



**MID-COLUMBIA COUNCIL OF GOVERNMENTS  
Board of Directors Agenda**

Tuesday, August 25, 2015  
1:00 p.m. to 3:00 p.m.

MCCOG Boardroom – 1113 Kelly Ave, The Dalles, OR 97058

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I. 1:00 p.m. **Call to Order**

- A. Roll Call and Introductions.
- B. Approval of [minutes from July 28, 2015](#) Board meeting.

II. 1:05 p.m. **Open Agenda**

*(This time is set aside for the public and board members to introduce subjects NOT on the agenda). Persons invited by the Chair to speak to the Board shall state their name and address for the record. Their presentation will be limited to three minutes. The Board will take no action on the issue(s) presented until the next Board meeting, in order to give the Board time to research any matters or to decide upon a course of action. The time restriction is necessary in order to complete this meeting as published.*

III. 1:10 p.m. **Action Items**

- A. [Transportation, Dan Schwanz](#)
  - i. Resolution 14-12; Revised Drug & Alcohol Policy
- B. [Fiscal, Sarah Brumbaugh](#)
  - i. Resolution 14-13; Revised Purchasing & Bids Policy
  - ii. [Resolution 14-14](#); Addition to Salary Plan
- C. [StRUT, John Arens](#) for Steve King
  - i. Resolution 14-08; Recycled Technology to Local Non-Profits
  - ii. [Resale of Excess Technology](#)

IV. 2:10 p.m. **Reports/Communications**

- A. [AAA; Feasibility Study, Marvin Pohl](#)
- B. Administration; Personnel, John Arens
  - i. Executive Session 192.660(2)(i)

V. 3:00 p.m. **Adjourn**

*Pursuant to ORS 192.660, the Board may enter into Executive Session during the meeting to discuss topics allowed. The meeting location is accessible to persons with disabilities. If you have a disability that requires any special materials, services, or assistance, please contact the Executive Assistant (541) 298-4101 at least 48 hours before the meeting.*

MID-COLUMBIA COUNCIL OF GOVERNMENTS

**Board of Directors Meeting Minutes**

**Tuesday, July 28, 2015 1:00 p.m. to 4:00 p.m.**

Board Room, 1113 Kelly Avenue, The Dalles, Oregon

2015 Board of Directors:

Gilliam County: Denise Ball, Steve Shaffer, \*Mike Weimer  
Hood River County: \*Maui Meyer, Les Perkins, Mark Zanmiller.  
Sherman County: Tom McCoy, \*Michael Smith  
Wasco County: Russ Brown, Scott Hege, \*Rod Runyon  
Wheeler County: Lynn Morley, \*Chris Perry  
(\*denotes Executive Committee Members)

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**I. Call to Order**

**A. Roll Call and Introductions**

The meeting was called to order by Michael Smith, Chair.

Present: Denise Ball, Russ Brown, Scott Hege, Kaylene Korpi, Tom McCoy, Lynn Morley, Rod Runyon, Steve Shaffer, Michael Smith, Michael Weimar, Mark Zanmiller.

Absent: Maui Meyer, Les Perkins, and Patrick C. Perry.

Staff: John Arens, Executive Director; Cecilia Lamas-Guiney, Executive Assistant; Sarah Brumbaugh, Fiscal Director; Marvin Pohl, AAA Director; Mary Barrett, AAA Care Coordinator; Dan Schwanz, Transportation Director; Lynda Dallman, Human Resources Consultant.

Guests: Rodney Schroeder, Rodger Nichols, Haystack Broadcasting.

**B. Approval of minutes from June 23, 2015 meeting.**

Mike Weimar moved, seconded by Tom McCoy, to approve the minutes as presented. The motion carried unanimously.

**AYES: Ball, Brown, Hege, Korpi, McCoy, Morley, Runyon, Shaffer, Smith, Weimar, Zanmiller (11)**

**NAYS: None (0)**

**II. Open Agenda**

Michael Smith adds the Service Contract for Barbara Briggs to the agenda.

### **III. Reports/Communications**

#### **A. AAA Guest Speaker, Rodney Schroeder.**

Marvin Pohl introduces topic and guest speaker.

Rodney Schroeder addresses Board; provides summary of his professional background and experience. Schroeder speaks about program transfer process; refers Board to topic outline throughout discussion.

\*reference MCCOG website for outline

### **IV. Action Items**

#### **A. Transportation Department**

##### **i. Reasonable Modification Policy, Dan Schwanz**

Dan Schwanz provides information about the new policy. Policy requires that MCCOG have a formal process that is published, and a process for handling requests/complaints.

Mark Zanmiller asks if the language is borrowed. Schwanz responds that most of it is borrowed from ODOT—with their authorization.

Zanmiller asks if training for this is planned. Schwanz states he will be scheduling training for drivers.

Michael Smith asks for any questions; none heard.

Steve Shaffer motions, seconded by Denise Ball to approve Resolution 14-11 to adopt the Reasonable Modification Policy. Resolution passes by the following vote:

**AYES: Ball, Brown, Hege, Korpi, McCoy, Morley, Runyon, Shaffer, Smith, Weimar, Zanmiller (11)**

**NAYS: None (0)**

##### **ii. NEMT, John Arens**

Michael Smith moves Board into Executive Session 192.660(2)(g) to discuss NEMT topic. John Arens speaks about topic.

\*Rod Runyon exits meeting at 2:49.

The Board comes out of Executive Session and concludes discussion. Arens refers Board to the NEMT memo. Asks Board to authorize him to sign agreement.

Tom McCoy moves to authorize the Executive Director to continue negotiations and sign the contract if appropriate terms can be reached. Motion is seconded by Steve Shaffer and passes by the following vote:

**AYES: Ball, Brown, Hege, Korpi, McCoy, Morley, Runyon, Shaffer, Smith, Weimar, Zanmiller (11)**

**NAYS: None (0)**

#### **B. Service Contract**

Michael Smith directs Board members to Service Contract for Barbara Briggs. Provides summary of contracted services and asks Board for input.

Mark Zanmiller motions to accept Service Contract, Tom McCoy seconds. Board approves motion with the following vote:

**AYES: Ball, Brown, Hege, Korpi, McCoy, Morley, Runyon, Shaffer, Smith, Weimar, Zanmiller (11)**

**NAYS: None (0)**

**V. Adjourn**

There being no further business to come before the MCCOG Board of Directors, the meeting was adjourned at 3:02 p.m.

Respectfully submitted by:

ATTEST:

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Cecilia Lamas-Guiney, Executive Assistant

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MCCOG Board Chair

[Return to Agenda](#)

# Mid-Columbia Council of Governments

*Memorandum*

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**To:** MCCOG Board of Directors  
**From:** Dan Schwanz, Transportation Director  
**Date:** August 25, 2015  
**Subject:** **Resolution 14-12, Transportation Dept. Drug & Alcohol Policy**

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Discussion:

The Transportation Departments current Drug & Alcohol Policy was updated to ensure it reflects, and is in compliance with, current Federal Transit Administration (FTA) Drug and Alcohol Regulations. Because of these updates, this policy is being brought to the Board for review.

Staff Recommendation:

Adopt Resolution 14-12 to accept the revised Transportation Department Drug & Alcohol Policy.

**MID-COLUMBIA COUNCIL OF GOVERNMENTS**  
**TRANSPORTATION NETWORKS DRUG & ALCOHOL POLICY**  
**RESOLUTION NUMBER 14-12**

**WHEREAS**, The Mid-Columbia Council of Governments (MCCOG) is an intergovernmental agency formed under the authority of Oregon Revised Statutes, Chapter 190, consisting of the five counties of Wasco, Hood River, Sherman, Gilliam, and Wheeler; and

**WHEREAS**, MCCOG Transportation Network retains a current Drug & Alcohol Policy to ensure that the organization is in compliance with the Federal Department of Transportation requirements;

**NOW, THEREFORE, BE IT HERBY RESOLVED** that this revised policy shall be in effect for the period of time that MCCOG is required by Federal Law to have a Drug & Alcohol Policy.

**PASSED AND APPROVED** this 25<sup>th</sup> day of August 2015.

Attest:

\_\_\_\_\_  
Michael Smith, Board Chair

\_\_\_\_\_  
Cecilia Lamas-Guiney, Executive Assistant



MID-COLUMBIA COUNCIL OF GOVERNMENTS  
TRANSPORTATION NETWORK

**DRUG AND ALCOHOL POLICY**

Subject To Federal Drug and Alcohol Testing  
US DOT 49 CFR Part 655  
Federal Transit Administration

Approved by the Board of Directors  
Amended by the Board of Directors

October 26, 2004  
January 25, 2011

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## **INTRODUCTION**

The Mid-Columbia Council of Governments Transportation Network (MCCOG-TN) performs a vital service to our communities. The Transportation Network is committed to providing and maintaining a safe and healthy work environment for its employees and a safe and dependable transportation system for the public. The use of drugs and/or alcohol can adversely affect the ability to perform safely and may constitute a threat to the health and safety of the public, employees and to the efficient operation of the Transportation Network. Therefore, MCCOG-TN shall establish a work environment where its employees are free from the effects of drugs and/or alcohol.

## **OBJECTIVE**

The Mid-Columbia Council of Governments Transportation Network (MCCOG-TN) is committed to providing and maintaining a safe and healthy work environment for its employees and a safe and dependable transportation system for the public. The use of drugs and/or alcohol can adversely affect the ability to perform safely and may constitute a threat to the health and safety of the public and other MCCOG-TN employees and to the efficient operation of MCCOG-TN. Therefore, MCCOG-TN shall establish a work environment where its employees are free from the effects of drugs and/or alcohol.

It is the intent of this policy to achieve a drug and alcohol free workforce in the interest of the health and safety of employees and the public, to enhance worker productivity and safety, and to encourage employees to seek assistance and treatment for drug and/or alcohol related problems before such problems affect performance and safety.

This policy is also intended to comply with all applicable federal regulations governing drug and alcohol misuse prevention programs in the transit industry. In 1994, the Department of Transportation published rules mandating the establishment of drug and alcohol abuse prevention programs and of alcohol and drug testing of safety-sensitive employees (49 CFR, Part 655). 49 CFR Part 40 governs the procedures for transportation workplace Drug and Alcohol Testing Programs.

The objectives of this policy are to:

- Maintain a safe, drug and alcohol free transportation system
- Maintain safe, efficient working conditions for MCCOG-TN employees
- Maintain MCCOG-TN's compliance with applicable Federal regulations
- Encourage MCCOG-TN's employees to seek help with problems related to drugs and alcohol.

## **APPLICATION**

This policy applies to all covered employees as defined herein. Covered employees shall include applicants for employment in positions that require the performance of a safety-sensitive function, contractors (except maintenance contractors) performing a safety-sensitive function for MCCOG-TN, and volunteers who receive remuneration in excess of expenses or operate a vehicle that requires a Commercial Driver's License who operate a vehicle for MCCOG-TN. Covered employees include those who are incumbents in the positions listed in Attachment B which is attached hereto. Participation in MCCOG-TN's Drug and Alcohol program is a requirement of each safety sensitive employee, and therefore, is a condition of employment.

## **EMPLOYEE ASSISTANCE**

It is the purpose of this policy to provide assistance to covered employees who experience personal problems, including problems involving drug use and/or alcohol misuse, which may adversely affect job performance and/or result in activity that is in violation of this policy. Covered employees are encouraged to voluntarily seek assistance in dealing with emotional, physical, or mental health problems, including drug use and/or alcohol misuse.

If a covered employee requests assistance from MCCOG-TN for a drug and/or alcohol problem, before the problem affects job performance, he/she will not jeopardize his/her employment solely by requesting assistance to deal with a drug and/or alcohol problem. However, if a covered employee does not seek treatment for a drug and/or alcohol problem, and it is found that his/her performance is being affected and/or his/her actions violate this policy, the covered employee may be subject to discipline, up to and including termination.

## **PROHIBITED CONDUCT**

The MCCOG-TN expects and requires that all covered employees to report to work in an appropriate mental and physical condition to work safely and effectively. No covered employee shall report to work or engage in work while having the presence of alcohol, illegal drugs, or any other disabling or controlled substance in his/her system. A breath alcohol concentration level of 0.02 or greater or a verified positive result on a drug test will be considered to be evidence of the presence of alcohol or a prohibited drug in one's system. Compliance with this policy is a condition of employment. Any violation of this policy may subject the covered employee to discipline, up to and including termination.

Covered employees are prohibited from engaging in the possession, sale, transporting, distribution, manufacture or use of alcohol, illegal drugs or any other disabling or controlled substance at any time while on duty and/or on MCCOG premises, which includes MCCOG owned or operated vehicle(s) or facilities.

Federal Transit Administration (FTA) regulation 49 CFR Part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," prohibits a covered employee from performing a safety-sensitive function while having a breath alcohol concentration level of 0.02 or greater. In addition, a covered employee must not consume alcohol while performing a safety-sensitive function and must not consume alcohol four (4) hours prior to performing a safety-sensitive function and up to eight (8) hours following an accident or until the covered employee undergoes a post-accident drug and/or alcohol test, whichever occurs first. FTA regulation 49 CFR Part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," prohibits the use and ingestion of prohibited drugs at all times.

Prohibited Substances:

- Marijuana
- Cocaine
- Amphetamines
- Opiates
- Phencyclidine
- Alcohol

Federal regulations require MCCOG-TN to test for prohibited drug use and alcohol misuse for FTA-covered employees. Participation in MCCOG-TN's drug and alcohol testing program is a condition of employment for all covered employees. A covered employee who refuses to submit to a drug or alcohol test will be in violation of this policy and may be subject to discipline, up to and including termination.

**PRESCRIPTION/OVER-THE-COUNTER DRUG USE**

The following requirements for Prescription and Over-the-Counter Drug Use are under MCCOG's authority: A covered employee may possess and use medically authorized prescriptions or over-the-counter drugs at work as long as the prescription or over-the-counter drug does not have disabling effects or otherwise affect the covered employee's fitness for duty or job performance. Covered employees must report the use of prescription or over-the-counter drugs, which could have a disabling effect or otherwise adversely affect the covered employee's fitness for duty or job performance to his or her immediate supervisor or the Executive Director. It is the covered employee's responsibility to determine from the physician, pharmacist, or other health care professional whether or not the prescribed or over-the-counter drugs could affect the covered employee's fitness for duty or impair job performance. Upon reporting the use of prescription or over-the-counter drugs, covered employees may be required to provide a written medical authorization to work from a physician. Failure to report the use of prescription or over-the-counter

drugs which have disabling effects or otherwise affect the covered employee's fitness for duty while at work and failure to provide proper evidence of medical authorization to work may result in discipline, up to and including termination.

## **WORK PERFORMANCE**

The following as under the authority of MCCOG: The presence or treatment of a substance abuse problem does not excuse a covered employee from meeting performance, safety, or attendance standards or following other MCCOG-TN instructions. In no circumstances may a covered employee invoke protection under this policy as a means to avoid disciplinary actions resulting from poor work performance or misconduct at work. A voluntary request for assistance will not shield a covered employee from disciplinary action resulting from on-the-job conduct or work performance. Covered employees remain responsible for their on-the-job conduct and work performance.

## **COVERED EMPLOYEE RESPONSIBILITY**

The MCCOG-TN expects and requires the support of all covered employees in meeting its commitment to providing a drug and alcohol free work environment. Each employee who observes or has knowledge of a covered employee in a condition which impairs his/her ability to perform his/her job duties or who poses a serious hazard to the safety and welfare of others, has an assertive responsibility to report the information to his or her immediate supervisor or the Executive Director.

## **SCHEDULED ON-CALL EMPLOYEES**

Any covered employee who is scheduled to be on-call for a specific time period and who is required to report to work immediately upon notification, is considered a scheduled on-call employee. Scheduled on-call employees must not consume alcohol during their scheduled on-call shift and must not consume alcohol during the four (4) hours preceding their on-call shift.

## **OFF DUTY EMPLOYEES**

Any covered employee who is requested to report for duty when he or she is not regularly scheduled to work is considered an on-call covered employee. An on-call covered employee who is requested to report for duty less than four (4) hours prior to the requested report time must inform MCCOG-TN if he/she has consumed alcohol within four (4) hours of the requested report time.

If an on-call covered employee informs MCCOG-TN of his/her use of alcohol, the employee will not be allowed to perform safety sensitive functions

An on-call covered employee who informs MCCOG-TN of his/her use of alcohol and fails the breath alcohol test will not be permitted to report for duty and will not be considered to be in violation of this policy. If an on-call covered employee who does not inform MCCOG-TN of his/her

use of alcohol and exhibits signs of alcohol misuse, he/she may be subject to reasonable suspicion testing. If the test indicates a breath alcohol concentration level of 0.02, or greater, he/she will be in violation of this policy.

## **TRAINING**

All covered employees will receive training regarding the effects and consequences of substance abuse use on personal health and safety, and the work environment. Training will also be provided regarding the manifestations and behavioral cues indicating substance abuse. The training must be at least 60 minutes in length and include handouts.

All supervisors who will be responsible for determining when it is appropriate to administer reasonable suspicion drug and/or alcohol tests will receive training on the physical, behavioral, and performance indicators of probable drug use and alcohol misuse. The reasonable suspicion training must be at least 60 minutes for the alcohol program and 60 minutes for the drug program.

The service hotline numbers for drug and alcohol information and/or assistance is the Alcohol/Drug 24 Help Line at (800) 621-1646 for Oregon or (800) 562-1240 for Washington.

## **CONFIDENTIALITY AND RECORD RELEASE**

The MCCOG-TN will maintain all records regarding the drug and/or alcohol testing of covered employees in a secure manner so that the disclosure of information to unauthorized persons does not occur. These records will be maintained separate from the employee's personnel file. MCCOG-TN will only release information regarding the drug and/or alcohol testing of covered employees to those individuals, and in those circumstances, as specified in the Federal regulations as follows:

- When an employee gives written instruction the employer may release information or copies of records regarding an employee's test results to a third party or subsequent employer;
- When due to a lawsuit, grievance, or proceeding initiated on behalf of the employee tested, the result must be released to the decision-maker in the case;
- When an employee provides a written request for copies of his/her records relating to the test(s);
- When an accident investigation is being performed by the National Transportation Safety Board (NTSB) and the post-accident test results are needed for the investigation;
- When records are requested by the Department of Transportation (DOT), any DOT agency with regulatory authority over the employer or any of its employees and to the

state agency with regulatory oversight over MCCOG-TN in respect to grants of FTA funds.

- (Note: Requests for test results information by an unemployment service bureau can be granted, if the employee's dismissal was the result of a positive drug or alcohol test, because the request for unemployment benefits was initiated by the employee.)

## **EMPLOYER AND EMPLOYEE FINANCIAL RESPONSIBILITY**

Except as otherwise provided herein, MCCOG-TN will be responsible for all costs directly associated with the drug and alcohol tests specified in this policy.

## **TESTING**

Participation in MCCOG-TN's drug and alcohol testing program is a requirement of each covered employee. Applicants for employment in a safety-sensitive position, employees requesting transfer into a safety-sensitive position, and covered employees in a position that requires the performance of a safety-sensitive function are required to submit to drug and alcohol testing, as mandated by Federal regulations and MCCOG-TN policy, as a condition of employment with MCCOG-TN. The Department of Transportation (DOT) Regulation 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," prescribes the testing methods that will be used.

All drug and alcohol testing will be conducted in a manner which assures a high degree of accuracy and reliability by using the techniques, chain of custody procedures, and equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (HHS) and DOT.

All drug and alcohol testing will be conducted in an environment, which affords maximum privacy practicable for the covered employee being tested. MCCOG-TN will adhere to all standards of confidentiality, maintaining the confidentiality of the covered employee throughout the drug and/or alcohol testing process.

## **PRE-EMPLOYMENT**

All applicants for employment in safety-sensitive positions or individuals requesting to be transferred or promoted into safety-sensitive positions must submit to and pass urine testing for drugs prior to being hired or assigned to a safety-sensitive position. Pre-employment tests are also required of any covered employee who has not performed a safety-sensitive function for more than ninety (90) consecutive calendar days and who has not been in the random pool during this period. In addition, all applicants or transferees are required to sign a release of information directed to previous DOT regulated employers that requires the provision of the individual's Drug and Alcohol testing records for the prior two years to MCCOG-TN. The applicant or transferee is required to inform the potential employer of any positive drug pre-employment tests or refused-to-test for pre-employment drug tests for any DOT regulated potential employer. If the applicant has a positive pre-employment drug test for another DOT regulated potential employer or a positive drug test for a DOT regulated employer the application will be rejected by MCCOG-TN, unless the applicant has successfully completed return-to-duty procedures.

Failure of a drug test will disqualify an applicant for employment or transfer to a safety-sensitive position. A verified positive result on a drug test is considered to be a failure of the drug test. A refusal-to-test is considered a failure of the drug test. (It is not a refusal if the applicant fails to appear for the test, delays a test, leaves the collection site prior to the commencement of the test. A refusal occurs once the collection process has started and there is a failure to complete the process.) An applicant who has failed a pre-employment drug test will be referred to a Substance Abuse Professional (SAP). An applicant who has failed a pre-employment drug test for MCCOG-TN or any drug and/or alcohol test for any other DOT regulated employer will be ineligible to submit another application for employment with MCCOG-TN, unless the applicant documents that he/she:

- Has been evaluated by an acceptable SAP;
- Successfully completed the education and/or treatment plan recommended by the SAP;
- Has been reevaluated by the SAP; and
- The SAP has determined the applicant is able to perform safety-sensitive functions in compliance with DOT and FTA regulations.

A cancelled or invalid pre-employment test will result in MCCOG-TN requiring the submission of a second pre-employment test.

## **REASONABLE SUSPICION**

Covered employees will be required to submit to urine testing for drugs and/or alcohol breath testing when there is a reasonable suspicion the covered employee is under the influence of a prohibited drug or has used alcohol in violation of MCCOG-TN's policy. The authorization to

administer a reasonable suspicion test will be made by a supervisor trained to identify the signs and symptoms of drug use and alcohol misuse. The authorization will be based on the supervisor's specific, contemporaneous, observations concerning the appearance, behavior, speech, or body odors of the covered employee. Alcohol testing is authorized only if the observations required are made during, just preceding, or just after the period of the workday that the covered employee is required to be performing safety sensitive functions.

When a covered employee has been notified that he/she will be required to submit to reasonable suspicion drug and/or alcohol testing, he/she must report immediately to the collection site designated by MCCOG-TN. MCCOG-TN's policy is that a MCCOG-TN staff person will transport and accompany the employee to the collection site.

The MCCOG-TN staff member initiating a reasonable suspicion test will be responsible for documenting the reasons for the suspicion and the facts or circumstances of the incident which precipitated the reasonable suspicion testing. All documents generated in connection with decisions to administer a reasonable suspicion drug and/or alcohol test will be maintained by the Designated Employer Representative (DER).

## **POST-ACCIDENT**

Drug and alcohol testing is required of all surviving employees operating the vehicle at the time of an accident which meets the FTA's requirements for post accident drug and alcohol testing. Other covered employees shall be tested whose performance could have contributed to the accident, as determined by the Executive Director or designee using the best information available at the time of the decision. In nonfatal accidents, drug and alcohol testing is required of all covered employees unless the involved covered employees' performance can be completely discounted as a causative or contributing factor.

An accident is defined as an occurrence associated with the operation of a vehicle in which:

- An individual dies (testing is always done if there is a fatality, even if the covered employee is determined not to have contributed to the accident), or
- An individual involved in the accident suffers a bodily injury and immediately receives medical treatment away from the scene of an accident, or
- One or more of the vehicles involved incurs disabling damage as a result of the occurrence.

Following a fatal accident, each surviving covered employee operating the vehicle at the time of the accident must be tested. Covered employees not on the vehicle whose performance could have contributed to the accident must also be tested as determined by the Executive Director using the best information available at the time of the decision.



Following a nonfatal accident, any covered employee who is involved in and is operating the vehicle at the time of said accident will be subject to drug and alcohol testing unless MCCOG-TN determines, using the best available information at the time of the decision that said covered employee's performance could be completely discounted as a contributing factor to the accident. An occurrence associated with the operation of the vehicle means the accident or incident must be directly related to the manner in which the driver applies the brake, accelerates, or steers the vehicle. Operation of a vehicle includes operation of the lift. An accident could be the result of a collision with another vehicle or pedestrian or could be associated with an incident that occurs on the vehicle without any contact with another vehicle (i.e., a passenger falls on the bus due to the manner in which the vehicle was operated).<sup>1</sup>

Covered employees not on the vehicle whose performance could have contributed to the accident, as determined by the Executive Director using the best information available at the time of the accident, will be subject to drug and alcohol testing.

Post-accident drug and alcohol tests must be performed as soon as possible. Drug tests must be performed within thirty-two (32) hours following the accident. Alcohol tests should be performed within two (2) hours following the accident and must be performed within eight (8) hours following the accident. If the covered employee to be tested was injured in the accident, the requirement to test for drugs and alcohol should not delay necessary medical attention, but said testing could be administered simultaneously to the covered employee receiving necessary medical attention<sup>2</sup>.

The requirement to test for drugs and alcohol following an accident should in no way delay necessary medical attention for injured people or prohibit a safety-sensitive employee from leaving the scene of an accident to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

Any covered employee involved in an accident must remain readily available for alcohol testing for up to eight (8) hours after the accident. Any covered employee involved in an accident must remain readily available for drug testing for up to thirty-two (32) hours after the accident. The covered employee is responsible for notifying MCCOG-TN of his or her location if he or she leaves the scene of the accident prior to submission to testing. Failure by the covered employee to remain readily available may be determined to be a refusal to submit to testing.

When a covered employee has been notified that he/she will be required to submit to post-accident drug and/or alcohol testing, he/she must report immediately to the collection site designated by MCCOG-TN.

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<sup>1</sup> FTA Drug and Alcohol Regulation Updates, Issue 20, page 4. Further updated regarding lift operation in issue 25

<sup>2</sup> The employee must be conscious and able to provide a urine sample in the normal way he/she would if he/she were not injured.

Note: Post-accident drug and alcohol tests required by this policy are in addition to and/or separate from any tests conducted for law enforcement purposes.

## **RANDOM**

All covered employees will be subject to random and unannounced drug and/or alcohol testing. When a covered employee has been notified that he/she has been selected for testing, he/she must report immediately to the collection site designated by MCCOG-TN. Random alcohol testing will only be conducted just before, during, and just after performing a safety sensitive function.

All covered employees will have an equal chance of being selected for testing and will remain in the random selection pool even after being tested. For example, it is possible for some covered employees to be tested several times in one year, and other covered employees not to be tested for several years. The FTA sets the testing rates for drugs and alcohol annually and MCCOG-TN will comply with those testing rates.

The selection of employees shall be made by a scientifically valid method of generating an employee identifier from the appropriate pool of safety-sensitive employees. The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.

## **RETURN TO DUTY**

If MCCOG-TN decides to retain an employee who has violated this policy, the employee must complete the return-to-duty process due to prior positive test or refusal-to-test. Prior to being permitted to perform safety sensitive functions a covered employee who has had a positive drug and/or alcohol test or a refusal to test must meet with a Substance Abuse Professional (SAP) who is satisfactory to MCCOG-TN. The SAP will conduct a face to face evaluation of the employee to evaluate the employee's need for education and/or treatment in regard to the employee's use of drugs and/or alcohol. The SAP will refer the employee to complete a designated course of action regarding education and/or treatment. The employee must meet again with the SAP to determine whether the covered employee has followed the recommendations for action by the SAP. The SAP will provide MCCOG-TN with a report indicating if the SAP is satisfied that the employee has successfully completed their required education/treatment program and is known to be drug and alcohol-free and there are no undo concerns for public safety. MCCOG-TN will decide if the employee is ready to return to duty and if so the employee must pass a return to duty drug test and/or submit to a breath alcohol test with a result showing an alcohol concentration level of less than 0.02. The return to duty test **will** be an observed collection.

The return-to-duty test must in all cases be a negative test. Cancelled and invalid tests will require submission of a second sample for drug testing.

## **FOLLOW-UP**

If an employee has passed a return-to-duty test, the SAP will determine a follow-up testing plan. At the minimum, DOT regulations require at least six (6) unannounced follow-up tests during the first twelve (12) months that an employee is performing safety sensitive functions. The SAP may determine additional follow-up testing is required and the additional testing may extend up to sixty (60) months after the employee's return-to-duty. The frequency of the follow-up tests may exceed the six (6) required tests. When a covered employee has been notified that he/she has been selected for testing, he/she must report immediately to the collection site designated by MCCOG-TN. Follow-up testing is separate from and in addition to any random tests the employee may be selected for. The follow-up test must, in all cases, be a negative test. Cancelled and invalid tests will require a submission of a second sample for drug testing. A follow-up test **will** be an observed collection.

If the employee does not complete the return-to-duty process for MCCOG-TN, the employee will be required to complete the process prior to performing safety-sensitive duties for any other DOT covered employer. This requirement does not have any time limitations.

## **DRUG TESTING PROCEDURES**

Drug testing will be conducted using laboratory testing of urine specimens for the following drugs:

- Marijuana Metabolites
- Cocaine Metabolites
- Opiate Metabolites
- Phencyclidine
- Amphetamines

All urine specimens will be collected at a collection site, designated by MCCOG-TN, which meets the guidelines established by the Department of Transportation under 49 CFR Part 40 as revised. The collection site personnel will be responsible for maintaining the integrity of the specimen collection and transfer process and for protecting the dignity and privacy of the covered employee providing the sample.

Chain of custody procedures, using DOT urine custody and control forms, will be used throughout the collection and analysis process to ensure that test results will be attributed to the correct covered employee. The DOT "Urine Custody and Control Form" (CCF) documents the chain of custody and is legal evidence that the reported test results apply to the donor.

At the collection site the testing should begin without undue delay. If you are also taking a DOT alcohol test, to the greatest extent practicable, the DOT alcohol test should be administered

prior to the drug test. You are required to provide positive identification to the collector staff. You will be directed to remove outer clothing (e.g. coveralls, jacket, coat, and hat) and leave the clothing, along with purses, briefcases, backpacks, etc. with the collector. The collector will also request that you empty your pockets and display the items in your pockets. If there is nothing that can be used to adulterate a specimen, you will be allowed to place the items back in your pocket. If the collector finds anything that could be used to tamper with a specimen, the collector will determine if the item was brought into the collection site with the intent to tamper with the specimen. If the collector makes this determination, the collector must conduct a directly observed collection. If the collector determines the material was inadvertently brought to the collection site, (e.g. eye drops) the collector will secure and maintain it until the collection process is completed. Failure to comply with the collector's instructions will be considered a refusal to test.

You are required to wash and dry your hands prior to the collection and cannot wash your hands again until the specimen has been given to the collector. You will be required to urinate into a collection cup or specimen bottle, supplied by the collection site, providing at least 45 milliliters (ml) of urine. If the collector observes conduct clearly indicating an attempt to tamper with a specimen (e.g. substitute urine in plain view or attempt to bring into the collection site an adulterant or urine substitute) the collector will require an immediate, directly observed collection. The collector will note the conduct on the CCF and contact the Designated Employer Representative (DER).

The temperature of the specimen must be between 90 and 100 degrees F no later than four (4) minutes after the collection. If the temperature is outside the acceptable range then a new collection must be immediately conducted and it will be a directly observed collection. Both specimens will be sent to the lab for testing and the DER must be informed. If you refuse to provide a second specimen or refuse to provide the second specimen under direct observation, the first specimen will be discarded, the DER will be notified and it will be considered a refusal to test.

In addition, the collection site technician will visually examine the specimen for signs of tampering by looking for any unusual color, sediment or unusual odor. If the collector observes signs of tampering, a new collection must be immediately conducted and it will be a directly observed collection. Both specimens will be sent to the lab for testing and the DER must be informed. If you refuse to provide a second specimen or refuse to provide the second specimen under direct observation, the first specimen will be discarded, the DER will be notified and it will be considered a refusal to test. Collection site personnel will also be responsible for separating the specimen, in your presence, into two specimen bottles. One bottle shall contain thirty (30) ml of urine and will be used as the primary specimen. The second bottle shall contain at least fifteen (15) ml of urine and shall be used as the split specimen. Both bottles must be sealed and labeled in your presence. The labels must be printed with the same specimen identification number as the CCF. You will initial the labels verifying that the specimen is yours.

## **SHY BLADDER PROCEDURES**

You must be able to provide at least 45 ml of urine for a drug test. The collector will urge you to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three (3) hours, or until you have provided a sufficient urine specimen. If you refuse to make an attempt to provide a new urine specimen, the collector will discontinue the collection and immediately notify the DER. This is considered a refusal to test. If you have not provided a sufficient specimen within three (3) hours of the first unsuccessful attempt to provide the specimen, the collector must discontinue the collection and notify the DER. The DER then is to consult with MCCOG-TN's Medical Review Officer (MRO) and then you will be directed to obtain within five (5) working days an evaluation from a licensed physician who is acceptable to the MRO and has expertise in medical issues related to your failure to provide a sufficient specimen. The physician is to determine if there is a medical condition that has, or with a high degree of probability could have, precluded you from providing a sufficient amount of urine. If the physician reports to the MRO that there was a medical condition that meets the above standard, the MRO will cancel the test. If the physician reports that there was no medical condition that meets the above standard, the MRO will determine that it was a refusal to test.

### **WHEN AND HOW IS A DIRECTLY OBSERVED COLLECTION CONDUCTED?**

MCCOG-TN must direct an immediate collection under direct observation with no advanced notice to the employee if:

- The lab reports to the MRO that a specimen is invalid and the MRO reports there was no adequate medical explanation for the results, or
- The MRO reported the original positive, adulterated or substituted test result had to be cancelled because the test of the split specimen could not be performed
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen
- The temperature of the original specimen was out of range
- Anytime the employee is directed to provide another specimen because the original appeared to have been tampered with
- All follow up tests
- All return to duty tests

The observer must be the same gender as the employee. The observer does not have to be a trained collector. Refusal to allow a directly observed collection that is required or permitted is a refusal-to-test. The observer will request the employee to raise his or her shirt, blouse, or dress/skirt,

as appropriate, above the waist; and lower clothing and underpants to show the observer, by turning around, that you do not have any devices used to substitute or adulterate a urine specimen (prosthetic device). After the observer has determined that you do not have such a device, the observer may permit you to return your clothing to its proper position for observed urination.

## **RETURN TO DUTY AFTER SPECIMEN COLLECTION**

A covered employee who is required to submit to random or follow-up drug testing may be returned to duty immediately following specimen collection. If the covered employee is subject to random or follow-up alcohol testing, the covered employee's return to duty will be dependent upon the outcome of the breath alcohol testing.

A covered employee who is required to submit to a reasonable suspicion or post-accident drug test will not be permitted to return to duty and will be placed on a paid leave pending the receipt by MCCOG-TN of a verified test result. The above is under MCCOG's authority.

## **DRUG TESTING LABORATORIES**

All drug testing must be completed in a laboratory certified by the Federal Department of Health and Human Services (HHS) under the National Laboratory Certification Program. The laboratory will conduct validity testing for all samples. Then, immunoassay screening will be used as the initial test for the testing of the primary specimen. If any prohibited drug registers above the cutoff level designated in the Federal regulations, a confirmation test using gas chromatography/mass spectrometry (GC/MS) will be conducted.

## **DRUG TEST RESULTS**

All drug test results will be reported by the testing laboratory to a qualified MRO designated by MCCOG-TN. Laboratories report to the MRO the following results:

- Negative
- Negative – Dilute
- Rejected for Testing, With Remarks
- Positive – With Drug(S)/Metabolite(S) Noted
- Positive – With Drug(S)/Metabolite(S) Noted – Dilute
- Adulterated, With Adulterants noted
- Substituted, With confirmatory test values for Creatinine and Specific Gravity
- Invalid Result, With Remarks

## **MEDICAL REVIEW OFFICER (MRO) DUTY RELATED TO TEST RESULTS**

When the MRO receives a confirmed positive, adulterated, substituted, or invalid test result from the laboratory, the MRO must contact the employee directly to determine if the employee wants to discuss the test result. The MRO must explain to the employee that if he/she declines to discuss test results, the MRO will verify the test as positive or as a refusal-to-test because of adulteration or substitution, as applicable.

The MRO or MRO staff must make reasonable efforts to contact the employee at the day and evening phone numbers the employee listed on the Control and Custody Form. Reasonable efforts include, as a minimum, three (3) attempts, spaced reasonably over a 24 hour period to reach the employee. If the MRO or the MRO's staff is unsuccessful in contacting the employee, the MRO will contact MCCOG-TN's DER and instruct the DER to have the employee contact the MRO. The DER must attempt to contact the employee immediately. If the DER is successful in contacting the employee, the employee is informed that he or she has 72 hours to contact the MRO. If the employee fails to contact the MRO, the failure to contact the MRO will result in a report of a positive test or a refusal-to-test, as applicable. If the MRO and DER have been unsuccessful in contacting the employee after ten (10) days from the time the MRO received the results from the laboratory, the MRO will report the test as positive or as a refusal-to-test because of adulteration or substitution, as applicable. The employee has sixty (60) days to present to the MRO verification documenting that serious illness, injury, or other circumstances prevented contact with the MRO or DER in the times provided. The MRO may reopen the verification process and allow the employee to present information whether there is a legitimate medical explanation for the results from the test. If the employee agrees to talk with the MRO, the MRO may determine that a medical evaluation may be needed to determine if there is a legitimate reason for the test results. The employee must comply with the request for further medical evaluation and failure to do so is equal to expressly declining to discuss the test result. The employee has the burden of proof that a legitimate medical explanation for the test results exists. Even if the employee proves that there is a legitimate medical explanation for the test results and the MRO determines the test result is negative, the MRO has a duty to inform the employer the medication the employee is taking makes the employee unfit for duty.

If the laboratory determines the specimen has been adulterated or substituted, the employee has the burden of proof to show the MRO that a legitimate explanation for the presence of an adulterant in the specimen or the creatinine and specific gravity findings for the specimen. For an adulterated specimen, the employee must demonstrate the adulterant entered the specimen through physiological means. For a substituted specimen, the employee must demonstrate that he or she did produce or could have produced urine, through physiological means, outside of the standards for creatinine and specific gravity of normal human urine.

The MRO or the employer is not responsible for arranging, conducting or paying for any studies, examinations or analysis to determine if a legitimate medical explanation exists. If the MRO believes that the employee's explanation may present a reasonable basis for concluding that there is a

legitimate medical explanation, the MRO must direct the employee to obtain within five (5) days a further medical evaluation. The evaluation must be performed by a licensed physician acceptable to the MRO, with expertise in the medical issues raised by the employee's explanation. The MRO or employer is not responsible for finding or paying for a referral physician. However, upon request from the employee, the MRO must provide reasonable assistance to the employee to find a referral physician.

The MRO reviews the referral physician's findings and determines that there is or is not a legitimate medical explanation and either cancels the test or reports the test as a refusal to test. It is important to note that revised federal regulations in Part 40 do not allow the MRO to consider explanations of confirmed positive, adulterated or substituted test results that would not, even if true, constitute a legitimate medical explanation. For example, a claim of unknowingly eating a marijuana brownie is not a legitimate medical explanation for a positive test for marijuana, thus the MRO cannot consider the explanation.

### **POSITIVE DRUG TEST RESULTS AND REFUSAL TO TEST (ADULTERATED AND SUBSTITUTED SPECIMENS)**

A covered employee who has a verified positive drug test result or a verified adulterated or substituted specimen will be immediately removed from his or her safety-sensitive position, referred to a SAP for evaluation and advised of resources available to evaluate and resolve problems associated with drug abuse. It is MCCOG-TN's policy that the covered employee who has a verified positive drug test or a verified adulterated or substituted specimen may be subject to termination.

### **SPLIT SPECIMEN TESTING**

If the MRO verified a drug test as positive for a drug or drug metabolite, or as a refusal-to-test because of adulteration or substitution, the employee must be notified of his/her right to have the split specimen tested. Employees do not have access to a test of their split specimen following an invalid result. A covered employee will have 72 hours including holidays and weekends, from the time of notification to the employee by the MRO, or MCCOG-TN, whichever occurs first, in which to request that the split specimen be analyzed at a different HHS-approved laboratory. The covered employee will be responsible for paying the cost of the split sample testing. MCCOG-TN will, upon request of the employee, arrange to pay for the test of the split specimen, however, MCCOG-TN will deduct the cost of the test from his or her paycheck or otherwise seek recovery of the cost of the second test from the employee.

### **SPLIT SPECIMEN OUTCOMES**

Reconfirmed: – The split specimen tested as a positive. The MRO informs the employee and the DER the second test confirmed the results of the first test. If an adulterated or substituted specimen is reconfirmed, the MRO reports a “refusal-to-test” to the employee and DER.



Failed to Reconfirm Drug(s)/Drug Metabolite(s) Not Detected: – The MRO reports to the employee and DER that both tests are cancelled.

Failed to Reconfirm Adulteration or Substitution Criteria Not Met: – The MRO reports to the employee and DER that both tests are cancelled.

Failed to Reconfirm Specimen Not Available for Testing: – The MRO reports to the employee and DER that both tests are cancelled. The MRO directs the DER to send the employee for immediate recollection under direct observation.

If the result of the test of the split specimen fails to confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen or fails to confirm the finding of an adulterated or substituted specimen, the MRO will cancel the test, and report the cancellation and the reasons for it to MCCOG-TN, the covered employee, and DOT. The covered employee will be returned to duty and will be compensated for time or benefits lost as a result of the positive drug test result or the refusal-to-test due to adulteration or substitution. MCCOG-TN will reimburse the employee for the cost of the split sample testing. The request by a covered employee for an analysis of the split specimen will not delay the removal of the covered employee from his/her safety-sensitive position.

## **DILUTE RESULTS**

A dilute test that is verified as a positive test for drugs or drug metabolites is still considered a positive test. A dilute test that is negative will be considered a negative test.

## **INVALID TESTS**

If the laboratory reports to the MRO the test results are invalid or contained an unexplained interfering substance, the MRO will contact the employee. The MRO will ask for information related to medication(s) which may have interfered with the immunoassay test. If the employee provides information that is acceptable, the MRO cancels the test based on an invalid result. A retest would be necessary when a negative test result is required for pre-employment, return-to-duty or follow-up testing. If the MRO determines the employee's explanation does not account for the result, the MRO contacts the DER and requires an immediate collection under direct observation. If the employee tells the MRO that he/she adulterated or substituted the specimen, then the MRO reports a refusal to test. If a valid test result cannot be produced and a negative result is required, the MRO must determine if there is clinical evidence that the employee is currently an illicit drug user. The MRO makes this determination by personally conducting, or causing to be conducted, a medical evaluation. In addition, if appropriate, the MRO may consult with the employee's physician. The examination may include an alternative test (e.g. blood) as part of the medically appropriate procedures in determining clinical evidence of drug use. If the medical evaluation reveals no clinical evidence of drug use, the MRO reports this to the employer as a negative result with written notations regarding the medical examination.

## **SPECIMEN REJECTED FOR TESTING**

If a specimen is rejected for testing as a result of a fatal or uncorrected flaw in the collection process or handling by the laboratory, the MRO will cancel the test. The MRO will notify the DER and another collection is only required if the employer is required to have a negative test result from a pre-employment, return-to-duty or follow-up test.

## **BREATH ALCOHOL TESTING PROCEDURES**

All breath specimens must be collected through the use of an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA). The breath alcohol tests will be conducted by a trained breath alcohol technician (BAT) at a site that provides visual and aural privacy to the covered employee being tested to the greatest extent practicable. Prior to specimen collection the covered employee and the BAT must complete, date and sign a DOT Alcohol Testing Form (ATF) indicating that the covered employee is present and providing a breath specimen. Failure to sign the ATF is considered a refusal-to-test.

The BAT will conduct an initial screening test, requiring the covered employee to blow forcefully into a disposable mouthpiece, attached to the EBT, for at least six (6) seconds or until an adequate amount of breath has been obtained. Following the initial screening test, the BAT will show the covered employee the result displayed on the EBT, or the printed result. If the result of the initial screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be conducted. The confirmation test will be conducted at least 15 minutes, but not more than 30 minutes after the completion of the initial screening test. The covered employee must remain in the presence of the BAT during the waiting period. The confirmation test will be conducted using the same procedures as the initial screening test. A new mouthpiece will be used. Before the confirmation test is administered, the BAT will conduct an air blank test on the EBT. If a BAT other than the one who conducted the screening test is to conduct the confirmation test, the new BAT and the covered employee will be required to sign and date a new breath alcohol testing form. If the results of the initial screening test and the confirmation test are not identical, the confirmation test result will be deemed to be the final result.

Following the completion of a breath alcohol test, the BAT and the covered employee will be required to sign and date the breath alcohol testing form certifying that the results shown belong to the covered employee being tested. The BAT will be responsible for transmitting all test results to the MCCOG-TN in a confidential manner.

If a covered employee attempts and fails to provide an adequate amount of breath, the BAT will note this on the alcohol testing form and notify MCCOG-TN's DER. The DER will direct the employee to obtain, within five (5) days an evaluation from a licensed physician, who is acceptable to the employer, who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen.

## **BREATH ALCOHOL TEST RESULTS**

If the results of the breath alcohol test are below 0.02, the covered employee may be returned to work immediately, unless he or she is also required to be tested for drugs under reasonable suspicion, return-to-duty or post accident testing.

A confirmed alcohol concentration of 0.02 to 0.039 will be considered a violation of MCCOG-TN's policy. (FTA and DOT consider 0.04 and higher as a positive result, however, MCCOG-TN has adopted a zero tolerance policy for alcohol use and considers 0.02 or higher as a violation that may lead to termination). The BAT must immediately notify the DER of any results that are 0.02 and higher. If the results of the breath alcohol test are 0.04 or greater, the covered employee will be immediately removed from his or her safety-sensitive position, referred to a SAP for evaluation and advised of the resources available to evaluate and resolve problems associated with alcohol misuse. It is MCCOG-TN's policy that the covered employee who has a confirmed breath alcohol of 0.02 or greater may be subject to termination.

A covered employee with a breath alcohol concentration level of 0.02 or greater will be provided transportation to his/her residence. If the covered employee insists on driving, law enforcement will be notified.

## **REFUSAL TO SUBMIT TO A TEST**

Any covered employee who refuses to submit to a drug or alcohol test will be considered to be in violation of this policy and may be discharged from employment from MCCOG-TN. *As an employee, you have refused to take a drug test if you:*

- Fail to appear for any test within a reasonable time as determined by the employer, after being directed to do so by the employer;
- Fail to remain at the collection site until the collection process is complete;
- Fail to attempt to provide a urine specimen for any drug test required by DOT or FTA regulations;
- In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of your provision of a specimen including failure to follow the observer's instructions to raise your clothing above your waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process;

- Admit to the collector or MRO that you adulterated or substituted the specimen;
- Fail to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Fail or decline to take a second test the employer or collector has directed you to take;
- Fail to undergo a medical examination or evaluation as directed by the MRO as part of the verification process or as directed by the DER as part of the “shy bladder” procedures;
- Fail to cooperate with any part of the testing process such as refusing to empty your pockets when so directed by the collector or behave in a confrontational way that disrupts the collection process;
- As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you are considered to have refused to take a drug test;
- Failure to remain readily available for testing after an accident.

A refusal to submit to a drug test is considered a positive test under DOT and FTA regulations. Any covered employee who fails or refuses to test under USDOT regulations will be immediately removed from safety-sensitive duties and will be referred to a DOT qualified SAP.

*As an employee, you have refused to take an alcohol test if you:*

- Fail to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- Fail to remain at the collection site until the collection process is complete;
- Fail to attempt to provide a breath specimen for any test required by DOT and FTA regulations;
- Fail to provide a sufficient breath specimen, and a physician has determined, through a required evaluation, that there was no adequate medical explanation for the failure;
- Fail to undergo a medical examination or evaluation as directed by the employer as part of the insufficient breath procedures;

- Fail to sign the certification (Step 2) on the Alcohol Testing Form (ATF);
- Fail to cooperate with any part of the testing process;
- Failure to remain readily available for testing after an accident.

A refusal to submit to an alcohol test is considered a positive test under DOT and FTA regulations.

## **DISCIPLINE**

The FTA regulations do not mandate any specific disciplinary action; all discipline is applied under MCCOG-TN's authority and discretion. Compliance with MCCOG-TN's Drug and Alcohol Policy is a condition of employment for all covered employees. For covered employees, a violation of any part of MCCOG-TN's Drug and Alcohol Policy may result in discipline, up to and including termination. In the following circumstances, employees will be discharged for:

- Any failure<sup>3</sup> of a return-to-duty drug and/or alcohol test;
- Any failure of a follow-up drug and/or alcohol test;
- Any second failure of any drug and/or alcohol test not listed above;
- Failure to sign a return-to-duty contract with MCCOG-TN;
- Failure to cooperate fully with the substance abuse professional and any plan for treatment and/or education;
- Failure to cooperate with and complete any required treatment program and/or education program;
- Refusal to submit to a drug and/or alcohol test as defined in this policy;
- A conviction for any violation of a criminal drug statute for any offense while committed in the workplace as defined in this policy and/or failure to notify MCCOG-TN of such conviction within five (5) days.

For all other positive drug and/or alcohol tests, MCCOG-TN may offer the employee a "second chance". Factors which MCCOG-TN may consider regarding the offering of a "second chance" include, but are not necessarily limited to, the covered employee's degree of impairment, conduct prior to the positive test result, the covered employee's work record, and the potential for

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<sup>3</sup> Failure includes a positive test and a refusal-to-test.

harm to the public, riders, the agency and/or the employee arising from the covered employee's actions and/or impairment.

Covered employees who are discharged as a result of violating the Drug and Alcohol policy will be given information about treatment programs available in the community and referred to a Substance Abuse Professional (SAP) for evaluation.

## **REQUIRED TREATMENT**

In the event that a continuing covered employee is referred for treatment by a SAP, said covered employee may be required to satisfactorily complete an approved drug or alcohol treatment program and aftercare as a condition of continuing employment. Work absences for treatment purposes may qualify for available sick leave and vacation benefits, provided the covered employee is following the prescribed treatment program. If sick leave and vacation leave have been exhausted, the covered employee will be placed on a medical leave of absence without pay. Covered employees working under an agreement that they satisfactorily complete an approved program of drug and/or alcohol dependency treatment will be required to submit to follow-up drug and/or alcohol testing to verify continued abstinence from drugs and/or alcohol for at least 12 but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the SAP, with a minimum of 6 tests during the first 12 months after the covered employee has returned to duty.

## **RETURN TO WORK AGREEMENT**

Covered employees who are permitted to return to work after having violated this policy or who have voluntarily obtained treatment prior to a violation of this policy will be required to sign a return to work agreement prior to being permitted to return to his/her safety-sensitive position. The agreement may include, but is not limited to the following requirements:

- A release to work statement from an approved treatment specialist.
- A negative test for drugs and/or alcohol.
- An agreement to follow-up testing.
- A statement of expected work-related behaviors.
- An agreement to follow specified aftercare requirements.
- An expressed understanding that violation of the return to work agreement may result in discipline, up to and including termination.

The return to work agreement is not a guarantee of continued employment. Covered

employees working under a return to work agreement must also follow all other MCCOG-TN policies and procedures.

### **ADDITIONAL INFORMATION**

Questions about this policy or MCCOG-TN's testing program can be directed to the Designated Employer Representative (DER), Dan Schwanz, (541) 296-7595 or the backup DER, John Arens, (541) 298-4101.

## ATTACHMENT A

### Mid-Columbia Council of Governments – Transportation Network Drug and Alcohol Abuse Policy

#### TERMS AND DEFINITIONS:

<b>Alcohol:</b>	As defined by the FTA, the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol. As defined by MCCOG-TN, alcohol means any alcoholic beverage containing more than one half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol, and capable of being consumed by a human being.
<b>Alcohol Use:</b>	The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
<b>Breath Alcohol Technician (BAT):</b>	An individual who instructs and assists individuals in the alcohol testing process and operates an EBT.
<b>Chain of Custody:</b>	Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition. These procedures require that a DOT drug testing control and custody form be used at the time of collection to receipt by the laboratory and that upon receipt by the laboratory (an) appropriate chain of custody form(s) account(s) for the sample within the laboratory.
<b>Controlled Substance:</b>	As defined by MCCOG-TN, controlled substance means any drug or its immediate precursor classified in Schedules I through V under the Federal Controlled Substances Act, 21 USC Sections 811 to 812, as modified under ORS 475.035. The use of the term “precursor” in this subsection does not control and is not controlled by the use of the term “precursor” in ORS 475.940, 475.950, and 475.955. In addition, manufactured drugs recognized by health and law enforcement agencies that are not included in Schedules I through V under the Federal Controlled Substances Act, 21 USC Sections 811 to 812, as modified under ORS 475.035 are considered to be controlled substances.
<b>Covered employee:</b>	Any employee who is employed in a position covered by this policy. Said positions are listed in Attachment B attached hereto.



<b>Designated Employer Representative (DER):</b>	The employer's representative that is responsible for administering the employer's DOT and FTA drug and alcohol testing program.
<b>Department of Transportation (DOT):</b>	The U.S. Department of Transportation which oversees the rules regarding the Drug and Alcohol Testing programs of the operating agencies, e.g. the FTA, etc.
<b>Federal Transit Administration (FTA):</b>	An operating agency of the U.S. Department of Transportation. The FTA has specific rules that a recipient of Federal Transportation funds must follow regarding the requirements for a drug and alcohol testing program.
<b>Medical Review Officer:</b>	A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program that has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his/her medical history and any other relevant biomedical information.
<b>Over-The-Counter-Drugs/Medications:</b>	Those drugs/medications which are legally available without a prescription.
<b>Performing a Safety-Sensitive Function:</b>	A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.
<b>Prescription Drugs/Medications:</b>	Those drugs/medications which are used in the course of medical treatment and have been prescribed and authorized for use by a licensed practitioner/physician or dentist.
<b>Safety-Sensitive Function:</b>	Any of the following duties: <ul style="list-style-type: none"> <li>• Operating a revenue service vehicle, including when not in revenue service;</li> <li>• Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;</li> <li>• Controlling dispatch or movement of a revenue service vehicle;</li> <li>• Maintaining a revenue service vehicle or equipment used in revenue service except for contractors to Section 5311 (Formerly Section 18) transit agencies;</li> <li>• Carrying a firearm for security purposes;</li> </ul>

<p><b>Safety Sensitive Positions:</b></p>	<p>A position or job category that requires the performance of a safety-sensitive function. A list of safety-sensitive positions at MCCOG-TN, as defined by the Federal regulations and MCCOG-TN policy, is attached to this policy as Attachment B.</p>
<p><b>Substance Abuse Professional:</b></p>	<p>A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, family-marriage therapist, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse). All must have knowledge of and clinical experience in the diagnosis and treatment of controlled substances-related disorders.</p>

## **ATTACHMENT B**

### **Mid-Columbia Council of Governments – Transportation Network Drug and Alcohol Abuse Policy**

This policy shall be applied to the following positions. The following positions perform safety-sensitive functions. Note these are functional descriptions, not necessarily the actual names that MCCOG has given the positions.

#### **SAFETY-SENSITIVE POSITIONS**

- Driver
- Dispatcher
- OMAP Intake Specialist
- Operations Manager
- Program Director

**Mid-Columbia Council of Governments  
Drug and Alcohol Abuse Policy**

**Employee Certification Form**

I hereby certify that I have received, read and understand the Mid-Columbia Council of Governments Transportation Network Drug and Alcohol Abuse Policy on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Employee Signature

# Mid-Columbia Council of Governments

*Memorandum*

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**To:** MCCOG Board of Directors  
**From:** Sarah Brumbaugh, Finance Director  
**Date:** August 25, 2015  
**Subject:** **Revised Purchasing & Bids Policy, Resolution 14-13**

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Discussion:

Federal OMB Cost Principles have changed with the finalization of the “Super Circular”. This necessitates our Purchasing & Bids Policy being amended to include statements regarding the following:

- (a) written protest procedures;
- (b) a statement that all potential vendors in procurements over \$25,000 will be investigated to ensure they are compliant with Federal contractor responsibility standards; and
- (c) changing the procurement threshold of micro-purchases to \$3,000 to be consistent with 2 CFR part 200.

Staff Recommendation:

Authorize revisions to Purchasing & Bids Policy and approve Resolution 14-13 to adopt the revised policy.

**MID-COLUMBIA COUNCIL OF GOVERNMENTS**

**PURCHASING & BIDS POLICY**

**RESOLUTION NUMBER 14-13**

**WHEREAS**, The Mid-Columbia Council of Governments (MCCOG) is an intergovernmental agency formed under the authority of Oregon Revised Statutes, Chapter 190, consisting of the five counties of Wasco, Hood River, Sherman, Gilliam, and Wheeler; and

**WHEREAS**, MCCOG retains a current Purchasing & Bids Policy to ensure that the organization is in compliance with Federal OMB Cost Principles;

**WHEREAS**, Federal OMB Cost Principles changes in the finalization of 2 CFR 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” necessitate some language changes in our current Purchasing & Bids Policy to comply;

**NOW, THEREFORE, BE IT HERBY RESOLVED** that the changes outlined in MCCOG’s Purchasing & Bids Policy be changed, as outlined in Attachment A, to reflect compliance with 2 CFR 200.

**PASSED AND APPROVED** this 25<sup>th</sup> day of August 2015.

Attest:

\_\_\_\_\_  
Michael Smith, Board Chair

\_\_\_\_\_  
Cecilia Lamas-Guiney, Executive Assistant

## **MID-COLUMBIA COUNCIL OF GOVERNMENTS POLICY FOR PURCHASING AND BIDS**

### **1. ORGANIZATION AND STRUCTURE:**

- A. The Executive Director shall be the authorized Purchasing Agent for Mid-Columbia Council of Governments.
- B. The Board of Directors is the designated Local Contract Review Board.
- C. The Purchasing Agent may establish whatever systems and procedures deemed necessary for effectiveness and efficiency.
- D. No employee, officer or agent of MCCOG shall participate in the selection, in the award, or in the administration of a contract if a conflict of interest, real or apparent, would be involved.
- E. In the event Federal Funds are used for a purchase, the project manager will ensure compliance with all purchasing procedures required by the federal grant being utilized.

### **2. PURPOSE:**

The primary purpose is to provide systems and procedure for purchase of needed materials, supplies, equipment and services, and to offer all prospective suppliers an opportunity to submit a bid or price quotation on materials, supplies, equipment, or services that will be purchased by the Mid-Columbia Council of Governments. Both quality and price will be items of consideration in purchasing materials, supplies, equipment, and services.

### **3. DELEGATION OF AUTHORITY:**

- A. Authority is hereby granted to department heads, as follows:
  - a. To purchase specialized materials, supplies, equipment and services except: prior approval from the Purchasing Agent shall be obtained for purchase of any capital outlay item.
- B. Applicable price quotations shall be received for specialized materials, supplies, equipment and services.
  - a. To request and receive bids for material, supplies, equipment and services, provided that the departmental budget included funds for the materials, equipment, supplies, or services being requested.

C. Department Heads may delegate purchasing authority to a departmental employee(s) and the Purchasing Agent shall receive written notification of any employee(s) with such authorization.

D. Contracts:

- a. Authority is hereby granted to the Purchasing Agent to sign maintenance contracts.
- b. The Board of Directors may delegate authority to the Purchasing Agent to sign contracts.

#### **4. BID PROCEDURE**

A. Definitions:

- a. Procurement: The purchase of equipment, materials, supplies and services beginning with the process for determining the need and ending with contract completion.
- b. Request for Proposal (RFP): The document which invites offers from service providers for the delivery of a specific type of service. It includes a description of the product or service desired which enable a potential contractor to submit a proposal. The RFP will include information necessary for an objective evaluation and comparison to similar proposals. The RFP is the specific term applied to a solicitation where negotiation is used. This method is the most commonly used form of solicitation when:

1. The nature of the service needed precludes developing a specification or purchase description so precise that all proposers would have an identical understanding or approach to the requirements; and
2. Cost is not the only factor considered in making an award.

- c. Request for Quotation (RFQ): A document which is used to acquire the price and pertinent information needed from a vendor/supplier. Since the quotation is not a formal offer, the awarding agency must reach a bilateral negotiated agreement before a binding contract exists. A RFQ differs from an RFP in that it simply asks for a price based on standard specifications that are generally known or applied industry wide.

It is appropriate to use an RFQ when

1. A complete, adequate and realistic specification or purchase description is available; and
2. There are at least two responsible vendors who compete effectively for the award; and
3. The procurement lends itself to a firm fixed-price contract and selection of a contractor based wholly on price is appropriate and reflective of the nature of the products or service being purchased.

- d. Solicitation: The practice of distributing an Invitation for Bid, Request for



Proposal, or any other document, such as a Request for Quotation, issued by a purchasing agency for the purpose of soliciting offers to perform a contract.

- e. Lowest Responsible Bidder: The bidder who submits the lowest cost quotation for a given bid and who, by past performance, has demonstrated reliability with respect to quality of service and product, a record of completing contracts in a timely manner, and a history of satisfactory performance of warranty service.
  - 1. Where no past performance record is available, the Department Head, Purchasing Agent, or Board of Directors may consider the cost quotation and record of performance for other jurisdictions, reputation of the bidder within the bidder's business community, the bidder's experience in the area of bidder's expertise, and the bidder's general reputation for honesty and reliability in determining the lowest responsible bidder.
  
- B. Advertisement for bids or a request for price quotations, and award of bid must occur within the same fiscal year.
  
- C. Prior to advertising a request for bids or otherwise requesting price quotations for any purchase anticipated to cost more than \$100,000, the Purchasing Agent shall be notified of the item being bid and the scheduled date and hour of the bid opening.
  
- D. All awards of contracts and purchases for which competitive bids have been requested shall be made to the lowest responsible bidder complying with specifications.
  
- E. The Department Head, Purchasing Agent, or Board of Directors may award the contract or purchase to other than the lowest responsible bidder when emergency conditions require prompt execution of the contract or purchase.
  
- F. Purchases of \$0 - **\$2,999.99**:
  - a. A purchase order shall be required.
  - b. Price comparisons shall be made for purchase of materials, supplies, equipment, and services that could have more than one vendor or supplier, and could have a price differential between vendors or suppliers. In determining the vendor or supplier, consideration shall be given to price, quality, and other factors that may be pertinent. The vendor or supplier shall be determined by criteria established by the department head.

G. Purchases of **\$3,000.00** - \$50,000.00 - INFORMAL BID PROCEDURE:

- a. A purchase order shall be required.
- b. A minimum of three documented verbal quotations from vendors. Written documentation of these quotes must be attached to the purchase order.
- c. **All potential vendors in procurements over \$25,000 will be investigated to ensure they are not federally-debarred.**

H. Purchases of \$50,000.00 - \$100,000.00 - FORMAL BID PROCEDURE:

- a. A purchase order shall be required.
- b. A minimum of three formal written quotations from vendors. Written documentation of these quotations must be attached to the purchase order.
- c. **All potential vendors in procurements over \$25,000 will be investigated to ensure they are not federally-debarred.**

I. Purchases of \$100,000.00 or more - COMPETITIVE BIDS/NEGOTIATION:

- a. Competitive Sealed Bids: In this type of procurement bids are publicly solicited for which a firm fixed-price (lump sum or unit price) or other fixed price arrangement is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the Invitation for Bids (IFB), is the lowest price. Competitive sealed bids are most effective when the procurement specification can adequately describe and define the item or service. If competitive sealed bids are used, the following procedural requirements will apply:
  1. To promote reasonable competition that is consistent with the nature and requirements of the procurement, proposals will be current and solicited from an adequate number of qualified sources.
  2. Reasonable effort will be made to publicize the IFB to the widest practicable area of circulation.
- b. Competitive Negotiation: A method of soliciting proposals from a number of sources through a publicly announced Request for Proposal (RFP) or Request for Quotation (RFQ). Negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursement type contract is awarded. If competitive negotiation is used, the following procedural requirements will apply:
  1. The solicitation of competitive offers will follow a process for advertising, evaluation and award in accordance with the competitive standards contained in this policy. Reasonable effort will be made to publicize the solicitation to the widest practicable area of circulation.
  2. To promote reasonable competition that is consistent with the nature and requirements of the procurement, proposals will be current and solicited from an adequate number of qualified sources.

3. The solicitation will identify all significant evaluation factors, including price or cost where required, and their relative importance.
  4. A technical evaluation of proposals, including review by staff and/or Local Workforce Area committees will be completed and documented.
  5. Contract awards will be made to the responsible bidder whose proposal is most advantageous to MCCOG. In making an award, price and other factors will be considered and documented. Unsuccessful offers will be notified promptly.
- c. Non-Competitive Negotiation (Sole Sources): This form of procurement is used under conditions where competition is impractical, infeasible or inadequate.
1. Non-competitive procurement will be minimized to the extent practicable.
  2. A non-competitive negotiated procurement may be used when the award of a contract is infeasible under small purchases procedures, sealed bids, or competitive negotiation AND one of the following circumstances applies:
    - a) The item or service is available from only one single source, or
    - b) The urgency for the requirement will not permit a delay related to the use of a competitive solicitation process, or
    - c) A MCCOG grantor authorizes a non-competitive procurement, or
    - d) A MCCOG grantor authorizes a non-competitive procurement, or
    - e) Competition is determined to be inadequate, after solicitation of a number of sources.
- d. All potential vendors in procurements over \$25,000 will be investigated to ensure they are not federally-debarred.

**5. WAIVER OF PURCHASING PROCEDURES AND BID PROCEDURES:**

- A. Subject to the approval of the Purchasing Agent, the following may be exempted from the established procurement procedures:
- a. Items purchased through the State Procurement membership (ORCPP) shall be considered price-compared by the State and may be purchased without further comparison to other vendors.
  - b. On-The-Job Training (OJT): The competitive provisions of this policy will not apply to OJT employers.
  - c. Individual Training Accounts (ITA): The delivery of classroom training

from vendors through an ITA as described in 20 CFR 663.410 is excluded if the cost falls below \$100,000.

- d. Staff Services: These procedures will not apply to the purchase of staff services wherein MCCOG is acting as the employer of record.
  - e. Purchases while traveling on MCCOG authorized business. However, all efforts must be made to maintain reasonable cost control, and costs must fall within MCCOG travel policy guidelines.
  - f. Maintenance contracts for specific equipment, offered by that equipment manufacturer.
- B. Emergency Purchases: If there is an emergency, and purchase of materials, supplies, equipment, and services is immediately needed and a delay would create a hardship or hinder providing a necessary service to the general public, competitive provisions of this policy need not apply.

## 6. **POLICY:**

It is the policy of Mid-Columbia Council of Governments to use competitive selection in all appropriate procurement to ensure maximum open and free competition to the extent possible unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. At a minimum, procurement will:

- a. Be conducted in a manner that provides full and open competition. Where appropriate, an analysis will be made of lease/rental versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical.
- b. Minimize the use of sole source procurement, and justify it in every case.
- c. Clearly set forth the requirements that bidders or offerers must meet and the factors to be used in evaluating bids or proposals.
- d. Include a clear and accurate written description of the technical requirements for the material, product, or service to be procured, including the method of procurement, selection and basis for the type of contract, criteria for contractor selection or rejection, contractor selection and basis for payment. Competitive procurement will not contain features which unduly restrict or eliminate competition.
- e. Include a due date, scope of work, where to send responses to, indicated range of points for the criteria or factors used in evaluating proposals, and information on the opportunity to protest.
- f. Be stamped with time and date received, and secured until closing date and time of receipt for all proposals.
- g. Include a panel and indicate who will make the final selection once the panel gives their recommendation; the panel having signed a conflict of interest statement.
- h. Be opened publicly at a time and place designated in the solicitation and

names of each respondent shall be read and recorded.

- i. Contracts will be awarded to responsible bidders who possess the ability to perform successfully under the terms and conditions of the procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. The contract award will also include:
  - 1. Clearly specify deliverables and basis for payment;
  - 2. Compliance with all applicable regulations;
  - 3. Assurance of nondiscrimination and equal opportunity as found in 29 CFR 34.20; duration of obligations; covenants.
  - 4. Certifications, where applicable, regarding debarment, suspension, lobbying and drug free workplace.
- j. To the extent possible, small firms, minority firms, and women-owned businesses will be included in bidder's lists, and will be targeted for mailings and advertised procurement. These firms will be provided the maximum opportunity to compete in all procurement of goods and services of MCCOG.

**B. Procurement Records.**

- a. MCCOG will maintain procurement records sufficient to detail the significant history of procurement. These records will be kept in archive for 7 years before appropriate disposal.

## **6. PROTEST PROCEDURES**

### **A. Statement of Policy**

MCCOG is responsible for resolving all contractual and administrative issues, including protests of evaluations and contract awards, arising out of its third party procurements using good administrative practices and sound business judgment.

MCCOG shall give timely notification to the appropriate federally funded grantors when it receives a third party procurement protest and will keep that grantor informed about the status of any such protest. MCCOG shall disclose all information about any third party procurement protest to that grantor upon request.

MCCOG's procedure for addressing third party procurement protests is described below. MCCOG shall insert its protest procedure in all solicitation documents for products and services having an estimated value of \$100,000 or greater.

### **B. Staff Responsibilities**

The following staff responsibilities shall be assigned in all protests:

- Purchasing Agent – Responsibilities include: ensuring that the MCCOG Protest Procedure is included in all solicitation documents; and providing information to and assisting Legal Counsel with the resolution of protests.
- Legal Counsel – Responsibilities include: reviewing all procurement protests; and advising and assisting MCCOG as needed with the resolution of all procurement protests.

### C. Solicitation Provision

MCCOG shall insert the following provision in all solicitation documents:

#### a. Pre-Proposal Protests

All protests concerning solicitation specifications, criteria and/or procedures shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Purchasing Agent as specified below not later than ten (10) business days prior to the deadline for submission of bids/proposals.

The Purchasing Agent may, within his or her discretion, postpone the deadline for submission of bids/proposals, but in any case, shall provide a written response to all protests not later than five (5) business days prior to the deadline for submission of bids/proposals. If the deadline for submission of bids/proposals is postponed by the Purchasing Agent as the result of a protest the postponement will be announced through an addendum to the solicitation.

The decision by the Purchasing Agent shall be the final agency decision on the matter but shall be subject to judicial review as set forth below.

#### b. Pre-Award Protests

With respect to protests made after the deadline for submission of bids/proposals but before contract award by MCCOG, protests shall be limited to those protests alleging a violation of Federal or State law, a challenge to the bids/proposals evaluation and award process, MCCOG's failure to have or follow its protest procedures or its failure to review a complaint or protest. Such protests shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Purchasing Agent as specified below not later than five (5) business days after the Recommendation for Contract Award announcement by MCCOG.

The Purchasing Agent may, within his or her discretion, postpone the award of the contract, but in any case, shall provide a written response to all protests not later than three (3) business days prior to the date that MCCOG shall announce the contract award.

The decision by the Purchasing Agent shall be the final agency decision on the matter but shall be subject to judicial review as set forth or review by the appropriate Federal Assistance Grantor as specified below.

#### D. Requirements for Protests

All protests must be submitted to MCCOG in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail), with sufficient documentation, evidence and legal authority to demonstrate that the Protestor is entitled to the relief requested. The protest must be certified as being true and correct to the best knowledge and information of the Protestor, and be signed by the Protestor. The protest must also include a mailing address to which a response should be sent.

Protests received after the deadlines for receipt of protests specified above are subject to denial without any requirement for review or action by MCCOG.

All protests must be directed in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Purchasing Agent at the address shown in the solicitation documents.

#### E. Protest Response

The Purchasing Agent shall issue written responses to all protests received by the required protest response dates. All protest responses shall be transmitted by first-class U.S. Postal Service to the address indicated in the protest letter.

For convenience, MCCOG will also send a copy of the response to a protest to the Protester by facsimile and/or electronic mail if a facsimile number and/or electronic mail address are indicated in the protest letter. The protest response transmitted by U.S. Postal Service shall be the official MCCOG response to the protest and MCCOG will not be responsible for the failure of the Protester to receive the protest response by either facsimile or electronic mail.

#### F. Review of Protests by Grantors of federal funds

All protests involving contracts financed with Federal assistance shall be disclosed to the appropriate Grantor. Protesters shall exhaust all administrative remedies with MCCOG prior to pursuing protests with the Grantor. The Grantor may limit its reviews of protests to: a grantee's failure to have or follow its protest procedures; a grantee's failure to review a complaint or protest when presented an opportunity to do so; or violations of Federal law or regulation. Appeals to a Grantor must be received within five (5) working days of the date the Protester has received actual or constructive notice of MCCOG's final decision or within five (5) working days of the date the Protester has identified other grounds for appeal.

# Mid-Columbia Council of Governments

*Memorandum*

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**To:** MCCOG Board of Directors  
**From:** Sarah Brumbaugh  
**Date:** August 25, 2015  
**Subject:** **Addition to Salary Plan, Resolution 14-14**

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Discussion:

Our current Adopted 2015-2016 Salary Plan is in need of the addition of the position “Deputy Director”. The range would be 40, which is two levels below the Executive Director. This position should have been included with the Salary Plan at Budget adoption, but was overlooked. It is proposed that this position be an umbrella type description with sub-titles such as “Deputy Director, AAA Program” or “Deputy Director, Transportation Program”.

Staff Recommendation:

Approve Resolution 14-14 to authorize the addition of Range 40, Deputy Director to MCCOGs current Salary Plan.



**MID-COLUMBIA COUNCIL OF GOVERNMENTS**

**ADDITION OF DEPUTY DIRECTOR (RANGE 40) TO SALARY PLAN**

**RESOLUTION NUMBER 14-14**

**WHEREAS**, The Mid-Columbia Council of Governments (MCCOG) is an intergovernmental agency formed under the authority of Oregon Revised Statutes, Chapter 190, consisting of the 5 counties of Wasco, Hood River, Sherman, Gilliam, and Wheeler; and

**WHEREAS**, the current Adopted 2015/2016 Salary Plan needs the addition of a position titled “Deputy Director” at Range 40 to accommodate the title already approved by the Board of Directors at their September 2014 meeting, and;

**WHEREAS**, a cursory study on the average wage level of a Deputy Director position indicates that range 40 is appropriate;

**NOW, THEREFORE, BE IT HERBY RESOLVED** the MCCOG Board of Directors adopts the attached REVISED ADOPTED 2015-2016 SALARY PLAN with the addition of a range 40 Deputy Director position.

**PASSED AND APPROVED** this 25<sup>th</sup> day of August 2015

Attest:

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Michael Smith, Board Chair

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Cecilia Lamas-Guiney, Executive Assistant

0% COLA Increase

**FULL TIME Monthly Salary Rate**

RANGE	POSITION/ CLASSIFICATION	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F
1	OFFICE AIDE	1,609	1,681	1,757	1,836	1,919	2,005
1	LABORER	1,609	1,681	1,757	1,836	1,919	2,005
2		1,652	1,726	1,804	1,885	1,970	2,059
3		1,695	1,771	1,851	1,934	2,021	2,112
4		1,741	1,819	1,901	1,987	2,076	2,170
5		1,788	1,868	1,953	2,040	2,132	2,228
6		1,838	1,921	2,007	2,097	2,192	2,290
7		1,888	1,973	2,062	2,155	2,251	2,353
8	DRIVER	1,945	2,033	2,124	2,220	2,319	2,424
9	OFFICE ASSISTANT	2,000	2,090	2,184	2,282	2,385	2,492
10		2,062	2,155	2,252	2,353	2,459	2,570
11		2,128	2,224	2,324	2,428	2,538	2,652
12		2,190	2,289	2,392	2,499	2,612	2,729
13	SENIOR OUTREACH SPECIALIST	2,260	2,362	2,468	2,579	2,695	2,816
14	DISPATCHER-SCHEDULER	2,335	2,440	2,550	2,665	2,785	2,910
14	WAREHOUSEMAN	2,335	2,440	2,550	2,665	2,785	2,910
14	PROGRAM ASSISTANT	2,335	2,440	2,550	2,665	2,785	2,910
14	OMAP INTAKE SPECIALIST	2,335	2,440	2,550	2,665	2,785	2,910
15		2,411	2,519	2,633	2,751	2,875	3,005
16		2,493	2,605	2,722	2,845	2,973	3,107
17		2,579	2,695	2,816	2,943	3,076	3,214
18	CARE COORDINATOR	2,723	2,846	2,974	3,107	3,247	3,393
18	WAREHOUSE SUPERVISOR	2,723	2,846	2,974	3,107	3,247	3,393
18	IT SPECIALIST	2,723	2,846	2,974	3,107	3,247	3,393
19	ACCOUNTING CLERK	2,761	2,885	3,015	3,151	3,293	3,441
20	EXECUTIVE ASSISTANT	2,862	2,991	3,125	3,266	3,413	3,567
21		2,968	3,102	3,241	3,387	3,539	3,699
22	ADVISOR/INSTRUCTOR	3,072	3,210	3,355	3,506	3,663	3,828
23	COORDINATOR	3,189	3,333	3,482	3,639	3,803	3,974
24	OPERATIONS MANAGER	3,309	3,458	3,614	3,776	3,946	4,124
25	DIRECT SERVICE MANAGER	3,432	3,586	3,748	3,916	4,093	4,277
25	WAREHOUSE MANAGER	3,432	3,586	3,748	3,916	4,093	4,277
25	NETWORK ADMINISTRATOR	3,432	3,586	3,748	3,916	4,093	4,277
26		3,568	3,729	3,896	4,072	4,255	4,446
27		3,705	3,872	4,046	4,228	4,418	4,617
28		3,852	4,025	4,206	4,396	4,594	4,800
29		4,005	4,185	4,374	4,570	4,776	4,991
30	OPERATIONS DIRECTOR	4,170	4,358	4,554	4,759	4,973	5,197
31		4,337	4,532	4,736	4,949	5,172	5,405
32		4,445	4,645	4,854	5,072	5,301	5,539
33	PROGRAM DIRECTOR	4,698	4,909	5,130	5,361	5,602	5,855
34		4,893	5,113	5,343	5,584	5,835	6,098
35		5,098	5,327	5,567	5,818	6,079	6,353
36	FISCAL DIRECTOR	5,312	5,551	5,801	6,062	6,335	6,620
36	BUILDING INSPECTOR	5,312	5,551	5,801	6,062	6,335	6,620
37		5,539	5,788	6,049	6,321	6,605	6,903
38		5,779	6,039	6,311	6,595	6,892	7,202
38	BUILDING OFFICIAL	5,779	6,039	6,311	6,595	6,892	7,202
39		6,027	6,298	6,582	6,878	7,187	7,511
40	DEPUTY DIRECTOR	6,285	6,568	6,863	7,172	7,495	7,832
41		6,558	6,853	7,161	7,484	7,821	8,172
42	EXECUTIVE DIRECTOR	6,838	7,146	7,467	7,803	8,154	8,521

0% COLA Increase

**PART TIME Hourly Rate**

RANGE	POSITION/ CLASSIFICATION	STEP A	STEP B	STEP C	STEP D	STEP E	STEP F
1	OFFICE AIDE	9.90	10.35	10.81	11.30	11.81	12.34
1	LABORER	9.90	10.35	10.81	11.30	11.81	12.34
2		10.17	10.62	11.10	11.60	12.12	12.67
3		10.43	10.90	11.39	11.90	12.44	13.00
4		10.71	11.20	11.70	12.23	12.78	13.35
5		11.00	11.50	12.02	12.56	13.12	13.71
6		11.31	11.82	12.35	12.91	13.49	14.10
7		11.62	12.14	12.69	13.26	13.86	14.48
8	DRIVER	11.97	12.51	13.07	13.66	14.27	14.92
9	OFFICE ASSISTANT	12.31	12.86	13.44	14.05	14.68	15.34
10		12.69	13.26	13.86	14.48	15.13	15.81
11		13.10	13.68	14.30	14.94	15.62	16.32
12		13.48	14.08	14.72	15.38	16.07	16.79
13	SENIOR OUTREACH SPECIALIST	13.91	14.53	15.19	15.87	16.59	17.33
14	DISPATCHER-SCHEDULER	14.37	15.02	15.69	16.40	17.14	17.91
14	WAREHOUSEMAN	14.37	15.02	15.69	16.40	17.14	17.91
14	PROGRAM ASSISTANT	14.37	15.02	15.69	16.40	17.14	17.91
14	OMAP INTAKE SPECIALIST	14.37	15.02	15.69	16.40	17.14	17.91
15		14.84	15.50	16.20	16.93	17.69	18.49
16		15.34	16.03	16.75	17.51	18.30	19.12
17		15.87	16.58	17.33	18.11	18.93	19.78
18	CARE COORDINATOR	16.76	17.51	18.30	19.12	19.98	20.88
18	WAREHOUSE SUPERVISOR	16.76	17.51	18.30	19.12	19.98	20.88
18	IT SPECIALIST	16.76	17.51	18.30	19.12	19.98	20.88
19	ACCOUNTING CLERK	16.99	17.76	18.55	19.39	20.26	21.17
20	EXECUTIVE ASSISTANT	17.61	18.40	19.23	20.10	21.00	21.95
21		18.26	19.09	19.95	20.84	21.78	22.76
22	ADVISOR/INSTRUCTOR	18.90	19.76	20.64	21.57	22.54	23.56
23	COORDINATOR	19.62	20.51	21.43	22.39	23.40	24.46
24	OPERATIONS MANAGER	20.36	21.28	22.24	23.24	24.28	25.38
25	DIRECT SERVICE MANAGER	21.12	22.07	23.06	24.10	25.19	26.32
25	WAREHOUSE MANAGER	21.12	22.07	23.06	24.10	25.19	26.32
25	NETWORK ADMINISTRATOR	21.12	22.07	23.06	24.10	25.19	26.32
26		21.96	22.94	23.98	25.06	26.18	27.36
27		22.80	23.83	24.90	26.02	27.19	28.41
28		23.70	24.77	25.89	27.05	28.27	29.54
29		24.65	25.76	26.91	28.13	29.39	30.71
30	OPERATIONS DIRECTOR	25.66	26.82	28.02	29.28	30.60	31.98
31		26.69	27.89	29.15	30.46	31.83	33.26
32		27.35	28.58	29.87	31.22	32.62	34.09
33	PROGRAM DIRECTOR	28.91	30.21	31.57	32.99	34.48	36.03
34		30.11	31.47	32.88	34.36	35.91	37.52
35		31.37	32.78	34.26	35.80	37.41	39.10
36	FISCAL DIRECTOR	32.69	34.16	35.70	37.30	38.98	40.74
36	BUILDING INSPECTOR	32.69	34.16	35.70	37.30	38.98	40.74
37		34.09	35.62	37.22	38.90	40.65	42.48
38		35.56	37.16	38.84	40.58	42.41	44.32
38	BUILDING OFFICIAL	35.56	37.16	38.84	40.58	42.41	44.32
39		37.09	38.76	40.50	42.32	44.23	46.22
40		38.68	40.42	42.24	44.14	46.12	48.20
41		40.36	42.17	44.07	46.05	48.13	50.29
42	EXECUTIVE DIRECTOR	42.08	43.97	45.95	48.02	50.18	52.44

# Mid-Columbia Council of Governments

*Memorandum*

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**To:** MCCOG Board of Directors  
**From:** John Arens, Executive Director  
**Date:** August 25, 2015  
**Subject:** **Resolution 14-08, Recycled Technology to Local Non-Profits**

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Discussion:

In May of this year the Board was presented with the concept of expanding the Students Recycling Used Technology (StRUT) membership program to include local non-profits, such as rural state library systems and senior services (Resolution 14-08). The Board motioned to table Resolution 14-08 until StRUT received authorization from its donors to provide equipment to these additional members.

MCCOG sent authorization requests to StRUT donors at the beginning of July. All of StRUT donors have given their consent to expand StRUT membership.

Staff Recommendation:

Adopt Resolution 14-08, authorizing StRUT to provide used technology equipment to local non-profits in addition to member schools.

**MID-COLUMBIA COUNCIL OF GOVERNMENTS**  
**RECYCLED TECHNOLOGY TO LOCAL NON-PROFITS**  
**RESOLUTION NUMBER 14-08**

**WHEREAS**, Mid-Columbia Council of Governments (MCCOG) is an intergovernmental agency formed under ORS Chapter 190, consisting of the five counties of Wasco, Hood River, Sherman, Gilliam and Wheeler; and

**WHEREAS**, the MCCOG, Students Recycling Used Technology (StRUT) program currently receives used technology that is recycled or repurposed to schools and;

**WHEREAS**, MCCOG desires to expand StRUT donations to include local non-profits (e.g. rural libraries, senior services) and has received authorization from their donors to do so;

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, the MCCOG Board of Directors authorizes StRUT to provide used technology equipment to these non-profit entities in addition to schools. Additionally, the staff is directed to establish policies and procedures that will appropriately address the additional distribution of the equipment.

**PASSED AND APPROVED** this 25<sup>th</sup> day of August 2015.

Attest:

\_\_\_\_\_  
Michael Smith, Board Chair

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Cecilia Lamas-Guiney, Executive Assistant

# Mid-Columbia Council of Governments

*Memorandum*

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**To:** MCCOG Board of Directors  
**From:** Steve King, StRUT Manager  
**Date:** August 25, 2015  
**Subject:** **Resale of Excess Technology**

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Discussion:

Many items donated to StRUT are in new, or like new condition and could return 1000% more revenue for StRUT if sold through an online marketplace (like Ebay) rather than the current practice of bulk recycling. Stock of items considered for resale have already been passed over by member schools and are received by StRUT in amounts greater than member need.

Examples of items envisioned for sale matching above criteria:

- USB cables
- Computer power cables
- Power strips
- Computer keyboards

Staff Recommendation:

Authorize StRUT to pursue resale of non-data storage equipment as a supplement to normal re-use and recycle practices.

# Mid-Columbia Council of Governments

*Memorandum*

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**To:** MCCOG Board of Directors  
**From:** Marvin Pohl, AAA Director  
**Date:** August 25, 2015  
**Subject:** **Feasibility Study**

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## Discussion:

Follow up on Rodney Schroeder's presentation on the B-Transfer AAA option. The next step for the Board would be to initiate a Feasibility Study of the B-Transfer option.

This would include all of the "critical steps" Rodney presented:

- Communication plan
- Involve local leadership (including elected officials)
- Discussion with stakeholders and advisory councils
- Financial considerations
- Start-up costs
- Buildings, staffing, vehicles, IT, HR, facilities, fiscal/payroll, admin supports, etc.
- Infrastructure costs
- Medicaid allocation does not fully cover ALL expenses
- Staff benefit package
- BOD has to be vested in model – there will be challenges and "speed bumps"
- Does the local government agency have the capacity for this change and stable leadership throughout planning and implementation?
- Possible political issues

## Staff Recommendation:

Authorize Staff to move forward with development of a Feasibility Study.