.41(c) states: "If a pre-employment drug test is canceled, the employer shall require the covered employee or applicant to take another pre-employment drug test administered under this part with a verified negative result."	
19	If the employer chooses to conduct pre-employment alcohol testing, does the employer conduct all pre-employment alcohol tests using the alcohol testing procedures set forth in 49 CFR Part 40?		Section 655.42(d) states: "The employer must conduct all pre-employment alcohol tests using the alcohol testing procedures set forth in 49 CFR Part 40."	
20	REASONABLE SUSPICION TESTING: Do the records of Reasonable Suspicion testing indicate that the tests were properly ordered, adequately documented by trained supervisors, and completed within the required timeframes?		Null	

#	Question	Response	Regulation	Finding/Followup
21	Do the records indicate that the employer's determination, that reasonable suspicion existed to warrant testing, was based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee?		Section 655.43(b) states: "An employer's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor(s), or other company official(s) who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations."	
22	Do the records indicate that all reasonable suspicion tests were ordered by supervisor(s), or other company official(s) trained in detecting the signs and symptoms of drug use and alcohol misuse?		Section 655.14(b)(2) states: "Supervisors. Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse."	

#	Question	Response	Regulation	Finding/Followup
23	Do the records indicate that if the reasonable suspicion alcohol test was not administered within two hours, there is a record stating the reasons the alcohol test was not promptly administered? If a reasonable suspicion alcohol test is not administered within eight hours, does the employer cease attempts to administer an alcohol test and state in the record the reasons for not administering the test?		Section 655.43(d) states: "If an alcohol test required by this section is not administered within two hours following the determination [to test], the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination [to test], the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test."	

#	Question	Response	Regulation	Finding/Followup
24	<p>POST-ACCIDENT TESTING: Do the records indicate that the post-accident testing program has the following characteristics: 1) Proper observance of FTA testing thresholds; 2) Proper notification of test authority; 3) Proper use of the federal CCF; 4) Testing completed within the required time limits or records maintained of testing efforts.</p>		Null	<p>The DAPM must provide a signed statement, on agency letterhead, certifying that they have read and fully understand the requirements of 49 CFR Part 655.44(ii) and (b) which state employer must cease all attempts to conduct post-accident testing after eight (8) hours for alcohol and thirty-two (32) hours for drugs, following the time of the accident. Additionally, the DAPM must acknowledge that they understand the requirement (when applicable) to document if a post-accident alcohol test is not conducted within two (2) of the time of the accident.</p> <p>In addition, the DAPM must provide a detailed statement explaining why a post-accident test was not conducted until the following morning.</p>
25	<p>Do the records indicate that the employer performs an FTA post-accident test after an accident when an individual dies, regardless of whether the operator's performance can be completely discounted as a possibly contributing factor?</p>		<p>Section 655.44(a)(1)(i) states: "As soon as practicable following an accident involving the loss of human life, an employer shall conduct drug and alcohol tests on each surviving covered employee operating the mass transit vehicle at the time of the accident."</p>	

#	Question	Response	Regulation	Finding/Followup
26	Do the records indicate that the employer conducts FTA post-accident testing after non-fatal accidents that reach an FTA post-accident testing threshold (unless the employee's performance has been completely discounted as a factor contributing to the accident)?		Section 655.44(a)(2)(i) states: "As soon as practicable following an accident not involving the loss of human life in which a mass transit vehicle is involved, the employer shall drug and alcohol test each covered employee operating the mass transit vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident."	

#	Question	Response	Regulation	Finding/Followup
27	Do any records indicate that the employer conducts post-accident testing using a federal CCF after an accident that does not meet an FTA post-accident threshold, or after a qualifying accident in which the employee has been discounted?		Section 40.13(f) states: "As an employer, you must not use the CCF or the ATF in your non-DOT drug and alcohol testing programs. This prohibition includes the use of the DOT forms with references to DOT programs and agencies crossed out. You also must always use the CCF and ATF for all your DOT-mandated drug and alcohol tests." An "Accident" is defined in Section 655.4 as: "an occurrence associated with the operation of a vehicle, if as a result: (1) An individual dies; or (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or (4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation"	

#	Question	Response	Regulation	Finding/Followup
28	Do the records indicate that the employer tests other covered employees whose performance could have contributed to a fatal or non-fatal accident?		Section 655.44(a)(ii) states: "The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision."	
29	Is the decision not to administer a post-accident drug and/or alcohol test documented in detail, including the decision-making process used to reach the decision not to test, in an accident where an FTA post-accident testing threshold was met?		Section 655.44(d) states: "The decision not to administer a drug and/or alcohol test under this section shall be based on the employer's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test."	
30	If a post-accident alcohol test is not administered within two hours following the accident, does the employer prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered?		Section 655.44(a)(2)(ii) states: "If an alcohol test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered..."	

#	Question	Response	Regulation	Finding/Followup
31	If a post-accident alcohol test is not administered within eight hours following the accident, does the employer cease attempts to administer an alcohol test and maintain the record?		Section 655.44(a)(2)(ii) states: "... If an alcohol test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and maintain the record. Records shall be submitted to FTA upon request of the Administrator."	
32	Is a covered employee who is required to be drug tested after an accident tested as soon as practicable, but within 32 hours of the accident?		Section 655.44(b) states: "An employer shall ensure that a covered employee required to be drug tested under this section is tested as soon as practicable but within 32 hours of the accident."	
33	If a covered employee who is subject to post-accident testing fails to remain readily available for such testing, is the employee deemed by the employer to have refused to submit to testing?		Section 655.44(c) states: "A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or the employer representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the employer to have refused to submit to testing."	

#	Question	Response	Regulation	Finding/Followup
34	If the employer is unable to perform a post-accident test within the required timeframe and the employer uses the results of a blood, urine, or breath test conducted by Federal, State, or local officials having independent authority for the test, do such tests conform to the applicable Federal, State, or local testing requirements, and are the test results obtained by the employer?		Section 655.44(f) states: "The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section provided such test conforms to the applicable Federal, State, or local testing requirements, and that the test results are obtained by the employer. Such test results may be used only when the employer is unable to perform a post-accident test within the required period noted in [Sections 655.44(a) and (b)]."	
35	RANDOM TESTING: Do the records indicate that random testing has the required characteristics: 1) Draws are made frequently enough; 2) Random testing is performed at the required minimum rates; 3) Testing is spread reasonably; 4) Method is scientifically valid; 5) Notices are held confidentially; 6) Employees proceed immediately; 6) Excusals are valid and recorded.		Null	
36	Are random testing selections performed not less frequently than quarterly?		The preamble to Part 655 states: "FTA believes that requiring random testing to be conducted at least quarterly strikes a reasonable balance while considering the rule's impact on employers in rural areas."	

#	Question	Response	Regulation	Finding/Followup
37	If a C/TPA provides selection lists to the employer, have these lists been provided in a consistent and timely fashion, such that the employer's ability to complete and spread random testing is not hindered?		The preamble to Part 655 states: "FTA believes that requiring random testing to be conducted at least quarterly strikes a reasonable balance while considering the rule's impact on employers in rural areas." Section 655.45(g) states: "Each employer shall ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed."	
38	Has the employer met the FTA's published minimum annual percentage rate for random drug and alcohol testing?		Section 655.45(a) states: "Except as provided in paragraphs (b) through (d) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees; the random alcohol testing rate shall be 10 percent. As provided in paragraph (b) of this section, this rate is subject to annual review by the Administrator."	

#	Question	Response	Regulation	Finding/Followup
39	Is the selection of employees for random testing made by a scientifically valid method, and does each covered employee have an equal chance of being tested each time selections are made?		Section 655.45(e) states: "The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made."	
40	Are random drug and alcohol tests unpredictable - e. g. , the dates for administering random tests are spread reasonably throughout the calendar year?		Section 655.45(g) states: "Each employer shall ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed."	

#	Question	Response	Regulation	Finding/Followup
41	Are random drug and alcohol tests unpredictable - e. g. , the tests are conducted on all days of the week when safety sensitive functions are performed?		Section 655.45(g) states: "Each employer shall ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Section 655 regulatory commentary: "FTA reiterated in the NPRM that a primary purpose of random testing is deterrence. Deterrence is most effectively achieved with random, unpredictable drug and alcohol testing that is conducted throughout all workdays and hours of service."	
42	Are random drug and alcohol tests unpredictable - e. g. , the tests are conducted at all times of the day when safety sensitive functions are performed?		Section 655.45(g) states: "Each employer shall ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed."	

#	Question	Response	Regulation	Finding/Followup
43	Do the records indicate that all covered employees are proceeding to the collection site immediately upon notification of their selection for a random drug and/or alcohol test?		Section 655.45(h) states: "Each employer shall require that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the employer shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately."	
44	Are records of excusals maintained, and do the records indicate that employees are only excused from random testing for legitimate reasons (e.g., on vacation, out sick)?		Section 655.45(e) states: "Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made."	
45	ACTIONS AFTER NON-NEGATIVE TEST RESULTS: Do the records indicate that for each non-negative or refused drug or alcohol test result:1) the employee is immediately removed from safety-sensitive duties; and 2) the employee is referred to a qualified SAP who is reasonably available to the employee?		Null	

#	Question	Response	Regulation	Finding/Followup
46	Upon receiving notice that a covered employee has a verified positive test result, does the DER immediately remove the employee from performing safety-sensitive functions?		Section 655.61(a)(1) states: "Immediately after receiving notice from a medical review officer (MRO) or a consortium/third party administrator (C/TPA) that a covered employee has a verified positive drug test result, the employer shall require that the covered employee cease performing a safety-sensitive function."	
47	Upon receiving notice from the BAT that a covered employee has a confirmed alcohol test result of 0.02 or greater, does the DER immediately remove the employee from performing safety-sensitive functions?		Section 655.61(a)(2) states: "Immediately after receiving notice from a Breath Alcohol Technician (BAT) that a covered employee has a confirmed alcohol test result of 0.04 or greater, the employer shall require that the covered employee cease performing a safety-sensitive function."	
48	Upon receiving notice that a covered employee has refused to submit to a test, does the DER immediately remove the employee from performing safety-sensitive functions?		Section 655.61(a)(3) states: "If an employee refuses to submit to a drug or alcohol test, the employer shall require that the covered employee cease performing a safety-sensitive function."	

#	Question	Response	Regulation	Finding/Followup
49	<p>Does the employer provide each employee who violates a DOT drug and/or alcohol regulation (including applicants or new employees) a list of SAPs readily available to the employee and acceptable to the employer, including names, addresses, and telephone numbers?</p>		<p>Section 40.287 states: "As an employer, you must provide to each employee (including an applicant or new employee) who violates a DOT drug and alcohol regulation a listing of SAPs readily available to the employee and acceptable to you, with names, addresses, and telephone numbers. You cannot charge the employee any fee for compiling or providing this list. You may provide this list yourself or through a C/TPA or other service agent."</p>	
50	<p>RETURN TO DUTY AND FOLLOW-UP TESTING: If the company has a Second-Chance policy, do the records indicate that the Return-to-Duty and Follow-up process is conducted properly, including:1) Evaluation by a properly qualified SAP;2) Receipt of the initial evaluation report by the SAP;3) Return to Duty test after written recommendation by the SAP;4) Receipt of the frequency and duration of follow-up testing plan from the SAP; 5) Adherence to the follow-up testing plan; and 6) All RTD/Follow-up tests conducted since 9/1/2009 have been performed under direct observation?</p>		<p>Null</p>	

#	Question	Response	Regulation	Finding/Followup
51	Does the employer ensure that an employee with direct or immediate supervisory responsibility or authority over another employee does not serve as the urine collection person, breath alcohol technician, or saliva-testing technician for a drug or alcohol test of the employee?		Section 655.53 states: "An employer shall not permit an employee with direct or immediate supervisory responsibility or authority over another employee to serve as the urine collection person, breath alcohol technician, or saliva-testing technician for a drug or alcohol test of the employee."	
52	Does the employer ensure that before an employee returns to safety-sensitive duties following a regulatory violation, the employee receives an evaluation by a SAP meeting the requirements of Section 40.281, and that the employee successfully complies with the recommendations in the SAP evaluation?		Section 40.289(b) states: "If you offer an employee an opportunity to return to a DOT safety-sensitive duty following a violation, you must, before the employee again performs that duty, ensure that the employee receives an evaluation by a SAP meeting the requirements of Section 40.281 and that the employee successfully complies with the SAP's evaluation recommendations."	

#	Question	Response	Regulation	Finding/Followup
53	Does the SAPs written report of the initial evaluation meet the reporting requirements of Part 40?		Section 40.311(b) states: "The SAP's written report, following an initial evaluation that determines what level of assistance is needed to address the employee's drug and/or alcohol problems, must be on the SAP's own letterhead (and not the letterhead of another service agent) signed and dated by the SAP, and must contain the following delineated items: (1) Employee's name and SSN; (2) Employer's name and address;(3) Reason for the assessment (specific violation of DOT regulations and violation date);(4) Date(s) of the assessment;(5) SAP's education and/or treatment recommendation; and (6) SAP's telephone number."	

#	Question	Response	Regulation	Finding/Followup
54	Does the SAPs written report of the follow-up evaluation meet the reporting requirements of Part 40?		Section 40.311(d) states: "The SAP's written report concerning a follow-up evaluation that determines the employee has demonstrated successful compliance must be on the SAP's own letterhead (and not the letterhead of another service agent), signed by the SAP and dated, and must contain the following items:(1) Employee's name and SSN;(2) Employer's name and address;(3) Reason for the initial assessment (specific violation of DOT regulations and violation date);(4) Date(s) of the initial assessment and synopsis of the treatment plan;(5) Name of practice(s) or service(s) providing the recommended education and/or treatment; (6) Inclusive dates of employee's program participation; (7) Clinical characterization of employee's program participation;(8) SAP's clinical determination as to whether or not the employee has demonstrated successful compliance;(9) Follow-up testing plan;(10) Employee's continuing care needs with specific treatment, aftercare, dates of any further follow-up evaluation the SAP has scheduled, and/or support group services recommendations; and (11) SAP's telephone number."	

#	Question	Response	Regulation	Finding/Followup
55	<p>If the employer decides to permit an employee to return to the performance of safety-sensitive functions, does the employer ensure that the employee takes a return-to-duty drug and/or alcohol test with a negative result and that this test does not occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment?</p>		<p>Section 40.305(a) states: "As the employer, if you decide that you want to permit the employee to return to the performance of safety-sensitive functions, you must ensure that the employee takes a return-to-duty test. This test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties."</p>	
56	<p>Do the records indicate that the employer is conducting follow-up testing in accordance with SAPs prescribed testing requirements, and does the employer schedule follow-up tests on dates of its own choosing, in an unpredictable manner, and with no prior notice to the employee?</p>		<p>Section 40.309(a) states: "As the employer, you must carry out the SAP's follow-up testing requirements. You may not allow the employee to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP."</p>	

#	Question	Response	Regulation	Finding/Followup
57	Do the records indicate that the employer ever substitutes any other tests (e.g., random tests, post-accident tests) or a cancelled follow-up test to comply with the SAPs follow-up testing requirement?		Section 40.309(d) states: "You [the employer] cannot substitute any other tests (e.g., those carried out under the random testing program) conducted on the employee for this follow-up testing requirement." Section 40.309(c) states: "You [the employer] cannot count a follow-up test that has been cancelled as a completed test. A cancelled follow-up test must be recollected."	
58	Do the records indicate that all Return-to-duty and Follow-up tests conducted since September 1, 2009 have been performed under direct observation?		Section 40.67(b) states: "As an employer, you must direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test."	
59	If the record includes any case(s) in which a return-to-duty or follow-up test that should have been observed was not, did the MRO or other vendor hold the original result and request that the employer immediately direct the employee to submit to recollection under direct observation?		A notice from the Department of Transportation's Office of Drug and Alcohol Policy and Compliance, dated September 10, 2009, reads: "If a collector, Medical Review Office (MRO), Third Party Administrator (TPA), or other service agent learns that a Direct Observation collection using the required procedures was not conducted, the employer needs to be informed. Upon learning that a Direct Observation collection using the required procedures was not conducted, the employer needs to direct the employee to have an immediate recollection under Direct Observation."	

#	Question	Response	Regulation	Finding/Followup
60	<p>GENERAL TESTING REQUIREMENTS:  Does the auditor observe that the employer or service agent maintains compliance with the following: 1) Adherence to company policy regarding the treatment of dilute negative test results; 2) Fatally flawed tests are canceled and the collector is retrained;3) Correctable flaws are corrected with an affidavit and the collector is retrained; 4) Canceled pre-employment, return-to-duty and follow-up tests are immediately rescheduled by the employer and a successful collection is obtained; 5) Employer immediately schedules an observed collection when required to do so by the MRO and a successful observed collection is obtained; 6) The employer does not require consent or release of liability from its employees or applicants; 7) The employer notifies employees/applicants of the requirement that testing is performed under the authority of FTA's 49 CFR Part 655; and 8) Supervisors with direct or immediate authority over an employee do not act as the collector or alcohol technician for that employee?</p>		Null	

#	Question	Response	Regulation	Finding/Followup
61	If the employer has received any dilute-negative test results, do the records indicate that the employer has reacted in a manner consistent with its policy?		<p>Section 40.197(b) states: "If the MRO informs you [the employer] that a negative drug test was dilute, you may, but are not required to, direct the employee to take another test immediately. Such recollections must not be collected under direct observation, unless there is another basis for use of direct observation."</p> <p>Section 40.197(c) states: "You [the employer] must treat all employees the same for this purpose. For example, you must not retest some employees and not others. You may, however, establish different policies for different types of tests (e.g., conduct retests in pre-employment test situations, but not in random test situations). You must inform your employees in advance of your decisions on these matters."</p>	

#	Question	Response	Regulation	Finding/Followup
62	<p>Do the records indicate that the employer or other person administering the drug and alcohol testing process reviews CCFs and identifies and corrects any errors in the testing process of which they become aware, even if they are not considered problems that will cause a test to be cancelled?</p> <p>See DAPM question #84</p>		<p>Section 40.209(a) states: "As a collector, laboratory, MRO, employer or other person administering the drug testing process, you must document any errors in the testing process of which you become aware, even if they are not considered problems that will cause a test to be cancelled as listed in this subpart. Decisions about the ultimate impact of these errors will be determined by other administrative or legal proceedings, subject to the limitations of paragraph b of this section [40.209(b)]." Section 40.275(a) states: "As an STT, BAT, employer, or a service agent administering the testing process, you must document any errors in the testing process of which you become aware, even if they are not fatal flaws or correctable flaws."</p>	<p>See DAPM question #84</p>

#	Question	Response	Regulation	Finding/Followup
63	<p>Do the records indicate that any drug or alcohol tests were cancelled because they were determined to be fatally flawed? If so, has the transit operator sought and received indication that the service agent has received the required retraining?</p>		<p>Section 40.33(f) states: "Error Correction Training. If you make a mistake in the collection process that causes a test to be cancelled or rejected (i.e., a fatal or uncorrected flaw), you must undergo error correction training. This training must occur within 30 days of the date you are notified of the error that led to the need for retraining." Section 40.33(g) states: "Documentation. You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or negotiating to use your services."</p>	

#	Question	Response	Regulation	Finding/Followup
64	<p>Do the records indicate that any drug or alcohol tests which had correctable flaws were cancelled because they were not properly resolved? If tests were cancelled, has the transit operator sought and received indication that the service agent has received the required retraining?</p>		<p>Section 40.205(b) states: "If, as a collector, laboratory, MRO, employer, or other person implementing these drug testing regulations, you become aware of a problem that can be corrected (see Section 40.203), but which has not already been corrected under paragraph (a) of this section, you must take all practicable action to correct the problem so that the test is not cancelled." Section 40.33(f) states: "Error Correction Training. If you make a mistake in the collection process that causes a test to be cancelled or rejected (i.e., a fatal or uncorrected flaw), you must undergo error correction training. This training must occur within 30 days of the date you are notified of the error that led to the need for retraining." Section 40.33(g) states: "Documentation. You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are using or negotiating to use your services."</p>	

#	Question	Response	Regulation	Finding/Followup
65	Do the records indicate that, after receipt of a cancelled test result when a negative result is required (i.e. pre-employment, return-to-duty, or follow-up test), the employer directed the employee to provide another specimen immediately and was that specimen properly collected?		Section 40.23(g) states: "As an employer who receives a cancelled test result when a negative result is required (e.g., pre-employment, return-to-duty, or follow-up test), you must direct the employee to provide another specimen immediately."	
66	Do the records indicate that, after the MRO required an immediate observed collection, the employer directed an immediate collection under direct observation with no advance notice to the employee, and that the specimen was properly obtained?		Section 40.67(a) states: "As an employer you must direct an immediate collection under direct observation with no advance notice to the employee, if: ... (2) The MRO reported to you that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed."	

#	Question	Response	Regulation	Finding/Followup
67	<p>Does the employer request the following information from the DOT-regulated employers who have employed the applicant or transferee for any period during the two years prior to the date of application or transfer: (1) Alcohol tests with a result of 0.04 or higher alcohol concentration; (2) Verified positive drug tests;(3) Refusals to be tested (including verified adulterated or substituted drug test results); (4) Other violations of DOT agency drug and alcohol testing regulations; and (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests)?</p>		<p>Section 40.25(a) states: " As an employer, you must, after obtaining an employee's written consent, request the information about the employee listed in Section 40.25(b). Section 40.25(b) states: "You must request the following information from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer: (1) Alcohol tests with a result of 0. 04 or higher alcohol concentration;(2) Verified positive drug tests; (3) Refusals to be tested (including verified adulterated or substituted drug test results); (4) Other violations of DOT agency drug and alcohol testing regulations; and (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-do-duty process (e. g. , an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee."</p>	

#	Question	Response	Regulation	Finding/Followup
68	Does the employer require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by Part 40 (including, but not limited to, collections, laboratory testing, and MRO and SAP services)?		Section 40.27 states: "As an employer, you must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory testing, MRO and SAP services)."	
69	Before performing a drug or alcohol test under Section 655, does the employer notify the covered employee that the test is required under Section 655?		Section 655.17 states: "Before performing a drug or alcohol test under this part, each employer shall notify a covered employee that the test is required by this part. No employer shall falsely represent that a test is administered under this part."	
0	FINAL SECTION: ACCESS TO RECORDS			
70	If the C/TPA or other service agent acts as an intermediary in the transmission of drug and alcohol testing information, has the employer chosen to have the C/TPA or other service agent perform this function?		Section 40.345(a) states: "As a C/TPA or other service agent, you may act as an intermediary in the transmission of drug and alcohol testing information in the circumstances specified in Section 40.345 only if the employer chooses to have you do so. Each employer makes the decision about whether to receive some or all of this information from you, acting as an intermediary, rather than directly from the service agent who originates the information (e.g., an MRO or BAT)."	

#	Question	Response	Regulation	Finding/Followup
71	If the C/TPA maintains records for the employer, were those records made available to the audit team in an appropriate and timely manner?		Section 40.331(c) states: "If you are a service agent, you must, upon request of DOT agency representatives, provide the following:(1) Access to your facilities used for this part and DOT agency drug and alcohol program functions. (2) All written, printed, and computer-based drug and alcohol program records and reports (including copies of name-specific records or reports), files, materials, data, documents/documentation, agreements, contracts, policies, and statements that are required by this part and DOT agency regulations. You must provide this information at your principal place of business in the time required by the DOT agency. (3) All items in paragraph (b)(2) of this section must be easily accessible, legible, and provided in an organized manner. If electronic records do not meet these standards, they must be converted to printed documentation that meets these standards."	

#	Question	Response	Regulation	Finding/Followup
72	Did the employer permit access to all facilities utilized and records compiled in complying with the requirements of this part and disclose data for its drug and alcohol testing programs, and any other information pertaining to the employer's anti-drug and alcohol misuse programs to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or any of its employees or to a State oversight agency authorized to oversee rail fixed guide way systems?		Section 655.73(d) states: "An employer shall disclose data for its drug and alcohol testing programs, and any other information pertaining to the employer's anti-drug and alcohol misuse programs required to be maintained by this part, to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or covered employee or to a State oversight agency authorized to oversee rail fixed guide way systems, upon the Secretary's request or the respective agency's request." Section 655.73(c) states: "An employer shall permit access to all facilities utilized and records compiled in complying with the requirements of this part to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or any of its employees or to a State oversight agency authorized to oversee rail fixed guide way systems upon the Secretary's request or the respective agency's request."	
0	THAT WAS THE LAST QUESTION. THANK YOU FOR YOUR TIME AND INPUT.			

# Breath Alcohol Technician Interview Questions

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[Pick the date]

**\*\*NOTE\*\*** Questions highlighted in yellow indicate critical areas.

#	Question	Response	Regulation	Finding/Followup
1	STANDARD COLLECTION WITH NEGATIVE RESULT: Did the collector complete a standard collection with no incorrect or missed steps?			
2	Photo identification required?		Section 40.241(c) states: "Require the employee to provide positive identification. You [the BAT] must see a photo ID issued by the employer (other than in the case of an owner-operator or other self-employer individual) or a Federal, state, or local government (e.g., a driver's license). You may not accept faxes or photocopies of identification. Positive identification by an employer representative (not a co-worker or another employee being tested) is also acceptable. If the employee cannot produce positive identification, you must contact a DER to verify the identity of the employee."	

#	Question	Response	Regulation	Finding/Followup
3	Was consent or release - giving the collection site or its personnel indemnification - required for testing to be performed?		Section 40.355(a) states: "Do not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory testing, MRO, and SAP services). No one may do so on behalf of a service agent."	
4	Was the alcohol test performed first?		Section 40.241(b) states: "Ensure that, when the employee enters the alcohol testing site, you begin the alcohol testing process without undue delay. For example, you must not wait because the employee says he or she is not ready or because an authorized employer or employee representative is delayed in arriving.(1) If the employee is also going to take a DOT drug test, you must, to the greatest extent practicable, ensure that the alcohol test is completed before the urine collection process begins."	
5	Did the BAT explain the testing procedure and show the employee the instructions on the back of the Alcohol Testing Form (ATF)?		Section 40.241 states: "As the BAT or STT you will take the following steps to begin all alcohol screening tests, regardless of the type of testing device you are using: ...(e) Explain the testing procedure to the employee, including showing the employee the instructions on the back of the ATF."	

#	Question	Response	Regulation	Finding/Followup
6	Did the BAT use the current Alcohol Testing Form prescribed in Part 40?		Section 40.225(a) states: "The DOT Alcohol Testing Form (ATF) must be used for every DOT alcohol test beginning February 1, 2002. The ATF must be a three-part carbonless manifold form. The ATF is found in Appendix G to this part. You may view this form on the ODAPC web site ( <a href="http://www.dot.gov/ost/dapc/">http://www.dot.gov/ost/dapc/</a> )."	
7	After positively identifying the employee, does the BAT complete Step 1 on the Breath Alcohol Testing Form?		Section 40.241 states: "As the BAT or STT you will take the following steps to begin all alcohol screening tests, regardless of the type of testing device you are using: ... (f) Complete Step 1 of the ATF."	
8	After completing Step 1 of the ATF, did the BAT then instruct the employee to complete Step 2?		Section 40.241(g) states: "Direct the employee to complete Step 2 on the ATF and sign the certification. If the employee refuses to sign this certification, you [the BAT] must document this refusal on the "Remarks" line of the ATF and immediately notify the DER. This is a refusal to test."	
9	After the employee completes Step 2 of the ATF, does the BAT, in view of the employee, open an individually sealed mouthpiece and attach it to the EBT?		Section 40.243(b) states: "Open the individually wrapped or sealed mouthpiece in view of the employee and insert it into the device in accordance with the manufacturer's instructions."	

#	Question	Response	Regulation	Finding/Followup
10	Did the BAT instruct the employee to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained?		Section 40.243 states: "As the BAT or STT, you must take the following steps: ..." (c) Instruct the employee to blow steadily and forcefully into the mouthpiece for at least six seconds or until the device indicates that an adequate amount of breath has been obtained."	
11	Does the BAT show the employee the result displayed on the EBT?		Section 40.243 states: "As the BAT or STT, you must take the following steps: ..." (d) Show the employee the displayed test result."	
12	BRANCH POINT- TYPE OF EQUIPMENT USED FOR SCREENING TEST		Null	
13	For the initial screening test, if the device does not print a test result, does the BAT complete Step 3 of the Breath Alcohol Testing Form by recording the identification of the machine, time, sequential test number, and the test outcome?		Section 40.243 states: "As the BAT or STT, you must take the following steps: ..." (g) If the device is one that does not print the test number, testing device name and serial number, time, and result, or it is a device not being used with a printer, you must record this information in Step 3 of the ATF."	
14	If the EBT prints the breath alcohol test result on a paper strip, does the BAT affix the paper strip to the ATF using tamper-evident tape, or some other method providing clear evidence of removal?		Section 40.243(f) states: "If the device is one that prints the test number, testing device name and serial number, time and result, but on a separate printout rather than directly onto the ATF, affix the printout of the information to the designated space on the ATF with tamper-evident tape or use a self-adhesive label that is tamper-evident."	

#	Question	Response	Regulation	Finding/Followup
15	If the screening test result is less than 0.02, does the BAT complete Step 3 of the ATF by dating and signing the certification?		Section 40.247(a) states: "If the [screening] test result is an alcohol concentration of less than 0.02, as the BAT or STT, you must do the following:(1) Sign and date Step 3 of the ATF."	
16	After completing Step 3 of the ATF, does the BAT then distribute Copy 1 to the employer, Copy 2 to the employee, and retain Copy 3?		Section 40.247(a) states: "If the test result is an alcohol concentration of less than 0.02, as the BAT or STT, you must do the following: (1) Sign and date Step 3 of the ATF; and (2) Transmit the result to the DER in a confidential manner, as provided in Sec. 40.255."	
17	Were all necessary equipment, personnel, and materials for breath testing provided at the location where testing is conducted?		Section 40.221(d) states: "If you are operating an alcohol testing site, you must ensure that it has all needed personnel, materials, equipment, and facilities to provide for the collection and analysis of breath and/or saliva samples, and a suitable clean surface for writing."	
18	Did the breath alcohol testing location afford visual and aural privacy to prevent unauthorized persons from seeing or hearing test results?		Section 40.221(c) states: "If you are operating an alcohol testing site, you must ensure that it provides visual and aural privacy to the employee being tested, sufficient to prevent unauthorized persons from seeing or hearing test results."	

#	Question	Response	Regulation	Finding/Followup
19	Did the BAT remain with the employee for the entire duration of the alcohol testing procedure?		Section 40.223(e)(3) states: "You are not allowed to leave the alcohol testing site while the testing process for a given employee is in progress, except to notify a supervisor or contact a DER for assistance in the case an employee or other person who obstructs, interferes with, or unnecessarily delays the testing process."	
0	NOW WERE GOING TO DISCUSS CONFIRMATION TESTS.			
20	CONFIRMATION TESTS FOR ALCOHOL: Did the BAT discuss the steps in an alcohol confirmation test accurately and completely?			
21	What is the breath alcohol concentration level for a screening test that requires a confirmation test?		Section 40.247(b) states: "If the test result is an alcohol concentration of 0.02 or higher, as the BAT or STT, you must direct the employee to take a confirmation test."	
22	Before a confirmation breath alcohol test is conducted, is there a required waiting period, and if so, how long is it?		Section 40.251(a)(1) states: "You [the BAT] must ensure that the waiting period lasts at least 15 minutes, starting with the completion of the screening test. After the waiting period has elapsed, you should begin the confirmation test as soon as possible, but not more than 30 minutes after the completion of the screening test."	

#	Question	Response	Regulation	Finding/Followup
23	After a screening test result of 0.02 or greater, does the BAT provide the employee with any instructions before conducting the confirmation test?		Section 40.251(a)(2) states: "Concerning the waiting period, you [the BAT] must tell the employee:(i) Not to eat, drink, put anything (e.g., cigarette, chewing gum) into his or her mouth, or belch;(ii) The reason for the waiting period (i.e., to prevent an accumulation of mouth alcohol from leading to an artificially high reading);(iii) That following your instructions concerning the waiting period is to the employee's benefit; and (iv) That the confirmation test will be conducted at the end of the waiting period, even if the instructions have not been followed."	
24	If the employee doesn't follow your instruction about things they should not do during the waiting period, is this noted? If so, where is it noted?		Section 40.251(a)(3) states: " If you [the BAT] become aware that the employee has not followed the instructions, you must note this on the "Remarks" line of the ATF.	
25	Before a confirmation test is conducted, must the BAT conduct an air blank test?		Section 40.253 states: "As the BAT conducting an alcohol confirmation test, you must follow these steps in order to complete the confirmation test process: (a)) In the presence of the employee, you must conduct an air blank on the EBT you are using before beginning the confirmation test and show the reading to the employee.(1) If the reading is 0.00, the test may proceed. If the reading is greater than 0.00, you must conduct another air blank."	

#	Question	Response	Regulation	Finding/Followup
26	If the confirmation test is not conducted within 30 minutes of the screening test, what actions must you take?		Section 40.251(e) states: "Even if more than 30 minutes have passed since the screening test result was obtained, you must begin the confirmation test procedures in Section 40.253, not another screening test." Section 40.251(f) states: "You must note on the "Remarks" line of the ATF the time that elapsed between the two events, and if the confirmation test could not begin within 30 minutes of the screening test, the reason why." Section 40.251(g) states: "Beginning the confirmation test procedures after the 30 minutes have elapsed does not invalidate the screening or confirmation tests, but it may constitute a regulatory violation subject to DOT agency sanction."	
27	Is a new mouthpiece used for the confirmation test?		Section 40.253(b) states: "As the BAT conducting an alcohol confirmation test, you must follow these steps in order to complete the confirmation test process: ...(b) You must open a new individually wrapped or sealed mouthpiece in view of the employee and insert it into the device in accordance with the manufacturer's instructions."	
28	Before the confirmation test is administered, do you and the employee read the sequential test number displayed by the EBT?		Section 40.253(c) states: "You [the BAT] must ensure that you and the employee read the unique test number displayed on the EBT."	

#	Question	Response	Regulation	Finding/Followup
29	Do you show the employee the test result displayed on the EBT?		Section 40.253 states: "As the BAT conducting an alcohol confirmation test, you must follow these steps in order to complete the confirmation test process:...(e) You [the BAT] must show the employee the result displayed on the EBT."	
30	If the EBT prints a confirmation test result of less than 0.02, is there anything left for the employee to sign?		Section 40.255(a) states: "After the EBT has printed the result of an alcohol confirmation test, you must, as the BAT, take the following additional steps:(1) Sign and date Step 3 of the ATF.(2) If the alcohol confirmation test result is lower than 0.02, nothing further is required of the employee. As the BAT, you must sign and date Step 3 of the ATF."	
31	If the EBT prints a confirmation test result of 0.02 or greater, is there anything for the employee to sign?		Section 40.255(a) states: "After the EBT has printed the result of an alcohol confirmation test, you must, as the BAT, take the following additional steps: ... (3) If the alcohol confirmation test result is 0.02 or higher, direct the employee to sign and date Step 4 of the ATF. If the employee does not do so, you must note this on the "Remarks" line of the ATF. However, this is not considered a refusal to test."	
0	NOW WE ARE GOING TO DISCUSS PROBLEMS IN TESTING			

#	Question	Response	Regulation	Finding/Followup
32	What would you do if the employee cannot provide a sufficient amount of breath to permit a valid test?		<p>Section 40.265(a) states: "If an employee does not provide a sufficient amount of breath to permit a valid breath test, you must take the steps listed in this section." Section 40.265(b) states: "As the BAT or STT, you must instruct the employee to attempt again to provide a sufficient amount of breath and about the proper way to do so.(1) If the employee refuses to make the attempt, you must discontinue the test, note the fact on the "Remarks" line of the ATF, and immediately notify the DER. This is a refusal to test.(2) If the employee again attempts and fails to provide a sufficient amount of breath, you may provide another opportunity to the employee to do so if you believe that there is a strong likelihood that it could result in providing a sufficient amount of breath.(3) When the employee's attempts under paragraph (b)(2) of this section have failed to produce a sufficient amount of breath, you must note the fact on the "Remarks" line of the ATF and immediately notify the DER.(4) If you are using an EBT that has the capability of operating manually, you may attempt to conduct the test in manual mode.(5) If you are qualified to use a saliva ASD and you are in the screening test stage, you may change to a saliva ASD only to complete the screening test."</p>	

#	Question	Response	Regulation	Finding/Followup
33	What would you do if the employee refused to sign Step 4 when required?		Section 40.255(a)(3) states: "If the alcohol confirmation test result is 0.02 or higher, direct the employee to sign and date Step 4 of the ATF. If the employee does not do so, you must note this on the "Remarks" line of the ATF. However, this is not considered a refusal to test."	
34	If you didn't remark the employee's failure or refusal to sign Step 4, would the test be valid?		Section 40.269 states: "As a BAT or STT, or employer, you must cancel an alcohol test if any of the following problems occur, unless they are corrected. These are "correctable flaws." These problems are: ...(b) The BAT or STT fails to note on the "Remarks" line of the ATF that the employee has not signed the ATF after the result is obtained (see Section 40.255(a)(2)."	

#	Question	Response	Regulation	Finding/Followup
35	What would you do if the employee refuses to take an alcohol test?		Section 40.261(c) states: "As a BAT or an STT, or as the physician evaluating a "shy lung" situation, when an employee refuses to test as provided in paragraph (a) of this section, you must terminate the portion of the testing process in which you are involved, document the refusal on the ATF (or in a separate document which you cause to be attached to the form), immediately notify the DER by any means (e.g., telephone or secure fax machine) that ensures the refusal notification is immediately received. You must make this notification directly to the DER (not using a C/TPA as an intermediary)."	
36	FLAWS IN BREATH TESTING: Did the BAT correctly identify the flaws in breath testing defined in Part 40?			
37	If the next external calibration check on the EBT produces a result that is outside the tolerance listed in the QAP, does this impact any prior positive alcohol test results?		Section 40.267(c) states: "In the case of a confirmation test: ...(5) The next external calibration check of the EBT produces a result that differs by more than the tolerance stated in the QAP from the known value of the test standard. In this case, every result of 0.02 or above obtained on the EBT since the last valid external calibration check is cancelled (see Section 40.233(a)(1) and (d))."	

#	Question	Response	Regulation	Finding/Followup
38	Is there any impact on a breath alcohol test result if the BAT does not observe the 15 minute minimum waiting period prior to conducting the confirmation test?		Section 40.267 states: "As an employer, a BAT, or an STT, you must cancel an alcohol test if any of the following problems occur. These are "fatal flaws." You must inform the DER that the test was cancelled and must be treated as if the test never occurred. These problems are: ...(c) In the case of a confirmation test:(1) The BAT conducts the confirmation test before the end of the minimum 15-minute waiting period (see Section 40.251(a)(1))."	
39	Is there any impact on a breath alcohol test result if the BAT does not perform an air blank on the EBT before the conducting the confirmation test?		Section 40.267 states: "As an employer, a BAT, or an STT, you must cancel an alcohol test if any of the following problems occur. These are "fatal flaws." You must inform the DER that the test was cancelled and must be treated as if the test never occurred. These problems are: ...(c) In the case of a confirmation test: ...(2) The BAT does not conduct an air blank before the confirmation test (see Section 40.253(a))."	

#	Question	Response	Regulation	Finding/Followup
40	What would you do if the printer failed to print the confirmation test result?		Section 40.267 states: "As an employer, a BAT, or an STT, you must cancel an alcohol test if any of the following problems occur. These are "fatal flaws." You must inform the DER that the test was cancelled and must be treated as if the test never occurred. These problems are: ...(c) In the case of a confirmation test: ...(4) The EBT does not print the result (see Section 40.253(f))."	
41	Is there any impact on a breath alcohol test if the sequential test number or alcohol concentration displayed on the EBT is different from the printed results?		Section 40.267 states: "As an employer, a BAT, or an STT, you must cancel an alcohol test if any of the following problems occur. These are "fatal flaws." You must inform the DER that the test was cancelled and must be treated as if the test never occurred. These problems are: ...(b) In the case of a screening or confirmation test conducted on an EBT, the sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result (see Sections 40.253(c), (e) and (f))."	

#	Question	Response	Regulation	Finding/Followup
42	Is there any impact if a test result printed by the EBT does not match the displayed result?		Section 40.267 states: "As an employer, a BAT, or an STT, you must cancel an alcohol test if any of the following problems occur. These are "fatal flaws." You must inform the DER that the test was cancelled and must be treated as if the test never occurred. These problems are: ...(b) In the case of a screening or confirmation test conducted on an EBT, the sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result (see Sections 40.253(c), (e) and (f))."	
0	NOW WELL TALK ABOUT THE EQUIPMENT			
43	Do you have a copy of the quality assurance plan (QAP) for this machine?		Section 40.233(c) states: "As the user of the EBT (e.g., employer, service agent), you must do the following:(1) You must follow the manufacturer's instructions [in the QAP] (see paragraph (b) of this section), including performance of external calibration checks at the intervals the instructions specify."	
44	May I see the records of the external calibration checks for this EBT?		Section 40.233(c) states: "As the user of the EBT (e.g., employer, service agent), you must do the following:(4) You must maintain records of the inspection, maintenance, and calibration of EBTs as provided in Section 40.333(a)(2)."	

#	Question	Response	Regulation	Finding/Followup
45	If an EBT produces two consecutive air blank readings greater than 0.00 before a confirmation test, what is done?		Section 40.253 states: "As the BAT conducting an alcohol confirmation test, you must follow these steps in order to complete the confirmation test process: (a) In the presence of the employee, you must conduct an air blank on the EBT you are using before beginning the confirmation test and show the reading to the employee.(1) If the reading is 0.00, the test may proceed. If the reading is greater than 0.00, you must conduct another air blank.(2) If the reading on the second air blank is 0.00, the test may proceed. If the reading is greater than 0.00, you must take the EBT out of service."	
46	Do you ensure that the device accurately produces the date and time of the test?		Section 40.243(e) states: "(e) If the device is one that prints the test number, testing device name and serial number, time, and result... you must check to ensure that the information has been printed correctly..."	
0	ARE YOU THE PERSON WHO COMMUNICATES POSITIVE TEST RESULTS TO THE TRANSIT OPERATOR? WE HAVE SOME QUESTIONS FOR THAT PERSON.			

#	Question	Response	Regulation	Finding/Followup
47	PROCEDURES FOR COMMUNICATING POSITIVE TEST RESULTS: Have the proper procedures been established for communicating positive breath alcohol test results to the transit operator?			
48	Who at the transit system do you notify of a positive test, and what contact information do you have for them?		Section 40.255(a)(5)(i) states: "Results may be transmitted using Copy 1 of the ATF, in person, by telephone, or by electronic means. In any case, immediately notify the DER of any result of 0.02 or greater by any means (e.g., telephone or secure fax machine) that ensures the result is immediately received by the DER. Do not transmit these results through C/TPAs or other service agents."	
49	How does the BAT ensure that the DER is immediately informed of a positive test result?		Section 40.255(a)(5)(i) states: "Results may be transmitted using Copy 1 of the ATF, in person, by telephone, or by electronic means. In any case, immediately notify the DER of any result of 0.02 or greater by any means (e.g., telephone or secure fax machine) that ensures the result is immediately received by the DER. Do not transmit these results through C/TPAs or other service agents."	
50	If the initial transmission is by telephone, is a mechanism established to verify the BAT's identity before providing the information?		Section 40.255(a)(5)(i) states: "For any test results not in writing (e.g., by telephone or electronic means), a mechanism must be established to identify the BAT sending the results."	

#	Question	Response	Regulation	Finding/Followup
0	NOW WE NEED TO SPEAK WITH SOMEONE ABOUT THE BAT TRAINING AND RECORDS OF TRAINING, AND THE EQUIPMENT REQUIREMENTS.			
51	QUALIFICATIONS OF THE BAT: Were the proper BAT training and qualification documents maintained at the testing site?			
52	May I see documentation showing that all Breath Alcohol Technicians currently meet DOT proficiency requirements?		Section 40.213(g) states: "(g) Documentation. You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are negotiating to use your services."	
53	If an alcohol test is cancelled because of a fatal or uncorrected flaw made by the BAT, what corrective action is taken with the BAT?		Section 40.213(f) states: "Error Correction Training. If you make a mistake in the alcohol testing process that causes a test to be cancelled (i.e., a fatal or uncorrected flaw), you must undergo error correction training. This training must occur within 30 days of the date you are notified of the error that led to the need for retraining."	

#	Question	Response	Regulation	Finding/Followup
54	How frequently is refresher training required for breath alcohol technicians?		Section 40.213(e) states: "Refresher training. No less frequently than every five years from the date on which you [the BAT] satisfactorily complete the requirements of paragraphs (b) and (c) of this section, you must complete refresher training that meets all the requirements of paragraphs (b) and (c) of this section. If you are a BAT or STT who completed qualification training before January 1, 1998, you are not required to complete refresher training until January 1, 2003."	
0	NOW WELL TALK ABOUT OFFICE PROCEDURES			
55	Do you have a current copy of 49 CFR Part 40, the DOT testing regulation?  Are you signed up for USDOT-ODAPC's List-Serv?		Section 40.213 states: "To be permitted to act as a BAT or STT in the DOT alcohol testing program, you must meet each of the requirements of this section: (a) Basic information. You must be knowledgeable about the alcohol testing procedures in this part and the current DOT guidance. These documents and information are available from ODAPC (Department of Transportation, 400 7th Street, SW., Room 10403, Washington DC, 20590, 202-366-3784, or on the ODAPC web site, ( <a href="http://www.dot.gov/ost/dapc">http://www.dot.gov/ost/dapc</a> )."	

#	Question	Response	Regulation	Finding/Followup
56	If an employee scheduled for a breath alcohol test does not arrive for the scheduled appointment, what action must the BAT take?		Section 40.241 states: "As the BAT or STT you will take the following steps to begin all alcohol screening tests, regardless of the type of testing device you are using: (a) When a specific time for an employee's test has been scheduled, or the collection site is at the employee's worksite, and the employee does not appear at the collection site at the scheduled time, contact the DER to determine the appropriate interval within which the DER has determined the employee is authorized to arrive. If the employee's arrival is delayed beyond that time, you must notify the DER that the employee has not reported for testing. In a situation where a C/TPA has notified an owner/operator or other individual employee to report for testing and the employee does not appear, the C/TPA must notify the employee that he or she has refused to test."	
57	Do DOT regulations permit other types of alcohol tests (e.g., blood, urine alcohol) in addition to breath alcohol tests?		Section 40.277 states: "No, other types of alcohol tests (e.g., blood and urine) are not authorized for testing done under this part. Only saliva or breath for screening tests and breath for confirmation tests using approved devices are permitted."	

#	Question	Response	Regulation	Finding/Followup
58	Was the Breath Alcohol Collection Site prepared for the audit team, and did the vendor cooperate with the audit team and facilitate the audit process, including producing the required records?		Section 40.331(c) states: "If you are a service agent, you must, upon request of DOT agency representatives, provide the following:(1) Access to your facilities used for this part and DOT agency drug and alcohol program functions.(2) All written, printed, and computer-based drug and alcohol program records and reports (including copies of name-specific records or reports), files, materials, data, documents/documentation, agreements, contracts, policies, and statements that are required by this part and DOT agency regulations. You must provide this information at your principal place of business in the time required by the DOT agency.(3) All items in paragraph (b)(2) of this section must be easily accessible, legible, and provided in an organized manner. If electronic records do not meet these standards, they must be converted to printed documentation that meets these standards.	
0	THAT WAS THE FINAL QUESTION. THANK YOU FOR YOUR TIME AND INPUT.			

# Urine Collections Interview Questions

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**\*\*NOTE\*\*** Questions highlighted in yellow indicate critical areas.

#	Question	Response	Regulation	Finding/FollowUp
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#	Question	Response	Regulation	Finding/FollowUp
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#	Question	Response	Regulation	Finding/FollowUp
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#	Question	Response	Regulation	Finding/FollowUp
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1	WERE THE NORMAL PREPARATORY SPECIMEN COLLECTION PROCEDURES FOLLOWED CORRECTLY AND COMPLETELY?			
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#	Question	Response	Regulation	Finding/FollowUp
2	Photo identification required?		Section 40.61(c) states: "Require the employee to provide positive identification. You must see a photo ID issued by the employer (other than in the case of an owner-operator or other self-employed individual) or a Federal, state, or local government (e.g., a driver's license). You may not accept faxes or photocopies of identification. Positive identification by an employer representative (not a co-worker or another employee being tested) is also acceptable. If the employee cannot produce positive identification, you must contact a DER to verify the identity of the employee."	

#	Question	Response	Regulation	Finding/FollowUp
3	Was consent or release - giving the collection site or its personnel indemnification - required for testing to be performed?		Section 40.355(a) states: "Do not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory testing, MRO, and SAP services). No one may do so on behalf of a service agent."	
4	Directed to remove any outer garments (e.g., jacket, coat, hat) and to leave personal belongings such as purses and briefcases with the outer garments?		Section 40.61(f) states: "Direct the employee to remove outer clothing (e.g., coveralls, jacket, coat, hat) that could be used to conceal items or substances that could be used to tamper with a specimen. Also direct the employee to leave these garments and any briefcase, purse, or other personal belongings with you or in a mutually agreed upon location. Advise the employee that failure to comply with your directions constitutes a refusal to test."	

#	Question	Response	Regulation	Finding/FollowUp
5	Directed to empty pockets and display the contents?		Section 40.61(f)(4) states: "Direct the employee to empty his or her pockets and display the items in them to ensure that no items are present which could be used to adulterate the specimen. If nothing is there that can be used to adulterate a specimen, the employee can place the items back into his or her pockets. The employee must allow the collector to make this observation."	
6	Is the employee allowed to keep his/her wallet, or is the wallet maintained in a sufficiently secure fashion?		Section 40.61(f)(2) states: "Allow the employee to keep his or her wallet."	
7	Does the collector explain the basic collection procedure to the employee and show the employee the instructions on the back of the CCF?		Section 40.61(e) states: "Explain the basic collection procedure to the employee, including showing the employee the instructions on the back of the CCF."	
8	After the employee has removed any outer clothing and displayed the contents of their pockets, does the collector instruct the employee to wash and dry his/her hands?		Section 40.63 states: "As the collector, you must take the following steps before the employee provides the urine specimen: (b) Instruct the employee to wash and dry his or her hands at this time. Tell the employee not to wash his or her hands again until after delivering the specimen to you. Do not give the employee any further access to water or other materials that could be used to adulterate or dilute a specimen."	

#	Question	Response	Regulation	Finding/FollowUp
9	Is there a source of water for hand washing, which, if practicable, is external to the privacy enclosure?		Section 40.41(e)(2) states: "Provide a source of water for washing hands that, if practicable, should be external to the closed room where urination occurs. If an external source is not available, this requirement may be met by securing all sources of water and other substances that could be used for adulteration and substitution (e.g., water faucets, soap dispensers) and providing moist towelettes outside the closed room."	
10	Are collection containers sealed, and does the employee or collector remove the sealed wrapper in the presence of the employee?		Appendix A states: "1. Collection Container ... (d) Must be individually wrapped in a sealed plastic bag or shrink wrapping; or must have a peelable, sealed lid or other easily visible tamper-evident system." Section 40.63(c) states: "Select, or allow the employee to select, an individually wrapped or sealed collection container from collection kit materials. Either the collector or the employee, with both present, must unwrap or break the seal of the collection container. Do not unwrap or break the seal on any specimen bottle at this time. Do not allow the employee to take anything from the collection kit into the room used for urination except the collection container."	

#	Question	Response	Regulation	Finding/FollowUp
11	After the employee washes his/her hands, is the employee provided with a single-use plastic container from the collection kit which can hold at least 55 mL of urine? Does the collector assure that the employee takes nothing into the room used for urination except the collection container?		Part 40 Appendix A states: "The Collection Kit. (1)(a) Contents: Single-use container, made of plastic, large enough to easily catch and hold at least 55 mL of urine voided from the body." Section 40.63(c) states: "Do not allow the employee to take anything from the collection kit into the room used for urination except the collection container."	
12	Is the employee then required to remain in the presence of the collector (with no access to water, soap or other adulterating agents) until entering the privacy enclosure to provide the specimen?		Section 40.63(b) states: "Instruct the employee to wash and dry his or her hands at this time. Tell the employee not to wash his or her hands again until after delivering the specimen to you. Do not give the employee any further access to water or other materials that could be used to adulterate or dilute a specimen."	

#	Question	Response	Regulation	Finding/FollowUp
13	<p>Does the collector ensure that in the privacy enclosure for urination:(1) all sources of clear water have been eliminated, (2) possible specimen contaminants have been removed; and (3) all places where paraphernalia could be hidden were secured or removed?</p>		<p>Section 40.43(b) states: "As a collector, you must do the following before each collection to deter tampering with specimens:(1) Secure any water sources or otherwise make them unavailable to employees (e.g., turn off water inlet, tape handles to prevent opening faucets); (2) Ensure that the water in the toilet is blue; (3) Ensure that no soap, disinfectants, cleaning agents, or other possible adulterants are present; (4) Inspect the site to ensure that no foreign or unauthorized substances are present; (5) Tape or otherwise secure shut any movable toilet tank top, or put bluing in the tank;(6) Ensure that undetected access (e.g., through a door not in your view) is not possible;(7) Secure areas and items (e.g., ledges, trash receptacles, paper towel holders, under-sink areas) that appear suitable for concealing contaminants; and (8) Recheck items in paragraphs (b)(1) through (7) of this section following each collection to ensure the site's continued integrity."</p>	

#	Question	Response	Regulation	Finding/FollowUp
14	If a non-dedicated facility (public restroom or hospital examining room) is used for collections, is the location used for testing secured during drug testing by: 1) visually inspecting the privacy enclosure; 2) assuring that undetected access (e.g., through a rear door) is prevented; and 3) posting limited access signs during the collection process?		Section 40.43(c) states: "If the collection site uses a facility normally used for other purposes, like a public rest room or hospital examining room, you must, as a collector, also ensure before the collection that: (1) Access to collection materials and specimens is effectively restricted; and(2) The facility is secured against access during the procedure to ensure privacy to the employee and prevent distraction of the collector. Limited-access signs must be posted."	
15	Does the water in the toilet contain a bluing agent? And is the toilet tank secured if it contains a feeder hose, or blued if it does not?		Section 40.43(b)(2) states: "Ensure that the water in the toilet is blue." Section 40.43(b)(5) states: "Tape or otherwise secure shut any movable toilet tank top, or put bluing in the tank."	
16	UPON RECEIPT OF THE SPECIMEN, DID THE COLLECTOR CORRECTLY FOLLOW THE REQUIRED ACTIONS?			
17	Does the collector then observe that the specimen quantity is at least 45ml and check the split specimen box in Step 2?		Section 40.65(a) states: "Sufficiency of specimen. Check to ensure that the specimen contains at least 45 mL of urine." Section 40.71(b) states: "As a collector, you must take the following steps, in order, after the employee brings the urine specimen to you. You must take these steps in the presence of the employee. (1) Check the box on the CCF (Step 2) indicating that this was a split specimen collection."	

#	Question	Response	Regulation	Finding/FollowUp
18	Does the collector next: (1) determine the temperature of the specimen, using the temperature strip attached to the collection container within 4 minutes of receiving the specimen; and(2) mark the appropriate temperature box?		Section 40.65(b) states: "Temperature. The collector must check the temperature of the specimen no later than four minutes after the employee has given the collector the specimen. (1) The acceptable temperature range is 32-38 deg. C / 90-100 deg. F.(2) The collector must determine the temperature of the specimen by reading the temperature strip attached to the collection container.(3) If the specimen temperature is within the acceptable range, you must mark the "Yes" box on the CCF (Step 2)."	
19	Are the two specimen bottles sealed until it is time to pour the sample from the collection container?		Section 40.63(c) states: "Select, or allow the employee to select, an individually wrapped or sealed collection container from collection kit materials. Either you or the employee, with both of you present, must unwrap or break the seal of the collection container. You must not unwrap or break the seal on any specimen bottle at this time."	
20	After specimen collection and temperature reading, does the collector pour at least 30 mL of urine into the primary specimen bottle?		Section 40.71(b)(2) states: "The collector, not the employee, must first pour at least 30 mL of urine from the collection container into one specimen bottle, to be used for the primary specimen."	

#	Question	Response	Regulation	Finding/FollowUp
21	Does the collector pour at least 15 mL of the remaining urine specimen into the second specimen bottle to be used as the split specimen?		Section 40.71(b)(3) states: "The collector, not the employee, must then pour at least 15 mL of urine from the collection container into the second specimen bottle to be used for the split specimen."	
22	WERE THE CUSTODY AND CONTROL FORM AND SPECIMEN BOTTLES PROPERLY COMPLETED AND SEALED?			
23	Does the employer utilize the standard five-part, carbonless, Federal Drug Testing Custody and Control Form?		Section 40.45(a) states: "The Federal Drug Testing Custody and Control Form (CCF) must be used to document every urine collection required by the DOT drug-testing program. The CCF must be a five-part carbonless manifold form. You may view this form on the Department's web site ( <a href="http://www.dot.gov/ost/dapc">http://www.dot.gov/ost/dapc</a> ) or the HHS web site ( <a href="http://www.health.org/workplace/">http://www.health.org/workplace/</a> )."	
24	Does the collector complete Step 1 of the custody and control form by selecting:(1) the reason for the test (e.g., pre-employment), and(2) the drug tests to be performed (e.g., THC, COC, PCP, OPI, AMP)?		Section 40.63(a) states: "The collector must complete Step 1 of the CCF before the employee provides the urine specimen."	

#	Question	Response	Regulation	Finding/FollowUp
25	Does the collector securely place tamper-evident bottle seals over the bottle caps/lids and down the sides of each specimen bottle?		Section 40.71(b)(4) states: "You [the collector], not the employee, must place and secure (i.e., tighten or snap) the lids/caps on the bottles." Section 40.71(b)(5) states: "You [the collector], not the employee, must seal the bottles by placing the tamper-evident bottle seals over the bottle caps/lids and down the sides of the bottles."	
26	Does the collector write the date on each tamper-evident specimen bottle seal, only after the seals are affixed to the bottles?		Section 40.71(b)(5) states: "You [the collector], not the employee, must seal the bottles by placing the tamper-evident bottle seals over the bottle caps/lids and down the sides of the bottles." Section 40.71(b)(6) states: "You [the collector], not the employee, must then write the date on the tamper-evident bottle seals."	
27	Does the employee initial each tamper-evident specimen bottle seal only after the seals are affixed to the bottles and dated by the collector?		Section 40.71(b)(7) states: "You must then ensure that the employee initials the tamper-evident bottle seals for the purpose of certifying that the bottles contain the specimens he or she provided. If the employee fails or refuses to do so, you must note this in the "Remarks" line of the CCF (Step 2) and complete the collection process."	

#	Question	Response	Regulation	Finding/FollowUp
28	After the tamper-evident specimen bottle seals are initialed by the employee, does the collector direct the employee to read and sign the certification statement on Copy 2 (Step 5) of the CCF and provide date of birth, printed name, and day and evening contact telephone numbers?		Section 40.73(a)(1) states: "The collector must do the following in the employee's presence to complete the collection. Direct the employee to read and sign the certification statement on Copy 2 (Step 5) of the CCF and provide date of birth, printed name, and day and evening contact telephone numbers. If the employee refuses to sign the CCF or to provide date of birth, printed name, or telephone numbers, you must note this in the "Remarks" line (Step 2) of the CCF, and complete the collection. If the employee refuses to fill out any information, you must print the employee's name in the appropriate place."	
29	After the employee completes (Copy 2) Step 5 of the CCF, and before completing Step 4 of the CCF, does the collector review the information entered on the CCF for accuracy and completeness?		Section 40.73(a)(3) states: "As the collector, you must do the following things to complete the collection process Ensure that all copies of the CCF are legible and complete."	

#	Question	Response	Regulation	Finding/FollowUp
30	After the employee completes (Copy 2) Step 5 of the CCF, does the collector then complete Step 4 (i.e., providing a signature, printed name, date, time of collection, and name of delivery service)?		Section 40.73(a)(2) states: "Complete the chain of custody on the CCF (Step 5) by printing your name (note: you may pre-print your name), recording the time and date of the collection, signing the statement, and entering the name of the delivery service transferring the specimen to the laboratory." Section 40.45(b)(4) states: "As a collector, you may use a CCF with your name, address, telephone number, and fax number preprinted, but under no circumstances may you sign the form before the collection event."	

#	Question	Response	Regulation	Finding/FollowUp
31	After completing Step 4 of the CCF, does the collector place the sealed specimen bottles and Copy 1 of the CCF in a leak proof plastic bag, with absorbent material, and then seal the bag?		<p>Section 40.73(a) states: "As the collector, you must do the following things to complete the collection process. You must complete the steps called for in paragraphs (a)(1) through (a)(7) of this section in the employee's presence." Section 40.73(a)(5) states: "Place the specimen bottles and Copy 1 of the CCF in the appropriate pouches of the plastic bag." Appendix A states: "3. Leak-Resistant Plastic Bag. Must have two sealable compartments or pouches which are leak-resistant; one large enough to hold two specimen bottles and the other large enough to hold the CCF paperwork.. The sealing methodology must be such that once the compartments are sealed, any tampering or attempts to open either compartment will be evident." Appendix A states: "4. Absorbent material. Each kit must contain enough absorbent material to absorb the entire contents of both specimen bottles. Absorbent material must be designed to fit inside the leak-resistant plastic bag pouch into which the specimen bottles are placed." Section 40.73(a)(6) states: "Secure both pouches of the plastic bag."</p>	

#	Question	Response	Regulation	Finding/FollowUp
32	Are copies 1 through 5 of the custody and control form sent to the correct individuals:(Copy 1) Laboratory, (Copy 2) MRO, (Copy 3) Collector, (Copy 4) DER, and (Copy 5) Employee?		Section 40.73(a) states: "As the collector, you must do the following things to complete the collection process. You must complete the steps called for in paragraphs (a)(1) through (a)(7) of this section in the employee's presence." Section 40.73(a)(4) states: "Remove Copy 5 of the CCF and give it to the employee." Section 40.73(a)(9) states: "Send Copy 2 of the CCF to the MRO and Copy 4 to the DER. You must fax or otherwise transmit these copies to the MRO and DER within 24 hours or during the next business day. Keep Copy 3 for at least 30 days, unless otherwise specified by applicable DOT agency regulations."	
33	To the greatest extent possible, does the collector keep the employee's collection container within his/her and the employees view between the time the employee has urinated and the specimen bottle is sealed?		Section 40.43(d)(2) states: "To the greatest extent possible, the collector should keep the employee's collection container within his/her and the employees view between the time the employee has urinated and the specimen is sealed."	

#	Question	Response	Regulation	Finding/FollowUp
34	Does the collector have only one employee under his/her supervision at one time until the collection process is completed (i.e., specimen has been collected, the urine specimen bottle has been sealed and initialed, the custody and control form has been completed and the employee has departed)?		Section 40.43(d) states: "As a collector, you must take the following additional steps to ensure security during the collection process:(1) To avoid distraction that could compromise security, you are limited to conducting a collection for only one employee at a time. However, during the time one employee is in the period for drinking fluids in a "shy bladder" situation (see Section 40.193(b)), you may conduct a collection for another employee."	
35	WERE THE INFORMATION BLOCKS COMPLETED CORRECTLY BY THE COLLECTOR AND LEGIBLE ON ALL PARTS OF THE STANDARD FIVE PART DRUG TESTING CUSTODY AND CONTROL FORM?			

#	Question	Response	Regulation	Finding/FollowUp
36	Were the following items completed and legible on the custody and control form:(1) employee ID No. or SSN;(2) employers name, address, telephone and fax numbers; and(3) MROs name, address, telephone and fax numbers (C/TPA contact information may also be included, but is not required)?		Section 40.63(a) states: "As the collector, you must take the following steps before the employee provides the urine specimen: (a) Complete Step 1 of the CCF." Section 40.73(a)(3) states: "Ensure that all copies of the CCF are legible and complete." Section 40.45(b)(2) states: "The CCF must include the names, addresses, telephone numbers and fax numbers of the employer and the MRO, which may be preprinted, typed, or handwritten. The MRO information must include the specific physician's name and address, as opposed to only a generic clinic, health care organization, or company name. This information is required, and it is prohibited for an employer, collector, service agent or any other party to omit it. In addition, a C/TPA's name, address, fax number, and telephone number may be included, but is not required."	
37	Is the information entered in Step 4 of the CCF complete and legible and contain the following:(1) Collector signature and printed name;(2) Time of collection;(3) Date of collection; and(4) Name of delivery service transferring specimen to lab?		Section 40.73(a)(2) states: "Complete the chain of custody on the CCF (Step 5) by printing your name (note: you may pre-print your name), recording the time and date of the collection, signing the statement, and entering the name of the delivery service transferring the specimen to the laboratory."	

#	Question	Response	Regulation	Finding/FollowUp
38	DOES THE SPECIMEN COLLECTION SITE HAVE THE REQUIRED SECURITY FEATURES?			
39	Is security of collection materials and completed specimens maintained at all times, and are only authorized personnel permitted in areas where specimens are collected or stored?		Section 40.43(e) states: "If operating a collection site, the collector must implement policy and procedures to prevent unauthorized personnel from entering any part of the site in which urine specimens are collected or stored."	

#	Question	Response	Regulation	Finding/FollowUp
40	How often is the security of the designated privacy enclosure used for urine collections checked?		Section 40.43(b)(8) states: "Recheck items in paragraphs (b)(1) through (7) of this section following each collection to ensure the site's continued integrity." Section 40.43(b) states: "As a collector, you must do the following before each collection to deter tampering with specimens:(1) Secure any water sources or otherwise make them unavailable to employees (e.g., turn off water inlet, tape handles to prevent opening faucets);(2) Ensure that the water in the toilet is blue;(3) Ensure that no soap, disinfectants, cleaning agents, or other possible adulterants are present (4) Inspect the site to ensure that no foreign or unauthorized substances are present;(5) Tape or otherwise secure shut any movable toilet tank top, or put bluing in the tank;(6) Ensure that undetected access (e.g., through a door not in your view) is not possible;(7) Secure areas and items (e.g., ledges, trash receptacles, paper towel holders, under-sink areas) that appear suitable for concealing contaminants ..."	

#	Question	Response	Regulation	Finding/FollowUp
0	THIS COMPLETES THE REVIEW OF A NORMAL URINE COLLECTION. NOW I WOULD LIKE TO ASK YOU SOME QUESTIONS ABOUT YOUR PROCEDURES AND REFERENCE MATERIALS			
41	ARE THE PROPER PROCEDURES USED WHEN THERE ARE PROBLEMS DURING THE COLLECTION?			
42	Do you have:(1) a current copy of 49 CFR Part 40, and (2) the current "DOT Urine Specimen Collection Guidelines?" (3) Are you signed up on the USDOT-ODAPC List-Serv?		Section 40.33(a) states: "Basic information. You must be knowledgeable about this part, the current "DOT Urine Specimen Collection Procedures Guidelines," and DOT agency regulations applicable to the employers for whom you perform collections, and you must keep current on any changes to these materials. The DOT Urine Specimen Collection Procedures Guidelines document is available from ODAPC (Department of Transportation, 400 7th Street, SW., Room 10403, Washington DC, 20590, 202-366-3784, or on the ODAPC web site ( <a href="http://www.dot.gov/ost/dapc">http://www.dot.gov/ost/dapc</a> )."	

#	Question	Response	Regulation	Finding/FollowUp
43	What is done if the employee does not have a photo ID?		Section 40.61(c) states: "Require the employee to provide positive identification. You must see a photo ID issued by the employer (other than in the case of an owner-operator or other self-employed individual) or a Federal, state, or local government (e.g., a driver's license). You may not accept faxes or photocopies of identification. Positive identification by an employer representative (not a co-worker or another employee being tested) is also acceptable. If the employee cannot produce positive identification, you must contact a DER to verify the identity of the employee."	
44	Is identification of the employee by another employee being tested accepted?		Section 40.61(c) states: "... Positive identification by an employer representative (not a co-worker or another employee being tested) is also acceptable. If the employee cannot produce positive identification, you must contact a DER to verify the identity of the employee."	

#	Question	Response	Regulation	Finding/FollowUp
45	What actions must the collection site take if an employee does not arrive to take a scheduled test?		Section 40.241(a) states: "The collector must take the following steps before actually beginning a collection: When a specific time for an employee's test has been scheduled, or the collection site is at the employee's work site, and the employee does not appear at the collection site at the scheduled time, contact the DER to determine the appropriate interval within which the DER has determined the employee is authorized to arrive. If the employee's arrival is delayed beyond that time, notify the DER that the employee has not reported for testing. This is a refusal to take a DOT drug test."	
46	What is done if an employee says he/she is not ready to proceed with the urine collection process because an employee representative is delayed in arriving?		Section 40.61(b) states: "[The collector must] Ensure that, when the employee enters the collection site, you begin the testing process without undue delay. For example, you must not wait because the employee says he or she is not ready or is unable to urinate or because an authorized employer or employee representative is delayed in arriving."	

#	Question	Response	Regulation	Finding/FollowUp
47	What is done if an employee says he/she is not ready to begin the urine collection process because of inability to urinate at the time?		Section 40.61(b) states: "[The collector must] Ensure that, when the employee enters the collection site, you begin the testing process without undue delay. For example, you must not wait because the employee says he or she is not ready or is unable to urinate or because an authorized employer or employee representative is delayed in arriving."	
48	What is done if you find the employee has material that appears to have been brought with the intent to alter or substitute the specimen?		Section 40.61(f)(5) states: "If, in your duties under paragraph (f)(4) of this section, you find any material that could be used to tamper with a specimen, you must: (i) Determine if the material appears to be brought to the collection site with the intent to alter the specimen, and, if it is, conduct a directly observed collection using direct observation procedures (see Section 40.67)."	

#	Question	Response	Regulation	Finding/FollowUp
49	If an employee is clearly and unequivocally attempting to adulterate or substitute their urine specimen, what steps are taken by the collector?		Section 40.63(e) states: "You must pay careful attention to the employee during the entire collection process to note any conduct that clearly indicates an attempt to tamper with a specimen (e.g., substitute urine in plain view or an attempt to bring into the collection site an adulterant or urine substitute). If you detect such conduct, you must require that a collection take place immediately under direct observation (see Section 40.67) and note the conduct and the fact that the collection was observed in the "Remarks" line of the CCF (Step 2). You must also, as soon as possible, inform the DER and collection site supervisor that a collection took place under direct observation and the reason for doing so."	
50	What is done if the employee admits to adulterating or substituting the specimen?		Section 40.159(c) states: "If the employee admits to having adulterated or substituted the specimen, you must, on the same day, write and sign your own statement of what the employee told you. You must then report a refusal to test in accordance with Section 40.163."	

#	Question	Response	Regulation	Finding/FollowUp
51	If an employee refuses to cooperate with the collection process, what three steps are taken by the collector?		Section 40.191(d) states: "As a collector or an MRO, when an employee refuses to participate in the part of the testing process in which you are involved, you must terminate the portion of the testing process in which you are involved, document the refusal on the CCF (including, in the case of the collector, printing the employees name on Copy 2 of the CCF), immediately notify the DER by any means (e.g., telephone or secure fax machine) that ensures that the refusal notification is immediately received. As a referral physician (e.g., physician evaluating a "shy bladder" condition or a claim of a legitimate medical explanation in a validity testing situation), you must notify the MRO, who in turn will notify the DER. (1) As the collector, you must note the refusal in the "Remarks" line (Step 2), and sign and date the CCF."	

#	Question	Response	Regulation	Finding/FollowUp
52	What would you do if the specimen is out of the acceptable temperature range, or appears to be adulterated or substituted?		Section 40.65(b)(1) states: "(1) The acceptable temperature range is 32-38 deg. C /90-100 deg. F." Section 40.65(b)(4) states: "If the specimen temperature is outside the acceptable range, you must mark the "No" box and enter in the "Remarks" line (Step 2) your findings about the temperature." Section 40.65(b)(5) states: "If the specimen temperature is outside the acceptable range, you must immediately conduct a new collection using direct observation procedures (see Section 40.67)."	
53	If an initial specimen is tampered with or out of the acceptable temperature range, and a second specimen is collected under direct observation, which specimens are sent to the lab?		Section 40.65(b)(6) states: "In a case where a specimen is collected under direct observation because of the temperature being out of range, you must process both the original specimen and the specimen collected using direct observation and send the two sets of specimens to the laboratory. This is true even in a case in which the original specimen has insufficient volume but the temperature is out of range. You must also, as soon as possible, inform the DER and collection site supervisor that a collection took place under direct observation and the reason for doing so."	

#	Question	Response	Regulation	Finding/FollowUp
54	If an employee provides an adulterated or out-of-temperature sample, and refuses to allow a second specimen to be collected under observed collection, what is done with the initial sample?		Section 40.65(b)(7) states: "In a case where the employee refuses to provide another specimen (see Section 40.191(a)(3)) or refuses to provide another specimen under direct observation (see Section 40.191(a)(4)), you must notify the DER. As soon as you have notified the DER, you must discard any specimen the employee has provided previously during the collection procedure."	
55	If you as the collector must complete an observed collection, is it required that you must record the reason for the observed collection, and if so, how?		Section 40.67(e) states: "As the collector, you must complete a new CCF for the directly observed collection.(1) You must mark the "reason for test" block (Step 1) the same as for the first collection.(2) You must check the "Observed, (Enter Remark)" box and enter the reason (see Section 40.67(b)) in the "Remarks" line (Step 2)."	
56	Does this collection site always have available a same-gender collector, in case an observed collection is needed?		Section 40.67(g) states: "As the collector, you must ensure that the observer is the same gender as the employee. You must never permit an opposite gender person to act as the observer. The observer can be a different person from the collector and need not be a qualified collector."	

#	Question	Response	Regulation	Finding/FollowUp
57	Can you describe the procedures for conducting a directly-observed test?		<p>Section 40.67(i),(j),(k) state: "(i) As the observer, you must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show you, by turning around, that they do not have a prosthetic device. After you have determined that the employee does not have such a device, you may permit the employee to return clothing to its proper position for observed urination.</p> <p>(j) As the observer, you must watch the employee urinate into the collection container. Specifically, you are to watch the urine go from the employee's body into the collection container.</p> <p>(k) As the observer but not the collector, you must not take the collection container from the employee, but you must observe the specimen as the employee takes it to the collector."</p>	
59	What is done if the employee possesses a prosthetic or other device used to tamper with the collection?		<p>Section 40.191(a) states: (a) As an employee, you have refused to take a drug test if you: (10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.</p>	
59	ARE THE PROPER AND COMPLETE SHY BLADDER PROCEDURES IN PLACE?			

#	Question	Response	Regulation	Finding/FollowUp
60	If the employee is unable to provide a specimen of at least 45 milliliters, what is done?		Section 40.193(b) states: "As the collector, you must do the following: (2) Urge the employee to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the individual has provided a sufficient urine specimen, whichever occurs first. It is not a refusal to test if the employee declines to drink. Document on the Remarks line of the CCF (Step 2), and inform the employee of, the time at which the three-hour period begins and ends."	
61	What is done with the original insufficient specimen?		Section 40.193(b) states: "As the collector, you must do the following: (1) Discard the insufficient specimen, except where the insufficient specimen was out of temperature range or showed evidence of adulteration or tampering (see Section 40.65(b) and (c))."	
62	What is done if the employee refuses to attempt to provide a new specimen, or leaves the collection site before the process is complete?		Section 40.193(b)(3) states: "If the employee refuses to make the attempt to provide a new urine specimen, or leaves the collection site before the collection process is complete, you must discontinue the collection, note the fact on the "Remarks" line of the CCF (Step 2), and immediately notify the DER. This is a refusal to test."	

#	Question	Response	Regulation	Finding/FollowUp
63	What is done if the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen?		Section 40.193(b) states: "As the collector, you must do the following: (1) Discard the insufficient specimen, except where the insufficient specimen was out of temperature range or showed evidence of adulteration or tampering (see Section 40.65(b) and (c))."	
64	What is done if it is time to close the collection facility and the employee is still in the "shy bladder" process?		Section 40.193(b)(2) states: "Urge the employee to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the individual has provided a sufficient urine specimen, whichever occurs first. It is not a refusal to test if the employee declines to drink. Document on the Remarks line of the CCF (Step 2), and inform the employee of, the time at which the three-hour period begins and ends." The employee must be afforded the right to a three hour waiting period to provide a specimen. Closing the collection site before the three hour period is complete is a violation of the employees rights under Section 40.193(b)(2).	

#	Question	Response	Regulation	Finding/FollowUp
65	If an event occurs during the urine collection process which prevents the completion of a valid test or collection (e.g., a procedural or paperwork error), what is done by the collector, and can another collection be performed as part of this effort?		Section 40.205(a) states: "The collector has the responsibility of trying to successfully complete a collection procedure for each employee. (1) If, during or shortly after the collection process, any event that prevents the completion of a valid test or collection (e. g. , a procedural or paperwork error) becomes evident, the collector must try to correct the problem promptly, if doing so is practicable. Another collection may be conducted as part of this effort.(2) If another collection is necessary, you must begin the new collection procedure as soon as possible, using a new CCF and a new collection kit."	
66	DOES THE COLLECTOR HAVE AN UNDERSTANDING OF ERRORS THAT MAY CAUSE A TEST TO BE CANCELLED, AND METHODS FOR ITS CORRECTION?			

#	Question	Response	Regulation	Finding/FollowUp
67	<p>What is the impact on a test result if the collector does not sign AND print his/her name in Step 4 (certification statement) of the CCF, so that the portion of the CCF is blank?</p> <p>What is the impact on the test result if you send the specimen to the lab for testing but did not include a copy of the CCF?</p> <p>What is the impact on the test result if you collected a specimen, but only sent the CCF to the lab without also sending the urine specimen?</p> <p>What is the impact on the test result if you collect two urine specimens using only one CCF?</p>		<p>Section 40.199(b) states: "The following are "fatal flaws": (1) There is no printed collector's name and no collector's signature."</p>	
68	<p>What is the impact on a test result if the collector uses a non-DOT drug testing form for a DOT-required test, and the problem is not corrected?</p>		<p>Section 40.203(d) states: "The following are correctable flaws that you must attempt to correct:(3) The collector uses a non-Federal form or an expired Federal form for the test. This flaw may be corrected through the procedure set forth in Section 40.205(b)(2) of this part, provided that the collection testing process has been conducted in accordance with the procedures of this part in an HHS-certified laboratory... . Beginning November 1, 2001, if the problem(s) is not corrected, the test must be cancelled."</p>	

#	Question	Response	Regulation	Finding/FollowUp
69	<p>What is the impact on a test result if the employee doesn't sign the certification statement on Copy 2 (Step 5) of the CCF and the collector doesn't make note of this on the "Remarks" line?</p>		<p>Section 40.203(c) states: "As the MRO, when you discover a "correctable flaw" during your review of the CCF, you must cancel the test unless the flaw is corrected." Section 40.203(d) states: "The following are correctable flaws that you [the MRO] must attempt to correct: (1) The employee's signature is omitted from the certification statement, unless the employee's failure or refusal to sign is noted on the "Remarks" line of the CCF." Section 40.205(b) states: "If, as a collector, laboratory, MRO, employer, or other person implementing these drug testing regulations, you become aware of a problem that can be corrected (see Section 40.203), but which has not already been corrected under paragraph (a) of this section, you must take all practicable action to correct the problem so that the test is not cancelled."</p>	

#	Question	Response	Regulation	Finding/FollowUp
70	What is the impact on a test result if the collector doesn't sign the certification statement (Step 4) of the CCF?		Section 40.203 states: "The following is a "correctable flaw" that laboratories must attempt to correct: The collector's signature is omitted on the certification statement on the CCF." Section 40.205(b) states: "If, as a collector, laboratory, MRO, employer, or other person implementing these drug testing regulations, you become aware of a problem that can be corrected (see Section 40.203), but which has not already been corrected under paragraph (a) of this section, you must take all practicable action to correct the problem so that the test is not cancelled." Section 40.205(c) states: "If the correction does not take place, as the MRO you must cancel the test."	
0	THIS COMPLETES THE REVIEW OF COLLECTOR QUESTIONS. -- FILL OUT THE CHECKLIST TO THIS POINT. THEN, CONTINUE WITH THE COLLECTION SITE SUPERVISOR TO REVIEW THE FOLLOWING QUESTIONS.			
71	DID THE SUPERVISOR ANSWER ALL QUESTIONS CORRECTLY?			

#	Question	Response	Regulation	Finding/FollowUp
72	How often does the collection site ship specimens to the laboratory?		Section 40.73(b) states: "As a collector or collection site, you must ensure that each specimen you collect is shipped to a laboratory as quickly as possible, but in any case within 24 hours or during the next business day."	
73	How soon after a collection are the CCF copies sent to the MRO and DER?		Section 40.73(a)(9) states: "Send Copy 2 of the CCF to the MRO and Copy 4 to the DER. You must fax or otherwise transmit these copies to the MRO and DER within 24 hours or during the next business day..."	
74	How long must the collection site retain the Collectors copy (Copy 3) of the CCF?		Section 40.73(a)(9) states: "... Keep Copy 3 for at least 30 days, unless otherwise specified by applicable DOT agency regulations."	

#	Question	Response	Regulation	Finding/FollowUp
75	<p>Have each of the urine collectors hired since August 1, 2001 received training in accordance with the amended Part 40 regulations (effective August 9, 2001)? If so, could I see their training records?</p>		<p>Section 40.33(d) states: "Schedule for qualification training and initial proficiency demonstration. The following is the schedule for qualification training and the initial proficiency demonstration you must meet:(3) If you become a collector on or after August 1, 2001, you must meet the requirements of paragraphs (b) and (c) of this section before you begin to perform collector functions." Section 40.33(b) states: "Qualification training. You must receive qualification training meeting the requirements of this paragraph. Qualification training must provide instruction on the following subjects:(1) All steps necessary to complete a collection correctly and the proper completion and transmission of the CCF;(2) "Problem" collections (e.g., situations like "shy bladder" and attempts to tamper with a specimen);(3) Fatal flaws, correctable flaws, and how to correct problems in collections; and(4) The collector's responsibility for maintaining the integrity of the collection process, ensuring the privacy of employees being tested, ensuring the security of the specimen, and avoiding conduct or statements that could be viewed as offensive or inappropriate." Section 40.33(c) states: "Initial Proficiency Demonstration. Following your completion of qualification training under paragraph (b) of this section, you must demonstrate proficiency in collections under this part by completing five consecutive error-free mock collections." Section 40.33(g)</p>	

#	Question	Response	Regulation	Finding/FollowUp
76	If a drug test is cancelled because of a collector mistake, what corrective action is taken with the collector who made the mistake?		Section 40.33(f) states: "Error Correction Training. If a mistake is made in the collection process that causes a test to be cancelled (i.e., a fatal or uncorrected flaw), error correction training must be done. This training must occur within 30 days of the date notified of the error that led to the need for retraining."	
77	Once a collector has been notified that they must receive error correction training, within how many days must the collector receive error-correction training?		Section 40.33(f) states: "Error Correction Training. If a mistake is made in the collection process that causes a test to be cancelled (i. e. , a fatal or uncorrected flaw), error correction training must be done. This training must occur within 30 days of the date notified of the error that led to the need for retraining."	
78	Once a collector has been notified that a correctable flaw has occurred, how many days does the collector have to supply information correcting the flaw?		Section 40.205(b)(1) and (2) both state: "You must supply this information on the same business day on which you are notified of the problem, transmitting it by fax or courier."	

#	Question	Response	Regulation	Finding/FollowUp
79	When a flaw is identified after a drug test is completed, what is the process by which the error is corrected?		<p>Section 40.205(b)(1) states: "If the problem resulted from the omission of required information, the person responsible for providing that information must supply in writing the missing information and a statement that it is true and accurate. For example, suppose a collector forgot to make a notation on the "Remarks" line of the CCF that the employee did not sign the certification. When the problem is called to your attention, a signed statement that the employee failed or refused to sign the certification and that your statement is true and accurate must be supplied. The collector must supply this information on the same business day when notified of the problem, transmitting it by fax or courier." Section 40.205(b)(2) states: "If the problem is the use of a non-Federal form, the person responsible for the use of the incorrect form must provide a signed statement that the incorrect form contains all the information needed for a valid DOT drug test, that the incorrect form was used inadvertently or as the only means of conducting a test, in circumstances beyond your control. The statement must also list the steps taken to prevent future use of non-Federal forms for DOT tests. For this flaw to have been corrected, the test of the specimen must have occurred at a HHS-certified laboratory where it was tested using the testing protocol in this part. This information must be supplied on the same business day when notified of the problem, transmitting it by fax or</p>	

#	Question	Response	Regulation	Finding/FollowUp
80	Was the Urine Collection Site prepared for the audit team, and did the vendor cooperate with the audit team and facilitate the audit process, including producing the required records?		Section 40.331(c) states: "If you are a service agent, you must, upon request of DOT agency representatives, provide the following:(1) Access to your facilities used for this part and DOT agency drug and alcohol program functions.(2) All written, printed, and computer-based drug and alcohol program records and reports (including copies of name-specific records or reports), files, materials, data, documents/documentation, agreements, contracts, policies, and statements that are required by this part and DOT agency regulations. You must provide this information at your principal place of business in the time required by the DOT agency.(3) All items in paragraph (b)(2) of this section must be easily accessible, legible, and provided in an organized manner. If electronic records do not meet these standards, they must be converted to printed documentation that meets these standards."	
0	THIS COMPLETES THE URINE COLLECTION QUESTIONNAIRE. THANK YOU FOR YOUR TIME AND ASSISTANCE.			

[TYPE THE COMPANY NAME]

# Medical Review Officer Interview Questions

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Name of MRO

Interviewer:

**[Pick the date]**

#	Question	Response	Regulation	Finding/Followup
	<b>MRO QUALIFICATIONS AND AFFILIATIONS</b>			
1	Please describe your qualifications to serve as a MRO.		Section 40.121 states: "To be qualified to act as an MRO in the DOT drug testing program, you must meet each of the requirements of this section: (a) Credentials. You must be a licensed physician (Doctor of Medicine or Osteopathy). (b) Basic knowledge. You must be knowledgeable in the following areas:(1) You must be knowledgeable about and have clinical experience in controlled substances abuse disorders, including detailed knowledge of alternative medical explanations for laboratory confirmed drug test results.(2) You must be knowledgeable about issues relating to adulterated and substituted specimens as well as the possible medical causes of specimens having an invalid result.(3) You must be knowledgeable about this part, the DOT MRO Guidelines, and the DOT agency regulations applicable to the employers for whom you evaluate drug test results, and you must keep current on any changes to these materials."	

#	Question	Response	Regulation	Finding/Followup
2	What is your knowledge of and clinical experience in substance abuse disorders, including alternative medical reasons for lab-positive test results?		Section 40.121(b) states: "Basic knowledge. You must be knowledgeable in the following areas: (1) You must be knowledgeable about and have clinical experience in controlled substances abuse disorders, including detailed knowledge of alternative medical explanations for laboratory confirmed drug test results."	
3	What is your knowledge of issues relating to adulterated and substituted specimens, and the possible medical causes of invalid test results?		Section 40.121(b) states: "Basic knowledge. You must be knowledgeable in the following areas: (2) You must be knowledgeable about issues relating to adulterated and substituted specimens as well as the possible medical causes of specimens having an invalid result."	
4	Do you have a current copy of 49 CFR Part 40, the DOT testing regulation?  How do your access this information?		Section 40.123(b)(3) states: "You [the MRO] must be knowledgeable about this part, the DOT MRO Guidelines, and the DOT agency regulations applicable to the employers for whom you evaluate drug test results, and you must keep current on any changes to these materials. The DOT MRO Guidelines document is available from ODAPC (Department of Transportation, 400 7th Street, SW., Room 10403, Washington DC, 20590, 202-366-3784, or on the ODAPC web site ( <a href="http://www.dot.gov/ost/dapc">http://www.dot.gov/ost/dapc</a> )."	

#	Question	Response	Regulation	Finding/Followup
5	Do you have a current copy of the DOT MRO Guidelines, as well as any DOT agency regulation that applies to employers for whom you evaluate test results?		Section 40.121(a)(3) states: "You must be knowledgeable about this part, the DOT MRO Guidelines, and the DOT agency regulations applicable to the employers for whom you evaluate drug test results, and you must keep current on any changes to these materials. The DOT MRO Guidelines document is available from ODAPC (Department of Transportation, 1200 New Jersey Avenue, SE, Washington DC, 20590, 202-366-3784, or on the ODAPC web site ( <a href="http://www.dot.gov/ost/dapc">http://www.dot.gov/ost/dapc</a> )."	

#	Question	Response	Regulation	Finding/Followup
6	What is the requalification requirement for a MRO? When did you most recently qualify, and with which organization?		<p>Section 40.121(d) states: " During each five-year period from the date on which you satisfactorily completed the examination under paragraph (c)(2) of this section, you must complete requalification training.</p> <p>(1) This requalification training must meet the requirements of the qualification training under paragraph (c)(1) of this section.</p> <p>(2) Following your completion of requalification training, you must satisfactorily complete an examination administered by a nationally-recognized MRO certification board or subspecialty board for medical practitioners in the field of medical review of DOT-mandated drug tests. The examination must comprehensively cover all the elements of qualification training listed in paragraph (c)(1) of this section."</p>	

#	Question	Response	Regulation	Finding/Followup
7	Are there any prohibitions against the MRO having a financial interest in the laboratory being utilized?		Section 40.125 states: "As an MRO, you may not enter into any relationship with an employers laboratory that creates a conflict of interest or the appearance of a conflict of interest with your responsibilities to that employer. You may not derive any financial benefit by having an employer use a specific laboratory. For examples of relationships between laboratories and MROs that the Department views as creating a conflict of interest or the appearance of such a conflict, see Section 40.101(b)."	

#	Question	Response	Regulation	Finding/Followup
8	Does the laboratory transmit the test results to you directly, or does the laboratory transmit reports through a C/TPA to you?		Section 40.97(b) states: "As a laboratory, you must report laboratory results directly, and only, to the MRO at his or her place of business. You must not report results to or through the DER or a service agent (e.g., C/TPA)." Section 40.355 states: "As a service agent, you are subject to the following limitations concerning your activities in the DOT drug and alcohol testing program. (b) You must not act as an intermediary in the transmission of drug test results from the laboratory to the MRO. That is, the laboratory may not send results to you, with you in turn sending them to the MRO for verification. For example, a practice in which the laboratory transmits results to your computer system, and you then assign the results to a particular MRO, is not permitted."	

#	Question	Response	Regulation	Finding/Followup
9	Do you report drug test results to the transit system through a consortium (C/TPA), or directly to the designated individual (DER)?		Section 40.345(a) states: "As a C/TPA or other service agent, you may act as an intermediary in the transmission of drug and alcohol testing information in the circumstances specified in this section only if the employer chooses to have you do so. Each employer makes the decision about whether to receive some or all of this information from you, acting as an intermediary, rather than directly from the service agent who originates the information (e.g., an MRO or BAT)."	
	<b>NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT YOUR GENERAL RESPONSIBILITIES.</b>			
10	Do you ensure that drug tests conducted under the FTA regulations by this transit system are analyzed by a laboratory on the current DHHS approved list?		Section 40.81(a) states: "As a drug-testing laboratory located in the U.S., you are permitted to participate in DOT drug testing only if HHS under the National Laboratory Certification Program (NLCP) certifies you for all testing required under this part."	
11	Are you required on a quarterly basis to personally review a certain percentage of all Custody and Control Forms (CCFs) reviewed by your staff? If so, what percentage of CCFs must you review?		Section 40.127(g)(2) states: "You [the MRO] are required to personally review at least 5 percent of all CCFs reviewed by your staff on a quarterly basis, including all results that required a corrective action. However, you need not review more than 500 negative results in any quarter."	

#	Question	Response	Regulation	Finding/Followup
12	How do you mark those CCFs that have been covered in your quarterly review?		Section 40.127(g)(4) states: "You must make these CCFs easily identifiable and retrievable by you for review by DOT agencies."	
13	At a minimum, what items do you check in your quarterly review of CCFs?		Section 40.127(g)(3) states: "Your [the MRO] review must, as a minimum, include the CCF, negative laboratory test result, any accompanying corrective documents, and the report sent to the employer. You must correct any errors that you discover. You must take action as necessary to ensure compliance by your staff with this part and document your corrective action. You must attest to the quality assurance review by initialing the CCFs that you review."	
14	Must you take any action if, in reviewing 5 percent of CCFs each quarter, you identify a test with an uncorrected non-fatal flaw or error?		Section 40.127(g)(3) states: "Your [the MRO] review must, as a minimum, include the CCF, negative laboratory test result, any accompanying corrective documents, and the report sent to the employer. You must correct any errors that you discover. You must take action as necessary to ensure compliance by your staff with this part and document your corrective action. You must attest to the quality assurance review by initialing the CCFs that you review."	

#	Question	Response	Regulation	Finding/Followup
15	What do you report to the employer if you conclude that there is a legitimate medical explanation for a confirmed positive test result from the laboratory that is consistent with legal drug use?		Section 40.137(d) states: "If you determine that there is a legitimate medical explanation, you must verify the test result as negative. Otherwise, you must verify the test result as positive."	
16	Do you have a method for identifying yourself and confirming your identity when you need to talk with the DER?		Section 40.167(b) states: "As the MRO or C/TPA who transmits drug test results to the employer, you must comply with the following requirements: (2) You are responsible for identifying yourself to the DER, and the DER must have a means to confirm your identification."	
17	When you report positive test results to the employer or C/TPA, do you report the drug (or drugs) found?		Section 40.129(c) states: "With respect to verified positive test results, place a check mark in the ``Positive" box (Step 6) on Copy 2 of the CCF, indicate the drug(s)/metabolite(s) detected on the ``Remarks" line, sign and date the verification statement." Section 40.163(c) states: "If you [the MRO] do not report test results using Copy 2 of the CCF for this purpose, you must provide a written report (e.g., a letter) for each test result. This report must, as a minimum, include the following information: ... (6) For verified positive tests, the drug(s)/metabolite(s) for which the test was positive ..."	

#	Question	Response	Regulation	Finding/Followup
18	Upon your request, do the laboratories provide you with the quantization of individual test results?		Section 40.97(e) states: "You [the laboratory] must provide quantitative values for confirmed positive drug, adulterated, and substituted test results to the MRO when the MRO requests you to do so in writing. The MRO's request may either be a general request covering all such results you send to the MRO or a specific case-by-case request."	
19	If an employer requests, can you provide the quantitative values of the drugs verified positive, or the results of validity tests?		Section 40.163(g) states: "You must not provide quantitative values to the DER or C/TPA for drug or validity test results. However, you must provide the test information in your possession to a SAP who consults with you (see Section 40.293(g))."	
20	If a SAP requests, are you allowed to provide any medical information or the quantitative values for drugs or validity test results?		Section 40.163(g) states: "You must not provide quantitative values to the DER or C/TPA for drug or validity test results. However, you must provide the test information in your possession to a SAP who consults with you (see Section 40.293(g))."	
	<b>I WOULD NOW LIKE TO DISCUSS THE FUNCTIONS YOU PERFORM IN YOUR REVIEW OF A CONFIRMED POSITIVE TEST RESULT</b>			
21	Please describe the verification process.		Section 40.131 describes the verification process.	

#	Question	Response	Regulation	Finding/Followup
22	Do non-MRO staff in your office ever conduct verification interviews?		Section 40.131(b) states: "As the MRO, staff under your personal supervision may conduct this initial contact for you.(1) This staff contact must be limited to scheduling the discussion between you and the employee and explaining the consequences of the employees declining to speak with you (i.e., that the MRO will verify the test without input from the employee). If the employee declines to speak with you, the staff person must document the employees decision, including the date and time.(2) A staff person must not gather any medical information or information concerning possible explanations for the test result.(3) A staff person may advise an employee to have medical information (e.g., prescriptions, information forming the basis of a legitimate medical explanation for a confirmed positive test result) ready to present at the interview with the MRO. (4) Since you [the MRO] are required to speak personally with the employee, face-to-face or on the phone, your staff must not inquire if the employee wishes to speak with you."	

#	Question	Response	Regulation	Finding/Followup
23	Who do you contact first to begin the verification process, the employer or the employee?		Section 40.131(c) states: "As the MRO, you or your staff must make reasonable efforts to reach the employee at the day and evening telephone numbers listed on the CCF. Reasonable efforts include, as a minimum, three attempts, spaced reasonably over a 24-hour period, to reach the employee at the day and evening telephone numbers listed on the CCF. If you or your staff cannot reach the employee directly after making these efforts, you or your staff must take the following steps:(1) Document the efforts you made to contact the employee, including dates and times. If both phone numbers are incorrect (e.g., disconnected, wrong number), you may take the actions listed in paragraph (c)(2) of this section without waiting the full 24-hour period.(2) Contact the DER, instructing the DER to contact the employee."	

#	Question	Response	Regulation	Finding/Followup
24	How many times must you or your staff attempt to contact the employee regarding a positive test?		Section 40.131(c) states: "As the MRO, you or your staff must make reasonable efforts to reach the employee at the day and evening telephone numbers listed on the CCF. Reasonable efforts include, as a minimum, three attempts, spaced reasonably over a 24-hour period, to reach the employee at the day and evening telephone numbers listed on the CCF. If you or your staff cannot reach the employee directly after making these efforts, you or your staff must take the following steps:(1) Document the efforts you made to contact the employee, including dates and times. If both phone numbers are incorrect (e.g., disconnected, wrong number), you may take the actions listed in paragraph (c)(2) of this section without waiting the full 24-hour period."	

#	Question	Response	Regulation	Finding/Followup
25	If your staff makes the initial donor contact for you, do they ask the donor if they would like to speak with you, or do they attempt to set up an appointment?		Section 40.131(b) states: "As the MRO, staff under your personal supervision may conduct this initial contact for you.(1) This staff contact must be limited to scheduling the discussion between you and the employee and explaining the consequences of the employees declining to speak with you (i.e., that the MRO will verify the test without input from the employee). If the employee declines to speak with you, the staff person must document the employees decision, including the date and time.(4) Since you [the MRO] are required to speak personally with the employee, face-to-face or on the phone, your staff must not inquire if the employee wishes to speak with you."	

#	Question	Response	Regulation	Finding/Followup
26	Must you gather and review the employee's medical history, or may a non-MRO staff member review this information?		Section 40.141 states: "As the MRO, you must do the following as you make the determinations needed for a verification decision: (a) You must conduct a medical interview. You must review the employees medical history and any other relevant biomedical factors presented to you by the employee. You may direct the employee to undergo further medical evaluation by you or another physician." Section 40.131(b)(2) states: "A staff person must not gather any medical information or information concerning possible explanations for the test result."	
27	Before beginning the verification process, do you warn the employee concerning your obligation to disclose information to third parties?		Section 40.135(d) states: "As the MRO, you must warn an employee who has a confirmed positive, adulterated, substituted or invalid test that you are required to provide to third parties drug test result information and medical information affecting the performance of safety-sensitive duties that the employee gives you in the verification process without the employee's consent (see Section 40.327). (1) You must give this warning to the employee before obtaining any medical information as part of the verification process."	

#	Question	Response	Regulation	Finding/Followup
28	What elements of the CCF do you review before you make a final verification decision on a laboratory-positive test result?		Section 40.129(a) states: "As the MRO, you must --- (1) Review Copy 2 of the CCF to determine if there are any fatal or correctable errors that may require you to cancel the test (see Sections 40.199 and 40.203). Staff under your direct, personal supervision may conduct this administrative review for you, but only you may verify or cancel a test.(2) Review Copy 1 of the CCF and ensure that it is consistent with the information contained on Copy 2, that the test result is legible, and that the certifying scientist signed the form. You are not required to review any other documentation generated by the laboratory during their analysis or handling of the specimen (e.g., the laboratory internal chain of custody).(3) If the copy of the documentation provided to you by the collector or laboratory appears unclear, you must request that the collector or laboratory send you a legible copy."	

#	Question	Response	Regulation	Finding/Followup
29	To whom do you report the verified positive test result?		Section 40.165 states: "(a) As the MRO, you must report all drug test results to the DER, except in the circumstances provided for in Section 40.345.(b) If the employer elects to receive reports of results through a C/TPA, acting as an intermediary as provided in 40.345, you must report the results through the designated C/TPA."	
30	How soon after verification do you transmit positive test results to the DER?		Section 40.167(b) states: "You [the MRO] must transmit to the DER on the same day the MRO verifies the result or the next business day all verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted specimen results, and other refusals to test."	
31	Within how many days must results be received by the employer?		Section 40.167(c) states: "You [the MRO] must transmit the MRO's report(s) of verified tests to the DER so that the DER receives it within two days of verification by the MRO."	

#	Question	Response	Regulation	Finding/Followup
32	Can you change your initial verification of a positive or a refusal?		Section 40.149(a) states: "As the MRO, you may change a verified positive or refusal to test drug test result only in the following situations:(1) When you have reopened a verification that was done without an interview with an employee (see Section 40.133(c)).(2) If you receive information, not available to you at the time of the original verification, demonstrating that the laboratory made an error in identifying (e.g., a paperwork mistake) or testing (e.g., a false positive or negative) the employee's primary or split specimen. (3) If, within 60 days of the original verification decision: (i) You receive information that could not reasonably have been provided to you at the time of the decision demonstrating that there is a legitimate medical explanation for the presence of drug(s)/metabolite(s) in the employee's specimen; or (ii) You receive credible new or additional evidence that a legitimate medical explanation for an adulterated or substituted result exists."	

#	Question	Response	Regulation	Finding/Followup
33	Can you accept claims of second-hand, incidental, or unwitting ingestion of prohibited drugs?		Section 40.151(d) states: "(d) It is not your function to consider explanations of confirmed positive, adulterated, or substituted test results that would not, even if true, constitute a legitimate medical explanation. For example, an employee may tell you that someone slipped amphetamines into her drink at a party, that she unknowingly ingested a marijuana brownie, or that she traveled in a closed car with several people smoking crack. MROs are unlikely to be able to verify the facts of such passive or unknowing ingestion stories. Even if true, such stories do not present a legitimate medical explanation. Consequently, you must not declare a test as negative based on an explanation of this kind."	
	<b>NOW I WOULD LIKE TO DISCUSS THE PROCEDURES YOU USE IF YOU OR YOUR STAFF ARE UNABLE TO CONTACT AN INDIVIDUAL FOR VERIFICATION OF THE TEST RESULTS</b>			

#	Question	Response	Regulation	Finding/Followup
34	What do you do if you cannot contact the employee to conduct a verification interview?		Section 40.131(c) states: "If you or your staff cannot reach the employee directly after making these efforts, you or your staff must take the following steps:(1) Document the efforts you made to contact the employee, including dates and times. If both phone numbers are incorrect (e.g., disconnected, wrong number), you may take the actions listed in paragraph (c)(2) of this section without waiting the full 24-hour period.(2) Contact the DER, instructing the DER to contact the employee. (i) You must simply direct the DER to inform the employee to contact you. (ii) You must not inform the DER that the employee has a confirmed positive, adulterated, substituted, or invalid test result. (iii) You must document the dates and times of your attempts to contact the DER, and you must document the name of the DER you contacted and the date and time of the contact."	
35	Once the DER has directed an employee to contact you, how many hours must you wait for the employee to contact you before you may verify a "no contact" positive?		Section 40.133(a)(2) states: "You [the MRO] may verify a test result as a positive or refusal to test, as applicable, if the DER has successfully made and documented a contact with the employee and instructed the employee to contact you and more than 72 hours have passed since the time the DER contacted the employee."	

#	Question	Response	Regulation	Finding/Followup
36	If the contact numbers provided by the employee on the CCF are wrong or disconnected, must you wait 24 hours before contacting the designated employer representative?		<p>Section 40.131(c) states: "As the MRO, you or your staff must make reasonable efforts to reach the employee at the day and evening telephone numbers listed on the CCF. Reasonable efforts include, as a minimum, three attempts, spaced reasonably over a 24-hour period, to reach the employee at the day and evening telephone numbers listed on the CCF. If you or your staff cannot reach the employee directly after making these efforts, you or your staff must take the following steps:</p> <p>(1) Document the efforts you made to contact the employee, including dates and times. If both phone numbers are incorrect (e.g., disconnected, wrong number), you may take the actions listed in paragraph (c)(2) of this section without waiting the full 24-hour period.</p> <p>(2) Contact the DER, instructing the DER to contact the employee."</p>	

#	Question	Response	Regulation	Finding/Followup
37	Are there circumstances under which you may verify a drug test as positive without speaking with the individual?		Section 40.133(a) states: "(1) You may verify a test result as a positive or refusal to test, as applicable, if the employee expressly declines the opportunity to discuss the test with you. You must maintain complete documentation of this occurrence, including notation of informing, or attempting to inform, the employee of the consequences of not exercising the option to speak with you.(2) You may verify a test result as a positive or refusal to test, as applicable, if the DER has successfully made and documented a contact with the employee and instructed the employee to contact you and more than 72 hours have passed since the time the DER contacted the employee.(3) You may verify a test result as a positive or refusal to test, as applicable, if neither you nor the DER, after making and documenting all reasonable efforts, has been able to contact the employee within ten days of the date on which the MRO receives the confirmed test result from the laboratory."	

#	Question	Response	Regulation	Finding/Followup
38	Can you verify a drug test result as positive if an employee expressly declines the opportunity to discuss the test with you?		Section 40.133(a)(1) states: "You [the MRO] may verify a test result as a positive or refusal to test, as applicable, if the employee expressly declines the opportunity to discuss the test with you. You must maintain complete documentation of this occurrence, including notation of informing, or attempting to inform, the employee of the consequences of not exercising the option to speak with you."	
39	If neither you nor the DER, after making all reasonable efforts, has been able to contact the employee, how many days must you wait before verifying a "no contact" positive?		Section 40.133(a)(3) states: "You may verify a test result as a positive or refusal to test, as applicable, if neither you nor the DER, after making and documenting all reasonable efforts, has been able to contact the employee within ten days of the date on which the MRO receives the confirmed test result from the laboratory."	

#	Question	Response	Regulation	Finding/Followup
40	If you verify a "no contact" positive, is the employee allowed to present information to you documenting that serious illness, injury, or other circumstances prevented the employee from contacting you?		Section 40.133(c) states: "As the MRO, after you have verified a test result as a positive or refusal to test under this section and reported the result to the DER, you must allow the employee to present information to you within 60 days of the verification documenting that serious illness, injury, or other circumstances unavoidably precluded contact with the MRO and/or DER in the times provided. On the basis of such information, you may reopen the verification, allowing the employee to present information concerning whether there is a legitimate medical explanation for the confirmed test result."	
	<b>NOW I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT VERIFYING THE RESULTS OF CERTAIN DRUGS.</b>			
41	Can you verify a test as negative if an employee produces a legal prescription from a foreign country for medical marijuana?		Section 40.137(e)(2) states: "There can be a legitimate medical explanation only with respect to a substance that has a legitimate medical use. Use of a drug of abuse (e.g., heroin, PCP, marijuana) or any other substance (see §40.151(f) and (g)) that cannot be viewed as having a legitimate medical use can never be the basis for a legitimate medical explanation, even if the substance is obtained legally in a foreign country."	

#	Question	Response	Regulation	Finding/Followup
42	In the absence of 6-AM, what are the requirements if the laboratory confirms morphine or codeine presence at 15,000 ng/mL or above?		Section 40.139(b) states: "In the absence of 6-AM, if the laboratory confirms the presence of either morphine or codeine at 15,000 ng/mL or above, you must verify the test result positive unless the employee presents a legitimate medical explanation for the presence of the drug or drug metabolite in his or her system, as in the case of other drugs (see §40.137). Consumption of food products (e.g., poppy seeds) must not be considered a legitimate medical explanation for the employee having morphine or codeine at these concentrations."	
43	Is the consumption of food products a legitimate reason for the presence of morphine or codeine at these levels?		Section 40.139(a) states: "In the absence of 6-AM, if the laboratory detects the presence of either morphine or codeine at 15,000 ng/mL or above, you must verify the test result positive unless the employee presents a legitimate medical explanation for the presence of the drug or drug metabolite in his or her system, as in the case of other drugs (see §40.137). Consumption of food products (e.g., poppy seeds) must not be considered a legitimate medical explanation for the employee having morphine or codeine at these concentrations."	

#	Question	Response	Regulation	Finding/Followup
44	For other opiate positive results that do not contain 6-AM, how do you complete the verification process?		Section 40.139(c) states: "For all other codeine and morphine positive results, you must verify a confirmed positive test result only if you determine that there is clinical evidence, in addition to the urine test, of unauthorized use of any opium, opiate, or opium derivative (i.e., morphine, codeine, or heroin)."	
45	If your clinical assessment determines the misuse of a drug not found in the laboratory's analysis, can you verify the test as positive?		Section 40.139(c)(3) states: "To be the basis of a verified positive result for codeine or morphine, the clinical evidence you find must concern a drug that the laboratory found in the specimen. (For example, if the test confirmed the presence of codeine, and the employee admits to unauthorized use of hydrocodone, you must not verify the test positive for codeine. The admission must be for the substance that was found through the actual drug test.)"	
46	If you cannot establish clinical evidence of opiate misuse, how do you verify the final test result?		Section 40.139(c)(4) states: "As the MRO, you have the burden of establishing that there is clinical evidence of unauthorized use of opiates referenced in this paragraph (c). If you cannot make this determination (e.g., there is not sufficient clinical evidence or history), you must verify the test as negative. The employee does not need to show you that a legitimate medical explanation exists if no clinical evidence is established."	

#	Question	Response	Regulation	Finding/Followup
	<b>NOW I WOULD LIKE TO DISCUSS A FEW QUESTIONS ABOUT PROBLEMS IN TESTING</b>			
47	What do you instruct the employer to do if the lab confirms the a test as negative and dilute with a creatinine level between 2 mg/dL and 5 mg/dL?		Section 40.155(c) states: "When you report a dilute specimen to the DER, you must explain to the DER the employer's obligations and choices under §40.197, to include the requirement for an immediate recollection under direct observation if the creatinine concentration of a negative-dilute specimen was greater than or equal to 2mg/dL but less than or equal to 5mg/dL."	
48	In the case where an employee can not provide an adequate specimen (shy bladder), do you have any involvement in determining whether the individual's ability to provide a specimen is genuine or constitutes a refusal to test?		Section 40.193(h) states: "As the MRO, you must seriously consider and assess the referral physicians recommendations in making your determination about whether the employee has a medical condition that has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine. You must report your determination to the DER in writing as soon as you make it."	
49	Can you accept claims of anxiety or dehydration when examining an employee or reviewing another physician's analysis of a "shy bladder" case?		Section 40.193(e) states: "(e) For purposes of this paragraph, a medical condition includes an ascertainable physiological condition (e.g., a urinary system dysfunction) or a medically documented pre-existing psychological disorder, but does not include unsupported assertions of "situational anxiety" or dehydration."	

#	Question	Response	Regulation	Finding/Followup
50	If the laboratory reports that the specimen has been "rejected for testing" because of a fatal or uncorrected flaw, what test result do you report to the DER and under what circumstances would additional testing be required?		Section 40.161 states: "As the MRO, when the laboratory reports that the specimen is rejected for testing (e.g., because of a fatal or uncorrected flaw), you must do the following: ... (b) Report to the DER that the test is cancelled and the reason for cancellation, and that no further action is required unless a negative test is required (e.g., in the case of a pre-employment, return-to-duty, or follow-up test)."	
51	What do you do if a Return-to-duty test or Follow-up test is not marked as having been observed?		A notice from the Department of Transportation's Office of Drug and Alcohol Policy and Compliance, dated September 10, 2009, reads: "If a collector, Medical Review Office (MRO), Third Party Administrator (TPA), or other service agent learns that a Direct Observation collection using the required procedures was not conducted, the employer needs to be informed. Upon learning that a Direct Observation collection using the required procedures was not conducted, the employer needs to direct the employee to have an immediate recollection under Direct Observation."	

#	Question	Response	Regulation	Finding/Followup
52	What "correctable flaws" are the MRO's responsibility to correct?		Section 40.203(d) states: "The following are correctable flaws that you [the MRO] must attempt to correct:(1) The employee's signature is omitted from the certification statement, unless the employee's failure or refusal to sign is noted on the "Remarks" line of the CCF.(2) The certifying scientist's signature is omitted on the laboratory copy of the CCF for a positive, adulterated, substituted, or invalid test result.(3) The collector uses a non-Federal form or an expired Federal form for the test."	
53	If you cancel a laboratory confirmed positive, adulterated, substituted, or invalid drug test report, what steps do you complete on the CCF?		Section 40.129(d) states: "If you [the MRO] cancel a laboratory confirmed positive, adulterated, substituted, or invalid drug test report, check the "test cancelled" box (Step 6) on Copy 2 of the CCF, make appropriate annotation in the "Remarks" line, sign, provide your name and date of the verification statement."	

#	Question	Response	Regulation	Finding/Followup
54	When the laboratory reports that a specimen is adulterated or substituted, what actions are you required to take?		Section 40.145 states: "(a) As an MRO, when you receive a laboratory report that a specimen is adulterated or substituted, you must treat that report in the same way you treat the laboratory's report of a confirmed positive test for a drug or drug metabolite.(b) You must follow the same procedures used for verification of a confirmed positive test for a drug or drug metabolite except as otherwise provided in this section." Section 40.145(g) states: "(1) If you determine that the employees explanation does not present a reasonable basis for concluding that there may be a legitimate medical explanation, you must report the test to the DER as a verified refusal to test because of adulteration or substitution, as applicable.(2) If you believe that the employees explanation may present a reasonable basis for concluding that there is a legitimate medical explanation, you must direct the employee to obtain, within the five-day period set forth in paragraph (e)(3) of this section, a further medical evaluation. This evaluation must be performed by a licensed physician (the "referral physician"), acceptable to you, with expertise in the medical issues raised by the employees explanation. (The MRO	

#	Question	Response	Regulation	Finding/Followup
			may perform this evaluation if the MRO has appropriate expertise.)"	
55	Who has the burden of proof when verifying a specimen that the lab has reported as adulterated? Must you prove that the specimen is adulterated, or must the employee prove that it is legitimate?		Section 40.145(e) states: "The employee has the burden of proof that there is a legitimate medical explanation.(1) To meet this burden in the case of an adulterated specimen, the employee must demonstrate that the adulterant found by the laboratory entered the specimen through physiological means."	
	<b>IN CLOSING, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT ANALYSIS OF THE SPLIT SPECIMEN</b>			
56	What do you tell the employee concerning their rights to have the split specimen analyzed after you have informed the employee that you will verify the test as positive, adulterated, or substituted,?		Section 40.153 states: "(a) As the MRO, when you have verified a drug test as positive for a drug or drug metabolite, or as a refusal to test because of adulteration or substitution, you must notify the employee of his or her right to have the split specimen tested. You must also notify the employee of the procedures for requesting a test of the split specimen.(b) You must inform the employee that he or she has 72 hours from the time you provide this notification to him or her to request a test of the split specimen."	

#	Question	Response	Regulation	Finding/Followup
57	What must you do when an employee requests testing of the split-specimen?		Section 40.171(c) states: "When the employee makes a timely request for a test of the split specimen under paragraphs (a) and (b) of this section, you must, as the MRO, immediately provide written notice to the laboratory that tested the primary specimen, directing the laboratory to forward the split specimen to a second HHS-certified laboratory. You must also document the date and time of the employee's request."	
58	To whom do you report the results of a split specimen which confirms the result from the primary specimen?		Section 40.187 states: "As an MRO, you must take the following actions when a laboratory reports the following results of split specimen tests:(a)(1) In the case of a reconfirmed positive test for a drug or drug metabolite, report the reconfirmation to the DER and the employee."	

#	Question	Response	Regulation	Finding/Followup
59	What action would you take if the analysis of the split specimen fails to reconfirm all of the primary specimen results because drug(s)/drug metabolites(s) were not detected?		<p>Section 40.187(b) states: " (1) You must inform ODAPC of the failure to reconfirm using the format in Appendix D to this part.</p> <p>(2) In a case where the split failed to reconfirm because the substitution criteria were not met and the split specimen creatinine concentration was equal to or greater than 2mg/dL but less than or equal to 5mg/dL, as the MRO, you must, in addition to step (b)(1) of this paragraph, direct the DER to ensure the immediate collection of another specimen from the employee under direct observation, with no notice given to the employee of this collection requirement until immediately before the collection.</p> <p>(3) In a case where the split failed to reconfirm and the primary specimen's result was also invalid, direct the DER to ensure the immediate collection of another specimen from the employee under direct observation, with no notice given to the employee of this collection requirement until immediately before the collection.</p>	

#	Question	Response	Regulation	Finding/Followup
60	What action would you take if the split specimen is not available for testing?		Section 40.187(d) states: "Failed to Reconfirm: Specimen not Available for Testing.(1) Report to the DER and the employee that both tests must be cancelled and the reason for cancellation.(2) Direct the DER to ensure the immediate collection of another specimen from the employee under direct observation, with no notice given to the employee of this collection requirement until immediately before the collection.(3) Using the format in Appendix D to this part, notify ODAPC of the failure to reconfirm."	
	<b>THAT WAS THE LAST QUESTION. THANK YOU FOR YOUR TIME AND INPUT.</b>			

[Type the company name]

# Substance Abuse Professional Interview Questions

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Name of SAP

Company Name

**Interviewer:**

**[Pick the date]**

#	Question	Response	Regulation	Finding/FollowUp
	I WOULD LIKE TO BEGIN BY ASKING ABOUT YOUR QUALIFICATION AS A DOT SUBSTANCE ABUSE PROFESSIONAL.			
1	<p>Please describe your qualifications to serve as a DOT Substance Abuse Professional.</p> <p>What agency licensed or certified you?</p>		<p>Section 40.281 states: "To be permitted to act as a SAP in the DOT drug testing program, you must meet each of the requirements of this section: (a) Credentials. You must have one of the following credentials:(1) You are a licensed physician (Doctor of Medicine or Osteopathy);(2) You are a licensed or certified social worker;(3) You are a licensed or certified psychologist;(4) You are a licensed or certified employee assistance professional; (5) You are a state-licensed or certified marriage and family therapist; or (6) You are a drug and alcohol counselor certified by an organization listed at <a href="https://www.transportation.gov/odapc/sap">https://www.transportation.gov/odapc/sap</a>."</p>	

#	Question	Response	Regulation	Finding/FollowUp
2	Do you have knowledge of, and clinical experience in, diagnosing and treating alcohol and controlled substances-related disorders?		Section 40.281(b)(1) states: "You must be knowledgeable about and have clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders."	
3	After successfully completing qualification training, how many professional development hours must you complete, and over what period of time?		Section 40.281(d) states: "During each three-year period from the date on which you satisfactorily complete the examination under paragraph (c)(2) of this section, you must complete continuing education consisting of at least 12 professional development hours (e.g., CEUs) relevant to performing SAP functions."	
	SERVICES OF THE SAP			
4	According to the Part 40 regulations, what is the overarching function of a SAP?		Section 40.291(b) states: "As a SAP, you are not an advocate for the employer or employee. Your function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education/treatment, follow-up tests, and aftercare."	

#	Question	Response	Regulation	Finding/FollowUp
5	Describe the services you must provide during the SAP evaluation for each employee referred to you.		Section 40.293 states: "As a SAP, for every employee who comes to you following a DOT drug and alcohol regulation violation, you must accomplish the following:(a) Provide a comprehensive face-to-face assessment and clinical evaluation.(b) Recommend a course of education and/or treatment with which the employee must demonstrate successful compliance prior to returning to DOT safety-sensitive duty."	
6	In providing services as a SAP, can you refer an employee to your private practice or to a person or organization with which you are affiliated or in which you have a financial interest?		Section 40.299(b) states: "To prevent the appearance of a conflict of interest, you must not refer an employee requiring assistance to your private practice or to a person or organization from which you receive payment or to a person or organization in which you have a financial interest. You are precluded from making referrals to entities with which you are financially associated."	
7	Can you conduct a SAP evaluation by telephone or e-mail?		Section 40.291(a) states: "As a SAP, you are charged with:(1) Making a face-to-face clinical assessment and evaluation to determine what assistance is needed by the employee to resolve problems associated with alcohol and/or drug use."	
8	Are you required to always recommend an education and/or treatment program during the initial evaluation for each employee?		Section 40.293 states: "As a SAP, for every employee who comes to you following a DOT drug and alcohol regulation violation, you must accomplish the following:(b) Recommend a course of education and/or treatment with which the employee must demonstrate successful compliance prior to returning to DOT safety-sensitive duty."	

#	Question	Response	Regulation	Finding/FollowUp
9	Upon receiving an initial SAP evaluation, can an employee or employer seek a second SAP evaluation?		Section 40.295(a) states: "As an employee with a DOT drug and alcohol regulation violation, when you have been evaluated by a SAP, you must not seek a second SAP's evaluation in order to obtain another recommendation."Section 40.295(b) states: "As an employer, you must not seek a second SAP's evaluation if the employee has already been evaluated by a qualified SAP. If the employee, contrary to paragraph (a) of this section, has obtained a second SAP evaluation, as an employer you may not rely on it for any purpose under this part."	
10	Can you consult with the MRO to gather information about an employee for your evaluation?		Section 40.293(g) states: "In the course of gathering information for purposes of your evaluation in the case of a drug-related violation, you may consult with the MRO. As the MRO, you are required to cooperate with the SAP and provide available information the SAP requests. It is not necessary to obtain the consent of the employee to provide this information."	

#	Question	Response	Regulation	Finding/FollowUp
11	Is the MRO authorized to provide you with quantitative values for drug and validity test results for an employee?		Section 40.293(g) states: "In the course of gathering information for purposes of your [SAP] evaluation in the case of a drug-related violation, you may consult with the MRO. As the MRO, you are required to cooperate with the SAP and provide available information the SAP requests. It is not necessary to obtain the consent of the employee to provide this information."Section 40.163(g) states: "You [the MRO] must not provide quantitative values to the DER or C/TPA for drug or validity test results. However, you must provide the test information in your possession to a SAP who consults with you."	
12	What employee reports must you submit to an employer who has a second chance policy?		Section 40.311(a) states: "As the SAP conducting the required evaluations, you must send the written reports required by this section in writing directly to the DER and not to a third party or entity for forwarding to the DER (except as provided in Section 40.355(e))... "Section 40.311(c) describes the required elements to be included in the SAP's written report following an initial evaluation. Section 40.311(d) describes the required elements to be included in the SAP's written report concerning a follow-up evaluation that determines the employee has demonstrated successful compliance with the treatment program.	

#	Question	Response	Regulation	Finding/FollowUp
13	Upon request of the employee, can you provide the employee with a copy of their SAP evaluation reports?		Section 40.329(c) states: "As a SAP, you must make available to an employee, on request, a copy of all SAP reports (see Section 40.311). However, you must redact follow-up testing information from the report before providing it to the employee."	
14	Do you provide the written initial and follow-up evaluation reports on your own letterhead?		Section 40.311(c) states: "The SAP's written report, following an initial evaluation that determines what level of assistance is needed to address the employee's drug and/or alcohol problems, must be on the SAP's own letterhead (and not the letterhead of another service agent)." The SAP guidelines, page 19, state: "'SAPs own letterhead'" (at 40.311) means the letterhead the SAP uses in her or his daily counseling practice. If the SAP is in private practice, the SAP should use the letterhead of her or his practice. If the SAP works directly for an EAP organization, the SAP should use the EAPs letterhead."	
15	Who makes the "fitness for duty" determination to return the employee to safety sensitive duties?		Section 40.305(c) states: "As a SAP or MRO, you must not make a "fitness for duty" determination as part of this re-evaluation unless required to do so under an applicable DOT agency regulation. It is the employer, rather than you, who must decide whether to put the employee back to work in a safety-sensitive position."	

#	Question	Response	Regulation	Finding/FollowUp
	DOES THE SUBSTANCE ABUSE PROFESSIONAL DETERMINE THE FREQUENCY AND DURATION OF FOLLOW-UP TESTING FOR A COVERED EMPLOYEE, AS FOLLOWS:			
16	What is the minimum number of follow-up tests that an employee is subject to, and over what period of time?		Section 307(d) states: "However, you [the SAP] must, at a minimum, direct that the employee be subject to six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee's return to safety-sensitive functions."	
17	Can the SAP direct that an employee be subject to a greater number of follow-up tests during the initial months of the first twelve month testing period than in subsequent months, or do the tests have to be spread evenly throughout the year?		Section 40.307(d) states: "However, you must, at a minimum, direct that the employee be subject to six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee's return to safety-sensitive functions.(1) You may require a greater number of follow-up tests during the first 12-month period of safety-sensitive duty (e.g., you may require one test a month during the 12-month period; you may require two tests per month during the first 6-month period and one test per month during the final 6-month period)."	
18	What is the maximum number of months that a SAP can prescribe for a follow-up testing program?		Section 40.307(d)(2) states: "You may also require follow-up tests during the 48 months of safety-sensitive duty following this first 12-month period."	

#	Question	Response	Regulation	Finding/FollowUp
19	Can the SAP direct an employee to submit to follow-up testing for drugs when the employee only tested positive for alcohol, or vice-versa?		Section 40.307(c) states: "You [the SAP] are the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation. For example, if the employee had a positive drug test, but your evaluation or the treatment program professionals determined that the employee had an alcohol problem as well, you should require that the employee have follow-up tests for both drugs and alcohol."	
20	Can the employer use another type of drug test (i.e., random test, post-accident test) as a substitute for a follow-up test?		Section 40.309(c) states: "You [the employer] cannot substitute any other tests (e.g., those carried out under the random testing program) conducted on the employee for this follow-up testing requirement."	
21	If an employee's follow-up test is cancelled, do the regulations require that the test must be made up?		Section 40.33(g) states: "As an employer who receives a cancelled test result when a negative result is required (e.g., pre-employment, return-to-duty, or follow-up test), you must direct the employee to provide another specimen immediately."The Substance Abuse Professional Guidelines (published August 1, 2001 and available at <a href="http://www.dot.gov/ost/dapc/">http://www.dot.gov/ost/dapc/</a> ) states on page 20: "It is important to note that a follow-up test that is cancelled is not a completed test: A cancelled follow-up test must be recollected."	

#	Question	Response	Regulation	Finding/FollowUp
	THAT WAS THE LAST QUESTION. THANK YOU FOR YOUR TIME AND INPUT.			

[TYPE THE COMPANY NAME]

# Consortium/Third-Party Administrator Interview Questions

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#	Question	Response	Regulation	Finding/followup
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#	Question	Response	Regulation	Finding/followup
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#	Question	Response	Regulation	Finding/followup
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#	Question	Response	Regulation	Finding/followup
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0	FIRST, I WOULD LIKE TO ASK A FEW GENERAL QUESTIONS ABOUT THE TRANSMISSION OF DRUG AND ALCOHOL INFORMATION,			
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#	Question	Response	Regulation	Finding/followup
1	Do you, or does your company, act as an intermediate in transmitting drug test results from the MRO to the employer? That is, does the MRO communicate drug test results directly to the employer, or does the MRO transmit results to you, and you transmit them to the employer?		As a C/TPA or other service agent, you may act as an intermediary in the transmission of drug and alcohol testing if the employer chooses to have you do so. (Section 40. 345(a))	
2	If you act as an intermediary, are you allowed any additional time to transmit information to the employer from the MRO?		In every case, you must ensure that, in transmitting information to employers, you meet all requirements (e. g. concerning confidentiality and timing) that would apply if the service agent originating the information (e. g. an MRO or collector) sent the information directly to the employer. For example, if you transmit drug testing results from MROs to DERs, you must transmit each drug test result to the DER in compliance with the MRO requirements set forth in Section 40. 167. (Section 40. 345(c))	
3	Do you know whether or not the Part 40 regulations allow C/TPAs to transmit laboratory reports, positive as well as negative, from the laboratory to the MRO?		The use of C/TPA intermediaries is prohibited in all other cases, such as transmission of laboratory drug test results to MROs, the transmission of medical information from MROs to employers, the transmission of SAP reports to employers, and the transmission of positive alcohol test results, (Appendix F to Part 40)	

#	Question	Response	Regulation	Finding/followup
4	Do you know whether or not the Part 40 regulations allow C/TPAs to transmit verified MRO reports, positive as well as negative, from the MRO to the employer?		The use of C/TPA intermediaries is prohibited in all other cases, such as transmission of laboratory drug test results to MROs, the transmission of medical information from MROs to employers, the transmission of SAP reports to employers, and the transmission of positive alcohol test results, (Appendix F to Part 40)	
5	Do you know whether or not the Part 40 regulations allow C/TPAs to transmit SAP reports from the SAP to the employer?		The use of C/TPA intermediaries is prohibited in all other cases, such as transmission of laboratory drug test results to MROs, the transmission of medical information from MROs to employers, the transmission of SAP reports to employers, and the transmission of positive alcohol test results, (Appendix F to Part 40)	
6	What confidentiality requirements concerning transmission of drug and alcohol information are applicable to C/TPAs?		You must report the results in a confidential manner. (Section 40. 167(a)) Direct telephone contact with the DER is the preferred method of immediate reporting. Follow up your phone call with appropriate documentation (see Section 40. 163). (Section 40. 167(b)(1)) You are responsible for identifying yourself to the DER, and the DER must have a means to confirm your identification. (Section 40. 167(b)(2)) The MRO's report that you transmit to the employer must contain all of the information required by Section 40. 163. (Section 40. 167(b)(3))	

#	Question	Response	Regulation	Finding/followup
7	How do you insure that you meet these confidentiality requirements?		You must report the results in a confidential manner. (Section 40. 167(a)) Direct telephone contact with the DER is the preferred method of immediate reporting. Follow up your phone call with appropriate documentation (see Section 40. 163). (Section 40. 167(b)(1)) You are responsible for identifying yourself to the DER, and the DER must have a means to confirm your identification. (Section 40. 167(b)(2)) The MRO's report that you transmit to the employer must contain all of the information required by Section 40. 163. (Section 40. 167(b)(3))	
8	Do you maintain any records concerning the drug and alcohol testing program and/or the results of employees' tests? If so, for how long?		Except where otherwise specified [in Part 40], as a service agent you may receive and maintain all records concerning DOT drug and alcohol testing programs, including positive, negative, and refusal to test individual test results. You do not need the employee's consent to receive and maintain these records. (Section 40. 349(a)) You may maintain all information needed for operating a drug/alcohol program (e. g. CCFs, ATFs, names of employees in random pools, random selection lists, copies of notices to employers of selected employees) on behalf of an employer. (Section 40. 349(b))	

#	Question	Response	Regulation	Finding/followup
9	When an employer is asked by a DOT agency representative to produce drug and alcohol related information in relation to an inspection or regulatory requirement, how many days do you have to produce and make any information in your control available to your client and to the DOT representative?		You must ensure that you can make available to the employer within two business days any information the employer is asked to produce by a DOT agency representative. (Section 40. 349(e))	
0	NOW, I WOULD LIKE TO ASK SOME QUESTIONS ABOUT THE PROCESS OF RANDOM SELECTION AND NOTIFICATION.			
10	What is the scientifically valid method this consortium uses to make its random selections?		The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made. (Section 655. 45(e))	

#	Question	Response	Regulation	Finding/followup
11	How does your firm maintain up-to-date lists of covered employees subject to random testing?		As a service agent, you may perform for employers the tasks needed to comply with DOT agency drug and alcohol testing regulations, subject to the requirements and limitations of [Part 40]. (Section 40. 343) The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made. (Section 655. 45(e)) It is not possible for a C/TPA to make valid random selections unless there is some method for assuring that the random list is updated on a regular basis,	
12	Are the random numbers and/or random lists recorded and saved, and if so, for how long?		Records related to the collection process, including documents relating to the random selection process, must be retained for at least 2 years. (Sections 655. 71(b)(2); (c)(1)(ii))	

#	Question	Response	Regulation	Finding/followup
13	How frequently are random selections drawn?		Each employer shall ensure that random drug and alcohol tests conducted under [Part 655] are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed. (Section 655. 45(g))	
14	If you select days and times for testing, do you put any limitations on the dates and times that may be assigned for testing the employees?		Each employer shall ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed. (Section 655. 45(g))	
15	Does your program select alternates or substitutes for employees who cannot be random tested?		Under the [random] selection process used, each covered employee shall have an equal chance of being tested each time selections are made. (Section 655. 45(e)) It is not possible to ensure that all employees have an equal chance of being tested unless the consortium provides a scientifically acceptable list of alternative selections,	

#	Question	Response	Regulation	Finding/followup
16	How do you assure that members of your consortium achieve the 50 percent and 10 percent random testing requirements over the course of a year?		Except as provided in [Sections 655. 45(b)-(d)], the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees; the random alcohol testing rate shall be 10 percent. As provided in [Section 655. 45(b)], this rate is subject to annual review by the Administrator. (Section 655. 45(a)) As a service agent, you may perform for employers the tasks needed to comply with DOT agency drug and alcohol testing regulations, subject to the requirements and limitations of [Part 40]. (Section 40. 343)	
0	NOW, I WOULD LIKE TO DISCUSS OTHER SERVICES OF THE CONSORTIUM.			

#	Question	Response	Regulation	Finding/followup
17	Does the Drug Testing Custody and Control Form, and the Breath Alcohol Testing Form, have a code number or name of the employer on it, or does it have the name of the consortium, but not the name of the employer?		The CCF must include the names, addresses, telephone numbers and fax numbers of the employer and the MRO, which may be preprinted, typed, or handwritten. The MRO information must include the specific physician's name and address, as opposed to only a generic clinic, health care organization, or company name. This information is required, and it is prohibited for an employer, collector, service agent or any other party to omit it. In addition, a C/TPA's name, address, fax number, and telephone number may be included, but is not required. (Section 40.45(b)(2)) You may use an ATF that has the employer's name, address, and telephone number preprinted. In addition, a C/TPA's name, address, and telephone number may be included, to assist with negative results. (Section 40.225(b)(3))	

#	Question	Response	Regulation	Finding/followup
18	Does the laboratory, consortium, or both, provide each employer with a semi-annual statistical report of test results attributable to that employer?		As a laboratory, you must transmit an aggregate statistical summary, by employer, of the data listed in Appendix B to [Part 40] to the employer on a semi-annual basis. (Section 40. 111(a)) Appendix F to Part 40 notes that the C/TPA may transmit the laboratory statistical report to the employer if the employer chooses to have the C/TPA do so, As a service agent, you may perform for employers the tasks needed to comply with DOT agency drug and alcohol testing regulations, subject to the requirements and limitations of [Part 40]. (Section 40. 343)	
19	Do you assist your members in any way to prepare their annual MIS reports?		Each recipient shall annually prepare and maintain a summary of the results of its anti-drug and alcohol misuse testing programs performed under this part during the previous calendar year. (Section 655. 72(a)) As a service agent, you may perform for employers the tasks needed to comply with DOT agency drug and alcohol testing regulations, subject to the requirements and limitations of [Part 40]. (Section 40. 343)	

#	Question	Response	Regulation	Finding/followup
20	Do you monitor the quality of collection services provided by the designated urine collection sites and breath alcohol collection sites?		As a service agent, you may perform for employers the tasks needed to comply with DOT agency drug and alcohol testing regulations, subject to the requirements and limitations of [Part 40]. (Section 40. 343) If, as an STT, BAT, employer or other service agent administering the testing process, you become aware of a "correctable flaw" (see Section 40. 269) that has not already been corrected, you must take all practicable action to correct the problem so that the test is not cancelled. (Section 40. 271(b))	
21	Does your consortium have contracts with more than one DHHS-certified drug testing laboratory, so that an employee may readily have a split-specimen tested.		When the employee makes a timely request for a test of the split specimen [the MRO must], immediately provide written notice to the laboratory that tested the primary specimen, directing the laboratory to forward the split specimen to a second HHS-certified laboratory. [The MRO] must also document the date and time of the employee's request. (Section 40. 171(c)) If the MRO is under contract to the C/TPA, the C/TPA is responsible for assuring that split-specimens are properly transported to a second DHHS-certified laboratory for analysis.	

#	Question	Response	Regulation	Finding/followup
22	Do your members receive SAP services through this consortium?		The rules require an employer to provide the employee (including an applicant to new employee) who violates a DOT drug and alcohol regulation a listing of qualified SAPs readily available to the employee, . (The SAP Guidelines, 2001, pg. 15) Clearly, a list of SAPs who are "readily available" to the employee must be prepared in advance, C/TPAs must communicate to their clients the need to research and locate available SAPs before the transit system experiences a positive or refused test, including a pre-employment test,	
23	How long does your consortium keep records associated with positive tests?		You must keep records of verified positive drug test results for five years. (Section 40. 333(a)(1)(ii))	
24	Was the Consortium/Third Party Administrator prepared for the audit team, and did the C/TPA cooperate with the audit team and facilitate the audit process, including producing the required records?			
0	THAT WAS THE LAST QUESTION. THANK YOU FOR YOUR TIME AND INPUT.			

<i>Task Number</i>	<i>Description</i>	<i>Unit of measure</i>	<i>Unit Price</i>	<i># of Units</i>	<i>Extended Price</i>
3.2.1	Onsite Visits- Unit price must include transportation costs to and from site	Each	\$ 1,750.00	11	\$19,250.00
3.3	Develop, Review and Maintain a Model Drug and Alcohol Policy	Each	\$ 200.00	11	\$2,200.00
3.4	Technical And Administrative Assistance with Audits	Each	\$ 110.00	40	\$4,400.00
3.5.1	FTA Supervisory awareness training	Each	\$ 800.00	4	\$3,200.00
3.5.2	FTA D & A Program Manager training	Each	\$ 1,250.00	4	\$5,000.00
3.5.3	FTA UCT Service Technician Training	Each	\$ 1,250.00	2	\$2,500.00
3.5.4	Confernce/annual meetings training	Each	\$ 1,250.00	4	\$5,000.00
3.6	Update and Maintain Testing Response Handbook	Each	\$ 1,000.00	1	\$1,000.00
3.6.1	Reproduction cost for updates to testing response handbook	Each	\$ 10.00	50	\$500.00
3.7	Technical Assistance and Guidance with FTA D & A Program	Each	\$ 110.00	40	\$4,400.00
	<b>Total Bid Amount</b>				<b>\$47,450.00</b>

Bidder: RLS & Associates, Inc.

Date: 5/11/2021

CRFQ: CRFQ 0805 PTR210000010, Coordination Drug & Alcohol Oversight