

Section 5307 Subrecipient Expectations – Drug & Alcohol

The following outlines expectations for Section 5307 Subrecipients regarding their critical oversight responsibilities for contractors performing public transit safety-sensitive functions, as defined in [49 CFR Part 655.4](#), under the USDOT-FTA drug and alcohol testing regulations.

Drug & Alcohol Testing Regulations

The United States Department of Transportation (USDOT)-FTA drug and alcohol testing regulations (49 CFR Part 40 and 49 CFR Part 655) apply comprehensively to recipients and subrecipients of FTA Sections 5307, 5309, and 5311 funds, and critically, to any contractor providing FTA-defined safety-sensitive functions on their behalf, irrespective of the direct funding source for that specific contract.

Subrecipients should not assume that contractors are knowledgeable about the USDOT-FTA D&A regulatory requirements or that they have compliant policies or programs. If contractors are unwilling or unable to comply with the regulations, the recipient/subrecipient must discontinue using the contractor for the performance of safety-sensitive duties, or they will jeopardize their FTA funding.

As the FTA subrecipient, you are fully responsible for the compliance of your system with the drug and alcohol testing regulations, including your contractors who perform safety-sensitive job functions. Consequently, robust oversight of your contractors is not merely encouraged, but mandated to ensure continuous compliance

Contractor Oversight Expectations

Although 49 CFR Part 655 does not explicitly detail the nature or extent of recipient/subrecipient oversight duties, it unequivocally places the responsibility on you to undertake all necessary actions to ensure contractor compliance. To facilitate this, IndyGo encourages you to proactively communicate regulatory requirements to your contractors and, where necessary, provide them with comprehensive tools and technical assistance. **These may include, but are not limited to, the following:**

- Ensure contractors have readily accessible copies of the full text of
 - [49 CFR Part 655](#) (FTA Drug and Alcohol Testing Program) and
 - [49 CFR Part 40](#) (Procedures for Transportation Workplace Drug and Alcohol Testing Programs)
- Provide copies of resource materials:
 - [FTA's Quarterly Drug & Alcohol Implementation Newsletters](#) (for updates and clarifications on regulatory interpretations)
 - [FTA's Drug & Alcohol Website](#) (a central hub for all FTA D&A information)
 - [FTA's D&A Tools and Resources Website](#) (specifically for sample guides, templates, and tools)
 - [USDOT-Office of Drug & Alcohol Policy & Compliance \(ODAPC\) Website](#) (for overarching USDOT D&A policy guidance)
 - [USDOT-ODAPC EMPLOYER Page](#) (focused resources tailored for employers subject to USDOT regulations)
- Provide contractors with education and training on the regulations.

- Facilitate or support the provision of comprehensive drug awareness training to safety-sensitive employees.
 - Some free resources include:
 - [FTA's 60-Minute Drug Awareness Video](#)
 - [National RTAP's eLearning course on Substance Abuse Awareness](#)
- Facilitate or support the provision of comprehensive reasonable suspicion training for supervisors responsible for safety-sensitive employees.
 - Some free resources include:
 - [FTA's Reasonable Suspicion Training Video](#)
 - [National RTAP's eLearning course on Reasonable Suspicion Determination](#)
- Provide assistance in establishing/maintaining a scientifically valid random selection process.
- Conduct or require a thorough review of the contractor's drug and alcohol testing policy to ensure it aligns with 49 CFR Part 40 and Part 655 requirements
 - FTA has a [policy review checklist](#) you can use for this purpose.
- Assist contractors in establishing and maintaining robust record-keeping procedures that meet regulatory requirements ([49 CFR Part 40.333](#) and [Part 655.71](#)).
- Assist contractors in the accurate and timely preparation and submission of their annual MIS reports to the FTA.
 - [FTA's MIS Reporting Guidance Document](#)
 - [FTA's Video on "How to Submit Your MIS Report"](#)
 - [USDOT's MIS Instructions](#)
 - [ODAPC's Information on How to Access MIS via Login.Gov](#)

Best Practices for Providing Ongoing Oversight to Contractors

Beyond initial compliance establishment, continuous, ongoing oversight of safety-sensitive contractors is paramount to ensure their programs remain in full compliance. Effective oversight functions should include (but are not limited to) requiring and diligently monitoring periodic (e.g., monthly, quarterly, semi-annual) management reports detailing policy modifications, changes in service agents, training status, and the number, type, and results of all drug and alcohol tests conducted. Furthermore, regular compliance reviews of contractors are highly recommended.

Implementing a structured monitoring program, preferably utilizing comprehensive checklists, is a best practice. This approach requires contractors to provide detailed documentation demonstrating their adherence to all major USDOT-FTA D&A regulatory requirements. A systematic review of these checklists and accompanying records empowers the subrecipient to proactively identify potential compliance deficiencies, mandate appropriate corrective actions, and ensure their documentation.

Irrespective of the specific oversight methodologies employed, each subrecipient must demonstrate unwavering commitment to this program and diligently execute their oversight responsibilities. Robust oversight programs that effectively identify non-compliance and initiate timely corrective actions not only enhance the integrity and effectiveness of each contractor's testing program but also significantly minimize compliance issues and mitigate potential legal and funding risks for IndyGo.

Sample Review Documents

To aid in structuring your contractor oversight review process, documenting your efforts, and identifying areas for corrective action, IndyGo provides the following two (2) sample documents which can be accessed via the IndyGo Subrecipient Toolbox:

1. ***Initial Comprehensive Checklist***. This detailed checklist is designed to establish and maintain a documented compliance oversight desk review and technical assistance program for every contractor subject to FTA drug and alcohol regulations. Its purpose is to:
 - Provide a baseline methodology for gathering and analyzing current data and records pertaining to each covered contractor's drug and alcohol program.
 - Serve as an initial desk review tool to analyze and document the current general state of compliance for each FTA safety-sensitive contractor.
 - Be utilized once for each existing FTA safety-sensitive contractor to establish baseline data and records, and subsequently for any new safety-sensitive contractors prior to or shortly after engagement.
 - Whenever feasible, the initial review should be conducted onsite with the contractor to facilitate comprehensive data collection and discussion.
2. ***Semi-Annual Oversight Report Update***. This report is designed to serve as a critical follow-up and monitoring tool to the "Initial Comprehensive Checklist."
 - The "Initial Comprehensive Checklist" establishes the baseline and a snapshot of a contractor's D&A program at a specific point in time.
 - The "Semi-Annual Oversight Report Update" then builds upon this baseline by focusing on changes, updates, and ongoing performance since that initial review, ensuring that the contractor's program remains robust and compliant over time.
 - Its primary purpose is to update and assess changes to the information originally collected during the comprehensive initial review of each contractor's drug and alcohol testing program.