

Drug and Alcohol-Free Workplace

Subcontractor	
Subcontract No.	(UT-Battelle Subcontract Number)
WSAP Program Manager	(Subcontractor WSAP Program Manager)
Program Manager Contact Info (Email & Phone)	

1. APPLICABILITY

- 1.1. This policy applies to all employees, subcontractors or contractors, hereafter referred to as "employee(s)" of, _____ Inc., hereafter referred to as "_____" or "Company" working on the UT-Battelle Subcontract Number _____. Such employees will be informed of _____ policy at the time of their engagement, and that, as a condition of their employment, and pursuant to Code of Federal Regulations (CFR), 10 CFR Part 707, Workplace Substance Abuse Programs at DOE Sites, Subpart B – Procedures, Section 707.5 Submission, Approval, and Implementation of a Baseline Workplace substance Abuse Program, Paragraph A.3. a. and b., they agree to: (1) abide by the terms of the anti-drug policy statement; (2) all applicable terms of 10 CFR 707 (attached as Exhibit A), and 3) will notify DOE in writing of employee's conviction under a criminal drug statute for a violation occurring on the DOE-owned or controlled site no later than ten (10) calendar days after such conviction.

2. PURPOSE

- 2.1. _____ prohibits the use of illegal drugs as well as the misuse of medication by employees. In addition to undermining safe, healthy, and efficient working conditions for all personnel, substance abuse affects employee qualifications to work under _____ contracts, and impairs the reputation and integrity of _____ as well as its personnel. Substance and alcohol abuse that is not unlawful may nonetheless raise issues of safety, performance, and liability. _____ is committed to a policy of "zero tolerance." The goal of this policy is to provide maximum discretion to management and supervisors for preventing substance abuse, subject only to any Federal, state or other laws or controlling authority that clearly limits this policy.
- 2.2. To the extent required by its Federal contracts, _____ complies with the Federal Drug-Free Workplace Act of 1988. Consistent with that Act, _____ (1) strictly prohibits manufacture, use, possession, sale, purchase, transfer, or being under the influence of illegal drugs at any time at sites owned or controlled by DOE, and (2) requires employees to notify _____ of any criminal conviction for a drug-related violation, within five days of the conviction.
- 2.3. This policy is not intended to prohibit lawful use of prescription or over the counter medication. Nor is it intended to prohibit moderate consumption of alcohol during (1) social functions sponsored or authorized by _____, (2) travel time when the employee is not on duty for _____, or (3) personal time off. However, to the degree that off-duty consumption affects the employee's work, work relationships or _____'s image, or is evident during working hours, _____ will take remedial action.

3. DEFINITIONS

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- 3.1. **Drug.** A drug is any substance (including alcohol) that can affect or impair the judgment, reflexes, or mental acuity of a user.
- 3.2. **Illegal Drug.** An illegal drug is any "controlled substance," as defined in Section 802(6) of Title 21 of the United States Code, excluding drugs used pursuant to a valid prescription or used as otherwise authorized by law.
- 3.3. **Substance Abuse.** Substance abuse is defined as:
 - 3.3.1. The use of alcohol or other drugs on or off Company property where usage affects or impairs an employee's ability to do his or her job; or
 - 3.3.2. The manufacture, distribution, dispensing, possession, or use of an illegal drug.
 - 3.3.3. Intoxication or impairment of a person's ability to do any aspect of his or her job, including operation of Company equipment or vehicles, completion of work products, or appropriate interaction with other individuals in the workplace, as a result of use of a controlled substance, legal or illegal, on or off the job.
- 3.4. **Reasonable Suspicion.** Reasonable suspicion occurs when someone in the organization observes the behavior of an employee that indicates that the employee may be under the influence of a controlled substance. Such observable behaviors could include: slurred speech, inability to walk straight, incoherent speech, dilated pupils, or other demonstrated, observable behaviors that are clearly outside of acceptable workplace behavior norms.
- 3.5. **Sensitive Position.** A sensitive position requires that an employee be granted access to information classified at the SECRET level or above; or other positions that the Company determines relate to national security, health or safety, or functions other than the foregoing that require a high degree of trust and confidence may also be regarded as sensitive.
- 3.6. **Random Drug Testing Requirements and Identification of Testing.** Employees in Testing Designated Positions (TDP) must provide written notice of any drug related arrest, conviction, or receipt of positive test result, whether occurring on or off DOE owned or controlled site to his or her supervisor immediately, but in no event more than ten (10) days after the occurrence. The DOE or Prime Contractor will identify those employees in TDP in writing.
- 3.7. **Testing Designated Positions (TDPs).** In accordance with 10 CFR 707.7, Random Drug Testing Requirements and Identification of Testing Designated Positions, the testing designated positions subject to random drug testing are:
 - 3.7.1 Positions determined to be covered by the Personnel Security Assurance Program (PSAP), codified at 10 CFR Part 710. PSAP employees will be subject to the drug testing standards of this part and any additional requirements of the PSAP rule.
 - 3.7.2 Positions which entail critical duties that require an employee to perform work which affords both technical knowledge of and access to nuclear explosives sufficient to enable the individual to

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cause a detonation (high explosive or nuclear), in what is commonly known as the Personnel Assurance Program (PAP). PAP employees will be subject to the drug testing standards of this part and any additional requirements of the POP program.

- 3.7.3 Positions identified by the Prime Contractor or DOE which entail duties where failure of an employee adequately to discharge his or her position could significantly harm the environment, public health or safety, or national security, such as:
- a. Pilots;
 - b. Firefighters;
 - c. Protective force personnel, exclusive of those covered in paragraphs (1) or (2) of this section, in positions involving use of firearms where the duties also require potential contact with, or proximity to, the public at large;
 - d. Personnel directly engaged in construction, maintenance, or operation of nuclear reactors; or
 - e. Personnel directly engaged in production, use, storage, transportation, or disposal of hazardous materials sufficient to cause significant harm to the environment or public health and safety.
- 3.7.4 Other positions determined by the DOE, after consultation with the Prime Contractor, to have the potential to significantly affect the environment, public health and safety, or national security.
- 3.7.5 Individuals not free from use of illegal drugs shall be prohibited from working in TDPs.

3.8 **Occurrence.** In accordance with 10 CFR 707.4, Definitions, "occurrence" is defined as:

"any event or incident that is a deviation from the planned or expected behavior or course of events in connection with any Department of Energy or Department of Energy-controlled operation, if the deviation has environmental, public health and safety, or national security protection significance. Incidents having such significance include the following, or incidents of a similar nature:

- a. Injury or fatality to any person involving actions of a Department of Energy contractor employee.
- b. Involvement of nuclear explosives under Department of Energy jurisdiction which results in an explosion, fire, the spread of radioactive material, personal injury or death, or significant damage to property.
- c. Accidental release of pollutants which results or could result in a significant effect on the public or environment.
- d. Accidental release of radioactive material above regulatory limits."

4. POLICY

4.1. **General.** Employees must comply with the terms included in Exhibit A, including in particular, but not limited to 10 CFR 707.8-10. In addition, a summary of the some of the major elements of the Policy are highlighted below:

- Employees will not possess or use alcohol or drugs on Company property at any time, or off Company property where usage influences their ability to do their jobs.

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- Employees will not manufacture, distribute, dispense, possess, or use illegal drugs (see Definitions) at any time.
- Employees will not use any controlled substance, legal or illegal, in a manner that results in intoxication in the workplace.
- Employees will cooperate in all required testing for drugs and/or alcohol, and comply with the Drug and Alcohol-Free Workplace policy.
- Employees who are convicted of a violation of any criminal drug statute shall notify the Vice President of Human Resources no later than five (5) days after the conviction.
- All employees in TDPs shall be provided with a notification at least sixty (60) days in advance of initiating testing, to those individuals subject to drug testing, unless the Prime Contractor is currently conducting a testing program.
- All employees in TDPs shall pass a drug test as specified in the applicable regulation before assignment to work under the referenced Agreement.
- All employees in TDPs shall be in an ongoing random drug testing program and subject to being called without notice to undergo a test at any time during the period of Contract work performance.
- In the event of an Occurrence, as defined in 10 CFR 707.4, Definitions, and as set forth at 3.7 Occurrences, herein, drug testing of employee(s) shall be conducted directly thereafter.
- In accordance with 10 CFR 707.5 B.4.e., individuals with unescorted access to control areas of certain DOE reactors specified in 10 CFR 707.7 will be required to undergo ongoing random testing, and reasonable suspicion and occurrence drug testing as required.
- UT-Battelle and the DOE shall be immediately notified whenever circumstances raise a drug or security concern.

4.2. **Continual Behavioral Observation.** It will be an inherent part of every employee's responsibility, particularly managers, to be observant of behavior that may jeopardize the safety and security of employees or that could affect responsiveness to Company or project requirements, and to report their concerns to management or to the _____. When there is reasonable suspicion to suspect substance abuse, the _____ may request removal of the individual from the work site and order a drug test. Positive results to such testing will result in corrective action up to and including dismissal.

4.2.1. Employees who operate company vehicles or machinery and are involved in an accident while operating a company vehicle or machinery may be required to complete a post-accident testing for drugs and/or alcohol.

4.2.2. Negative dilute test results will require a second testing, and may require future random testing.

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- 4.3. **Employees Working on DOE Contracts.** Certain DOE Contracts require additional terms and conditions (see Section 7). At a minimum, the Company will remove any employee found to be using illegal drugs, until such time as the employee may be determined fit to return to duty. The Company will notify the granting or contracting DOE agency, or, where appropriate, the cognizant Prime Contractor, [UT-Battelle], in writing within ten (10) calendar days of receiving a conviction notification from an employee, subcontract employee, or otherwise receiving actual notice of a conviction of a drug-related offense.
- 4.3.1. **Manager, Supervisor, & Employee Training.** When it is required in order to comply with terms and conditions of certain DOE Contracts, per Department of Energy regulations, _____ will provide manager or supervisor and employee training in the area of recognizing indications of substance abuse. Such training will be consistent with 10 CFR 707.6 and with the provision set forth at 10 CFR 707.5 A.2, instruction of managers, supervisors, and employees concerning problems of substance abuse, including illegal drug use, and the availability of assistance through the employee assistance program and referrals to other resources, and the penalties that may be imposed upon employees for drug-related violations occurring on the DOE-owned or controlled site, will be included in the plans for instruction.
- 4.4. **Disciplinary Action.**
- 4.4.1. **Inappropriate/Illegal Use of Drugs or Alcohol.** Employees who are observed in possession of, or under the influence of drugs or alcohol will be recommended for disciplinary action, which may include mandatory Employee Assistance Program (EAP) referral, or dismissal. Such determination will be made in consultation with the _____ and Legal Counsel.
- 4.4.2. **Use of Drugs as Part of a Prescribed Medical Treatment Program.** Employees may not be impaired or intoxicated by any controlled substance, legal or illegal, while on the job or conducting company business. Employees who must take prescribed drugs that result in impairment will be referred, as appropriate, to the EAP or for appropriate disability, ADA, FMLA, or other leave of absence consideration. Employees who are inappropriately or illegally using/abusing prescribed medication or controlled substances will be considered to have violated this policy.
- 4.4.3. **Rehabilitation.** _____ views substance abuse as a serious threat to the health and safety of employees and has zero tolerance for it. Therefore, any employee who violates this policy is subject to appropriate disciplinary action, which may include dismissal and/or legal action. At the same time, the Company recognizes that substance abuse may occur as a result of a physical or psychological dependency and a mandatory EAP referral by the Human Resources Department may be appropriate; any potential Company obligation under the Americans with Disabilities Act (ADA) will also be considered.
- 4.5. **Purpose.** The purpose of disciplinary action is to correct the possible problem and to motivate the employee to seek or accept help, as appropriate. In order for the employee to return to work or to remain at work after or during rehabilitation, a mandatory fitness for duty statement from an appropriate medical entity, Return to Duty testing and follow-up testing will be required. If the employee has either rejected assistance or demonstrated a lack of serious commitment to overcoming the problem and achieving a satisfactory level of performance, attendance, or behavior; then formal disciplinary action shall proceed. An employee actively involved in an approved treatment program will not be dismissed without consultation of the _____, and Legal Counsel.

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- 4.6. **Reinstatement.** Current employees dismissed for failure to comply with any aspect of the Drug and Alcohol-Free policy will not be considered eligible for reemployment for at least twelve (12) months following the event that caused their dismissal. Rehire of such candidates must be approved in advance by the _____.

5. RESPONSIBILITIES

5.1. Related responsibilities will be shared:

- _____ is accountable for ensuring a drug and alcohol-free workplace and for providing an environment conducive to optimum operating efficiency and productivity.
- Each supervising member of management is responsible for executing the tenets of this policy with the Employees for whom they are directly responsible.
- As required, _____ will provide overall guidance, interpretation, and coordination of this policy.
- The supervising manager will oversee the implementation of the employment aspects of this policy and ensure that all candidates for employment and current employees are informed of its contents.
- If employee works at a customer site a third party, Prime Contractor supervising manager will be responsible/liable for enforcement of this policy so that employees are required to abide by site policies and procedures.
- If an _____ subcontractor refuses to abide by this policy, a workable solution will be agreed upon between UT-Battelle, LLC, _____, and subcontractor that will satisfy the spirit and key elements of this policy.

6. PROCEDURES – All testing may be controlled and performed by _____. The program is consistent with DHHS “Mandatory Guidelines for Federal Workplace Drug Testing Programs.”

- 6.1. **Pre-employment Testing.** To the extent permitted by law, _____ or Customer may require pre-employment drug and/or alcohol testing for all employees or those who will be assigned to testing designated positions. Employment applicants who refuse to test or test positive for drugs will not be hired.
- 6.2. **Random Testing.** Where required by a US Federal Government contract and to the extent permitted by law, drug testing of employees may be required on a periodic, unannounced basis. Employees working on such contracts must cooperate with such drug testing requirements or be subject to disciplinary action.
- 6.3. **Post-Accident Testing.** Any employee involved in a work-related accident or significant near-miss event, whose performance either contributed to or cannot completely be discounted as a contributing factor may be required to complete a drug and/or alcohol test. All work-related accidents or such incidents must be reported to Human Resources by the employee or their manager.
- 6.4. **Return to Duty Testing.** If the company determines that an employee has failed a drug test, but has completed the agreed upon steps such as obtaining a substance abuse evaluation and successfully

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completing recommended treatment or actions, a return to duty test must be taken and passed prior to placement back at work.

6.5. **Employees Testing Positive.** Any employee who tests *positive* will be subject to corrective action that may include, but not be limited to, suspension, removal from any sensitive position, or other action, up to and including dismissal. In the event that _____ or Customer offers an employee an opportunity to take a drug or alcohol test, and the employee refuses, _____ or Customer reserves the right to treat the refusal as a positive test result and to dismiss the employee for the refusal to test. _____ or Customer has no obligation to prove that the employee was in fact impaired, violated _____ policy, or that _____ or Customer possessed "just cause" or a particular amount of evidence before requesting the test.

6.5.1 Pursuant to 10 CFR Part 707, Section 707.5, Paragraph A.5, with respect to any employee who is convicted of a drug-related violation occurring in the workplace, one of the following actions may be imposed within thirty (30) calendar days after receiving notice of such conviction:

- a. Taking appropriate personnel action against such employee, up to and including termination; or
- b. Offering such employee, consistent with _____ policies, and opportunity to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency. If the employee does not participate in such a rehabilitation program, _____ shall take appropriate personnel action, up to and including termination, in accordance with _____ policies.

6.6. **Drug-Related Arrests, Convictions.**

6.6.1 *Employees who are convicted of any criminal drug statute shall notify the _____ no later than five (5) days after the conviction.*

6.6.2 Employees in Testing Designated Positions (TDPs) shall provide written notice to _____ of a drug-related arrest or conviction, or receipt of a positive drug test result regarding that employee, as soon as possible but within ten (10) calendar days of such arrest, conviction, or receipt, whether occurring on or off DOE-owned/controlled site.

6.7. **Security Clearance.** _____ will notify the _____ within ten (10) days of any employee holding a security clearance whose drug test results are positive. The employee will immediately have his or her access to classified information revoked.

6.7.1 As applicable to this Agreement, Contractor shall ensure that the written program complies with 10 CFR 710, Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Materials.

6.7.2 When an employee that holds, or is an applicant for, an access authorization has been tested and determined to have used an illegal drug, the contractor shall immediately notify DOE security officials for appropriate adjudication.

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- 6.8. **Reinstatement/Rehire.** Current employees who test positively for controlled substances and who are subsequently dismissed will not be eligible for consideration of re-employment for a period of twelve (12) months following the date employment is terminated.
- 6.9. **Files.** Test results and related documentation will be retained in separate files in the _____ Department, under the control of the _____ or their designee, and will be limited to those within the HR, Legal, and Security Departments with *“need to know.”* Those obtaining unauthorized access to these files will be subject to corrective action, which may include dismissal.
- 6.10. **Confidentiality.** No reference to alcohol or other drug problems as a medical diagnosis will appear in personnel files. This does not, however, preclude documenting behavior such as slurred or incoherent speech, inability to respond to questions, stumbling, smelling of alcohol, associated lapses in performance, observation of possession or use of alcohol or other drugs, etc.
- 6.11. **Reporting.** Provide UT-Battelle written reports bi-annually for performance periods January 1 to June 30 and July 1 to December 31. Reports must be submitted within 15 days of the close of each subcontract performance period, no later than July 15th and January 15th, respectively. Each report consists of two parts:
- Part 1 of this report must reflect all WSAP activity including, but not limited to, training, drug tests administered by type, test results and any cases giving rise to a drug or security concern.
 - Part 2 of this report must contain the “UT-Battelle, LLC Subcontractor TDP Employee Information Report” form listing the Seller’s Designated Employer Representative (DER), TDPs and the employees filling the TDPs.

7. RELATED POLICIES AND PROCEDURES

Department of Energy Regulations:

10 CFR 707 – Workplace Substance Abuse Programs at DOE Sites

10 CFR 710 – Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Materials

Federal Acquisition Regulations (Subpart 23.5 – Drug-Free Workplace)

8. EXHIBITS

Exhibit A: 10 CFR 707 – Workplace Substance Abuse Programs at DOE Sites

Exhibit B: Client or Contract-Specific Employee Roster

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