



Moving Public Transportation Into the Future

April 10, 2015

Tammy Bouchard
Chillicothe Public Transit System
35 South Paint Street
Chillicothe, OH 45601

ODOT Compliance Review: FTA Drug & Alcohol Program

Dear Ms. Bouchard,

In an effort to ensure compliance with the Federal Transit Administration (FTA) Drug and Alcohol testing regulations, Ohio Department of Transportation has contracted with RLS & Associates, Inc. (RLS) to review all covered subrecipients. A review of Chillicothe Public Transit System was conducted on February 25, 2015 and interviews were conducted with the following individuals:

- Tammy Bouchard, Human Resources Director, City of Chillicothe
- Melissa Davis, ADENA Health System

RLS conducted an onsite compliance review of the collection site used by Chillicothe Public Transit System for drug and alcohol testing services. Included with this letter, and attached, are the findings and required corrective items for ADENA Health System.

During the review process, RLS reviewed the drug and alcohol program manager, collection facility, and the program record keeping methodology. During the site visit, several sample forms and technical assistance materials were provided to assist with the implementation of the program.

The results of each individual review are attached. Each document has four columns. The first contains the questions asked; the second is the response given and/or finding; the third column contains the regulatory citation; and the fourth contains any necessary action items or suggestions needed for compliance.

At the time of the review, there was not a fully compliant FTA drug and alcohol testing program in place. The omnibus Transportation Employee Testing Act of 1991 requires all recipients, including subrecipients and/or contractors, of Federal Funds under 49 U.S.C. 5307, 5309, and 5311, and 23 U.S.C. 103(e)(4) to test safety-sensitive employees for the use of alcohol or drugs in violation of law and in accordance with federal regulations 49 CFR Part 655 and 49 CFR Part 40, as amended. As a condition of FTA funding, you are required to establish a fully compliant FTA drug and alcohol testing program. The federal regulations governing FTA drug and alcohol testing programs are 49 CFR Part 655 and 49 CFR Part 40, as amended.

The following is a summary of the interviews conducted and any imperative action items required. Please review the enclosed questionnaires in their entirety for a complete list of all required action

items. With follow-up technical assistance provided by RLS, you will have a 60-day period for corrective actions. Therefore, the tentative completion date to bring your organization into compliance is June 10, 2015. Responses to this report can be emailed to tpaige@rlsandassoc.com

Drug and Alcohol Policy Review

The current drug and alcohol policy that has been officially adopted by the Chillicothe City Council was created in 1998 and had not been updated since. It is not compliant with the provisions set forth in 49 CFR Part 655. Two updated versions of the policy were found in the files at the transit office, but neither of the policies had been reviewed or adopted by the proper authorities.

1. A new policy that meets the provisions required by FTA and includes information specific to CPTS needs to be created and adopted. RLS has provided the DAPM with a new draft of the CCAT policy with required revisions indicated. The DAPM must make the indicated revisions and send a final draft back to RLS for final approval before having the policy approved by the board.

Drug and Alcohol Program Manager (DAPM) Interview

The DAPM was not fully aware of all FTA required rules and regulations regarding drug and alcohol testing. The DAPM should undergo training on the regulatory requirements as soon as possible. The following findings require immediate action:

1. Review Question #1 - The DAPM needs to print out a copy of the DOT and Federal Transit Administration testing regulations 49CFR Parts 40 and 655. It is also recommended that the DAPM sign up for FTA Quarterly newsletters.
2. Review Question #2-5 - Upon approval by the Chillicothe City Council, the new Drug and Alcohol Policy must be made available to all covered transit employees. RLS has provided the DAPM with forms that should be used to document this process.
3. Review Question #6 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.15(b). An employer must know which positions are safety-sensitive and subject to FTA/DOT D&A testing. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
4. Review Question #9 -11 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.15 (i). An employer must keep Non-DOT testing of employees completely separate from DOT testing. The DAPM must do an affidavit of corrections for the one post-accident test that is on DOT ATF and create a separate file for the Non-DOT tests. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
5. Review Question #12 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.15. That the transit system has until the end of the business day that the error is discovered to correct the mistake with an affidavit that explains the misuse of forms. The DAPM will use the template affidavit provided by RLS to create her own form to use going forward. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.

6. Review Questions #13 & 14 – The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.15. That an employer is required to inform a covered employee that the test being requested is required by this part. DAPM will use the template Order for Testing given by RLS to create her own form to use. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
7. Review Question #15 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.15(g). That all employers must ensure that random DOT D&A tests are conducted at all times of the day when safety-sensitive functions are performed. DAPM will work with ADENA to ensure that on-call staff will also be available for random testing after their regular hours as needed. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
8. Review Question #17 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.14(b)(1). DAPM was given document of available on-line training sessions with sign off sheet for each employee. She will review and institute general training for all staff and use for new hires going forward.
9. Review Question #18 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.14(b)(2). DAPM will arrange for herself and action Transit Director to receive the required reasonable suspicion training and provide documentation of the completed training by both individuals.
10. Review Question #19 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.71(b)(c). That reasonable suspicion training records must be kept for a minimum of (2) two years. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
11. Review Question #20 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.71(c). DAPM will use the template for the reasonable suspicion testing log given to her by RLS to create her own form to document reasonable suspicion referrals, and will keep these logs and collection process documents on file going forward.
12. Review Question #21 & 22 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.41(a)(1). That the employer must verify that a covered employee has taken a pre-employment drug test with a verified negative result before performing any safety-sensitive duties. DAPM will use the template for the pre-employment testing log given to her by RLS to create her own form to track this required testing. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
13. Review Question #23 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.42 which states that if an employer requires pre-employment alcohol testing, the tests must be conducted using the alcohol testing procedures set forth in 49 CFR Part 40. The DAPM will also ensure that the

new D & A Policy states that pre-employment alcohol testing will be done and will verify that all pre-employment testing includes alcohol test going forward.

14. Review Question #26 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.25(j). The DAPM must request information from the applicant regarding past failed or refused pre-employment testing and document request and results. The DAPM will use the template for this request supplied by RLS to create her own form to document the requirement going forward.
15. Review Question #27, 38 & 39- The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(e). DAPM must state her understanding of the importance of keeping the random pool up to date to ensure that all employees performing safety-sensitive duties are included in the random testing pool and that all employees shall have an equal chance of being tested each time selections are made. The DAPM will record detailed reason why an employee selected for random testing will not be used and why an alternative is being requested and used. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
16. Review Question #28 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(e). DAPM will contact ADENA to ensure that they are using a scientifically valid method to make random selections using her pool of covered employees and provide the method as part of her official response.
17. Review Question #29 & 32- The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(e). DAPM will contact ADENA and request their written agreement that they will send random selection lists to her at least one week prior to first week of each testing quarter. This will ensure that testing can occur during the first two weeks of the quarter, meeting the requirement that testing be done through the calendar year.
18. Review Question #30 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(e). DAPM will contact ADENA to request a written statement from them that they will make random selections on a frequency that will meet the quarterly requirements, but not exceed by a large margin the current minimum testing requirements of 25% for drugs and 10% for alcohol.
19. Review Question #31 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.71(a). The DAPM must create a secure process for transmitting testing lists to ensure that the random testing process is not compromised. Individuals authorized to receive and act on the random testing lists need to be identified and the process needs to ensure that only these individuals have access to the lists. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
20. Review Question #33 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(g) that states random testing must be conducted during all times of the day that safety-sensitive functions are performed in an unpredictable manner. Never testing before 900AM or After 330PM and

having the majority of tests on Wednesday presents a clearly identifiable pattern to the employees. The DAPM will use the spreadsheet template provided by RLS to track random tests and must indicate, in a written response, what actions will be taken to ensure this requirement is accomplished in the future.

21. Review Question #34 & 40 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(h) which states that covered employees must proceed to the test site immediately. The DAPM will use the order for testing template provided by RLS to create her own form that will include a section to record when the employee was notified to proceed to testing and when the employee arrived at the testing site. The DAPM's statement will include a copy of this tracking document and an explanation of how this document will be used to keep ongoing record of compliance with this requirement.
22. Review Question #43 & 44 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.3 which states that a DER must take full responsibility to remove employees from safety-sensitive duties and to make required decision 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. As part of this statement the DAPM must clearly designate the roles of the DAPM, DER and state who is filling each role for the Chillicothe Transit System.
23. Review Question #45 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44(d) and 655.71(c) which explains the decision making process for determining if post-accident testing is required and the required documentation process. The DAPM will use the post-accident decision tree and post-accident testing log templates that were supplied by RLS to create a clear and comprehensive post-accident testing decision and testing process. The DAPM will then ensure that any employee designated as a DER is properly trained to complete these processes in her absence.
24. Review Question #47 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.4 and 655.44 that state the post-accident testing thresholds that would require a FTA post-accident test.
25. Review Question #48 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44(a) that states in addition to the operator, other covered employees may be tested after an accident if they contributed to the accident.
26. Review Question #49 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44(a)(1)(i) and 40.61(b)(3) that states you may not post-accident drug test an employee who is dead or unconscious.
27. Review Question #50 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44(a)(1)(i) and Part 655.44(a)(2)(i) which state that testing should begin as soon as practicable following an accident that meets the post-accident testing thresholds and Part 655.44(e) which further

states that testing cannot delay medical attention for the injured following an accident or impede the resolution of the accident scene.

28. Review Question #51 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44(ii) and 655.44(b) that state the time limits for post-accident alcohol testing to be 8 hours after the accident and drug testing to be 32 hours after the accident.
29. Review Question #52 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44(c) which states that a covered employee who leaves the scene of an accident or who fails to remain readily available for post-accident testing may be deemed by the employer to have refused to submit to testing.
30. Review Question #53 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.62(a) and Part 40.287. The DAPM will research and secure a properly credentialed SAP to be used as a referral when needed and will provide the following from their SAP to show that he/she is qualified as a DOT SAP:
 - a. Proof of credentialing in accordance with 49 CFR Part 40.281(a)
 - b. Proof of qualification training meeting the requirements of 49 CFR Part 40.281(C)(1)
 - c. Proof of having successfully completed an examination administered by a nationally recognized professional or training organization in accordance with 49 CFR Part 40.281(c)(2)
 - d. Proof of 12 hours of continuing education credits during each three year period from the date of the qualification training in accordance with 49 CFR Part 40.281(d).

The DAPM will also create a clear process which includes documentation for when a SAP referral is needed.

31. Review Question #57- 62 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.305 and 307. The DAPM needs to understand the requirements of a second chance policy including return to duty and follow up testing. The DAPM will use the Return-To-Duty/Follow-up Testing Log template left by RLS to create a documentation process for any future positive test results.
32. Review Question #65 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.71(a) and she must explain the new methods of drug and alcohol records maintenance at Chillicothe Transit that will ensure the records are kept in a secure location with controlled access.
33. Review Question #71 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.17. DAPM needs to use the templates for testing logs given to her by RLS to create complete documentation that will allow her to better track testing and test results.
34. Review Question #73-77 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.11 and 655.81.

35. The DAPM needs to research the existing arrangement with the DD provider currently using Chillicothe Public Transit office space and provide a statement as to status of contractual agreement and the scope of services being shared or provided for each party. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
36. Review Question #78 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.72. DAPM needs to understand the difference between DOT required and non-DOT required tests so that she can fill out the MIS correctly.

Records Management Interview

The following findings require immediate action:

1. Review Question #2 & 4 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.71(a) and she must explain the new methods of drug and alcohol records maintenance at Chillicothe Transit that will ensure the records are kept in a secure location with controlled access.
2. Review Question #3 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.73(a) stating that an employee will not release information pertaining to a covered employee contained in records required to be maintained by Section 655.71 except as required by law.
3. Review Question #10 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.14(b)(2). DAPM will arrange for herself and action Transit Director to receive the required reasonable suspicion training and provide documentation of the completed training by both individuals.
4. Review Question #12 & 13 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.25(b). DAPM will use the templates of a "Good Faith Effort" Documentation form and the Authorization for Release of Information from Previous Employer on US DOT Drug and Alcohol Testing form provided by RLS to create a process for requesting information from previous DOT-regulated employers per this regulation.
5. Review Question #14 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.25(j). DAPM will use the template for the Safety-Sensitive Employee Application Supplement form provided by RLS to create a process for requesting information from applicants regarding their DOT testing history.
6. Review Question #16 - The DAPM needs to take the template Pre-Employment Testing Log provided by RLS to create a documentation form for the pre-employment testing and documentation process that will allow clear and immediate verification that employees are eligible to perform safety-sensitive duties.
7. Review Question #17 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.41 (d). The DAPM needs to take the template Pre-Employment Testing Log provided by RLS to create a documentation

form for the pre-employment testing and documentation process that will allow clear and immediate verification that employees are eligible to perform safety-sensitive duties.

8. Review Question #18 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.41 (c). The DAPM needs to use the Pre-Employment testing log to document any cancelled pre-employment tests and to show where the covered employee was immediately sent for another test and that employee was not allowed to perform safety-sensitive duties until a verified negative test result was received.
9. Review Question #21- 23 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.43 (b) and 655.14(b)(2) and 655.43 (d). DAPM will arrange for herself and action Transit Director to receive the required reasonable suspicion training and provide documentation of the completed training by both individuals.
10. Review Question #27 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.13(f) regarding the proper use of CCFs and ATFs for post-accident testing and the knowledge of the thresholds required to use these forms.
11. Review Question #46-48 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.61(a). DAPM will use the Positive Drug and Alcohol Testing Log template left by RLS to create her own process to document this notification process to ensure compliance with this regulation.
12. Review Question #61 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.197(b). The DAPM will ensure that the revised policy that she creates using the policy template supplied by RLS addresses how Chillicothe Transit System will handle Dilute Negative test results in the future.
13. Review Question #62 -64 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.209 (A) and Part 40.33(f) and (g) and will use the Affidavit of Corrections template left by RLS to create her own correction document that she will use to correct any errors that she finds on CCF as she receives them. In the statement the DAPM must state her understanding of what a fatal flaw is and when a test would be cancelled because of an error. This statement must also include an explanation from the DAPM of the review and documentation process that she will use to meet this requirement moving forward.
14. Review Question #65 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.23(g). DAPM will use Pre-Employment and Return-To-Duty/Follow-Up logs that she creates to track the results of tests to ensure that any cancelled tests are recorded and that the employee is sent for retesting immediately.
15. Review Question #66 - The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.67 (a).

16. Review Question #69 - The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.17. The DAPM will use the Order For Testing and Acknowledgment of Employer's Drug and Alcohol policy templates supplied by RLS to create her own documents that give notification to employees under whose authority they are being tested.

Breath Alcohol Technician (BAT) Interview

The following items require action:

1. Review Question #37 - The BAT must provide a signed statement certifying that she has read and fully understands the requirements of Section 40.267(c) and 40.233(a)(1) and (d). The BAT must include in the statement an explanation of the recorded external calibration checks that were outside the tolerance, and provide an explanation of what has been done to remedy this situation, including the process followed to cancel tests if required. The BAT will also include in the statement an explanation of procedures that will be put into place to avoid this situation in the future.

Urine Collection Technician (Collector) Interview

1. Review Question #5 - The collector must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.61 (f)(4). This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
2. Review Question #8 - The collector must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.63. It is best practices to monitor the employee at all times while in the testing process. Multi-tasking during this portion of the procedure is not ensuring that the employee is not accessing materials that could be used to adulterate the specimen.
3. Review Question #13 - The collector must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.43 (b). The collector will include as part of the statement an explanation of how they check the toilet paper holder after each collection and that they have removed the small table currently located in the collection room.
4. Review Question #18 - The collector must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.65(b). The collector should also include in the statement that they have read the article "Reading the Temperature Strip-Doing it Right" in the January 2015 FTA Drug and Alcohol Regulations Updates newsletter. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
5. Review Question #28 - The collector must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.73(a)(1). This statement must also include an explanation from the DAPM of how this requirement will be met moving forward in regards to ensuring that all collectors at the site remember to get the evening phone number section filled in.

The information provided above is only a summary of the interviews conducted. Please take the time to review the enclosed questionnaires in their entirety to ensure all required and suggested action items are addressed.

Please feel free to contact me with any questions or concerns at 937-299-5007 or tpaige@rlsandassoc.com

Respectfully,

A handwritten signature in blue ink, appearing to read "Terri Paige", with a large, sweeping flourish extending to the right.

Terri Paige
RLS & Associates, Inc.