

# Drug and Alcohol Program Manager (DAPM) Interview Questions

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## Monroe County Public Transportation

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**Ohio Department of Transportation**

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#	Question	Finding	Regulation	Action Item
0	TO START OFF, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT THE REGULATIONS			
1	Do you have a copy of the DOT and Federal Transit Administration testing regulations 49 CFR Parts 40 and 655?	Yes in print and on computer	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.	none
0	NOW, I WOULD LIKE TO ASK SOME QUESTIONS ABOUT YOUR POLICIES AND PROCEDURES.			
2	Does this employer make available and provide written notice of the availability of the adopted FTA anti-drug and alcohol misuse policy to all covered employees and representatives of any employee organizations? How?	Yes, have sign off sheet that each employee signs, it is currently filed in HR but will make a copy and will keep in pre-employment testing file or will use template left by RLS.	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."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.16. DAPM will file a copy of sign off sheet in pre-employment file.
3	Does this employer make available and provide written notice of revisions to the adopted FTA anti-drug and alcohol misuse policy to all covered employees and representatives of any employee organizations? How?	Has not had a revision since taking this position, but will do it with the revision that is pending. Will use RLS template for form.	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."	None

#	Question	Finding	Regulation	Action Item
4	Does this employer maintain a record that each employee has received a copy of the anti-drug and alcohol misuse policy, or a written notice that the policy is available for review?	In their employee file, but not in Pre-employment file.	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 ..." 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."	Addressed in #2 above
5	Does this employer maintain a record that each employee has received a copy of revisions to the anti-drug and alcohol misuse policy, or a written notice that the revised policy is available for review?	See above	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."	See above
6	What job categories or functions are considered safety-sensitive at this company?	Currently only the driving position is listed in the policy. Policy will be updated to include. Assistant Transit Director and Transit Director	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." 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 pa."	Addressed in #3 in Policy Review Report.

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7	Do you utilize volunteers and are they FTA-covered employees subject to 49 CRF Part 40?	No volunteers at this time. Understand that they would do D&A testing per policy.	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."	None
8	Are you notified of all FTA testing, so as to take immediate action, if necessary?	Only aware of receiving negative test results in by mail. Was not aware that they should be notified by phone of a positive or cancelled test and that they should have a password.	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."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.3; 40.255(a)(5) and 40.167. As part of the statement she will include a report on her conversation with the MRO at Work Pro Southeastern Medical services which will detail the process for notification of all positive and cancelled drug and alcohol test results. This process should include password protected transmission of information. The DAPM will include a statement on how this requirement will be met going forward.

#	Question	Finding	Regulation	Action Item
9	Does this employer conduct non-DOT drug and/or alcohol testing and if so is it completely separate (separate random pools, separate CCFs and ATFs, etc.) from DOT testing?	Not clear about testing involved based on policy will get clarified on whether or not testing would happen. But they do understand that it must be kept separate.	<p>Section 655.15 states: "Policy Statement contents... . The statement must be made available to each covered employee, and shall include the following: ...  (j) 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."</p> <p>Section 40.13 states: "(a) DOT tests must be completely separate from non-DOT tests in all respects.  (b) 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.  © Except as provided in paragraph (d) of this section, 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."</p>	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.15(j) and 40.13. DAPM will clarify current policy with her supervisor and determine what if any testing beyond the required DOT testing will be done. DAPM will send a statement of what testing will be done and how the testing will be handled to ensure that the correct notification is given to employee and that the correct testing forms are used.

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10	Do you ever perform DOT testing above and beyond what is required by FTA? (E.g., an accident that does not exceed FTA thresholds, alcohol pre-employment, etc.)	Alcohol tests can be done at anytime a covered employee is on duty. Understand that it has to be done on a non-DOT form.	<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>	None

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11	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?	The CCFs showed several errors that need to be corrected. Including the use of an incorrect form for testing. They did not know what to look for and have never reviewed them for anything other than the test result.	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."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.13 (f) and 40.209(a)(b) and 40.275(a). The DAPM must include in the statement her understanding that only DOT authorized tests can be done on a DOT CCF or ATF and that it is her responsibility as the employer to ensure that all CCF and ATF forms are filled out correctly or are corrected immediately with an affidavit of correction once an error is discovered. The DAPM will include as part of this statement how this requirement will be met going forward.
12	If a non-DOT CCF or ATF is used for a DOT test, do you know what the regulations require you to do to correct this flaw?	They did not, but they do now.	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.	See above

#	Question	Finding	Regulation	Action Item
13	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)?	Have not in the past, will now use new order for testing based on RLS template to authorize and track.	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."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.17 and 40.14. The DAPM will create a new order for testing form that will include information about who is authorizing the test and a place for the employee to sign stating that they received this information. The new form will also have a place to for all of the required DOT testing information and a place to record the time that the test was requested and the time that the employee arrived at the testing site. This new Order for testing form will be kept in the files attached to the corresponding CFF or ATF going forward.

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14	What information do you provide to the collection site for each DOT test you are requesting?	Currently using a form provided Work-Pro which has some information, but missing type of test FTA and time of check in. Will use RLS template	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)."	Addressed above.

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			[65 FR 79526, Dec.19, 2000, as amended at 75 FR 59107, September 27, 2010]	
15	How do you ensure that DOT tests can be conducted at all times when safety-sensitive functions may be performed? (I.e., late night, weekends, holidays, maintenance hours, etc., if applicable.)	Use Work-Pro is regular testing site, when they aren't open they use Cambridge Hospital for back-up. They have never asked for Cambridge Hospital's collection credentials and have never done a site review with them.	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."	DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(g) and 40.31(a)(b). As part of the statement the DAPM will describe the process for using Cambridge hospital and will provide certificates of testing staff and proof that she or the Assistant Transit Director have done a review of the testing facility at Cambridge Hospital.
16	Do you ever use a hospital for testing on a contingency basis? Do you know that they use documented trained collectors for DOT testing?	Yes see above, no way of knowing now. They have never done a review themselves. And have never contacted.	Section 40.31(a) states "Collectors meeting the requirements of this subpart are the only persons authorized to collect urine specimens for DOT drug testing. (b) A collector must meet training requirements of §40.33."	Addressed above
17	Have all safety-sensitive employees received 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?	No. They were waiting for information from DOT on training materials and sites.	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. "	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 will set up a training on materials left by RLS for March 23 for all covered staff. DAPM will document training and file all sign in sheets and include copies of sign in sheet with the statement.

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18	Have all employees authorized to initiate FTA reasonable suspicion testing 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?	Yes, Both the DAPM-Director of Transit and the DER-Assistant Director of Transit have done the required training and produced the certificates.	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.	None

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19	For how long do you maintain documentation related to supervisor reasonable suspicion training?	For five year or longer as space allows	<p>Section 655.71(c) states: "The following specific records must be maintained: ...  (4) Records related to employee training: ...  (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: ...  (2) Two years. Records related to the collection process and employee training."</p>	None
20	Does this transit system document Reasonable Suspicion referrals?	None made within the time that either of them have been in these positions and none in files, but will document based on information left at site and Assistant Director knew where to find the information in training materials and regulation	<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>	None

#	Question	Finding	Regulation	Action Item
0	NOW, I WOULD LIKE TO ASK SOME QUESTIONS ABOUT THE PRE-EMPLOYMENT DRUG TESTING PROCESS.			
21	At what point in the hiring process do you require applicants for safety-sensitive positions to pass a FTA pre-employment drug test?	Before safety sensitive duties.	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."	None
22	How do you record the first date that new hires or transferees begin safety-sensitive functions?	Does keep track of it using employment records, but not in one place. Keeps pre-employment testing information in her DOT files and employment records are at HR office elsewhere.	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."	DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.41(a)(1). As part of the statement DAPM will provide a copy of the pre-employment log that will be created using the template supplied by RLS. DAPM will include in the statement a description of how this log will be used to meet this regulation going forward.

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23	Do you perform pre-employment alcohol testing for all/any safety-sensitive positions?	Yes, and they are done using DOT requirements.	Section 655.42 states "An employer may, but is not required to, conduct pre-employment alcohol testing under this part." 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. "	None
24	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?	Same as pre-employment testing.	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."	None
25	When a safety-sensitive employee is to be on extended leave (90 or more consecutive days) and will not be performing safety-sensitive functions, how do you handle their placement in the DOT random testing pool and do you do anything upon their return and prior to their performance of safety-sensitive function?	Will remove after 90 days and do pre-employment test on return.	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."	None

#	Question	Finding	Regulation	Action Item
26	At what point in the hiring process 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?	At employment, but not good documentation process in place. They will use the template left by RLS to create a better documentation process for this.	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)."	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 templates provided by RLS to create a documentation process for this requirement and will provide a copy of the form developed with the written statement to show how this requirement will be met going forward.
0	NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT THE RANDOM SELECTION PROCESS.			

#	Question	Finding	Regulation	Action Item
27	How and when do you update your DOT random testing pool used for random selections?	When employment status changes, or when a covered employee is out on leave for more than 90 days. Changes to the pool are sent by fax to the TPA.	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.	None
28	What random selection method is used by this employer to select covered employees for FTA drug and alcohol testing?	Unknown. TPA makes selection and DAPM has never asked how the selections are made. DAPM will research.	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."	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 TPA to ensure that they are using a scientifically valid method to make random selections using the pool of covered employees and provide the method as part of her official response.

#	Question	Finding	Regulation	Action Item
29	How frequently does this employer or the C/TPA make random selections?	Quarterly	<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>	None

#	Question	Finding	Regulation	Action Item
30	How do you determine if the random test to be conducted will be a random alcohol, random drug or both?	Told by TPA will ask them how they determine it.	<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."  Generating random selection lists infrequent increases the chance that 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>	See #28 above.
31	How is the random selection list transmitted to the DER and who has access to the list?	Sent by email on her email account which is password protected. She will check with them to see if their site should be password protected. Only fax if the computer is down and would only do it if the DAPM is at the fax machine and DAPM had to call them on receipt to let them know that she got it. Only DAPM	<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."  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>	None

#	Question	Finding	Regulation	Action Item
32	Does this transit system conduct random testing on all work days, when safety-sensitive functions are being performed, including weekends and holidays?	No. The random draw lists are provided during the quarter but usually in the second month. This does not allow them to do random draws in the first month of each quarter.	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."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(g). DAPM will contact TPA 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 and that random testing must be conducted at all times of day when safety-sensitive functions are performed.

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33	Does this transit system conduct random testing at all times that safety-sensitive functions are being performed (including maintenance of revenue vehicle, movement of revenue vehicles, etc.)?	No. The random testing log shows that all of the random testing done in 2014 was done on a Monday, Wednesday or Friday and between the hours of 10am and 12pm. See enclosed charts.	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."	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 10:00AM or After 12:00PM and having the majority of tests on Monday, Wednesday or Friday presents a clearly identifiable pattern to the employees. This predictable pattern could be used to schedule timing of employee drug/alcohol use to avoid detection. 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.

#	Question	Finding	Regulation	Action Item
34	After being informed of the test requirement, how long until the employee proceeds to the collection site? How long is the employee given to arrive at the collection site?	Transport individuals to the testing site to ensure prompt arrival. Have no current way to track times. Will use template provided by RLS to better track this.	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."	Addressed in #13 above.
35	If the DAPM is safety-sensitive and is in the random pool and the DAPM's name is selected for a random test, how is the DAPM made aware that their name is on the current random selection list and when does the DAPM proceed for random testing?	No process in place currently DAPM receives her own name on the list and tells Asst to set her random time.	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."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(h). DAPM will contact TPA to set up separate notification process for DAPM. Which will include a separate email notification to DER with password protection that only the DER has access to.

#	Question	Finding	Regulation	Action Item
36	When, if ever, would you excuse an employee, selected for a random test, from random testing?	If the employee was on extended vacation, out on extended sick leave or other type of extended leave.	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 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.	None
37	If the DAPM or another non-active employee is safety-sensitive and is notified to proceed for random alcohol testing, how does this system ensure that the DAPM is only subject to random alcohol testing just before, during, or just after the performance of safety-sensitive functions?	They transport and will check for status of job duty at time of notification.		None

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38	Do you use alternates in your random selection process? Under what circumstances would you notify an alternate that they must proceed to the collection site for a random test?	Only when original is not available due to the above listed reasons. They have not used an alternative for at least a couple of years.	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."	None
39	Do you document if an employee is not tested or excused during a random selection period? If so, how?	Yes on random selection list and will also start documenting on new testing logs.	<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>Written explanations for why employees are excused from testing ensure there is no bias in the random selection process.</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>(ii) Documents relating to the random selection process."</p>	None

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40	Do you have a way to know if the employee arrived at the collection site in a timely manner? For instance, does the collection site know who is coming for a test and when that individual should arrive?	See # 34 above.	<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>	Addressed in #13 above.

#	Question	Finding	Regulation	Action Item
41	After the testing is complete, does this transit system maintain a copy of each random selection draw list (e.g., paper copy, electronic file)?	Yes kept in file for 5 years see records	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.	None
42	Did you and your contractors meet the FTA's minimum random testing rates last year?	Yes, but the DAPM was not aware of what the percentages were.	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."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(a). DAPM will contact TPA to get regular reports of percentages and track the random testing done to ensure compliance.
0	NOW, I WOULD LIKE TO ASK SOME QUESTIONS ABOUT POST-ACCIDENT TESTING.			

#	Question	Finding	Regulation	Action Item
43	Who is responsible for deciding to perform a FTA post-accident test? (If DAPM, ask for knowledge of thresholds.)	DAPM- Transit Director and DER Assistant Transit Director. Neither knew thresholds well, but DER knew where to find it in the regulations and training materials. They need to use decision tree and log templates left by RLS to create their own system of making and documenting post-accident testing decisions.	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."	None
44	Who has the primary responsibility for assuring that post-accident testing is accomplished?	DAPM- Transit Director, see above.	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."	None

#	Question	Finding	Regulation	Action Item
45	Does this transit system have some method to document the post-accident decision-making process, especially decisions not to conduct a drug and alcohol test following an accident that reaches an FTA threshold?	Not currently. DER-Assistant Transit Director knew where to find information about testing thresholds, but there is no documentation plan in place.	<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© states: "The following specific records must be maintained:  (1) Records related to the collection process: ...  (iv) Documents generated in connection with decisions on post-accident drug and alcohol testing."</p>	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 of 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.

#	Question	Finding	Regulation	Action Item
46	Would you always perform a DOT post-accident drug and alcohol test after an accident involving a fatality?	Yes	<p>Section 655.44(a) states: "(1) Fatal accidents.</p> <p>(i) 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)."</p> <p>No discretion is permitted by FTA in determining if a surviving employee is to be post-accident tested after an accident involving a fatality."</p>	None

#	Question	Finding	Regulation	Action Item
47	Can you list and explain the FTA post-accident testing thresholds? And explain disabling damage?	Neither the DAPM- Transit Director or DER Assistant Transit Director knew thresholds well, but DER knew where to find them in the regulations and training materials.	<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> <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>	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44 including the definition of the term disabling damage as it is used on this regulation. This statement will include a description of where this information can be found and how the DAPM and DER will keep the information readily available for reference as needed.

#	Question	Finding	Regulation	Action Item
48	In addition to the operator of a transit vehicle, can other covered employees be post-accident tested under FTA authority? If so, under what circumstances?	Yes, Assistant Transit director would also be tested if it was determined that her actions impacted the accident.	<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>	None
49	Can an FTA post-accident drug test be performed on an employee who is unable to give consent due to death or unconsciousness?	No. DER- Assistant Transit Director knew this but not the DAPM-Transit Director.	<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>	See #47 above.

#	Question	Finding	Regulation	Action Item
50	When would you commence drug and alcohol testing after an accident?	Immediately, but would not delay medical treatment or interfere with law enforcement.	<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>	None

#	Question	Finding	Regulation	Action Item
51	What are the time limits for drug and alcohol post-accident testing? (if DAPM is involved in post-accident decision-making process)	DER-Assistant Transit Director had some knowledge of these time limits. DAPM-Transit Director did not.	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. 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."	See #47 above.
52	What would be the result if an employee fails to remain "readily available" for testing after an accident?	Knew that they would fire the individual but did not articulate why. Understand it now.	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."	See #47 above.

#	Question	Finding	Regulation	Action Item
53	Does this company provide the contact information of a qualified Substance Abuse Professional (SAP) readily available to assist any employee who has refused a test or had a positive test? Even if the employee is to be terminated?	Not currently. They are not sure if HR would do this at time of dismissal. It has not happened so they were not sure of process.	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." 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."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.62(a). DAPM will use the SAP referral template provided by RLS to be used at part of the employment termination process.
0	NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT RETURN-TO-DUTY AND FOLLOW-UP TESTING			

#	Question	Finding	Regulation	Action Item
54	Who would be 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, even if the employee is not eligible for reinstatement?	As stated above they were not sure of this process, they now understand that DAPM or DER needs to ensure that the employee gets this information and will use templates provided to create process.	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."	Addressed in #53 above.
55	Does this transit system have a second chance policy for employees who refuse or test positive on an FTA drug and/or alcohol test?	No, they have a zero tolerance policy and report that they do not know much about the return-to-duty or follow-up testing requirement. They do understand that anyone refusing to take a test or getting a positive test result would be removed from safety sensitive duties immediately.	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.	None

#	Question	Finding	Regulation	Action Item
56	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?	Based on them having a zero tolerance policy they do not know much about Return-to-Duty or Follow up testing. Will review the regulation so that they know where to find the information if they need it.	<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 under an applicable DOT agency regulation. It is the employer, rather than you, who must decide whether to put the employee</p>	The DAPM must submit a signed statement certifying that she has read the requirements of 49 CFR Part 40.281 through 40.313 and understands of the Return-to-Duty and Follow-up testing process. This statement must also include a description of where these regulations can be found and how the DAPM would access them if needed.

#	Question	Finding	Regulation	Action Item
			back to work in a safety-sensitive position."	
57	Does this employer receive a written SAP evaluation of an employee's readiness to return to duty and a follow-up testing plan? (If Yes, ensure that records-review team has appropriate files for review.)	See above	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." (b) You [the SAP] must present a copy of this plan directly to the DER (see Section 40.311(d)(9))." 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: ... (8) SAP's clinical determination as to whether the employee has demonstrated successful compliance; (9) Follow-up testing plan... "	Addressed in #56 above.

#	Question	Finding	Regulation	Action Item
58	Whose responsibility is it to determine the number of follow-up tests for an individual returning to duty?	See above	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."	Addressed in #56 above.
59	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?	See above	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."	Addressed in #56 above.
60	Do you review each return-to-duty plan/schedule submitted by the SAP?	See above	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.	Addressed in #56 above.

#	Question	Finding	Regulation	Action Item
61	Who is responsible for ensuring that the SAP's follow-up testing plan for each employee is followed? (Ask to see plan and CFFs/ATFs - Ensure that Records-review team has appropriate files.)	See above	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."	Addressed in #56 above.
62	Whose responsibility is it to determine when an employee must actually go for a follow-up test?	See above	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." 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."	Addressed in #56 above.
63	Would you always conduct return-to-duty and follow-up tests under Direct Observation conditions?	See above	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."	Addressed in #56 above.

#	Question	Finding	Regulation	Action Item
64	What would you do if you found out that a return-to-duty or follow-up test was not conducted under Direct Observation conditions?	See above	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."	Addressed in #56 above.
0	NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT YOUR DRUG AND ALCOHOL INFORMATION SYSTEM AND METHODOLOGY.			
65	Does this transit system maintain all records related to the drug and alcohol program in a secure location with controlled access?	The records are kept in a locked cabinet in her office, however key is in her purse which was in the unlocked office out of her sight at the time of the interview.	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."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.71(a). That the employer must maintain records in a secure location with controlled access. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.

#	Question	Finding	Regulation	Action Item
66	Are you notified of alcohol test results of $\geq 0.02$ ? If so, when and by what method?	It has never happened, so neither the DAPM or the DER were clear about how it would happen.	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."	Addressed in #8 above.
67	What action would you take upon verbal notification that an employee had an alcohol test result $\geq 0.04$ ? What about 0.02?	They both responded that the person would be removed from safety sensitive duties and per their policy would be fired.	Section 40.23 © 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"	None

#	Question	Finding	Regulation	Action Item
68	When an employee has a positive FTA drug test result, by what method and how soon after the test is verified does the MRO or C/TPA notify the transit system?	Have not ever received one, and is not clear how that would work. They know that they get the negative test results by email within about 24 hours.	<p>Section 40.167 states: "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 repo the results in a confidential manner.</p> <p>(b) You must transmit to the DER on the same day the MRO verifies t 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>Section 40.167(c) states: "You 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.</p> <p>(1) You must fax, courier, mail, or electronically transmit a legible image or copy of either the signed or stamped and dated Copy 2 or the written report (see 40.163(b) and (c)).</p> <p>(2) Negative results reported electronically (i.e., computer data file) do not require an image of Copy 2 or the written report."</p>	Addressed in #8 above.

#	Question	Finding	Regulation	Action Item
69	What action would you take upon verbal notification from the MRO/TPA that an employee had verified positive drug test?	Remove that employee from safety-sensitive duties immediately and per their policy fire them.	Section 40.23(a) states "As an employer who receives a verified positive drug test result, you must immediately remove the employee involved from performing safety-sensitive functions. You must take this action upon receiving the initial report of the verified positive test result. Do not wait to receive the written report or the result of a split specimen test."	None
70	Have the transit system and the MRO or C/TPA established a password or other verification method to ensure that verbal transmission of positive test results from the MRO is secure?	They are not clear on this, see above.	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. (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). (2) You are responsible for identifying yourself to the DER, and the DER must have a means to confirm your identification."	Addressed in #8 above.

#	Question	Finding	Regulation	Action Item
71	Does the transit system have a method to identify if the MRO or C/TPA has not provided a test result in a reasonable period after the test?	Not really. They keep track of the random testing on a basic log, but do not track the date of receipt of the test result.	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."	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.
72	Do you use a consortium or third-party administrator (C/TPA)?			
0	NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT CONTRACTORS THAT PROVIDE SAFETY-SENSITIVE SERVICES FOR THIS TRANSIT SYSTEM.	None N/A		

#	Question	Finding	Regulation	Action Item
73	Are you aware of all safety-sensitive contracts, and do you monitor contractor compliance with Parts 40 and 655?	N/A	<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.</p> <p>© 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>	N/A
74	Does this employer utilize contractors who perform safety-sensitive duties?	N/A		N/A

#	Question	Finding	Regulation	Action Item
75	How do you monitor the drug and alcohol programs of your contractors?	N/A	<p>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."</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>Section 655.73(i) states: "An employer may disclose drug and alcohol testing information required to be maintained under this part, pertaining to a covered employee, to the State oversight agency or grantee required to certify to FTA compliance with the drug and alcohol testing procedures of 49 CFR Parts 40 and 655."</p>	N/A
76	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?	N/A	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."	N/A

#	Question	Finding	Regulation	Action Item
77	Are your covered contractors and vendors in compliance with the FTA drug and alcohol rules?	N/A	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]."	N/A
0	NOW, I WOULD LIKE TO ASK YOU A FEW QUESTIONS ABOUT THIS COMPANY'S DRUG AND ALCOHOL MIS REPORT.			

#	Question	Finding	Regulation	Action Item
78	Does this employer assemble an annual summary of the results of the drug and alcohol program (MIS), certify that the results are correct and as requested submit to FTA by March 15th?	Yes, completed and filed in February.	<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>© 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>	None

#	Question	Finding	Regulation	Action Item
79	Did the employer ensure the accuracy and timeliness of each report submitted by the employer, contractor, consortium and/or joint enterprise or by a third party service provider acting on the recipient's or employer's behalf?	Yes.	<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>© 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>	None

#	Question	Finding	Regulation	Action Item
88	Was the Drug and Alcohol Program Manager prepared for the audit team, and did the DAPM cooperate with the audit team and facilitate the audit process, including producing the required records?	Yes, records available and willing to give me any and all information.	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 guideway 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 guideway systems, upon the Secretary's request or the respective agency's request."	None
0	THAT WAS THE LAST QUESTION. THANK YOU FOR YOUR TIME AND INPUT.			