



**U.S. DEPARTMENT OF TRANSPORTATION
Federal Transit Administration**

Compliance Finding Response Report

**On Site:
1/5/2016 to 1/7/2016**

**Compliance Achieved
3/31/2016**

Guam Regional Transit Authority

CONTRACTORS:
Kloppenburger Enterprises, Inc.
Guam Sanko Transportation, Inc.
Micronesia Hospitality, Inc.



**IYON ROSARIO
DRUG AND ALCOHOL PROGRAM MANAGER
OFFICE OF TRANSIT SAFETY AND OVERSIGHT**



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

1200 New Jersey Ave., S.E.
Washington, D.C. 20590

March 31, 2016
Electronic, Portable Document

Mr. Enrique Agustin
Executive Manager
Guam Regional Transit Authority
542 N. Marine Corps Drive
Tamuning, Guam, 96913

RE: Compliance Achieved: FTA Drug and Alcohol Compliance Auditing Program

Dear Mr. Agustin,

The Federal Transit Administration has reviewed the responses of the Guam Regional Transit Authority and its contractors to the formally-submitted findings of the Drug and Alcohol Compliance Audit Team. Based on the information provided, the Federal Transit Administration has found the GRTA drug and alcohol testing program to currently be in compliance with the federally-mandated Drug and Alcohol Testing Program.

It is important for you and your organization to diligently maintain all aspects of the drug and alcohol testing program so that all will remain in compliance in the future.

Thank you for your cooperation and for being prompt in your response. Please let me know at any time if I can be of further service to you.

Sincerely,

Lyon Rosario
Drug and Alcohol Program Manager
FTA Office of Transit Safety and Oversight

Electronic cc:

Mr. Rally Pilipina, Program Coordinator IV, Federal Grants Manager and DAPM
Mr. Leslie Rogers, FTA Region IX Administrator
Mr. Bernardo Bustamante, FTA Region IX Oversight Manager
Ms. Lori DeCoste, Volpe National Transportation Systems
Mr. Josep Lofgren, Cahill Swift, LLC

Guam Regional Transit Authority

There are no open findings for Guam Regional Transit Authority

Policy Manual Review Interview

Policy Manual Review Interview-1

Ques. # **Resolved Date:** 3/31/2016

1 Question: LOCAL BOARD ADOPTION: Has the policy, as most recently revised, been adopted by the local governing board of the employer or operator, or other responsible individual with appropriate delegation of authority?

Answer: Other.

Supplemental Answer: At Section 1.3, Applicability, the policy states "This policy applies to all covered transit system employees, paid part-time employees, contract employees, and contractors when they are on transit property or when performing any transit-related safety-sensitive functions." However, there is no certification that the policy has been officially adopted by GRTA or the Government of Guam, or by the safety-sensitive contractors. In response to this audit finding, document that the policy has been adopted by the governing body and by each of the safety-sensitive contractors as required by Section 655.15. Alternatively, document that each of the contractors has adopted their own FTA-compliant drug and alcohol policy.

FTA Rule Requirement: Section 655.12, Required Elements of an anti-drug use and alcohol misuse program states: "(a) A statement describing the employer's policy on prohibited drug use and alcohol misuse in the workplace, including the consequences associated with prohibited drug use and alcohol misuse. This policy statement shall include all of the elements specified in section 655.15 of this subpart. Each employer shall disseminate the policy consistent with the provisions of section 655.16 of this subpart." Section 655.16 states: "Each employer shall provide written notice to every covered employee and to representatives of employee organizations of the employer's anti-drug and alcohol misuse policies and procedures."

Corrective action taken: Kloppenburg Enterprises, Inc. (KEI), Guam Sanko Transportation, Inc. (GST), and Micronesia Hospitality, Inc (MHI). have adopted their own FTA-compliant drug and alcohol policy as per 49 CFR Part 655 and Part 40. Please refer to the safety-sensitive contractors drug and alcohol policy.

FTA finding on review: Adequate

Policy Manual Review Interview-2

Ques. # **Resolved Date:** 3/31/2016

2 Question: CONTACT PERSON: Does the policy identify the person, office, branch or position designated by the employer to answer employee questions about the anti-drug and alcohol misuse prevention program?

Answer: No.

Supplemental Answer: In response to this audit finding, affirm that the policy documents adopted by the contractors provides the identify of "the person designated by the employer to answer employee questions about the employers anti-drug use and alcohol misuse programs" as required by Section 655.15(a)

FTA Rule Requirement: Section 655.15(a) states that the policy shall provide: "The identity of the person, office, branch and/or position designated by the employer to answer employee questions about the employers anti-drug use and alcohol misuse programs."

Guam Regional Transit Authority

Corrective action taken: Please refer to the attachment for Question Number 2
The Guam Regional Transit Authority (GRTA) affirms that the policy documents adopted by the safety-sensitive contractors provide the identity of "the person designated by the employer to answer employee questions about the employers anti-drug use and alcohol misuse programs" as required by Section 655.15(a) which states that: "the identity of the person, office, branch and/or position designated by the employer to answer employee questions about the employers anti-drug use and alcohol misuse programs."

FTA finding on review: Adequate

Policy Manual Review Interview-3

Ques. # **Resolved Date:** 3/31/2016

3 Question: COVERED EMPLOYEES: Does the policy correctly and completely list, or describe, the categories of employees (covered employees) who are subject to the provisions of the anti-drug and alcohol misuse prevention program?

Answer: No.

Supplemental Answer: Appendix A to the policy, "Safety-Sensitive Employees Subject to Testing," was not attached to the policy provided with the pre-audit submission. In response to this audit finding, include the Appendix A for each of the three contractors and for GRTA.

FTA Rule Requirement: Section 655.15(b) states the policy shall include: "The categories of employees who are subject to the provisions of this part." Safety-sensitive functions are described in Section 655.4, Definitions, under "Safety-sensitive." The policy should clarify which jobs are covered because they do or may involve the performance of safety-sensitive duties.

Corrective action taken: Please refer to the attachment by the safety-sensitive contractors concerning the their adopted FTA-compliant drug and alcohol policy under Appendix A concerning the Safety-Sensitive Employees Subject to Testing."

FTA finding on review: Adequate

Records Management Interview

Records Management Interview-1

Ques. # **Resolved Date:** 3/31/2016

2 Question: Does the employer maintain records of its anti-drug and alcohol misuse program in a secure location with controlled access?

Answer: No.

Supplemental Answer: The Guam Regional Transit Authority functions as a de facto Consortium/Third-Party Administrator (TPA) for its contractor, KEI (which is a joint venture comprised of three contractors: Kloppenberg Enterprises, Inc, Guam Sanko Transportation, and Micronesian Hospitality, Inc.). In this arrangement, GRTA maintains a contract for testing services with a collection site, provides random testing selections to its contractors, and receives both drug and alcohol testing results.

While GRTA and its contractors may choose to sustain this relationship, it is critical to note that GRTA's liaison for drug and alcohol testing may not function as a Designated Employer Representative (DER), which is the current arrangement. Specifically, GRTA's

staff member is currently identified as the DER for the purposes of the receipt of alcohol test results. Because the DER position and activities related to decisions to test employees (e.g., after an accident or for reasonable suspicion) is a non-delegable duty of the actual employer (see section 40.355 below), this is a non-compliant arrangement.

In response to this audit finding, submit to FTA a description of the steps GRTA has taken to either extricate itself from the direct management of its contractors' testing programs - wherein it is acting as DER - or to formalize the TPA-client arrangement in a manner that is compliant with the requirements of section 40.355.

Section 40.355 states:

"What limits apply to the activities of service agents?

As a service agent, you are subject to the following limitations concerning your activities in the DOT drug and alcohol testing program.

(a) You must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory testing, MRO, and SAP services). No one may do so on behalf of a service agent.

(b) You must not act as an intermediary in the transmission of drug test results from the laboratory to the MRO.

That is, the laboratory may not send results to you, with you in turn sending them to the MRO for verification. For example, a practice in which the laboratory transmits results to your computer system, and you then assign the results to a particular MRO, is not permitted.

(c) You must not transmit drug test results directly from the laboratory to the employer (by electronic or other means) or to a service agent who forwards them to the employer. All confirmed laboratory results must be processed by the MRO before they are released to any other party.

(d) You must not act as an intermediary in the transmission of alcohol test results of 0.02 or higher from the STT or BAT to the DER.

(e) Except as provided in paragraph (f) of this section, you must not act as an intermediary in the transmission of individual SAP reports to the actual employer. That is, the SAP may not send such reports to you, with you in turn sending them to the actual employer. However, you may maintain individual SAP summary reports and follow-up testing plans after they are sent to the DER, and the SAP may transmit such reports to you simultaneously with sending them to the DER.

(f) As an exception to paragraph (e) of this section, you may act as an intermediary in the transmission of SAP report from the SAP to an owner-operator or other self-employed individual.

(g) Except as provided in paragraph (h) of this section, you must not make decisions to test an employee based upon reasonable suspicion, post-accident, return-to-duty, and follow-up determination criteria. These are duties the actual employer cannot delegate to a C/TPA. You may, however, provide advice and information to employers regarding these testing issues and how the employer should schedule required testing.

(h) As an exception to paragraph (g) of this section, you may make decisions to test an employee based upon reasonable suspicion, post-accident, return-to-duty, and follow-up determination criteria with respect to an owner-operator or other self-employed individual.

(i) Except as provided in paragraph (j) of this section, you must not make a determination that an employee has refused a drug or alcohol test. This is a non-delegable duty of the actual employer. You may, however, provide advice and information to employers regarding refusal-to-test issues.

(j) As an exception to paragraph (i) of this section, you may make a determination that an employee has refused a drug or alcohol test, if:

(1) You schedule a required test for an owner-operator or other self-employed individual, and the individual fails to appear for the test without a legitimate reason; or

(2) As an MRO, you determine that an individual has refused to test on the basis of adulteration or substitution.

(k) You must not act as a DER. For example, while you may be responsible for transmitting information to the employer about test results, you must not act on behalf of the employer in actions to remove employees from safety-sensitive duties.

(l) In transmitting documents to laboratories, you must ensure that you send to the laboratory that conducts testing only Copy 1 of the CCF. You must not transmit other copies of the CCF or any ATFs to the laboratory.

(m) You must not impose conditions or requirements on employers that DOT regulations do not authorize. For example, as a C/TPA serving employers in the pipeline or motor carrier industry, you must not require employers to have provisions in their DOT plans

Guam Regional Transit Authority

that PHMSA or FMCSA regulations do not require.

(n) You must not intentionally delay the transmission of drug or alcohol testing-related documents concerning actions you have performed, because of a payment dispute or other reasons.

Example 1 to Paragraph (n): A laboratory that has tested a specimen must not delay transmitting the documentation of the test result to an MRO because of a billing or payment dispute with the MRO or a C/TPA.

Example 2 to Paragraph (n): An MRO or SAP who has interviewed an employee must not delay sending a verified test result or SAP report to the employer because of such a dispute with the employer or employee.

Example 3 to Paragraph (n): A collector who has performed a urine specimen collection must not delay sending the drug specimen and CCF to the laboratory because of a payment or other dispute with the laboratory or a C/TPA.

Example 4 to Paragraph (n): A BAT who has conducted an alcohol test must not delay sending test result information to an employer or C/TPA because of a payment or other dispute with the employer or C/TPA.

(o) While you must follow the DOT agency regulations, the actual employer remains accountable to DOT for compliance, and your failure to implement any aspect of the program as required in this part and other applicable DOT agency regulations makes the employer subject to enforcement action by the Department.

[65 FR 79526, Dec. 19, 2000, as amended at 66 FR 41955, Aug. 9, 2001; 75 FR 59108, September 27, 2010]"

FTA Rule Requirement:	Section 655.71(a) states: "An employer shall maintain records of its anti-drug and alcohol misuse program as provided in this section. The records shall be maintained in a secure location with controlled access."
Corrective action taken:	KEI, GST, and MHI have adopted their own FTA-complaint drug and alcohol policy since February 1, 2016. Accordingly, GRTA has extricated itself from the direct management of its contractors testing programs.
FTA finding on review:	Adequate

KLOPPENBURG ENTERPRISES, INC.

There are no open findings for Kloppenburg Enterprises, Inc.

Drug and Alcohol Program Manager Interview

Drug and Alcohol Program Manager Interview-1

Ques. # **Resolved Date:** 3/31/2016

1 Question: Do you have a copy of the DOT and Federal Transit Administration testing regulations 49 CFR Parts 40 and 655?

Answer: I don't know what that is.

Supplemental Answer: In response to this audit finding, submit to FTA a statement certifying that you have secured and familiarized yourself with 49 CFR Part 655 and 49 CFR Part 40.

FTA Rule Requirement: Section 655.11 states: "Each employer shall establish an anti-drug use and alcohol misuse program consistent with the requirements of this part."
The DAPM should have available 49 CF Part 655 to use as a resource in complying with the FTA drug and alcohol testing requirements.

Corrective action taken: Question: I See attached signed statement by Judy V. Aguigui and covered employee's acknowledgment of the Drug and Alcohol Policy.
Attachment: Signed statement acknowledged by Judy V. Aguigui.
Attachment: Employees receipt and acknowledgment of Kloppenburg Enterprises, Inc. (KE1) Drug and Alcohol Policy. (Revised February 1, 2016)
Attachment: Kloppenburg Enterprises, Inc. (KEI) Revised Drug and Alcohol Policy Attachment: KEI Resolution 2016-2017
Corrective Action Date: February 1, 2016

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1 1#4

Kloppenburger
Enterprises Inc
P.O. BOX 6098
Tamuning, Guam 96931

KEI'S Response to FY2016 FTA Compliance Audit and Findings

Question: 1 Attachment-Statement

"1, Judy Aguigui Human Resources Manager/DER of Kloppenburg Enterprises, Inc., certify that I have secured and familiarized myself with 49 CFR Part 655 and 49 CFR Part 40. Thus, as KEI's ER Manager, I revised our Drug and Alcohol Policy based upon the subject CFRs in complying with the FTA drug and alcohol testing requirements. KEI Drug and Alcohol Policy will be explained and distributed to all of KE1 covered employees"
Acknowledged by:

Judy Aguigui- Resources Manager Date Kloppenburg Enterprises, Inc.

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-2

Ques. # **Resolved Date:** 3/31/2016

14 Question: What information do you provide to the collection site for each DOT test you are requesting?

**Guam Regional Transit Authority
Kloppenburger Enterprises, Inc.**

Answer: Anything else.

Supplemental Answer: There is no evidence the transit system provides the SSN or Emp ID number or the name of the DER. In response to this audit finding, submit to FTA, on transit system letterhead, the procedures implemented to ensure that all information detailed in section 40.14 is provided to the collector conducting the urine specimen collection. Should any forms or other materials be changed or adopted to meet this requirement, submit legible copies of those as well.

FTA Rule Requirement: Section 40.14 states: "As an employer, or an employer's service agent - for example a C/TPA, you must ensure the collector has the following information when conducting a urine specimen collection for you: (a) Full name of the employee being tested. (b) Employee SSN or ID number. (c) Laboratory name and address (can be pre-printed on the CCF). (d) Employer name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-A). (e) DER information required at § 40.35 of this part. (f) MRO name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-B). (g) The DOT Agency which regulates the employee's safety-sensitive duties (the checkmark can pre-printed in the appropriate box on the CCF at Step 1-D). (h) Test reason, as appropriate: Pre-employment; Random; Reasonable Suspicion/Reasonable Cause; Post-Accident; Return-to-Duty; and Follow-up. (i) Whether the test is to be observed or not (see § 40.67 of this part). (j) (Optional) C/TPA name, address, phone, and fax number (can be pre-printed on the CCF)."
[65 FR 79526, Dec. 19, 2000, as amended at 75 FR 59107, September 27, 2010]

Corrective action taken:

Question: 14

Section 40.14-Effective February 1, 2016 KEI will provide the following forms to the collector:

1. Order for Testing: (See attached form)
 - a. Full name of the employee being tested
 - b. Employee SSN
 - c. Manager Authorizing Test
 - d. Laboratory Name and address (see attached Pre-printed Federal Drug testing custody and control form-Reliance Testing.)
 - e. MRO information provide by collection site (see attached Pre-printed Federal Drug testing custody and control form-Reliance Testing.)
 - f. Name of the Transport supervisor (Date and Time)
 - g. Test Authority (DOT/NON DOT)
 - h. Type of Test (Drug/Alcohol/Both)
 - i. Test reason as appropriate: pre-employment, random, reasonable suspicion, post-accident, and retest.
 - j. Whether the test is to be observed or not
 - k. DER information
 - l. Special Instruction
 - m. Date & time sent, reported and tested
2. Notification Form: See attached form
 - a. Employee Identification-Employee Name (Donor)
 - b. Employee SSN
 - c. Dept./Supervisor
 - d. Type of test (Drug/Alcohol/Both)
 - e. DOT/NONDOT
 - f. Reason for testing (Random, pre-employment, post-accident, reasonable suspicion, and other)
 - g. Selection, Notification, and Testing
 - h. Date selected, tested, notified and location
 - i. Employer signature and date
 - j.. Collection person signature and date

Order For Testing Forms-Filled out, and give to employee and present to the collectors

Notification Form (employee identification)-Filled out, and give to employee and present to the collectors, to attached with the Federal Drug Testing custody and control form.

Attachment: 1. Order for Testing
2. Employee Identification Form

Corrective Action Date: February 1, 2016

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-3

Ques. # **Resolved Date:** 3/31/2016

17 Question: Have all safety-sensitive employees received at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use?

Answer: We do not conduct this training.

Supplemental Answer: In response to this audit finding, provide documentation that the 60-minute drug awareness training has been delivered to all safety-sensitive employees who have not yet received it. This documentation shall include sign-in sheets for the training, including the signatures of all attendees, as well as the date and time of the training; identification of the trainer; and a brief synopsis of the topics covered during the training. For operational purposes, the training may be delivered over several sessions to accommodate employee schedules and minimize disruption.

FTA Rule Requirement: Section 655.14(b)(1) states: "Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use. "

Corrective action taken: Question: 17-Section 655.14 (b)(1): All KEI covered employees will undergo Drug and Alcohol Training. Each Employees will certify that they have received 60 minutes of training on the effects and consequences of alcohol misuse and prohibited drug use on health, safety, personal life, and the work environment, and on the signs and symptoms which may indicate such use in accordance with Title 49 CFR 655.14 (b) (1).

Attachment: Drug and Alcohol Training for covered employees Sign-in Sheet (Including signatures of all attendees, as well as the date and time of the training, and identification of the trainer.

Attachment: A brief synopsis of the topics covered during the training.

Corrective Action Date: 1st Training Class-March 4, 2016 2nd Training Class-March 10, 2016 3rd Training Class-March 11 2016 4th Training Class-March 13, 2016 5th Training Class-March 20, 2016 6th Training Class-March 21, 2016

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-4

Ques. # **Resolved Date:** 3/31/2016

18 Question: Have all employees authorized to initiate FTA reasonable suspicion testing received at least 60 minutes of training on the indicators of probable drug use, and 60 minutes of training on the indicators of probable alcohol misuse?

**Guam Regional Transit Authority
Kloppenburger Enterprises, Inc.**

Answer: That training hasn't yet been scheduled.

Supplemental Answer: In response to this audit finding, affirm that all company officers who have the authority to require Reasonable Suspicion testing, have received the required training. Provide a copy of the sign-in sheet for the training, the date of the training and an agenda for the training session.

FTA Rule Requirement: Section 655.14(b)(2) states: "Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Corrective action taken: Question: 18 Section 655.14 (b) (2): All KEI Supervisors/Managers will undergo Reasonable Suspicion Training. Each Supervisors/Manager will certify that they have received 60 minutes of training describing the physical, behavioral, speech and performance indicators of alcohol misuse and 60 minutes of training on the performance indicators or probable drug use.

Here is the description of training below. Please also include both attachments for item #20 on your audit, sample form and quick reference guide for documenting reasonable suspicion testing/decision making. Please make sure that SANKO and MHI also uses the EXACT same form attached for its drivers.

Classroom training for covered employees (60 minutes)

- The devastating effects that drugs and alcohol have on personal health and career
- The often tragic consequences of drug and alcohol abuse
- DOT regulations and how to comply
- Company drug policy review

Classroom training - Reasonable Suspicion Training for Supervisors

- All persons designated to supervisor drivers must receive at least 60 minutes of training on alcohol misuse and 60 minutes of training on controlled substances use
- The reasonable suspicion process (observe, confirm, document, confront and test)
- How supervisors should approach a driver who may be impaired, and techniques that can help ease a difficult situation
- Documenting observed behavior, and the requirements for doing so
- What happens after the driver is tested
- The warning signs of alcohol misuse and drug abuse, and what supervisors should look for when determining reasonable suspicion
- The effects of alcohol and drugs on the body
- supervisors gain the knowledge and confidence they need to make reasonable suspicion determinations, and help protect your company, your drivers, and the general driving public
- The devastating effects that drugs and alcohol have on personal health and career
- The often tragic consequences of drug and alcohol abuse
- DOT regulations and how to comply
- Company drug policy review

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-5

Ques. # **Resolved Date:** **3/31/2016**

20 Question: Does this transit system document Reasonable Suspicion referrals?

 Answer: No.

Supplemental Answer: The transit system does not currently have, or utilize a form or have any other procedure for recording Reasonable Suspicion decision-making. In response to this audit finding, describe the procedure that has been implemented by the transit system for documenting Reasonable Suspicion referrals. If this procedure includes a form, provide a copy of that form with your response.

FTA Rule Requirement: Section 655.71(c) states: "The following specific records must be maintained:
(1) Records related to the collection process: ...
(iii) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests."

Corrective action taken: Question 20 Section 655.71 (c) KEI has incorporated Flowcharts for step by step procedure on recording Reasonable Suspicion decision-making.
1. Reasonable Suspicion Process: to document observed employee behaviors, signs/symptoms, confirmed suspicion and Have employee complete a Drug/Alcohol test.
2. Reasonable Suspicion Documentation Form- To be filled out by a trained Supervisor or manager during the Reasonable Suspicion Process.
3. Reasonable Suspicion Drug and Alcohol Testing-Procedures to following for Drug/Alcohol testing.
Attachments: 1. Reasonable Suspicion Process-Quick Reference
2.Observed Behavior Reasonable Suspicion Record 3. Reasonable Suspicion Testing-Flowchart (B)orrective Action Date: February 1, 2016

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-6

Ques. # **Resolved Date:** **3/31/2016**

22 Question: How do you record the first date that new hires or transferees begin safety-sensitive functions?

 Answer: We do not track that date.

Supplemental Answer: In response to this finding, provide a protocol for assuring that DOT pre-employment drug test results have been received before an employee performs a safety-sensitive function.

FTA Rule Requirement: Section 655.41(a)(1) states: "Before allowing a covered employee or applicant to perform a safety-sensitive function for the first time, the employer must ensure that the employee takes a pre-employment drug test administered under this part with a verified negative result. An employer may not allow a covered employee, including an applicant, to perform a safety-sensitive function unless the employee takes a drug test administered under this part with a verified negative result."

Corrective action taken: Question: 22 Section 655,41 (a) (1) KEI has incorporated in our revised Drug and Alcohol policy a step by step procedure on Pre-employment Drug Testing. KEI's DER will fill out a Pre-Employment documentation summary sheet and a Pre-employment tracking log.
Attachments: 1. Pre-employment Flowchart (A)

- 2. KEIs Pre-employment Documentation Summary sheet
 - 3. Pre-Employment Test Tracking Log
- Corrective Action Date: February 1, 2016

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-7

Ques. # **Resolved Date:** 3/31/2016

25 Question: When a safety-sensitive employee is to be on extended leave (90 or more consecutive days) and will not be performing safety-sensitive functions, how do you handle their placement in the DOT random testing pool and do you do anything upon their return and prior to their performance of safety-sensitive function?

Answer: Don't know.

Supplemental Answer: In response to this audit finding, submit to FTA a signed statement affirming that the DAPM has reviewed and understands Section 655.41(d). In addition provide a description of the procedures developed to meet the requirements of 655.41(d).

FTA Rule Requirement: Section 655.41(d) states: "When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result."

Corrective action taken: Question: 25 Section 655.41 (d) KEI has incorporated in our revised Drug and Alcohol Policy a step by step procedure on Pre-employment Process when a safety sensitive employee is to be on extended leave (90 or more consecutive days).
Prior to placing a covered employee to a safety-sensitive function, when the employee had more than 90 consecutive days of extended leave, the covered employee shall undergo Pre-employment drug testing;
The test results received by KEI's DER from the testing site is verified "negative", the covered employee shall return to perform safety-sensitive function and also to be placed on KEI's random selection pool.
Attachment: Signed statement acknowledged by: Judy V.Aguigui, Human Resources Manager/DER
Corrective Action Date: February 1, 2016

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Kloppenbug
Enterprises, Inc
P.O. BOX 6098

Tamuning, Guam 96931 Question: 25 Attachment -Statement
"I, Judy Aguigui Human Resources Manager/DER of Kloppenburg Enterprises, Inc., certify that I have reviewed and understand 49 CFR Part 655.41(d) "When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result."

Acknowledged by:
Judy V. Aguigui
(Human Resources Manager Date Kloppenburg Enterprises, Inc.)

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-8

Ques. # Resolved Date: 3/31/2016

26

Question: At what point in the hiring process do you ask the applicant or transferee whether or not they have failed or refused a DOT pre-employment test in the previous two years?

Answer: We do not currently ask that question.

Supplemental Answer: In response to this finding, submit a statement on company letterhead affirming an understanding of Section 40.25(j). If the procedures include the use of a form, include a copy of the form in your response.

FTA Rule Requirement: Section 40.25(j) states: "As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section)."

Corrective action taken: Question: 26 - Section 40.25 (j) KEI will fill out the Release of Information form and Fax or email to the Applicants previous employer. If the applicant had a positive result, the Human Resources Manager will fill out an Applicant Notification of a Positive Drug/Alcohol Screen. KEI HR Manager will meet with the applicant and let the applicant know that he or she must be evaluated by a Substance Abuse Professional (SAP). Furthermore, applicant will be referred to a SAP if the applicant has not successfully completed the return to duty process.

Procedure:

1. HR Manager to Fill out Section I, I-A, and I-B of the Release of Information Form.
2. Have applicant sign form and transmit to the previous employer by fax or email.
3. The previous employer shall answer shall answer all items in Section II-A based upon the previous employer's DOT testing records for the last 2 years.
4. If the previous employer's answers "Yes" to item 5, the previous employer shall provide employer's report;
5. If the previous employer answers "Yes" to any of the above items, the previous employer shall provide Return-to-duty documentation such as SAP report(s), follow-up testing record;
6. If the previous employer indicates on all items "No", potential employee shall undergo Pre-employment drug test;
7. The Pre-employment drug test result, received from the testing site is "negative", the potential employee is hired to start to perform safety-sensitive functions.

Attachments: 1. KEI Release of Information Form
Applicant Notification of a Positive Drug/Alcohol Screen and Notice of Availability of Substance Abuse Professional Evaluation Form.
Signed statement acknowledged by: Judy V.Aguigui, Human Resources Manager/DER on Title 49 CFR Part 40.25 (j)

Kloppenburger
Enterprises, Inc.

P.O. BOX 6098
Tamuning, Guam 96931 Question: 26 Attachment-Statement
til, Judy Aguiqui Human Resources Manager/DER of Kloppenburg
Enterprises, Inc., certify that I have reviewed and understand 49 CFR Part
40.250) "As the employer, you must also ask the employee whether he or
she has tested positive, or refused to test, on any pre-employment drug or
alcohol test administered by an employer to which the employee applied
for, but did not obtain, safety-sensitive transportation work covered by DOT
agency drug and alcohol testing rules during the past two years. If the
employee admits that he or she had a positive test or a refusal to test, you
must not use the employee to perform safety- sensitive functions for you,
until and unless the employee documents successful completion of the
return-to-duty process. (See paragraph (b) (5) and (e) of this section.
Acknowledged by:

Judy V. Guigui- Human Resources Manager Date Kloppenburg
Enterprises, Inc.

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-9

Ques. # **Resolved Date:** 3/31/2016

29 Question: How frequently does this employer or the C/TPA make random selections?

Answer: We select less frequently than quarterly.

Supplemental Answer: Currently, GRTA makes the random selections once a year, as can be seen in the
Random Testing graph. In response to this audit finding, provide documentation that a
procedure has been adopted to ensure that random draws are conducted on a regular,
predictable basis and that they occur at least quarterly.

FTA Rule Requirement: Section 655.45(e) states: "... Under the selection process used, each covered employee
shall have an equal chance of being tested each time selections are made."

Generating random selection lists infrequently increases the chance t employee turnover
will make meeting Section 655.45(e) unattainable because the transit system does not
have an effectively updated testing pool.

The preamble to Part 655 states: "FTA believes that the public safety interest is promoted
with random testing that is truly random and unpredictable. However, FTA believes that
requiring random testing to be conducted at least quarterly strikes a reasonable balance
while considering the rule's impact on employers in rural areas."

Corrective action taken: Question: 29- Section 655.45 (e) Random Selection for KEI will be on a
quarterly basis:
1. Random Drug and Alcohol selection and testing shall be conducted
quarterly to ensure that the selection and testing are done on a regular
predictable basis:
1st Quarter Drug and Alcohol Selection and testing shall be completed
within the months January 1st to March 31, of each year;
2nd Quarter Drug and Alcohol Selection and testing shall be from April 1st
to June 30, of
each year;
3rd Quarter Drug and Alcohol Selection and testing shall be from July 1 to
September 30, of each year; and
4th Quarter Drug and Alcohol Selection and testing shall be from October
1st to December 31 of each year.

Attachment: Random Testing Flowchart (D)
Correction Action Date: 1st Quarter Drug and Alcohol Testing

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-10

Ques. # **Resolved Date: 3/31/2016**

43 Question: Who is responsible for deciding to perform a FTA post-accident test? (If DAPM, ask for knowledge of thresholds.)

Answer: Nobody has been assigned that responsibility.

Supplemental Answer: Currently, the revenue vehicle operator is the initial person responsible for deciding if an accident met post-accident testing thresholds. This sometimes results in testing decisions being delayed several hours, as can be seen in the Post-Accident graph. In response to this audit finding, submit to FTA a statement indicating that you understand the accident thresholds as defined in section 655.4 below and that you have developed a procedure to ensure that post-accident testing is performed as soon as possible. Provide documentation of that procedure.

FTA Rule Requirement: Section 40.3 defines "Designated employer representative (DER)" as "An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs."

Corrective action taken: Question:43- Section 40.3 KEI has incorporated a step by step post-accident procedure. KEI's DER will comply with this section as stated: "Designated employer representative (DER)" as "An employee authorized by the employer to take immediate action(s) to remove employee from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation process. The DER also receives test results and other communication for the employer, consistent with requirement of this part.

Base on the FTA Post-Accident Drug and Alcohol Testing Decision Form, the DER shall acquire all accident information available to decide whether to administer or not to administer drug and alcohol testing and complete the Decision Form.

Attached: 1. KEI's Post-Accident Flowchart (C)
FTA Post-Accident Drug and Alcohol Testing Decision Form

Signed statement acknowledged by: Judy V.Aguigui, Human Resources Manager/DER on Title 49 CFR Part 655.4
Corrective Action Date: February 1, 2016

Question: 43 Attachment-Statement

"I, Judy Aguigui Human Resources Manager/PER of Kloppenburg Enterprises, Inc., certify that I understand the accident thresholds as defined in section 49 CFR Part 655.4 and that KEI has developed a procedure to ensure that post-accident testing is performed as soon as possible.

Acknowledged by:
Judy Aguigu. Human Resources Manager
Kloppenburger Enterprises, Inc

**Guam Regional Transit Authority
Kloppenburger Enterprises, Inc.**

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-11

Ques. # **Resolved Date:** 3/31/2016

63 Question: Would you always conduct return-to-duty and follow-up tests under Direct Observation conditions?
Answer: Other. The DAPM was unaware of the requirement to always conduct return-to-duty and follow-up tests as directly observed.

Supplemental Answer: In response to this audit finding, submit to FTA a statement on company letterhead, that you understand the requirement to always conduct return-to-duty and follow-up tests under Direct Observation conditions. In addition provide to FTA CCFs for all return-to-duty and follow-up tests conducted during the 90-day response period.

FTA Rule Requirement: Section 40.67(b) states: "As an employer, you must direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test."

Corrective action taken: Question: 63 Section 40.67 (b)KEI will comply under this section: "As an employer, you must direct a collection under direct observation of an employee if the drug test is return-to-duty or a follow-up test'. KEI's DER will order test for Return-to-duty and follow-up, for direct observation.
Attachment: Signed statement acknowledged by: Judy V.Aguigui, Human Resources Manager/DER on Title 49 CFR Part 40.67(b)
Corrective Action Date: February 1, 2016

Question: 63 Attachment-Statement
"I, Judy Aguigui Human Resources Manager/DER of Kloppenburg Enterprises, Inc., certify that I understand the requirements to always conduct return-to-duty and follow-up test under Direct Observation conditions and provide to FTA CCFs all return-to-duty and follow-up tests conducted during the 90 day response, as defined in section 49 CFR Part 40.67(b)

Acknowledged by:
Judy V. Aguigui
Human Resources Manager Date Kloppenburg Enterprises, Inc.

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-12

Ques. # **Resolved Date:** 3/31/2016

66 Question: Are you notified of alcohol test results of ≥ 0.02 ? If so, when and by what method?
Answer: I don't know.

Supplemental Answer: The DAPM was unsure of what actions to take following notification of an alcohol test ≥ 0.02 but less than 0.04. In response to this audit finding, submit to FTA evidence indicating that the DAPM/DER understands the required actions following notification of a alcohol confirmation test result greater than 0.02.

FTA Rule Requirement: Section 40.255(a)(5) states: "Immediately transmit the result directly to the DER in a confidential manner.
(i) You [the BAT] may transmit the results using Copy 1 of the ATF, in person, by telephone, or by electronic means. In any case, you must immediately notify the DER of any result of 0.02 or greater by any means (e.g., telephone or secure fax machine) that ensures the result is immediately received by the DER. You must not transmit these

**Guam Regional Transit Authority
Kloppenbug Enterprises, Inc.**

results through C/TPAs or other service agents."

Corrective action taken: Question: 66-Section 40.255 (a) (5) KEI'S revised Drug and Alcohol Policy states on page 10: 1.13 System Contact and Designated Employer Representative (DER) 'Any person with questions regarding this policy or any other aspects of the Drug-free and alcohol -free transit programs should contact the following designated employer representative:
Kloppenbug Enterprises, Inc. (KEI) KEI Alternate DER
Judy V. Aguigui-HR Manager Lisa Blas-Assistant HR
Tel: 671-649-1941/2 ext. 205 Tel: 671-649-1941/2 ext. 208
Fax: 671-649-3253 Fax: 671-649-3253
Email: judyhrdkeiguam.com Email: lisahrd@keiguam.com

Procedure: The testing site shall transmit immediately the result to the DER in a confidential matter

Attachment: Signed statement acknowledged by: Judy V. Aguigui, Human Resources Manager/DER on Title 49 CFR Part 40.255 (a) (5).

Attachment: Page 10 of KEIs Drug and Alcohol Policy section 1.13 System Contact and Designated Employer Rep. (DER)

Corrective Action Date: February 1, 2016

Question: 66 Attachment-Statement

"I, Judy Aguigui Human Resources Manager/DER of Kloppenburg Enterprises, Inc., certify that I understand the required actions following notification of a alcohol confirmation test result greater that 0.02 as defined in section 49 CFR Part 40.255(a)(5)

Acknowledged by:

Judy . Aguigu

Human Resources Manager Date

Kloppenbug Enterpnses, Inc.

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-13

Ques. # **Resolved Date:** **3/31/2016**

73 Question: Are you aware of all safety-sensitive contracts, and do you monitor contractor compliance with Parts 40 and 655?

Answer: I don't know.

Supplemental Answer: KEI contracts safety-sensitive functions to two contractors, but is unaware that KEI is responsible for contractor compliance with FTA and DOT drug and alcohol regulations and requirements. In response to this audit finding, provide documentation that all contractors performing safety-sensitive functions are in full compliance with DOT and FTA drug and alcohol regulations as stated in Section 40.11 and Section 655.81 below.

FTA Rule Requirement: Section 40.11 states: "(b) You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations.

© All agreements and arrangements, written or unwritten, between and among employers and service agents concerning the implementation of DOT drug and alcohol testing requirements are deemed, as a matter of law, to require compliance with all applicable provisions of this part and DOT agency drug and alcohol testing regulations. Compliance wit these provisions is a material term of all such agreements and arrangements."

Section 655.81 states: "A grantee shall ensure that the recipients of funds under 49 U. S. C. 5307, 5309, 5311 or 23 U.S.C. 103(e)(4) comply with this part [49 CFR Part 655]."

**Guam Regional Transit Authority
Kloppenburger Enterprises, Inc.**

Correctly identifying contractors who must comply with FTA drug and alcohol testing requirements is the first step in the oversight process."

Corrective action taken: Question: 73-Section 40.11
Attachment: Signed statement acknowledged
by: Bruce E. Kloppenburg-President of Kloppenburg Enterprises, Inc.
by: Bradley D. Kloppenburg-VP/Director of Bus Operations of Kloppenburg Enterprises, Inc.
by: Primitivo V. Borja-General Manager of Bus Operations of Kloppenburg Enterprises, Inc.
by: Kevin T. Rugante-General Manager of Maintenance of Kloppenburg Enterprises, Inc.
by: Judy V. Aguigul-Human Resources Manager of Kloppenburg Enterprises, Inc.
Corrective Action Date: February 1, 2016

Question: 73 Attachment-Statement
"We, the undersigned Executive Managers/Managers of Kloppenburg Enterprises, Inc. (KEI), certify that we and our Contractors performing safety-sensitive functions are in full compliance with DOT and FTA Drug and alcohol regulations as stated in section 49 CFR Part 40.11 and Section 655.81 below.

As an employer, you are responsible for meeting all applicable requirements and procedures of this part.

Section 40.11 states: "(b) You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations.

All agreements and arrangements, written or unwritten, between, and among employers and service agents concerning the implementation of DOT drug and alcohol testing requirements are deemed, as a matter of law,

to require compliance with all applicable provisions of this part and DOT agency drug and alcohol testing regulations. Compliance with these provision is a material term of all such agreements and arrangements."

Section 655.81 states: "A grantee shall ensure that the recipients of funds under 49 U.S. C. 5307, 5307, 5311 or 23 U.S.C. 103 (e) (4) comply with this part [49 CFR Part 655]"

Correctly identifying contractors who must comply with FTA drug and alcohol testing requirements is the first step in oversight process."

Acknowledged by:

Bruce J. Kloppenburg-President

Bradley Koppeburg VP/Director of Bus Operations Primitivo Borja-GM of Bus Operations

Kevin T. Ruante-General Manager of Maintenance

Judy. Auigui-Human Resources Manager

FTA finding on review: Adequate

Urine Collections Interview

Urine Collections Interview-1

Ques. # **Resolved Date:** 3/31/2016

**Guam Regional Transit Authority
Kloppenburger Enterprises, Inc.**

- 46** Question: What is done if an employee says he/she is not ready to proceed with the urine collection process because an employee representative is delayed in arriving?
Answer: Call the employees company.
- Supplemental Answer: In response to this audit finding, submit to FTA on company letterhead a statement signed by each collector at this facility certifying an understanding of the requirements of section 40.61(b) below.
- FTA Rule Requirement: Section 40.61(b) states: "[The collector must] Ensure that, when the employee enters the collection site, you begin the testing process without undue delay. For example, you must not wait because the employee says he or she is not ready or is unable to urinate or because an authorized employer or employee representative is delayed in arriving."
- Corrective action taken: 1, JOANNIE HALL NEAL, reviewed CER 40.61 (b) with Reliance Testing collectors. Collector signature below affirms their understanding that the DOT testing process MUST be in without undue delay. Signed by all collectors.
- FTA finding on review: Adequate

Urine Collections Interview-2

Ques. # **Resolved Date:** **3/31/2016**

- 54** Question: If an employee provides an adulterated or out-of-temperature sample, and refuses to allow a second specimen to be collected under observed collection, what is done with the initial sample?
Answer: Send it to the lab.
- Supplemental Answer: In response to this audit finding, submit to FTA on company letterhead a statement signed by each collector at this facility certifying an understanding of the requirement to discard the original specimen in this case, per section 40.65(b)(7) below.
- FTA Rule Requirement: Section 40.65(b)(7) states: "In a case where the employee refuses to provide another specimen (see Section 40.191(a)(3)) or refuses to provide another specimen under direct observation (see Section 40.191(a)(4)), you must notify the DER. As soon as you have notified the DER, you must discard any specimen the employee has provided previously during the collection procedure."
- Corrective action taken: RELIANCE TESTING RESPONSE
I. JOANNIE HALL NEAL. reviewed CFR 4065 (b) (5) (7) and CFR 40.191 (4) with Reliance Testing collectors, Collector signature below affirms their understanding that if an employee provides an adulterated or out of temperature specimen (below 90F or above 100F). 1) Collector must collect initial sample 2) Proceed immediately with a new collection under direct observed collection. Collector must be the same gender as donor to perform direct observed collection.
If the donor REFUSES to allow a second specimen to be collected under directly observed collection the collector will immediately notify the DER. As soon as the DER is notified, the collector MUST DISCARD the initial specimen. No specimen will be sent to the laboratory. This is a REFUSAL to test. Collector will document refusal to test on new CCF and transmit by fax or email to DER and MRO immediately.
Signed by all collectors
- FTA finding on review: Adequate

Urine Collections Interview-3

Ques. # **Resolved Date:** **3/31/2016**

60 Question: If the employee is unable to provide a specimen of at least 45 milliliters, what is done?

Answer: While the collector knows the 40oz/3hr rule requirement, the collection site does not currently have a method to consistently and accurately provide 40 ounces of fluid to each donor requiring that amount.

Supplemental Answer: Reliance Testing currently provides the donor five 8.5-ounce cups of water, filling each cup somewhat less than full. The collectors indicated they have not measured the cups to determine where the appropriate fill-line would be for the provision of eight ounces of water, such that the 40-ounce allowance can be consistently met for each DOT donor undergoing the "shy bladder" process.

In response to this audit finding, submit to FTA on company letterhead a description of the steps Reliance Testing has taken to ensure that each DOT donor can be provided 40 ounces of fluid, as required by section 40.139(b) below.

FTA Rule Requirement: Section 40.193(b) states: "As the collector, you must do the following: (2) Urge the employee to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the individual has provided a sufficient urine specimen, whichever occurs first. It is not a refusal to test if the employee declines to drink. Document on the Remarks line of the CCF (Step 2), and inform the employee of, the time at which the three-hour period begins and ends."

Corrective action taken: **RELIANCE TESTING RESPONSE**
Our collectors understand the 40oz within 3 hours rule. Our facility did not have a consistent and accurate method to measure 40oz of fluids to each donor.

I, JOANNIE HALL NEAL reviewed CFR 40.193 (2) with Reliance Testing collectors. Collector signature below affirms their understanding that we will provide bottled water labeled at Boz each. Donor may drink up to five Boz bottled water spread out reasonably within 3 hours of shy bladder window. Signed by all collectors.

Thank you, the on-site urine collections interview was a wonderful learning experience for us here! We value your comments. We are always dedicated to maintaining the highest standards in DOT and Non DOT collections. Please feel free to call if you have any questions or require further information.
JOANNIE HALL NEAL

FTA finding on review: Adequate

Substance Abuse Professional Interview

Substance Abuse Professional Interview-1

Ques. # **Resolved Date:** 3/31/2016

4 Question: What is the overarching function of a SAP as described in the Part 40 regulations?

Answer: I don't know or don't remember.

Supplemental Answer: The SAP did not recognize the term "Part 40 regulations" and could not provide evidence of having taken a SAP exam. It is noted that the individual is a qualified drug and alcohol counselor but is not qualified, without having taken a SAP course and passed the examination, to be a Substance Abuse Professional (SAP).

In response to this audit finding, GRTA shall affirm it and the contractors recognize that, unless and until this individual is a qualified SAP, GRTA and the contractors may not refer employees requiring a SAP evaluation to her.

**Guam Regional Transit Authority
Kloppenburger Enterprises, Inc.**

FTA Rule Requirement: Section 40.291(b) states: "As a SAP, you are not an advocate for the employer or employee. Your function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education/treatment, follow-up tests, and aftercare."

Corrective action taken: Please refer to the attachment on Question Number 4.
The Guam Regional Transit Authority (GRTA) affirms and its third party transit contractors acknowledge that unless and until Ms. Linda Laba is a qualified FTA SAP, GRTA and its third party transit contractors shall not refer employees requiring a SAP evaluation to the subject individual.

FTA finding on review: Adequate

Guam Sanko Transportation and Micronesia Hospitality, Inc. There are no open findings for GST or MHI

Drug and Alcohol Program Manager Interview

Drug and Alcohol Program Manager Interview-1

Ques. # **Resolved Date:** 3/31/2016

1 Question: Do you have a copy of the DOT and Federal Transit Administration testing regulations 49 CFR Parts 40 and 655?

 Answer: I don't know what that is.

Supplemental Answer: In response to this audit finding, submit to FTA a statement certifying that you have secured and familiarized yourself with 49 CFR Part 655 and 49 CFR Part 40.

 FTA Rule Section 655.11 states: "Each employer shall establish an anti-drug use and alcohol Requirement: misuse program consistent with the requirements of this part."
 The DAPM should have available 49 CF Part 655 to use as a resource in complying with the FTA drug and alcohol testing requirements.

Corrective action Purpose: Response to FTA Final Audit (Question 1);
taken: (One from Guam Sanko Transportation, Inc. & the other from Micronesia Hospitality, Inc.)
 - Drug and Alcohol Policy (30 pages each).
 (One from Guam Sanko Transportation, Inc. & the other from Micronesia Hospitality, Inc.)
 - Resolution No.; 2016-2017
 (One from Guam Sanko, Inc. & ther other from Micronesia Hospitality, Inc.)
 - Signed Copies of "Employee Receipt of Policy" (total of 33 pages to include employees of Guam Sanko & Micronesia Hospitality, Inc.)

"I, Antonio O. Tubiera, General Manager of Guam Sanko Transportation, inc. (GST) certify that I have secured and familiarized the 49 CFR Part 655 and 49 Part 40. Additionally, I confirm that our Drug and Alcohol Policy was revised on February 1, 2016, to be compliant with the FTA Drug and Alcohol testing requirements. The revised policy is attached and further explanation will be executed to all GST covered employees upon distribution."

Resolution No.: 2016-2017

WHEREAS, 49 C.F.R. Part 655 and 40. As amended, require GRTA's third party transit contractors to prepare and establish a Drug and Alcohol Testing Policy subject to DOT approval; and

WHEREAS, Guam Sanko Transportation, Inc. (GST) desires to adopt a policy to establish guidelines to maintain a drug and alcohol free workplace in compliance with the Drug-Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991, and

WHEREAS, GST desires to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry including the Federal Transit Administration of the U.S Department of Transportation regulations published in 49 C.F.R. Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive position, and prohibits performance of safety-sensitive functions when there is a positive test result, and the regulations published in 49 C.F.R. Part 40, as amended, that sets standards for the collection and

**Guam Regional Transit Authority
Guam Sanko Transportation and Micronesian Hospitality, Inc.**

testing of urine and breath specimens; and
WHEREAS, GST also intends its policy to comply with the applicable requirements of the Drug-Free Workplace Act of 1988.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF GUAM SANKO TRANSPORTATION, INC.:

1. That GST's Drug and Alcohol Testing Policy which is attached hereto as Exhibit "A" is hereby accepted and approved by the Board of Directors, the governing body of MHI.

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF GUAM SANKO TRANSPORTATION, INC.:

1. That a copy of this Resolution and GST's Drug and Alcohol Testing Policy attached hereto be submitted the GST's Drug and Alcohol Testing Program Manager for notice and dissemination to all affected employees, as required by federal regulations.

DULY AND REGULARLY ADOPTED ON THIS 1ST DAY OF FEBURARY 2016

=====

"I, Satoshi Gomi , Assistant General Manager of Micronesian Hospitality, Inc. (MHI) certify that I have secured and familiarized the 49 CFR Part 655 and 49 Part 40. Additionally, I confirm that our Drug and Alcohol Policy was revised on February 1, 2016 and to be compliant with the FTA Drug and Alcohol testing requirements. The revised policy is attached and further explanation will be executed to all MHI covered employees upon distribution."

kmc=MICRONESIAN HOSPITALITY, INC.
360 Chalan Pasaberu, Route 10-A Tinrning, Guam 96913
Tel: (671) 646-6300 • Fax: (671) 646-5733
Resolution No.: 2016-2017

WHEREAS, 49 C.F.R. Part 655 and 40. As amended, require GRTA's third party transit contractors to prepare and establish a Drug and Alcohol Testing Policy subject to DOT approval; and

WHEREAS, Micronesian Hospitality, Inc. (MHI) desires to adopt a policy to establish guidelines to maintain a drug and alcohol free workplace in compliance with the Drug-Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991, and

WHEREAS, MHI desires to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry including the Federal Transit Administration of the U.S Department of Transportation regulations published in 49 C.F.R. Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive position, and prohibits performance of safety-sensitive functions when there is a positive test result, and the regulations published in 49 C.F.R. Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens; and

WHEREAS, MHI also intends its policy to comply with the applicable requirements of the Drug-Free Workplace Act of 1988.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF MICRONESIAN HOSPITALITY, INC.:

1. That MI-II's Drug and Alcohol Testing Policy which is attached hereto as Exhibit "A" is hereby accepted and approved by the Board of Directors, the

governing body of MHI.

BE IT FURTHER RESOLVED BY THE BOARD OF DIRECTORS OF

MICRONEISAN HOSPITALITY, INC.:

That a copy of this Resolution and MHI's Drug and Alcohol Testing Policy attached hereto be submitted to the MHI's Drug and Alcohol Testing Program Manager for notice and dissemination to all affected employees, as required by federal regulations.

DULY AND REGULARLY ADOPTED ON THIS 1ST DAY OF FEBRUARY 2016.

Norio Nakajima- President Takemitsu Noguchi- Vice President

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-2

Ques. # **Resolved Date:** 3/31/2016

14 Question: What information do you provide to the collection site for each DOT test you are requesting?

Answer: Anything else.

Supplemental Answer: There is no evidence the transit system provides the SSN or Emp ID number or the name of the DER. In response to this audit finding, submit to FTA, on transit system letterhead, the procedures implemented to ensure that all information detailed in section 40.14 is provided to the collector conducting the urine specimen collection. Should any forms or other materials be changed or adopted to meet this requirement, submit legible copies of those as well.

FTA Rule Requirement: Section 40.14 states: "As an employer, or an employer's service agent - for example a C/TPA, you must ensure the collector has the following information when conducting a urine specimen collection for you: (a) Full name of the employee being tested. (b) Employee SSN or ID number. (c) Laboratory name and address (can be pre-printed on the CCF). (d) Employer name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-A). (e) DER information required at § 40.35 of this part. (f) MRO name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-B). (g) The DOT Agency which regulates the employee's safety-sensitive duties (the checkmark can be pre-printed in the appropriate box on the CCF at Step 1-D). (h) Test reason, as appropriate: Pre-employment; Random; Reasonable Suspicion/Reasonable Cause; Post-Accident; Return-to-Duty; and Follow-up. (i) Whether the test is to be observed or not (see § 40.67 of this part). (j) (Optional) C/TPA name, address, phone, and fax number (can be pre-printed on the CCF)."
[65 FR 79526, Dec. 19, 2000, as amended at 75 FR 59107, September 27, 2010]

Corrective action taken: Purpose: Response to FTA Final Audit (Question 14),
(One from Guam Sanko Transportation, Inc. and the other from Micronesia Hospitality, Inc.)

Guam Sanko Transportation, Inc. (GST)
DRUG and ALCOHOL POLICY
Standard Operating Procedure (SOP)
Department: GST Bus Operations

Scope: This SOP applies to GST and the service contractor.

Purpose: Response to FTA Final Audit (Question 14) and to be in Compliance with 49 CFR Part 40 Section 40.14.

Procedure:

1. To ensure that the collector has the following information required when

**Guam Regional Transit Authority
Guam Sanko Transportation and Micronesia Hospitality, Inc.**

conducting a urine specimen, prior to sending employee to collection site, effective February 1, 2016, GST will call the collection site and provide the following information:

- Full name of employee;
- Employee SSN or ID number;
- Laboratory name and address (Pre-printed on the CCF);
- Employer name, address, phone number, and fax number;
- DER information;
- MRO name, address, phone number, and fax number;
- The DOT Agency which regulates the employee's safety-sensitive duties;
- Test reason, as appropriate: Pre-employment, Random, Reasonable Suspicion/Reasonable Cause, Post-Accident, Return-to-Duty, and Follow-up.

2. Furthermore, will call to confirm whether the test is to be observed or not and to remind them that collector's form should include Laboratory's name & address

Acknowledged by:
Antonio O. Tubiera Date General Manager
Guam Sanko Transportation, Inc.
kmc=MICRONESIAN HOSPITALITY, INC.
360 Chalan Pasaheru, Route 10-A Tamuning, Guam 96913
Tel: (671) 646-6300 • Fax: (671) 646-5733

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Micronesia Hospitality, Inc. (MHI)
DRUG and ALCOHOL POLICY
Standard Operating Procedure (SOP)
Department: MHI Bus Operations
Scope: This SOP applies to MHI and the service contractor.
Purpose: Response to FTA Final Audit (Question 14) and to be in Compliance with 49 CFR Part 40 Section 40.14

Procedure:
1. To ensure that the collector has the following information required when conducting a urine specimen, prior to sending employee to collection site, effective February 1, 2016, MHI will call the collection site and provide the following information:

- Full name of employee;
- Employee SSN or ID number;
- Laboratory name and address (Pre-printed in the CCF);
- Employer name, address, phone number, and fax number;
- DER information;
- MAO name, address, phone number, and fax number (Pre-printed in the CCF);
- The DOT Agency which regulates the employee's safety-sensitive duties;
- Test reason, as appropriate: Pre-employment, Random, Reasonable Suspicion/Reasonable Cause, Post-Accident, Return-to-Duty, and Follow-up.

2. Furthermore, will call to confirm whether the test is to be observed or not and to remind them that collector's form should include Laboratory's name & address.

Acknowledged by:
Satoshi Gomi Date Assistant General Manager
Micronesia Hospitality, Inc.

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-3

Ques. # **Resolved Date:** 3/31/2016

17 Question: Have all safety-sensitive employees received at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use?
Answer: We do not conduct this training.

Supplemental Answer: In response to this audit finding, provide documentation that the 60-minute drug awareness training has been delivered to all safety-sensitive employees who have not yet received it. This documentation shall include sign-in sheets for the training, including the signatures of all attendees, as well as the date and time of the training; identification of the trainer; and a brief synopsis of the topics covered during the training. For operational purposes, the training may be delivered over several sessions to accommodate employee schedules and minimize disruption.

FTA Rule Requirement: Section 655.14(b)(1) states: "Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use."

Corrective action taken: Purpose: Response to FTA Final Audit (Question 17);
(One from Guam Sanko Transportation, Inc. and the other from Micronesia Hospitality, Inc.)
- Attendee's Sign in Sheet to include identification of Trainer. (One from Guam Sanko Transportation, Inc. and the other from Micronesia Hospitality, Inc.)
- Synopsis of the topic of training.
(Prepared by JoAnnie Hall Neal from Reliance Testing) - Covers both Guam Sanko Transportation, Inc. and Micronesia Hospitality, Inc.)

Could you please provide a brief synopsis of the topic covered during the training. See attached question no. 17 under the supplemental answer, Thanks.

Judy V. Aguigul HR
14

KloppenbuT

Enterprises Inc.

Judy V. Aguigui

Human Resources Manager Tel: 671-649-194112

Fax: 671-649-3253

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KEI audit response question 17.pdf 86K

JoAnnie Hall Neal <joanniehall@hotmail.com> Wed, Mar 16 2016 at

5:18 AM To: Judy Aguigui <judyhrdkeiguam.com>
Cc: Medical Corner GUAM <mc_guamhotmail.com>

Hi Judy,
QUESTION 17 ATTACHED A BRIEF SYNOPSIS OF THE TOPICS COVERED DURING THE TRAINING
Here is the description of training below. Please also include both attachments for item#20 on your audit, sample form and quick reference guide for documenting reasonable suspicion testing/decision making. Please make sure that SANKO and MHI also uses the EXACT same form attached for its drivers.

- Classroom training for covered employees (60 minutes)
- The devastating effects that drugs and alcohol have on personal health and career
 - The often tragic consequences of drug and alcohol abuse
 - DOT regulations and how to comply
 - Company drug policy review

- Classroom training - Reasonable Suspicion Training for Supervisors
- All persons designated to supervisor drivers must receive at least 60 minutes of training on alcohol misuse and 60 minutes of training on controlled substances use
 - The reasonable suspicion process (observe, confirm, document, confront and test)
 - How supervisors should approach a driver who may be impaired, and techniques that can help ease a difficult situation
 - Documenting observed behavior, and the requirements for doing so
 - What happens after the driver is tested
 - The warning signs of alcohol misuse and drug abuse, and what supervisors should look for when determining reasonable suspicion
 - The effects of alcohol and drugs on the body
 - Supervisors gain the knowledge and confidence they need to make reasonable suspicion determinations, and help protect your company, your drivers, and the general driving public
 - The devastating effects that drugs and alcohol have on personal health and career
 - The often tragic consequences of drug and alcohol abuse
 - DOT regulations and how to comply
 - Company drug policy review

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Guam Sanko Transportation, Inc. (GST)
Department: GST Bus Operations
Purpose: Response to ETA Final Audit (Question 17) and to be in Compliance with 49 CFR Part 655.14 (b) (1)
I, Antonio O. Tubiera, certify that a minimum of 60 minutes Drug Awareness training on the effects and consequences of prohibited drug use on personal health as stated on Section 655.14(b)(1) has been delivered to all safety-sensitive employees who have not yet received it as of March 17, 2016.
Attached are:
Attendee's Sign In Sheet (to include signature, date and time of training);
Identification of Trainer;
Brief synopsis of the topic during the training.
Acknowledged by:

Antonio O. Tubiera Date General Manager

Guam Sanko Transportation, Inc.

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-4

Ques. # **Resolved Date:** 3/31/2016

18 Question: Have all employees authorized to initiate FTA reasonable suspicion testing received at least 60 minutes of training on the indicators of probable drug use, and 60 minutes of training on the indicators of probable alcohol misuse?

Answer: That training hasn't yet been scheduled.

Supplemental Answer: In response to this audit finding, affirm that all supervisors, including dispatchers and any supervisors who have the authority to require Reasonable Suspicion testing, have received the required training. Provide a copy of the sign-in sheet for the training and an agenda for the training session.

FTA Rule Requirement: Section 655.14(b)(2) states: "Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Corrective action taken: Purpose: Response to FTA Final Audit (Question 18).
(One from Guam Sanko Transportation, Inc. and the other from Micronesia Hospitality, Inc.)
- Attendee's Sign in Sheet to include identification of Trainer. (One from Guam Sanko Transportation, Inc. and the other from Micronesia Hospitality, Inc.)
- Synopsis of the topic of training.
(Prepared by JoAnnie Hall Neil from Reliance Testing) - Covers both Guam Sanko Transportation, Inc. and other from Micronesia Hospitality, Inc)

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-5

Ques. # **Resolved Date:** 3/31/2016

20 Question: Does this transit system document Reasonable Suspicion referrals?

Answer: No.

Supplemental Answer: The transit system does not currently have, or utilize a form or have any other procedure for recording Reasonable Suspicion decision-making. In response to this audit finding, describe the procedure that has been implemented by the transit system for documenting Reasonable Suspicion referrals. If this procedure includes a form, provide a copy of that form with your response.

FTA Rule Requirement: Section 655.71(c) states: "The following specific records must be maintained:
(1) Records related to the collection process: ...
(iii) Documents generated in connection with decisions to administer reasonable

**Guam Regional Transit Authority
Guam Sanko Transportation and Micronesia Hospitality, Inc.**

suspicion drug or alcohol tests."

Corrective action taken: Purpose: Response to FTA Final Audit (Question 20);
(One from Guam Sanko Transportation, Inc. and the other from Micronesia Hospitality, Inc.)
- (Appendix A) 'Reasonable Suspicion Record;
(One for both Guam Sanko Transportation, Inc. and Micronesia Hospitality, Inc.)
- Flow Chart (B) 'Reasonable Suspicion Testing";
(One for both Guam Sanko Transportation, Inc. and Micronesia Hospitality, Inc.)
- Flow Chart (C) "Reasonable Suspicion Process"
(One for both Guam Sanko Transportation, Inc. and Micronesia Hospitality, Inc.)

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GUAM SANKO TRANSPORTATION, INC.
P.O. BOX 8562
TAMUNNG, GUAM 96931 U.S.A.
Guam Sanko Transportation, Inc. (GST)
DRUG and ALCOHOL POLICY
Standard Operating Procedure (SOP)
Department: GST Bus Operations
Scope: This SOP applies to GST and the service contractor.
Purpose: Response to FTA Final Audit (Question 20) and to be in Compliance with 49 CFR Part 655.71 (c)

I, Antonio O. Tubiera, ensure that Guam Sanko will maintain Records related to the collection process and document generated in connection with the decisions to administer reasonable suspicion drug or alcohol as of February 1, 2016. Attached (Appendix A) form was created for use during the procedure for Reasonable Suspicion decision and Reasonable Suspicion Flow Chart for guidance.

Acknowledged by:
Antonio O. Tubiera Date General Manager
Guam Sanko Transportation, Inc.

MICRONESIAN HOSPITALITY, INC.
360 Chalan Pasaheru, Route 10-A Tamnung, Guam 96913
Tel: (671) 646-6300 • Fax: (671)646-5733
Micronesia Hospitality, Inc. (MHI)
DRUG and ALCOHOL POLICY
Standard Operating Procedure (SOP)
Department: MHI Bus Operations
Scope: This SOP applies to GST and the service contractor.
Purpose: Response to FTA Final Audit (Question 20) and to be in Compliance with 49 CFR Part 655.71 (c)

I, Satoshi Gomi, ensure that Micronesia Hospitality will maintain Records related to the collection process and document generated in connection with the decisions to administer reasonable suspicion drug or alcohol as of February 1, 2016. Attached (Appendix A) form was created for use during the procedure for Reasonable Suspicion decision and Reasonable Suspicion Flow Chart for guidance.

FTA finding on review: Adequate

Guam Regional Transit Authority
Guam Sanko Transportation and Micronesia Hospitality, Inc.

Drug and Alcohol Program Manager Interview-6

Ques. # **Resolved Date: 3/31/2016**

63 Question: Would you always conduct return-to-duty and follow-up tests under Direct Observation conditions?

Answer: Other.

Supplemental Answer: In response to this audit finding, submit to FTA a statement on company letterhead, that you understand the requirement to always conduct return-to-duty and follow-up tests under Direct Observation conditions. In addition provide to FTA CCFs for all DOT return-to-duty and follow-up tests conducted during the 90-day response period.

FTA Rule Requirement: Section 40.67(b) states: "As an employer, you must direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test."

Corrective action taken: Purpose: Response to FTA Final Audit (Question 63); (One from Guam Sanko Transportation, Inc. and the other from Micronesia Hospitality, Inc.) (Appendix B) Release of Information Form. (One from Guam Sanko Transportation, Inc. and the other from Micronesia Hospitality, Inc.)

Guam Sanko Transportation, Inc. (GST)
DRUG and ALCOHOL POLICY
Standard Operating Procedure (SOP)
Department: GST Bus Operations
Scope: This SOP applies to GST and the service contractor.
Purpose: Response to FTA Final Audit (Question 63) and to be in Compliance with 49 CFR Part 40 Section 40.67(b)
As of February 1, 2016 "I, Antonio O. Tubiera, General Manager of Guam Sanko Transportation, Inc. (GST) certify that I have secured and familiarized the 49 CFR Part 40 Section 40.67(b)."
When test reason is appropriated as return-to duty or a follow up test, prior to sending employee to collection site, employer will call the collection agency and direct them to perform collection under direct observation of the employee.
Attached are testing documents on Return-to-Duty and Follow-Up tests after the FY 2016 Compliance Audit site visit.
Acknowledged by:
Antonio O. Tubiera Date General Manager
Guam Sanko Transportation, Inc

MICRONESIAN HOSPITALITY, INC.
360 Chalan Pasaheru, Route 10-A Tiimuning, Guam 96913
Tel: (671) 646-6300 • Fax: (671) 646-5733
Micronesia Hospitality, Inc. (MHI)
DRUG and ALCOHOL POLICY
Standard Operating Procedure (SOP)
Department: MHI Bus Operations
Scope: This SOP applies to MHI and the service contractor.
Purpose: Response to FTA Final Audit (Question 63) and to be in Compliance with 49 CFR Part 40 Section 4067(b)
As of February 1, 2016 "I, Satoshi Gomi, Assistant General Manager of Micronesia Hospitality, Inc. (MHI) certify that I have secured and

**Guam Regional Transit Authority
Guam Sanko Transportation and Micronesia Hospitality, Inc.**

familiarized the 49 CFR Part 40 Section 40.67(b)."
When test reason is appropriated as return-to duty or a follow up test, prior to sending employee to collection site, employer will call the collection agency and direct them to perform collection under direct observation of the employee.

Attached are testing documents on Return-to-Duty and Follow-Up tests after the FY 2016 Compliance Audit site visit.

Acknowledged by:

Satoshi Gomi Date Assistant General Manager
Micronesia Hospitality, inc.

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-7

Ques. # **Resolved Date:** 3/31/2016

26 Question: At what point in the hiring process do you ask the applicant or transferee whether or not they have failed or refused a DOT pre-employment test in the previous two years?

Answer: We do not currently ask that question.

Supplemental Answer: In response to this finding, submit a statement on company letterhead affirming an understanding of Section 40.25(j). If the procedures include the use of a form, include a copy of the form in your response.

FTA Rule Requirement: Section 40.25(j) states: "As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section)."

Corrective action taken: - Purpose: Response to FTA Final Audit (Question 26).
(One from Guam Sanko Transportation, Inc. and the other from Micronesia Hospitality, Inc.)

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GUAM SANKO TRANSPORTATION, INC.
P.O. BOX 8562
TAMUNING, GUAM 96931 U.S.A.
Guam Sanko Transportation, Inc. (GST)
DRUG and ALCOHOL POLICY
Standard Operating Procedure (SOP)
Department: GST Bus Operations
Scope: This SOP applies to GST and the service contractor.
Purpose: Response to FTA Final Audit (Question 26) and to be in Compliance with 49 CFR Part 40 Section 40.25 (J)
"IF Antonio O. Tubiera, General Manager of Guam Sanko Transportation, Inc. (GST) certify that I have secured and familiarized the 49 CFR Part 40 Section 40.25 (i)."
To ensure that this required process is completed, prior to hiring applicant GST will take the necessary procedures during interview of employee as of

**Guam Regional Transit Authority
Guam Sanko Transportation and Micronesia Hospitality, Inc.**

February 1, 2016.

- Fill out Section I, I-A, and I-B of the Release of Information Form, sample form attached as Appendix B;
- Have applicant sign form and transmit to the previous employer by fax or email;
- The previous employer shall answer all Items in Section II-A based upon the previous employers' DOT testing records for the last two years;
- If the previous employer answers "Yes" to Item 5, the previous employer shall provide employer's report;
- If the previous employer answers "Yes" to any of the above items, the previous employer shall provide Return-To-Duty documentation such as SAP report(s), follow-up testing record;
- If the applicant, after rehabilitation conducted by the SAP, had tested

negative on the Return-to-Duty or on all the Follow-Up tests as per the SAP recommendations, GST shall pre-employment test the applicant;

- If the previous employer indicates on all items "No", potential employee shall undergo Pre-Employment drug test;
- Should all the Pre-Employment drug test results that the new employer received from the testing site are all "negative", the potential employee is hired to start to perform safety-sensitive functions.

Acknowledged by:

Antonio O. Tubiera Date General Manager
Guam Sanko Transportation, Inc.

=====

kmoc=MICRONESIAN HOSPITALITY, INC.

360 Chalan Pasaheru, Route 10-A Tnmunhiig, Guam 96913

Tel: (671) 646-6300 • Fax: (671) 646-5733

Micronesia Hospitality, Inc. (MHI)

DRUG and ALCOHOL POLICY

Standard Operating Procedure (SOP)

Department: MHI Bus Operations

Scope: This SOP applies to MHI and the service contractor.

Purpose: Response to FTA Final Audit (Question 26) and to be in Compliance with 49 CFR Part 40 Section 40.14 (J).

"I, Satoshi Gomi, Assistant General Manager of Micronesia Hospitality, Inc. (MHI) certify that I have secured and familiarized the 49 CFR Part 40 Section 40.25 (J)."

To ensure that this required process is completed prior to hiring applicant MHI will take the necessary procedures during interview of employee as of February 1, 2016.

- Fill out Section I, I-A, and I-B of the Release of Information Form, sample form attached as Appendix B;
- Have applicant sign form and transmit to the previous employer by fax or email;
- The previous employer shall answer all Items in Section II-A based upon the previous employers' DOT testing records for the last two years;
- If the previous employer answers "Yes" to Item 5, the previous employer shall provide employer's report;
- If the previous employer answers "Yes" to any of the above items, the previous employer shall provide Return-To-Duty documentation such as SAP report(s), follow-up testing record;
- If the applicant, after rehabilitation conducted by the SAP, had tested negative on the Return-to-Duty or on all the Follow-Up tests as per the SAP recommendations, MH1 shall pre-employment test the applicant.

**Guam Regional Transit Authority
Guam Sanko Transportation and Micronesia Hospitality, Inc.**

- Should the potential employee do undergo Return-To-Duty or Follow-Up test. MHI shall not hire the potential employee;
- if the previous employer indicates on all items "No", potential employee shall undergo Pre-Employment drug test;
- Should all the Pre-Employment drug test results that the new employer received from the testing site are all "negative", the potential employee is hired to start to perform safety-sensitive functions.

Acknowledged by:

Satoshi Gomi Date Assistant General Manager
Micronesia Hospitality, inc.

FTA finding on review: Adequate

Drug and Alcohol Program Manager Interview-8

Ques. # **Resolved Date:** 3/31/2016

66 Question: Are you notified of alcohol test results of ≥ 0.02 ? If so, when and by what method?

Answer: I don't know.

Supplemental Answer: The DAPM was unsure of what actions to take following notification of an alcohol test equal to or greater than 0.02 but less than 0.04. In response to this audit finding, submit to FTA evidence indicating that the DAPM/DER understands the required actions following notification of a alcohol confirmation test result equal to or greater than 0.02 but less than 0.04.

FTA Rule Requirement: Section 40.255(a)(5) states: "Immediately transmit the result directly to the DER in a confidential manner.
(i) You [the BAT] may transmit the results using Copy 1 of the ATF, in person, by telephone, or by electronic means. In any case, you must immediately notify the DER of any result of 0.02 or greater by any means (e.g., telephone or secure fax machine) that ensures the result is immediately received by the DER. You must not transmit these results through C/TPAs or other service agents."

Corrective action taken: - Purpose: Response to FTA Final Audit (Question 66).
(One from Guam Sanko Transportation, Inc. and ther other from Micronesia Hospitality, Inc.)

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GUAM SANKO TRANSPORTATION, INC.
P.O. BOX 8562
TAMUNING, GUAM 96931 U.S.A.
Guam Sanko Transportation, Inc. (GST)
DRUG and ALCOHOL POLICY
Standard Operating Procedure (SOP)
Department: GST Bus Operations
Scope: This SOP applies to GST and the service contractor.
Purpose: Response to FTA Final Audit (Question 66) and to be in Compliance with 49 CFR Part 40 Section 40.255 (a)(5).
As of February 1, 2016, 1, Antonio O. Tubiera, General Manager of Guam Sanko Transportation, Inc. (GST) certify that I have secured and familiarized the 49 CFR Part 40 Section 40.255(a)(5) and after the Evidential Breath Testing device (EBT) has printed alcohol confirmation test result is 0.02 or higher or if test is invalid, as the DER I will make certain that the collection site understands and will take the necessary steps listed below:"

**Guam Regional Transit Authority
Guam Sanko Transportation and Micronesia Hospitality, Inc.**

1. Immediately transmit the result directly to the DER in a confidential manner.

Results will be transmitted using Copy 1 of the ATF, in person, by telephone, or by electronic means. In any case, DER will be notified immediately by telephone or secure fax machine to ensure the result is immediately received by the DER. And that these results must not be transmitted through C/TPA5 or other service agents.

If initial transmission in writing is not done, follow up the initial transmission with Copy 1 of the ATF.

Then as the DER of Guam Sanko, if test results received are not in writing (e.g., by telephone or electronic means), I will establish a mechanism to

establish the identity of the BAT sending me the results. Then, store the test result information in a way that will protect its confidentiality.

Acknowledged by:

2

Antonio O. Tubiera Date General Manager
Guam Sanko Transportation, Inc.

=====

MICRONESIAN HOSPITALITY, INC.

360 Chalan Pasaheru, Route 10-A TRnluning Guam 96913

Tel: (671) 646-6300 • Fax: (671) 646-5733

Micronesia Hospitality, inc. (MHI)

DRUG and ALCOHOL POLICY

Standard Operating Procedure (SOP)

Department: MHI Bus Operations

Scope: This SOP applies to MHI and the service contractor.

Purpose: Response to FTA Final Audit (Question 66) and to be in Compliance with 49 CFR Part 40 Section 40.255 (a)(5)

As of February 1, 2016, "I, Satoshi Gomi, Assistant General Manager of Micronesia Hospitality, Inc. (MHI) certify that I have secured and familiarized the 49 CFR Part 40 Section 40.255(a)(5) and after the Evidential Breath Testing device (EBT) has printed alcohol confirmation test result is 0.02 or higher or if test is invalid, as the DER I will make certain that the collection site understands and will take the necessary steps listed below:"

1. Immediately transmit the result directly to the DER in a confidential manner.

Results will be transmitted using Copy 1 of the ATF, in person, by telephone, or by electronic means. In any case, DER will be notified immediately by telephone or secure fax machine to ensure the result is immediately received by the DER. And that these results must not be transmitted through C/TPAs or other service agents.

If initial transmission in writing is not done, follow up the initial transmission with Copy 1 of the ATF.

Then as the DER of MHI, if test results received are not in writing (e.g., by telephone or electronic means), I will establish a mechanism to establish the identity of the BAT sending me the results. Then, store the test result information in a way that will protect its confidentiality.

Acknowledged by:

Satoshi Gomi Date Assistant General Manager
Micronesia Hospitality, Inc.

FTA finding on review: Adequate

Breath Alcohol Technician Interview

Breath Alcohol Technician Interview-1

Ques. # **Resolved Date:** 3/31/2016

43 Question: Do you have a copy of the quality assurance plan (QAP) for this machine?

Answer: No, the QAP is not maintained at this facility.

Supplemental Answer: In response to this audit finding, affirm that the QAP that was provided with the Evidential Breath Testing device is maintained in a secure location available to breath alcohol technicians.

FTA Rule Requirement: Section 40.233(c) states: "As the user of the EBT (e.g., employer, service agent), you must do the following:(1) You must follow the manufacturer's instructions [in the QAP] (see paragraph (b) of this section), including performance of external calibration checks at the intervals the instructions specify."

Corrective action taken: Please see attachment on Question Number 43.

One-Pacific (Guam), Inc.
545 Chalan San Antonio Ste 312 Tamuning, Guam 96913 Tel
(671)647-1100• Fax (671)647-1122 Email: guone-pac.com
Question 43

I, Daphne Mathews, affirm that the Quality Assurance Plan (QAP) for the Alco-Sensor IV evidential breath testing device is maintained in a secure location available to breath alcohol technicians in our facility.

Acknowledged by:

3 /// //~

Daphne Mathews Date Branch Manager

FTA finding on review: Adequate

Urine Collections Interview

Urine Collections Interview-1

Ques. # **Resolved Date:** 3/31/2016

36 Question: Were the following items completed and legible on the custody and control form:(1) employee ID No. or SSN;(2) employers name, address, telephone and fax numbers; and(3) MROs name, address, telephone and fax numbers (C/TPA contact information may also be included, but is not required)?

Answer: Other.

Supplemental Answer: One-Pacific (Guam), Inc. does not print the specific name of the employer on the CCFs and ATFs for any tests done for employers who regularly use its services. Rather, for all employers, One-Pacific uses a standard pre-printed CCF that has One-Pacific's name, address and phone in the "Employer, Name, Address, ID No." box. In the "Location Code" (optional) box on the right of the CCF, One-Pacific then enters a numeric code that identifies the employer.

It uses the code "13" to identify GRTA as the employer for all specimens collected from safety-sensitive employees of the operating contractors of GRTA. One-Pacific also hand writes "Guam Regional Transit Authority" in the "Employer Name" line of the ATF. After each collection from a GRTA contractor employee, One-Pacific faxes and mails the Employer Copy of the CCF and ATF to GRTA rather than to the actual employer of the

**Guam Regional Transit Authority
Guam Sanko Transportation and Micronesia Hospitality, Inc.**

employee tested.

The One-Pacific collector stated that One-Pacific had been informed that it was sufficient and acceptable for it to include a code on the CCF to indicate the employer rather than to pre-print or write-in the employer name in Step 1.A. Part 40 specifically requires the name of the employer to be included on the first line of Step 1.A. and on the ATF.

Section 40.45 (c)(2) states, as seen in the Rule Requirement box, that the CCF must identify the employer. The DOT Urine Collection Guidelines, at page 8, are equally as clear. "... in all cases, the specific employer's name, telephone and fax numbers must be included. A clinic or collection site name may not be used in lieu of an employer name."

In response to this audit finding, do the following:

- 1) Affirm that One-Pacific has worked with GRTA, the contractors and the laboratory, so that the CCF and now includes the name and phone number of the specific company that employs each individual being tested.
- 2) Also affirm that the list of DER contacts at One-Pacific is updated to identify the actual DER at each company and that the DER is notified directly as needed.

FTA Rule Requirement:

Section 40.63(a) states: "As the collector, you must take the following steps before the employee provides the urine specimen: (a) Complete Step 1 of the CCF." Section 40.73(a)(3) states: "Ensure that all copies of the CCF are legible and complete." Section 40.45(b)(2) states: "The CCF must include the names, addresses, telephone numbers and fax numbers of the employer and the MRO, which may be preprinted, typed, or handwritten. The MRO information must include the specific physician's name and address, as opposed to only a generic clinic, health care organization, or company name. This information is required, and it is prohibited for an employer, collector, service agent or any other party to omit it. In addition, a C/TPA's name, address, fax number, and telephone number may be included, but is not required."

Corrective action taken:

Please see attachment on Question Number 36.

One-Pacific (Guam)! Inc.

545 Chalon San Antonio Ste 312 Tamuning, Guam 96913 Tel (671)647-1100 Fax (671)647-1122 Email: guone-pac.com

Question 36

I, Daphne Mathews, affirm that One-Pacific (Guam), Inc. has worked with GRTA, the contractors, and the laboratory, so that the CCF now includes the name and phone number of the specific company that employs each individual being tested. One-Pacific (Guam) Inc. has ordered CCF forms to specifically state the employer name, address, and telephone number. In addition, I affirm that the list of DER contacts at One-Pacific (Guam) Inc. is updated to identify the actual DER at each company and that the DER is notified directly as needed. DER information is continually updated.

Acknowledged by:

3 /11/16

DAPHNE MATHEWS Date Branch Manager

FTA finding on review: Adequate

Urine Collections Interview-2

Ques. # **Resolved Date:** **3/31/2016**

46

Question: What is done if an employee says he/she is not ready to proceed with the urine collection process because an employee representative is delayed in arriving?

Answer: Delay the start of the collection process.

Supplemental Answer: In response to this audit finding, affirm that you would comply with section 40.61(b) and not delay the start of a collection to wait for an employee or employer representative.

FTA Rule Section 40.61(b) states: "[The collector must] Ensure that, when the employee enters the

**Guam Regional Transit Authority
Guam Sanko Transportation and Micronesia Hospitality, Inc.**

Requirement: collection site, you begin the testing process without undue delay. For example, you must not wait because the employee says he or she is not ready or is unable to urinate or because an authorized employer or employee representative is delayed in arriving."

Corrective action taken: Please see attachment on Question Number 46

Question 46
I, Daphne Mathews, reviewed Section 40.61 (b) with One Pacific (Guam), Inc. Testing Collectors. The collector signatures below affirm their understanding that the DOT testing process must begin without undue delay.
Acknowledged by: All collectors

FTA finding on review: Adequate

Urine Collections Interview-3

Ques. # **Resolved Date:** 3/31/2016

50 Question: What is done if the employee admits to adulterating or substituting the specimen?

Answer: Conduct a directly observed test.

Supplemental Answer: In response to this audit finding, affirm that all collectors understand the requirements of section 40.159(c) and that the admission and refusal would be fully documented for the DER's records.

FTA Rule Requirement: Section 40.159(c) states: "If the employee admits to having adulterated or substituted the specimen, you must, on the same day, write and sign your own statement of what the employee told you. You must then report a refusal to test in accordance with Section 40.163."

Corrective action taken: Please see attachment on Question Number 50.

Question 50
I, Daphne Mathews, reviewed Section 40.159 (c) with One Pacific (Guam), Inc. Testing Collectors. The collector signatures below affirm their understanding that "If the employee admits to having adulterated or substituted the specimen, the collector, on the same day, write and sign on his/her own statement of what the employee told the collector. The collector must report a refusal to test in accordance with Section 40.163."
Acknowledged by: All collectors

FTA finding on review: Adequate

Urine Collections Interview-4

Ques. # **Resolved Date:** 3/31/2016

54 Question: If an employee provides an adulterated or out-of-temperature sample, and refuses to allow a second specimen to be collected under observed collection, what is done with the initial sample?

Answer: Send it to the lab.

Supplemental Answer: The collector stated that the first specimen would be sent to the laboratory. In response to this audit finding, affirm that all collectors understand and comply with the requirement of section 40.65(b)(7).

FTA Rule Section 40.65(b)(7) states: "In a case where the employee refuses to provide another

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Requirement: specimen (see Section 40.191(a)(3)) or refuses to provide another specimen under direct observation (see Section 40.191(a)(4)), you must notify the DER. As soon as you have notified the DER, you must discard any specimen the employee has provided previously during the collection procedure."

Corrective action taken: Please see attachment on Question Number 54.

Question 54
I, Daphne Mathews, reviewed Section 40.65(b) (7) with One Pacific (Guam), Inc. Testing Collectors. The collector signatures below affirm that they understand and comply with the requirement of Section 40.65 (b)(7) in which in a case where the employee refuses to provide another specimen (Section 40.191(a)(3)) or refuses to provide another specimen under direct observation (Section 40.191 (a)(4)), the collector must notify the DER. As soon as the collector has notified the DER, the collector must discard any specimen the employee has provided previously during the collection procedure."
Acknowledged by: All collectors

FTA finding on review: Adequate

Urine Collections Interview-5

Ques. # **Resolved Date:** 3/31/2016

55 Question: If you as the collector must complete an observed collection, is it required that you must record the reason for the observed collection, and if so, how?
Answer: No.

Supplemental Answer: In response to this audit finding, affirm that all collectors understand and comply with the requirement of section 40.67(e).

FTA Rule Requirement: Section 40.67(e) states: "As the collector, you must complete a new CCF for the directly observed collection.(1) You must mark the "reason for test" block (Step 1) the same as for the first collection.(2) You must check the "Observed, (Enter Remark)" box and enter the reason (see Section 40.67(b)) in the "Remarks" line (Step 2)."

Corrective action taken: Please see attachment on Question Number 55.
Question 55
I, Daphne Mathews, reviewed Section 40.67(e) with One Pacific (Guam), Inc. Testing Collectors. The collector signatures below affirm that they understand and comply with the requirement of Section 40.67 (e) that states: "As the collector, the collector must complete a new CCF for the directly observed collection. (1) The collector must mark the "reason for test" block (Step 1) the same as for the first collection. (2) The collector must check the "Observed, (Enter Remark)" box and enter the reason (Section 40.67(b)) in the "Remarks" line (Step 2)."
Acknowledged by: All Collectors

FTA finding on review: Adequate

Urine Collections Interview-6

Ques. # **Resolved Date:** 3/31/2016

59 Question: What is done if the employee possesses a prosthetic or other device used to tamper with the collection?
Answer: Other.

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Supplemental Answer: The collector stated that the device would be removed and the observed collection completed. In response to this audit finding, affirm that all collectors understand and comply with the requirement of section 40.191(a).

FTA Rule Requirement: Section 40.191(a) states: (a) As an employee, you have refused to take a drug test if you: (10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.

Corrective action taken: Please see attachment on Question Number 59.

I, Daphne Mathews, reviewed Section 40.191(a) with One Pacific (Guam), Inc. Testing Collectors. The collector signatures below affirm that they understand and comply with the requirement of Section 40.191 (a) that states: (a) As an employee, the employee has refused to take a drug test if the employee: (10) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
Acknowledged by: All collectors

FTA finding on review: Adequate