



USAID
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DRUG-FREE WORKPLACE PLAN

A Mandatory Reference for ADS Chapter 410

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Drug-Free Workplace Plan

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I. INTRODUCTION

A. Background

On September 15, 1986, President Reagan signed [Executive Order 12564](#), establishing the goal of a drug-free Federal workplace. The Order made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off-duty. In a letter to all Executive Branch employees dated October 4, 1986, the President reiterated his goal of ensuring a safe and drug-free workplace for all Federal workers.

The Executive Order recognized that illegal drug use is seriously impairing a portion of the national work force, resulting in the loss of billions of dollars each year. As the largest employer in the nation, the Federal Government has a compelling proprietary interest in establishing reasonable conditions of employment. Prohibiting employee drug use is one such condition. The U.S. Agency for International Development (USAID) is concerned with the well being of its employees, the successful accomplishment of Agency missions, and the need to maintain employee productivity. The intent of the policy is to offer help to those who need it, while sending a clear message that any illegal drug use is incompatible with federal service.

On July 11, 1987, Congress passed legislation implementing the Executive Order. [Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. Sec. 7301 note \(1987\)](#), (hereafter, the "Act"), was passed in an attempt to establish uniformity among Federal agency drug testing plans, reliable and accurate drug testing, employee access to drug testing records, confidentiality of drug test results, and centralized oversight of the Federal Government's drug testing program.

The purpose of the USAID Drug-Free Workplace Plan is to set forth objectives, policies, procedures, and implementation guidelines to achieve a drug-free Federal workplace consistent with the Executive Order and Section 503 of the Act.

B. Statement of Policy

USAID, as a consequence of its leading role in facilitating international economic development among less developed countries and regions of the world, has a compelling reason to eliminate illegal drug use from its workplace. Much of the work of USAID involves highly sensitive information that must not be compromised. It is critical that employees with access to sensitive information be reliable and stable and show good judgment. Illegal drug use creates the possibility of coercion, influence, and irresponsible action under pressure that may pose a serious risk to national security, public safety, and effective law enforcement. Illegal drug use is inconsistent with the special trust placed in those who serve the public and damages the ability of the

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United States to protect its interests abroad, both in terms of combating the illicit flow of narcotics and maintaining the wide range of U.S. political, economic, and social relationships with foreign governments.

The USAID policy on drug use in the workplace is, by example, a signal to foreign governments that the U.S. intends to treat this global threat seriously. American Foreign Service Officers overseas play a special role in the national and international strategy to stem the vast worldwide trafficking of drugs by demonstrating leadership in encouraging regional cooperation on the narcotics issue. This position is backed by the Secretary of State's public stand that the U.S. cannot preach to other governments what it does not practice at home.

Another equally important dimension of central concern to USAID is the well-being of employees.

Therefore, to protect our national security, eliminate any risk to the health, welfare, and safety of the public and USAID employees, and to increase productivity in the workplace, it is the policy of USAID that the use of illegal drugs, on or off duty, will not be tolerated. It is the responsibility of every USAID/W employee to comply with this policy.

USAID will make every effort to ensure employee understanding of, and employee organizational cooperation with, this drug-free workplace program. Every precaution will be taken to protect the confidentiality of all records related to the counseling, testing, and rehabilitation of employees in compliance with [Executive Order 12564](#) and applicable laws and statutes

Accomplishing the goal of an Agency-wide drug-free workplace rests primarily with USAID senior officials and supervisors, in keeping with their responsibility for the performance and well-being of employees.

The mark of a successful drug-free workplace program depends on how well USAID can inform its employees of the hazards of drug use and on how much assistance it can provide drug users. Equally important is the assurance to employees that personal dignity and privacy will be respected. Therefore, this plan includes policies and procedures for: (1) employee assistance; (2) supervisory training; (3) employee education; and (4) identification of illegal drug use through drug testing on a carefully controlled and monitored basis.

C. Nature, Frequency and Type of Drug Testing to be Instituted

Section [503 of the Act](#) requires the USAID Drug-free Workforce Plan to specify the nature, frequency, and type of drug testing to be instituted. The USAID Drug-Free Workforce Plan includes the following types of drug testing:

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- Random testing of employees in testing designated positions;
- Reasonable suspicion testing;
- Applicant testing;
- Accident or unsafe practice testing;
- Voluntary testing; and
- Testing as part of or as a follow-up to counseling or rehabilitation.

The frequency of testing for random testing, voluntary testing, and follow-up testing is specified at Appendix A, Section XI B, and Section XI C, respectively. The Administrator reserves the right to increase or decrease the frequency of testing based on the Agency's mission, need, availability of resources, and experience in the program, consistent with the duty to achieve a drug-free workplace under the Executive Order.

D. Drugs for which Individuals Are Tested

Section 503 of the Act requires the USAID Drug-Free Workplace Plan to specify the drugs for which individuals shall be tested. These are marijuana and cocaine.

E. Scope

The Drug-Free Workplace Plan is in effect for all USAID/W employees.

F. Union Cooperation

The active participation and support of labor organizations can contribute to the success of this program. Management will seek ways in which recognized bargaining unit representatives might assist in program implementation, such as in acquainting employees with rehabilitation facilities and by enhancing employee confidence in the program. Management will continue to observe agreements already reached, will include union representatives in general orientation programs, and will continue to meet its obligations under [Title VII of the Civil Service Reform Act of 1978](#) and [Chapter 10 of the Foreign Service Act of 1980](#).

G. References

1. [ADS 410.4.2](#), Internal Mandatory References
2. Guidance
 - a. [Department of Health and Human Services Technical and Scientific Guidelines](#)
 - b. [Executive Order 12564](#)

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- c. [Volume 3, Foreign Affairs Manual \(FAM\), Section 4165, "Alcoholism and Drug Abuse Program,"](#) implements FPM Chapter 792 and FPM supplement, Chapter 792-2 within USAID.
- d. [Foreign Service Act of 1980, Chapter 10](#)
- e. [Title 5 United States Code, Subchapter VI—Drug Abuse, Alcohol Abuse and Alcoholism,](#) providing guidance to Federal agencies in establishing alcoholism and drug abuse programs and employee counseling services programs (sub chapter 6) for Federal employees with alcohol or drug problems.
- f. [Title 5 Code of Federal Regulations, Part 792, Subpart A,](#) providing guidance for developing and maintaining appropriate prevention, treatment, and rehabilitation programs and services for alcoholism and drug abuse among Federal employees.
- g. [P.L. 92-255 amended to help employees with drug abuse](#)
- h. [Privacy Act, 5 U.S.C '552a, et seq.](#)
- i. [Section 503 of the Supplemental Appropriations Act of 1987, Pub. L. 100-71, 101 Stat. 391, 468-471, codified at 5 U.S.C. Sec.'7301 note \(1987\)](#)
- j. [Title VII of the Civil Service Reform Act of 1978](#)
- k. [42 USC. 290-1 \(b\) \(2\)](#)
- l. [Federal Employee Substance Abuse Education and Treatment Act of 1986 \(P.L. 99-570\)](#) requires Federal agencies to develop and maintain programs [\(5 U.S.C. 7361](#) and [7362](#)).

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II. DEFINITIONS

A. Alcohol and Drug Awareness Program (ADAP)

The ADAP provides confidential assistance to employees and their families for drug or alcohol problems. This assistance may be in the form of short-term counseling or referral to a community rehabilitation or counseling program. The ADAP is headed by an administrator who implements and operates the ADAP throughout the Department of State and under contractual arrangement with USAID.

B. Office of Security (SEC)

This Office investigates information that may be related to illegal drug use and may suspend, revoke, reduce, and/or reinstate an employee's security clearance if necessary depending on the circumstances of the case.

C. Drug Program Coordinator (DPC)

The Deputy Assistant Administrator for the Office of Human Resources (DAA/OHR). The DPC is responsible for the implementation, direction, administration, and management of the USAID Drug-Free Workplace Plan. The DPC also makes the final decisions regarding disciplinary actions.

D. Drug Program Manager (DPM)

The individual who handles the day-to-day management, coordination, and implementation of the Agency's Drug-Free Workplace Plan, in OHR.

E. Employee Assistance Program (EAP)

The counseling programs that offer assessment, short term counseling, referral services to employees for a wide range of drug, alcohol, and mental health problems, and which monitor the progress of employees while in treatment. The USAID EAP includes the Employee Consultation Service (ECS) of the Department of State whose services are secured for USAID under a contractual arrangement with the Department. Short term counseling is also provided by the USAID staff, which includes the services of a Licensed Clinical Social Worker.

F. Employee Assistance Program Administrator

This OHR staff member works in coordination with the EAP Administrator (EAPA) of the Department of State.

H. Employee Consultation Service (ECS)

Under formal contractual arrangement, the ECS of the Department of State provides confidential assistance to USAID employees and employees' families who need short-term counseling or referral for problems other than drug or alcohol problems. The ECS is headed by the ECS Administrator.

I. Employee in Sensitive Position

An employee who is cleared for access to information classified at "Secret" or above.

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J. FAM

The Department of State Foreign Affairs Manual.

K. Illegal Drugs

A controlled substance included in Schedule I or II, as defined by 21 USC 802(6), the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

L. Management Official

An employee required or authorized by USAID to formulate, determine, or influence the policies of the Agency.

M. Medical Review Officer (MRO)

The individual responsible for receiving laboratory results generated from the USAID Drug-Free Workplace Program. The MRO must be a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with the individual's medical history and any other relevant biomedical information.

N. Random Testing

A system of drug testing imposed without individualized suspicion that a particular individual is using illegal drugs. Random testing may either be uniform-unannounced testing of testing designated employees occupying a specified area, element, or position, or it may be a statistically random sampling of such employees based on a neutral criterion, such as social security numbers.

O. Supervisor

An employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees, to adjudicate their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of judgment.

P. Testing Designated Position

A position within USAID held by an employee who is cleared for access to information classified at "Secret" or above.

Q. Verified Positive Test Result

A test result that has been screened positive by an FDA approved immunoassay test, confirmed by a Gas Chromatography/Mass Spectrometry assay, (or other confirmatory tests approved by HHS), evaluated by the Medical Review Official in accordance with Drug-Free Workplace Plan.

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III. EMPLOYEE ASSISTANCE PROGRAMS

A. Function

The Employee Assistance Program (EAP) of the Department of State, which provides services to USAID employees under contractual arrangement, plays an important role in preventing and resolving employee drug use by

- Demonstrating commitment to eliminating illegal drug use;
- Providing employees an opportunity, with appropriate assistance, to discontinue their drug use;
- Assisting supervisors in confronting employees who have performance and/or conduct problems and making referrals to appropriate treatment and rehabilitative facilities; and
- Tracking the progress of individuals during their rehabilitation and encouraging their successful completion of the program.

The EAP, however, is not involved in the collection of urine samples or the initial reporting of test results. Specifically, the EAP

- Provides counseling and assistance to employees who self-refer for treatment or whose drug tests have been confirmed positive, and monitors the employees progress through treatment and rehabilitation; and
- Ensures that the confidentiality of counseling and related medical treatment and rehabilitation records are maintained in accordance with Section XIII.

B. Structure

The Associate Medical Director for Mental Health Programs is responsible for oversight and implementation of the Department of State EAP and, under contract arrangement, provides such services to USAID employees. The Associate Medical Director also provides, with the support of the Medical Director and the Under Secretary for Management, high level direction and promotion of the EAP.

The Department of State's EAP is comprised of the Employee Counseling Service (ECS) and the Alcohol and Drug Awareness Program (ADAP). The ADAP and ECS are each headed by Administrators who work together to coordinate a comprehensive Employee Assistance Program for employees and their families.

The ECS provides confidential assistance to USAID employees and employees' families who need short-term counseling or referral for problems other than drug or

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alcohol problems.

The ADAP provides confidential assistance to employees and their families for drug or alcohol problems. This assistance may be in the form of short-term counseling or referral to a community rehabilitation or counseling program.

C. Referral and Availability

The first time any employee is found to be using drugs, he or she will be referred to the USAID ADAP. The ADAP is administered separately from the testing program and is available to all employees without regard to a finding of drug use. The ADAP must provide counseling or rehabilitation for all referrals, as well as education and training regarding illegal drug use. Employees may also receive services from the ECS for emotional, financial, marital, family, or other issues, whether or not related to substance abuse. Such services will be coordinated between ADAP and ECS through internal referrals.

In the event the employee is not satisfied with the program of treatment or rehabilitation, the employee may seek review of the ADAP or ECS referral by notifying the EAP Administrator at State prior to completion of the program. The decision of the EAP Administrator is final and not subject to further administrative review. Regardless of the treatment program chosen, the employee remains responsible for successful completion of the treatment, and assertions that the USAID ADAP counselor failed to consider certain factors in making a referral do not constitute either an excuse for continuing to use illegal drugs or a defense to disciplinary action if the employee does not complete treatment.

D. Leave Allowance

Employees are allowed up to one hour (or more as necessitated by travel time) of excused absence for each counseling session, and up to three (3) hours, exclusive of travel time, during the assessment/referral phase of rehabilitation. However, absences during duty hours for rehabilitation or treatment must be charged to the appropriate leave category in accordance with law and leave regulations.

E. Records and Confidentiality

All EAP operations must be kept confidential in accordance with Section XIII of the Plan relating to records and confidentiality.

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IV. SUPERVISORY TRAINING

A. Objectives

Supervisors play a key role in establishing and monitoring a drug-free workplace. Thus, USAID must provide training to assist supervisors and managers in recognizing and addressing illegal drug use by Agency employees. The purpose of supervisory training is to enable supervisors to understand

- USAID policies relevant to work performance problems, drug use, and the EAP;
- When to offer EAP services;
- How employee performance and behavioral changes should be recognized and documented;
- The roles of the medical staff, supervisors, personnel, and EAP personnel;
- The ways to use the Department of State EAP;
- How the EAP is linked to the performance appraisal and the disciplinary process; and
- The process of re-integrating employees into the workforce.

B. Implementation

Through the Drug Program Manager (DPM), the Drug Program Coordinator is responsible for implementing supervisory training and must develop a training package to ensure that all employees and supervisors are fully informed of the USAID Drug-Free Workplace Plan.

C. Training Package

Supervisory training is mandatory for all supervisors and may be presented as a separate course or be included as part of an ongoing supervisory training program. Supervisors must take training as soon as possible after assuming supervisory responsibility. Training courses should include:

- Overall USAID policy;
- Examples of workplace employee drug and alcohol abuse;
- The EAP approach to handling problems;

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- How to recognize employees with possible problems;
- Documentation of employee performance or behavior;
- How to approach the employee;
- How to use the EAP;
- Disciplinary action and removals from sensitive positions, as required by Section 5 (C) of the Executive Order;
- Re-integration of employees into the workforce; and
- Written training materials the supervisor can use at the work site.

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V. EMPLOYEE EDUCATION

A. Objectives

The Drug Program Coordinator, in conjunction with the ADAP, must offer drug education to all USAID employees. Drug education should include education and training to all levels of the Agency on

- Types and effects of drugs;
- Symptoms of drug use and the effects on performance and conduct;
- The relationship of the ADAP and the Department of State's EAP to the drug testing program; and
- Other relevant treatment, rehabilitation, and confidentiality issues.

B. Means of Education

Drug use education may consist of

- Distribution of written materials,
- Videotapes,
- Lunchtime employee forums, and
- Employee drug awareness days.

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VI. SPECIAL DUTIES AND RESPONSIBILITIES

A. The **Deputy Assistant Administrator for the Office of Human Resources (DAA/OHR)** is the Agency **Drug Program Coordinator (DPC)** and is responsible for the implementation, direction, administration, and management of the USAID Drug-Free Workplace Plan.

B. The **Drug Program Manager (DPM)** handles the day-to-day management, coordination, and implementation of the USAID Drug-Free Workplace Plan. The DPM, appointed by the DPC, has primary responsibility for assuring the effective operation of the testing portion of the program. In carrying out this responsibility, the DPM, among other duties

- Arranges for all testing authorized under this order;
- Insures that all employees subject to random testing receive individual notice of the implementation of random testing as described in Section VII B. of this plan, prior to implementation, and that such employees return a signed form acknowledging receipt;
- Upon receipt of a verified positive test result from the Medical Review Officer (MRO), transmits the test result to the management official empowered to initiate disciplinary action;
- Documents, through written inspection reports, all results of laboratory inspections conducted;
- Coordinates with and report to the DPC on activities and findings that may affect the reliability or accuracy of laboratory results;
- In coordination with OHR/Training, publicizes and disseminates drug program educational materials and oversees training and education sessions regarding drug use and rehabilitation; and
- Coordinates all drug testing-related activities throughout USAID to conserve resources and to accomplish reliable and accurate testing objectives efficiently and speedily.

C. The **Employee Assistance Program (EAP) Administrator** (a service provided to USAID by the Department of State's EAP Administrator)

- Assumes the lead role in the development, implementation, and evaluation of the EAP;
- Supervises the Alcohol and Drug Abuse (ADAP) and the Employee Consultation Service Program (ECS) Administrators and assists them in

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establishing and maintaining EAP services in the field; and

- Advises USAID components on the submission of annual statistical reports and prepares consolidated reports on the Department's EAP activity on behalf of USAID.

D. Alcohol and Drug Abuse (ADAP) and Employee Consultation Service (ECS) Program Administrators

- Implement and direct the Department's EAP (with identical services provided to USAID under contractual arrangement);
- Provide through direct or contracted services, counseling and treatment services to all employees referred to the EAP by supervisors or self-referrals, and otherwise offer employees the opportunity for counseling and rehabilitation;
- Work with the DPM to provide educational materials and training to managers, supervisors, and employees on illegal drugs in the workplace;
- Assist supervisors with performance and/or personnel problems that may be related to illegal drug use;
- Monitor the progress of referred employees during and after the rehabilitation period;
- Maintain a list of rehabilitation or treatment organizations that provide counseling and rehabilitative programs, and include the following information on each such organization:
 - a. Name, address, and phone number,
 - b. Types of services provided,
 - c. Hours of operation, including emergency hours,
 - d. The contact person's name and phone number,
 - e. Fee structure, including amount covered by insurance,
 - f. Client specialization, and
 - g. Other pertinent information.
- Periodically visit rehabilitative or treatment organizations to meet administrative and staff members, tour the site, and ascertain the

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experience, certification, and educational level of staff and the organization's policy concerning progress reports on clients and post-treatment follow-up.

E. Alcohol and Drug Abuse (ADAP/USAID) and Employee Consultation Service Program (ECS) Counselors (State)

- Serve as the initial point of contact for employees who ask or are referred for counseling;
- Are familiar with all applicable laws and regulations, including drug treatment and rehabilitation insurance coverage available to employees through the Federal Employee Health Benefits Program;
- Are qualified and trained in counseling employees in the occupational setting and in identifying drug use;
- Document and sign the treatment plan prescribed for all employees referred for treatment after obtaining the employee's signature on this document; and

In making referrals, ADAP and ECS Counselors will consider the

- a. Nature and severity of the problem,
- b. Location of the treatment,
- c. Cost of the treatment,
- d. Intensity of the treatment environment,
- e. Availability of inpatient/outpatient care,
- f. Other special needs, such as transportation and child care, and
- g. The preferences of the employee.

F. The Medical Review Official (MRO), appointed by the Drug Program Manager, carries out the purposes of the Executive Order. The MRO, among other duties

- Receives all laboratory test results;
- Assures that an individual who has tested positive has been afforded an opportunity to justify the test result in accordance with Section XII D. of this plan;

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- Consistent with confidentiality requirements, refers written determinations regarding all verified positive test results to the DPM, including a positive drug test result form indicating that the positive result is "unjustified", together with all relevant documentation and a summary of findings;
- Coordinates with and reports to the DPM on all activities and findings on a regular basis.

G. Supervisors will be trained to address illegal drug use by employees and will be provided information regarding referral of employees to the EAP, procedures and requirements for drug testing, and behavioral patterns that give rise to a reasonable suspicion that an employee may be using illegal drugs. First-line supervisors

- Attend training sessions on illegal drug use in the workplace;
- Document job performance and behavior that is below standard and refer employees to the EAP or, if appropriate, the OHR/ELR division and/or the Staffing Division for determination regarding reasonable suspicion of drug use;
- Refer employees to the EAP for assistance in obtaining counseling and rehabilitation, upon a finding of illegal drug use;
- In conjunction with personnel specialists, assist second-line supervisors in evaluating employee performance and or personnel problems that may be related to illegal drug use.

H. Bureaus and Independent Offices ensure that the Drug-Free Workplace Plan is efficiently and effectively implemented in accordance with guidelines established by the Drug Program Coordinator (DPC).

I. Government Contractors provide services in support of this plan wherever existing facilities are inadequate. In such cases, the Drug Program Coordinator

- Designates the Drug Program Manager to serve as Contracting Officer for the administration of all related contracts;
- Ensures that contractors chosen to perform the drug screening tests are duly certified pursuant to the Department of Health and Human Services (HHS) guidelines and that all contracts conform to the technical specifications of the HHS guidelines.

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VII. NOTICE

A. General Notice

A general notice from the Administrator announcing the testing program, as required by the [Executive Order Section 4\(a\)](#), must be provided to all employees no later than sixty (60) days prior to the implementation date of the Plan. The notice must be provided immediately upon completion of the congressional certification procedures pursuant to [5 USC 7301, Sections 503 \(a\)\(I\)\(A\), 503 \(a\) \(B\) and 503 \(a\) \(I\) \(C\) of the Act](#) and also completion of collective bargaining with the exclusive representatives. The Notice must convey the following information:

- The purpose of the Drug-Free Workplace plan;
- That the Plan will include both voluntary and mandatory testing;
- That those who hold positions selected for random testing will also receive an individual notice, prior to the commencement of testing, indicating that their position has been designated a testing designated position;
- The availability and procedures necessary to obtain counseling and rehabilitation through the Department of State's EAP;
- The circumstances under which testing may occur;
- That opportunity will be afforded to submit medical documentation of lawful use of an otherwise illegal drug;
- That the laboratory assessment is a series of highly accurate and reliable tests, and that laboratory results are reviewed by the MRO as an additional safeguard;
- That positive test results verified by the MRO may only be disclosed to the employee, the DPM, the appropriate EAP administrator, the appropriate management officials necessary to process an adverse action against the employee, or a court of law or administrative tribunal in any adverse personnel action;
- That all medical and rehabilitation records in an EAP will be deemed confidential "patient" records and may not be disclosed without the prior written consent of the patient.

B. Individual Notice

In addition to the general notice, an individual notice must be distributed to all employees in sensitive positions explaining, in addition to the information provided

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above,

- That the employee's position has been designated a "testing designated position";
- That the employee will have the opportunity to voluntarily identify him or herself as a user of illegal drugs and to receive counseling or rehabilitation, and shall not be subject to disciplinary action;
- That the employee's position will be subject to random testing no sooner than thirty days after the date of the notice.

C. Signed Acknowledgment

Each employee in a testing designated position will be asked to acknowledge in writing that

The employee has received and read the notice which states that the employee's position has been designated for random drug testing and that refusal to submit to testing will result in initiation of disciplinary action, up to and including dismissal.

If the employee refuses to sign the acknowledgment, the employee's supervisor must note on the acknowledgment form that the employee received the notice. This acknowledgment will be centrally collected for easy retrieval by the Deputy Assistant Administrator for Human Resources and is advisory only. An employee's refusal to sign the notice will not preclude the testing of that employee or otherwise effect the implementation of this plan since the general 60 day notice will previously have notified all Agency employees of the requirement to be drug free.

D. Administrative Relief

If an employee believes his or her position has been wrongly designated a test-designated position (TDP), that employee may file an administrative appeal to the Drug Program Coordinator who has authority to remove the employee from the TDP list. The appeal must be submitted by the employee, in writing, to the Drug Program Coordinator within 15 days of the individual notice, setting forth all relevant information. The Drug Program Coordinator must review the appeal based upon the criteria applied in designating that employee's position as a TDP. The official's decision is final and is not subject to further administrative review.

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***VIII. FINDING OF DRUG USE AND DISCIPLINARY CONSEQUENCES**

A. Determination

An employee may be found to use illegal drugs on the basis of any evidence including, but not limited to:

- Direct observation,
- Evidence obtained from an arrest or criminal conviction,
- A verified positive test result, or
- An employee's voluntary admission.

B. Mandatory Administrative Actions

USAID must refer an employee found to use illegal drugs to the EAP, and, if the employee is performing duties requiring access to classified information, immediately remove the employee from that position without regard to whether it is a testing designated position. The Office of Security (SEC) is the official designated the discretion to return the employee to a sensitive position upon a finding of drug use as required by the Executive Order.

***C. Range of Consequences**

The severity of the disciplinary action taken against an employee found to use illegal drugs will depend on the circumstances of each case and will be consistent with the Executive Order. USAID must initiate disciplinary action (up to and including removal) against any employee found to use illegal drugs, but USAID will not discipline an employee who voluntarily admits to illegal drug use in accordance with subsection VIII F. of this Plan.

*Disciplinary action against an employee found to use illegal drugs may include any of the following measures subject to applicable law and the particular circumstances of the case:

- Written reprimand,
- Suspension for 14 days or less,
- Suspension for 15 days or more,
- *Holding a proposed disciplinary action in abeyance until an employee enters and successfully completes the counseling/rehabilitation program or for a period after completion as part of a "last chance agreement." An

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employee may elect to use his or her accrued leave (sick or annual as appropriate) or leave without pay to cover his/her absence while undergoing treatment.

- Removal from service.

D. Initiation of Mandatory Removal From Service

In coordination with the Drug Program Coordinator, the Office of Human Resources, Employee and Labor Relations (OHR/ELR) must initiate action to remove an employee for

- Refusing to obtain counseling or rehabilitation through an Employee Assistance Program as required by the Executive Order after having been found to use illegal drugs;
- Having been found to have continued illegal drug use after a first finding of illegal drug use.

E. Refusal To Take Drug Test When Required

- An employee who refuses to be tested when so required will be subject to the full range of disciplinary action, including removal. However, such action will not be initiated during the employee's pursuit of available legal or administrative remedies.
- Attempts to alter or substitute the specimen provided will be deemed a refusal to take the drug test when required.

F. Voluntary Referral

[Executive Order 12564](#) permits an agency to create a "safe harbor" for an employee who voluntarily admits his or her drug use, completes counseling or an EAP, and thereafter refrains from drug use.

Because a fundamental purpose of the USAID drug testing plan is to assist employees who themselves are seeking treatment for drug use, USAID has decided to create such a "safe harbor" and will not initiate disciplinary action against any employee who meets all three of the following conditions:

- Voluntarily identifies him or herself as a user of illegal drugs prior to being identified through other means;
- Obtains counseling or rehabilitation through an Employee Assistance Program (EAP); and

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- Thereafter refrains from using illegal drugs.

This is the only circumstance under which USAID will not discipline an employee for using illegal drugs.

This self-referral option allows any employee to identify him or herself as an illegal drug user for the purpose of entering a drug treatment program under the EAP. Consistent with Section XII B., an employee may volunteer for a drug test as a means of identification. Although this self-identification test may yield a verified positive test result, such result will not subject the employee to discipline assuming the other safe harbor requirements are met.

Since the key to this provision's rehabilitative effectiveness is an employee's willingness to admit his or her problem, this provision will not be available to an employee who is asked to provide a urine sample or who is found to have used illegal drugs pursuant to Sections VIII (A) (1), or VIII (A) (2) and who thereafter requests protection under this provision.

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IX. RANDOM TESTING

A. Covered Employees for Random Drug Testing

The [Executive Order](#) requires random testing for "employees in sensitive positions." Consistent with the determination of the Department of State, all USAID employees who are cleared for access to information classified at "Secret" or above are considered "employees in sensitive positions."

B. Determining Who is a Covered Employee

The Deputy Assistant Administrator for the Office of Human Resources (DAA/OHR) reserves the right to add or delete positions determined to be testing-designated positions pursuant to the criteria established in the Executive Order and this plan. Moreover, pursuant to [42 USC. 290-1 \(b\) \(2\)](#), the Agency has determined that all positions that have been or will be designated as testing-designated positions under this plan are "sensitive positions" and are therefore exempt from coverage under [42 USC. 290-1 \(b\)\(1\)](#) which provides that no person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the basis of prior drug abuse.

C. Implementing Random Testing

In implementing the program of random testing, the Drug Program Coordinator must

- Ensure that the means of random selection remains confidential; and
- Evaluate periodically whether the numbers of employees tested and the frequency with which those tests are administered satisfy USAID's duty to achieve a drug-free work force.

The number of employees occupying testing-designated positions and the frequency with which random tests are administered are specified in Appendix A.

D. Notification of Selection

An individual selected for random testing and the individual's first-line supervisor must be notified the same day the test is scheduled, preferably within two hours of the scheduled testing. The supervisor must explain to the employee that the employee is under no suspicion of taking drugs and that the employee's name was selected randomly.

E. Deferral of Testing

An employee selected for random drug testing may obtain a deferral of testing if

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the employee's first-line and second-line supervisors concur that a compelling need necessitates a deferral. For example, a test may be deferred for an employee who is

- In a leave status (sick, annual, administrative or leave without pay);
- In official travel status away from the test site or is about to embark on official travel scheduled prior to testing notification.

An employee whose random drug test is deferred is subject to an unannounced test within the following 60 days.

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X. REASONABLE SUSPICION TESTING

A. Individuals Subject To Reasonable Suspicion Testing

Reasonable suspicion testing may be required of any employee in a testing-designated position when there is a reasonable suspicion that the employee uses illegal drugs whether on or off duty. Also, reasonable suspicion testing may also be required of any employee in any other position when there is reasonable suspicion of on-duty drug use or on-duty drug impairment.

B. Grounds

Reasonable suspicion testing may be based upon, among other things

- Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug;
- A pattern of abnormal conduct or erratic behavior;
- Arrest or conviction for a drug-related offense or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;
- Information provided either by reliable and credible sources or independently corroborated; or
- Newly discovered evidence that the employee has tampered with a previous drug test.

Although reasonable suspicion testing does not require certainty, mere "hunches" are not sufficient to meet this standard.

C. Procedures

If an employee is suspected of using illegal drugs, the appropriate supervisor must gather all information, facts, and circumstances leading to and supporting this suspicion. All evidence supporting this finding must be submitted through the Bureau's Administrative Management Staff (AMS), or in the case of an Independent Office, the Administrative Officer, to the OHR/ELR. OHR/ELR will review the case to determine sufficiency of documentation supporting the reasonable suspicion finding prior to recommending to the DPC that any action be taken regarding the employee.

If the OHR/ELR determines that reasonable suspicion has been established, OHR/ELR must promptly document, for the record and in writing, the circumstances which formed the basis to warrant the testing. A written report must be prepared to

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include, at a minimum, the dates and times of reported drug related incidents, reliable/credible sources of information, rationale leading to the test, findings of the test, and the action taken.

D. Obtaining the Sample

The employee may be asked to provide the urine sample under observation in accordance with the criteria in Section XII B.

E. Supervisory Training

In accordance with Section IV, supervisors will be trained to address illegal drug use by employees, to recognize facts that give rise to a reasonable suspicion, and to document facts and circumstances to support a finding of reasonable suspicion. Failure to receive such training, however, does not invalidate otherwise proper reasonable suspicion testing.

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XI. APPLICANT TESTING

A. Objective

To maintain the high professional standards of the USAID workforce, it is imperative that individuals who use illegal drugs be disqualified during the initial employment process so they are not hired. This will reduce instances of illegal drug use by Agency employees thereby providing a safer work environment.

B. Extent of Testing

USAID conducts thorough security investigations of all candidates selected for the Foreign Service and all Civil Service applicants selected for positions requiring a security clearance of "Secret" or above. The security clearance process is an effective pre-employment screening device for uncovering many problems bearing on applicant suitability (including current and/or past patterns of drug abuse) and is USAID's primary method of preventing the employment of individuals who abuse drugs.

In addition, pre-employment drug testing is required of all individuals selected for employment in positions with either a statutory or regulatory requirement for pre-employment drug testing (such as drivers) and/or for positions that may be designated at the discretion of the Administrator as particularly sensitive because of the nature of the work.

C. Vacancy Announcements

Every vacancy announcement for positions designated for applicant testing must state

"All applicants tentatively selected for this position will be required to submit to urinalysis to screen for illegal drug use prior to appointment."

In addition, the applicant will be notified that the position will be contingent upon a negative drug test result. Failure of the vacancy announcement to contain this statement notice will not preclude applicant testing if advance written notice is provided applicants in some other manner.

D. Procedures

The DPM will direct applicants to a designated collection facility. The drug test must be undertaken as soon after notification as possible, and normally within 48 hours of notification.

Applicants must be advised of the opportunity to submit medical documentation that may support a legitimate use for a specific drug and that such information will be reviewed only by the MRO to determine whether the individual is legally using an

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otherwise illegal drug.

E. Consequences

The Agency will not extend a final offer of employment to any applicant with a verified positive result, and such applicant may not reapply to USAID for a period of six months. The Personnel Officer working on the applicant's certificate must object to the applicant on the basis of failure to pass the physical, a lack of personal characteristics necessary to relate to public employment, or failure to support Agency goals. The Agency will inform the applicant that a confirmed presence of drug in the applicant's urine precludes the Agency from hiring the applicant.

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XII. ADDITIONAL TYPES OF DRUG TESTING

A. Accident or Unsafe Practice Testing

USAID has a legitimate interest in determining the cause of serious accidents so that it can undertake appropriate corrective measures. Post accident drug testing can provide invaluable information in furtherance of that interest. Accordingly, employees will be subject to testing when, based upon the circumstances of the accident, their actions are reasonably suspected of having caused or contributed to an accident that meets either of the following criteria:

- The accident results in a death or personal injury requiring immediate hospitalization, or;
- The accident results in damage to Government or private property estimated to be in excess of \$10,000.

If an employee is suspected of having caused or contributed to an accident meeting either of the criteria stated above, the appropriate supervisor must present the facts and circumstances leading to and supporting this suspicion to the appropriate management official for investigation, who in turn must report his or her findings to the DPC. If warranted, arrangements will be made by the DPC for testing. The supervisor will be instructed to prepare a written report detailing the facts and circumstances that warranted the testing.

B. Voluntary Testing

In order to demonstrate their commitment to the Agency's goal of a drug-free workplace and to set an example for other Federal employees, employees not in testing-designated positions may volunteer for unannounced random testing by notifying the DPM. These employees will then be included in the pool of testing designated positions subject to random testing and be subject to the same conditions and procedures, including the provisions of Section VIII (F). Volunteers remain in the TDP pool until the employee withdraws from participation by notifying the DPM of such intent at least 48 hours prior to a scheduled test.

C. Follow-up Testing

All employees referred through administrative channels that undergo a counseling or rehabilitation program for illegal drug use through EAP will be subject to unannounced testing for a period of one year following completion of such a program. Such employees will be tested at a frequency to be stipulated in an abeyance contract executed with the employee prior to entry into a counseling or rehabilitation program. Such testing is in addition to any testing that may be imposed as a component of the EAP.

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XIII. TEST PROCEDURES IN GENERAL

A. Technical Guidelines for Drug Testing

USAID must adhere to all scientific and technical guidelines for drug testing programs promulgated by HHS, consistent with the authority granted by [Executive Order 12564](#), and to the requirements of [Section 503 of the Act](#). The USAID drug testing program must have professionally trained collection personnel, a laboratory certification program, rigorous analytical standards, quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

B. Privacy Assured

Any individual subject to testing under this plan will be permitted to provide urine specimens in private in a rest room stall or similar enclosure. Collection site personnel of the same gender as the individual tested, however, may observe the individual providing the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen to be provided. Collection site personnel may have reason to believe that a particular individual may alter or substitute the specimen to be provided when

- Facts and circumstances suggest that the individual is an illegal drug user;
- Facts and circumstances suggest that the individual is under the influence of drugs at the time of the test;
- The individual has previously been found by USAID to be an illegal drug user;
- Facts and circumstances suggest that the individual has equipment or implements capable of tampering or altering urine samples; or
- The individual has previously tampered with a sample.

C. Failure to Appear for Testing

Failure to appear for testing without a deferral will be considered refusal to participate in testing and will subject an employee to the full range of disciplinary actions, including removal. If an individual fails to appear at the collection site at the assigned time, the collector must contact the DPM to obtain guidance on what action should be taken.

D. Opportunity to Justify a Positive Test Result

When a confirmed positive result has been returned by the laboratory, the MRO must perform the duties set forth in the HHS Guidelines. For example, the MRO will

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conduct employee medical interviews, review employee medical history, or review any other relevant biomedical factors. The MRO must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. Evidence to justify a positive result includes, but is not limited to

- A valid prescription, or
- Verification from the individual's physician verifying a valid prescription.

Individuals are not entitled, however, to present evidence to the MRO in a trial-type administrative proceeding, although the MRO has the discretion to accept evidence in any manner the MRO deems most efficient or necessary.

If the MRO determines there is no justification for the positive result, such result will then be considered a verified positive test result. The MRO must immediately contact the DPM upon obtaining a verified positive test result.

E. Employee Counseling and Assistance

While participating in a counseling or rehabilitation program, and at the request of the appropriate program supervisor, the employee may be exempted from the random testing designated pool for a period not to exceed sixty days, or for a time period specified in an abeyance contract or rehabilitation plan approved by the DPC. Upon completion of the program, the employee immediately will be subject to follow-up testing pursuant to Section IX C.

F. Savings Clause

To the extent that any of the procedures specified in this section are inconsistent with any of those specified in the Scientific and Technical Guidelines promulgated by the Department of Health and Human Services, or any subsequent amendment thereto, such HHS Guidelines or amendment will supersede the procedures specified in this section, but only to the extent of the inconsistency.

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XIV. RECORDS AND REPORTS

A. Confidentiality of Test Results

The laboratory may disclose confirmed laboratory test results only to the MRO. Any positive result that the MRO justifies by licit and appropriate medical or scientific documentation to account for the result other than the intentional ingestion of an illegal drug will be treated as a negative test result and must not be released for purposes of identifying illegal drug use.

Test results will be protected under the provisions of the [Privacy Act, 5 U.S.C '552a, et seq.](#), and Section 503(e) of the Act, and must not be released in violation of either Act. The MRO may maintain only those records necessary for compliance with this order. Any records of the MRO, including drug test results, may be released to any management official for purposes of auditing the activities of the MRO; however, disclosure of the results of any audit must not include information identifying any employee.

In order to comply with Section 503(e) of the Act, the results of a drug test of a USAID employee must not be disclosed without the prior written consent of such employee, unless the disclosure would be

- To the MRO;
- To the DPM;
- To the Administrator of the EAP in which the employee is receiving counseling or treatment or is otherwise participating;
- To any management official within USAID having authority to take adverse personnel action against such employee; or
- Pursuant to the order of a court of competent jurisdiction or where required by the United States Government to defend against any challenge against any adverse personnel action.

For purposes of this section, "management official" includes any management or Government official whose duties necessitate review of the test results in order to process adverse personnel action against the employee. In addition, test results with all identifying information removed shall also be made available to USAID personnel, including the DPC, for data collection and other activities necessary to comply with Section 503(f) of the Act.

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B. Employee Access to Records

Any employee who is the subject of a drug test will, upon written request, have access to any records relating to

- The requesting employee's own drug test and
- The results of any relevant certification, review, or revocation of proceedings, as referred to in [Section 503\(a\) \(1\) \(A\) \(ii\) \(III\) of the Act](#).

However, except as authorized by law, an applicant who is the subject of a drug test will not be entitled to this information.

C. Confidentiality of Records in General

All drug testing information specifically relating to individuals is confidential except as set forth in this plan and should be treated as such by anyone authorized to review or compile program records. In order to implement this plan and to make information readily retrievable, the DPM must maintain all records relating to reasonable suspicion testing, suspicion of tampering evidence, and any other authorized documentation necessary to implement this order.

All records and information of the personnel actions taken on employees with verified positive test results should be forwarded to the DPC. Such records must remain confidential except as set forth in this plan, locked in a combination safe, with only authorized individuals who have a "need to know" having access to them.

D. Employment Assistance Program Records

The EAP Administrator must maintain only those records necessary to comply with this plan. After an employee has been referred to an EAP, the EAP must maintain all records necessary to carry out its duties. All medical and or rehabilitation records concerning the employee's drug abuse, including EAP records of the identity, diagnosis, prognosis, or treatment are confidential and must be disclosed only as authorized by [42 CFR Part 2](#), including the provision of written consent by the employee. With written consent, the patient may authorize the disclosure of those records to the patient's employer for verification of treatment or for a general evaluation of treatment progress. (See [42 CFR Section 2.1 et seq. \(1986\)](#).)

E. Maintenance of Records

USAID must establish or amend a record keeping system to maintain the records of the Agency's Drug-Free Workplace Program consistent with the [USAID Privacy Act System of Records](#) and with all applicable Federal laws, rules and regulations regarding confidentiality of records including the Privacy Act 5 USC Section 52a. Records must be maintained as required by subsequent administrative or judicial

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proceedings or at the discretion of the General Counsel. The record keeping system must capture sufficient documents to meet the operational and statistical needs of this plan, and include:

- Notices of verified positive test results referred by the MRO;
- Written materials justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen;
- Anonymous statistical reports; and
- Other documents the DPC, DPM, MRO, or EAP Administrator deems necessary for compliance with this plan.

F. Records Maintained By Government Contractors

Any contractor hired to satisfy any part of this plan must comply with the confidentiality requirements of this plan, and all applicable Federal laws, rules, regulations, and guidelines.

G. Statistical Information

The DPM must collect and compile anonymous statistical data for reporting the number of

- Random tests, reasonable suspicion tests, accident or unsafe practice tests, follow-up tests, or applicant tests administered;
- Verified positive test results;
- Voluntary drug counseling referrals;
- Involuntary drug counseling referrals;
- Terminations or denial of employment offers resulting from refusal to submit to testing;
- Terminations or denial of employment offers resulting from alteration of specimens;
- Terminations or denial of employment offers resulting from failure to complete a drug abuse counseling program; and
- Employees who successfully complete an EAP.

This data, along with other pertinent information must be compiled for inclusion in

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the Department of State's annual report to Congress required by Section 503 (f) of the Act. This data must also be provided to HHS on a semi-annual basis to assist in overall program evaluation and to determine whether changes to the HHS Guidelines are required.

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APPENDIX A

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

DRUG-FREE WORKPLACE PLAN

RANDOM DRUG TESTING – TESTING DESIGNATED POSITIONS

Criteria and Procedures

Section 3(a) of Executive Order 12564 of September 15, 1986 requires each Executive agency to establish a program to test for the use of illegal drugs by employees in sensitive positions. Section 7(d) of the Order provides that the term "employee in a sensitive position" will include, for purposes of the Order: 1) an employee in a position that an agency head has designated as "special sensitive, critical sensitive or non-critical sensitive" under chapter 731 of the Federal Personnel Manual or as sensitive in accordance with Executive Order No. 10450, as amended; 2) an employee who has been or may be granted access to classified information pursuant to a determination of trustworthiness by an agency head under Section 4 of Executive Order No. 12356; 3) individuals serving under Presidential appointments; 4) law enforcement officers as defined in 5 USC. 8331(20); and 5) other positions that the agency head determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

In accordance with the provisions of the Foreign Assistance Act of 1964 as amended, USAID is the agency responsible under the direction of the United States' economic development assistance programs for less developed countries and regions world wide. The sensitivities of the Agency's operations are such that all Agency personnel have regular access to classified material, and their positions are designated as Sensitive. All U.S. citizen members of the Foreign Service and Civil Service undergo full background investigations before employment, receive security clearances at least to Top Secret (Foreign Service), and have regular access to classified material in performing their duties. The majority of USAID Civil Service employees also serve in positions designated as Critical-Sensitive. These designations are not nominal or erroneous, but accurately reflect the nature of the duties performed, the access to sensitive matters involved in performance, or both.

In accordance with the Executive Order, USAID has determined that all employees who are cleared for access to information classified at Secret or above are "employees in sensitive positions" and will be included in the random drug testing program. The total number of employees cleared for access to information classified at secret or above is approximately 3,000.

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Frequency of Testing

USAID will administer drug tests to all personnel in USAID/Washington (USAID/W) who meet the criteria described above in a program that will provide for an annual frequency of five percent of the testing designated positions. Extreme budgetary constraints affecting the Agency require that testing levels be set as low as possible consistent with the goals of the Executive Order and with the Agency's concern that secret, unlawful drug use may be a factor in leading an employee to assist espionage or criminal activities against the Government.

Logistical and budgetary considerations preclude implementation of random testing at USAID abroad simultaneously with commencement of USAID/W testing.

USAID has approximately 84 overseas posts with staff sizes ranging from 1 to 172 people at each post. This vast disparity poses some special (sometimes unique) conditions and major issues that must be resolved before overseas drug testing commences. They are

- Cost effectiveness to test at all overseas;
- Medical and laboratory resources at overseas posts meeting or upgraded to meet the legal and security requirements for chain of custody and testing reliability (medical resources at many of our posts range from available and adequate to not available at all for hundreds of miles);
- Taking into consideration the two factors of geographic dispersion of over 84 overseas posts and resource limitations recently imposed on the Agency, there is a question of whether standardized drug testing capabilities can be established at each post; and
- Determining the feasibility and desirability of establishing Employee Assistance Programs (EAPs) at each post, or whether EAPs can be established on a regional basis to serve several posts, and how effective this alternative might be.

At present, employee testing is conducted at USAID/Washington.

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