



Assuring a Drug-Free Workplace

The nature of the OIG mission and the substantial authorities and responsibilities entrusted to OIG employees by the Inspector General (IG) make it vital that we never work under the influence of illegal drugs. OIG employees have been approved for access to sensitive law enforcement and classified national security information. Many employees perform high-risk law enforcement work, including the carrying of firearms and potential use of deadly force.

OIG employees may not possess or use, on or off duty, any of the controlled substances¹ listed in 21 U.S.C. § 812(c), Schedules I and II. (This does not include the use of controlled substances authorized by a valid prescription or law.) Executive Order (EO) 12564, Section 503 of Public Law 100-71, and Treasury Directive 61-10 require the OIG to develop a plan to assure a drug free workplace. Effective March 2007, the OIG will implement a plan to assure a drug-free workplace and start a testing program for prospective and permanent employees for the use of illegal drugs.

Who will be tested and when?

- All permanent employees:
 - Who are selected at random (5 percent of the total permanent workforce, randomly selected, four times per year);
 - Who, based upon their actions and the circumstances of an accident or unsafe behavior, are reasonably suspected of having caused or contributed to an accident resulting in a death or personal injury requiring immediate hospitalization; or damage to government or private property estimated to be in excess of \$10,000;
 - Who are reasonably suspected of using illegal drugs (within 3 work days of the employee's first line supervisor receiving AIG approval); or
 - Who volunteer for testing (when agreed to by the employee and his/her supervisor).
- All permanent employees referred to the Employee Assistance Program (EAP) for counseling or rehabilitation for illegal drug use (monthly for one year after completion of the treatment).
- All applicants tentatively selected for employment (prior to receiving a permanent offer).

How will the OIG confirm to me that I may be tested? Can I refuse or fail to appear to be tested?

We notify permanent employees in writing and ask you to sign an acknowledgement that you may be subject to random testing starting in 60 days. You can choose not to sign, but we can still select you for testing. If we properly select you and you refuse to be tested or fail to report to the test collection center, we will take the same actions we would have taken if you tested positive for the use of illegal drugs. (See Page 2, *What Happens If I Test Positive for Illegal Drug Use.*) Note: Permanent employees may administratively appeal their inclusion in random testing to the IG. The appeal must be in writing and filed no later than 15 days after the notification. The IG decision is final and not subject to further review.

¹ See <http://www.deadiversion.usdoj.gov/21cfr/21usc/802.htm> for more information on Schedule I and II controlled substances. Important: OIG tests specifically for Marijuana, Cocaine, Opiates, Amphetamines, and Phencyclidine.

We notify applicants in all job announcements for permanent positions. Specifically, we state *“The nature of the OIG mission requires employees to work without the influence of illegal drugs. All applicants tentatively selected for this position will be required to submit to urinalysis to screen for illegal drug use prior to appointment. We will not appoint any applicant who refuses to be tested or tests positive for the use of illegal drugs.”*

How will we conduct random selection?

Quarterly, we will randomly select 5 percent of permanent employees for testing. (The IG may increase the frequency of tests or the percent tested if he determines this will further assure a drug-free workplace.)

On the morning of the random test:

1. The Assistant IG for Management (AIGM) and his Human Resources (HR) staff will list all eligible employees alphabetically; and number the list from 1 to (total # on the list).
2. The AIGM and his HR staff, with Counsel oversight, will generate random numbers for 5 percent of the listed employees using (<http://www.random.org/nform.html>).
3. We will match the random numbers to correlating numbers on the employee list for testing.

What is the testing process and is it private?

The AIGM will confidentially notify individuals randomly selected or otherwise designated for testing (and their first line supervisor and manager) by telephone or email to report during official work hours at a set time to a local private contracted collection center to provide a urine sample. (Employees selected but unavailable due to official travel or pre-approved leave will not be notified of their selection until they return to the office.)²

The contractor will allow you to produce your urine specimen in private, without being observed, unless, for specific articulated reasons, the contractor believes the employee may attempt to alter or substitute the specimen. Such reasons include: 1) The employee is subject to reasonable suspicion testing; 2) The employee has illegally used drugs in the past; 3) There is evidence that the employee possesses or can access means to alter or substitute the specimen; or 4) The employee has previously tampered with a sample. Note: Please be prepared to bring a list of all medications (prescription or over-the-counter) with you to the collection center. You will need this information for your test form.

After the lab tests a sample using an FDA-approved immunoassay test, it will confirm any positive results by a Gas Chromatography/Mass Spectrometry test, or other confirming test approved by the Department of Health and Human Services (HHS). Then an appropriately trained, licensed physician will review any confirmed positive results. The physician will contact the employee or applicant with positive results and provide him/her an opportunity to submit medical documentation to justify his/her use of otherwise illegal drugs.

² **Warning: The OIG will take disciplinary action in accordance with PD 810-02, *Progressive Discipline and a Guide to Suggested Penalties*, against anyone who provides the names of employees selected for testing to a person who does not have a need to know.**

While this Policy Directive establishes the OIG's plan for assuring a drug-free workplace, an HHS approved private contractor, which provides testing services for more than 40 federal agencies, processes all collection and testing. Except for choosing individuals for testing, the OIG has no operational role in the process. The OIG provides the names of employees selected for testing only to people necessary to complete the process. The lab never knows the names of tested employees; and the contractor's electronic reporting is done through an encrypted and certified system. Full social security numbers are not used; instead, the contractor tracks samples using a number made up of four zeros and the last five digits of social security numbers. HHS requires the contractor to comply with strict, detailed HHS *Mandatory Guidelines for Federal Workplace Drug Testing Programs*, dated November 1, 2004, [http://dwp.samhsa.gov/DrugTesting/Level_1_Pages/HHS%20Mandatory%20Guidelines%20\(Effective%20November%201,%202004\).aspx](http://dwp.samhsa.gov/DrugTesting/Level_1_Pages/HHS%20Mandatory%20Guidelines%20(Effective%20November%201,%202004).aspx). Note: HHS does not allow any other testing methods, such as hair, saliva, sweat, or blood.

What happens if I test positive for illegal drug use?

- Testing officials will provide positive test results only to the AIGM. The written report will include your name, test information, and the names of drugs identified in the test.
- The AIGM will disclose test results only to people with a need to know (tested employee, first line supervisor/manager, HR staff, Treasury personnel security staff, or others authorized by law or regulation).³
- We will suspend your exercise of law enforcement or other IG-authorized authorities; your access to sensitive or classified information; and your unescorted access to non-OIG Treasury facilities. We will reassign you to a non-sensitive position and collect your OIG credential, badge, weapon, Main Treasury building pass, and Treasury identification card. (After completing EAP counseling and recommended rehabilitation, we will allow an employee to return to duty in a sensitive position if the IG determines that this action would not pose a danger to public health, safety or national security.)
- We will refer you to the EAP for confidential assessment, counseling, and referral for treatment or rehabilitation.
- We will take disciplinary action in accordance with PD 810-02.
- The AIGM will track anonymous statistics on confirmed illegal drug use for potential data calls.

Confidentiality Note: If the overseeing physician determines that the positive test result does not, in fact, demonstrate intentional ingestion of illegal drugs, the result shall be treated as negative, and may not be released as evidence of illegal drug use. Test results are confidential and constitute information protected and governed by the Privacy Act of 1974, 5 U.S.C. § 552a. Drug test result information can be disclosed to management for purposes of auditing the functioning of the testing program, but only if all personal identifying information is redacted. Generally, drug test information cannot be disclosed without the employee's written consent. However, it can be released, without the employee's consent, to the overseeing physician, the EAP Administrator, to supervisors and managers with authority to propose or direct adverse personnel action, and to respond to a court order, or for use in a proceeding adjudicating an adverse personnel action predicated on the result information. Upon written request, an employee who was the subject of a drug test can obtain all records relating to that test, and to official actions taken to review or

³ **Warning: The OIG will take disciplinary action in accordance with PD 810-02 against anyone who provides test results to a person who does not have a need to know.**

act upon that test. Test results for employees will be maintained in the Employee's Medical Folder in accordance with the Privacy Act notice for OPM/GOVT-10. All other records relating to drug testing in the OIG will be maintained consistent with the provisions of Treasury System of Records Treasury/DO.191 (OIG Human Resources and Administrative Records System).

“I use illegal drugs and worry I will get caught and fired.” What can I do?

Be proactive. The OIG will not terminate a permanent employee who uses illegal drugs who:

1. Volunteers for testing and/or voluntarily self-identifies as a user of illegal drugs prior to being identified as a user (through test results, arrest, conviction, etc.); and then
2. Gets mandatory EAP counseling and a referral for rehabilitation; and thereafter
3. Refrains from using illegal drugs.

Note: Employees can receive free drug, alcohol, and mental health assessment and counseling services at any time by contacting EAP at 800-222-0364 and <http://arc.publicdebt.treas.gov/DWP/fs/fstoigeap.htm>.

What is the basis for reasonably suspecting an employee of using illegal drugs?

- Direct observation of possession, sale, use, or influence of an illegal drug.
- Arrest or conviction for use, sale, purchase, or possession of illegal drugs, or involvement in aiding, attempting, or conspiring to use, sell, purchase or possess illegal drugs.
- Involvement as a subject in an investigation regarding the use, purchase, sale, or possession of illegal drugs.
- Receipt of information from a credible and reliable source that an employee is involved in the purchase, sale, use, or possession of an illegal drug.
- A pattern of abnormal or erratic behavior.

If an employee's first line supervisor develops suspicion based on any of the above factors, he/she will present the information to their AIG. If the AIG concurs, the supervisor will prepare a written report documenting the circumstances underlying the suspicion, including dates, locations, persons involved, and actual activities. The supervisor will ask the AIGM to arrange drug testing of the employee.

What does the OIG do to train employees and supervisors/managers about illegal drug use?

Annually, Department of Interior National Business Center staff will conduct formal classroom training for all OIG employees. Periodically, the AIGM will send information to employees and supervisors by email on the drug testing program, referrals to EAP, drug types and effects, and progressive discipline.

If I have a question, who can I contact?

For questions regarding this PD, please call the OM main line at (202) 927-5200 or send an email to OIG-OM@oig.treas.gov.