



ADMINISTRATIVE & FINANCE COMMITTEE

MONDAY, AUGUST 12, 2013 – 11:00 A.M.

OMNITRANS METRO FACILITY

1700 WEST 5TH STREET

SAN BERNARDINO, CA 92411

The meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or services are needed in order to participate in the public meeting, requests should be made through the Recording Secretary at least three (3) business days prior to the Committee Meeting. The Recording Secretary's telephone number is 909-379-7110 (voice) or 909-384-9351 (TTY), located at 1700 West Fifth Street, San Bernardino, California. If you have comments about items on the agenda or other general concerns and are not able to attend the meeting, please mail them to Omnitrans at 1700 West Fifth Street, San Bernardino, California, Attention Board Secretary. Comments may also be submitted by email to BoardSecretary@omnitrans.org.

A. CALL TO ORDER

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Committee Meeting: September 9, 2013, at 11:00 a.m.
Omnitrans Metro Facility Board Room

C. COMMUNICATIONS FROM THE PUBLIC

This is the time and place for the general public to address the Board for items that are not on the agenda. In accordance with rules applicable to meetings of the Administrative & Finance Committee, comments on items not on the agenda and on items on the agenda are to be limited to a total of three (3) minutes per individual.

D. POSSIBLE CONFLICTS OF INTEREST ISSUES

Disclosure – Note agenda items contractors, subcontractors and agents, which may require member abstentions due to conflict of interest and financial interests. Board member abstentions shall be stated under this item for recordation in the appropriate item.

N/A

E. AGENDA ITEMS

- | | |
|---|----|
| 1. Approve Administrative & Finance Committee Minutes – July 8, 2013 | 2 |
| 2. Receive & File Forward Fuel Purchase Program Update for August 2013 | 6 |
| 3. Receive & Forward to Board of Directors, Construction Progress Report No. 19 through July 15, 2013 – sbX E Street Corridor BRT Project | 10 |
| 4. Receive & Forward to Board of Directors, FTA Procurement System Review Final Report and Corrective Action Plan | 25 |
| 5. Recommend Approval to Board of Directors, Adopt Revisions to Personnel Policy #701, Substance Abuse | 38 |
| 6. Receive & Forward to Board of Directors, Summary of Risk Assessment Results and Fiscal Year 2014 Internal Audit Workplan | 84 |

F. ADJOURNMENT

ITEM # E1

**ADMINISTRATIVE & FINANCE COMMITTEE
MINUTES
July 8, 2013**

The Administrative & Finance Committee meeting was called to order by Chair Pat Morris at 11:01 a.m. on July 8, 2013.

Committee Members Attending

Mayor Pat Morris, City of San Bernardino - Chair
Councilmember Frank Gonzales, City of Colton
Vice Mayor Ed Graham, City of Chino Hills
Supervisor Gary Ovitt, County of San Bernardino
Councilmember Dick Riddell, City of Yucaipa
Mayor Pro Tem John Roberts, City of Fontana
Mayor Walt Stanckiewicz, City of Grand Terrace

Committee Members Absent

Mayor Paul Eaton, City of Montclair
Mayor Pro Tem Paul Foster, City of Redlands
Councilmember Alan Wapner, City of Ontario

Omnitrans Staff

Scott Graham, Interim CEO/General Manager
Diane Caldera, Interim Director of Operations
Wendy Williams, Director of Marketing
Sam Gibbs, Director of Internal Audit Services
Jack Dooley, Director of Maintenance
Rohan Kuruppu, Director of Planning & Development Services
Don Walker, Director of Finance
Ray Lopez, Director of Safety & Security
Marjorie Ewing, Director of Human Resources
Jennifer Sims, Director of Procurement
Milind Joshi, sbX Project Manager
Maurice Mansion, Treasury Manager
Jeremiah Bryant, Service Planning & Scheduling Manager
Eugenia Pinheiro, Contracts Manager
Alex Chen, Database Administrator
Vicki Osborne, Assistant to CEO/General Manager
Carol Angier, Administrative Secretary

C. Communication From the Public

None.

D. Possible Conflict of Interest Issues

None

E. Agenda Items

1. Approve Administrative & Finance Committee Minutes of June 10, 2013

M/S (Graham/Gonzales) to approve the minutes of the June 10, 2013 Committee meeting. Motion was unanimous by members present.

2. Receive & File Forward Fuel Purchase Program Update for July 2013

Director of Finance Walker said 45 percent of Omnitrans' CNG fuel is hedged in order to keep fuel costs from going over budget. This month we had a gain of \$4,475 due to fuel costs being higher than the hedge. Year-to-date there is a loss of \$48,508 on hedged fuel, but we have an unrecognized gain of \$58,425 on fuel costs from now until the end of the contract in June 2014. Member Graham asked if the fuel hedge contract is reviewed by staff. Chair Morris said staff reviews this contract annually and provides monthly updates to this Committee and the Board. Director of Finance Walker said this contract can be terminated at any time.

This was a receive and file agenda item.

3. Receive & Forward to Board of Directors, Construction Progress Report No. 18 through June 21, 2013 – sbX E Street Corridor BRT Project

sbX Project Manager Joshi said key components of the project have been completed. No loss in construction time has been experienced due to safety issues. The project will be completed on time and under budget. A PowerPoint presentation was given to the Committee of highlights of the current construction. Chair Morris asked about the catch basins. sbX Project Manager Joshi said the catch basins were not initially fully identified, but they are now being worked on. Member Graham asked if a Construction Manager had been hired, and sbX Project Manager Joshi said one has been hired and will start in two weeks. The FTA was informed of this. Member Graham asked why some bus stops had to be moved forward and was told this was done to prevent impacts to through traffic. Member Graham asked about the increase in project bid quantities over 125 percent and was told this is for items over the estimated amount needed. Member Graham asked about the Buy America clause. sbX Project Manager said this is a requirement for projects receiving federal monies. An example of this is tiles in the bathroom, utility poles and hardware, etc. Member Gonzales asked if the project will still be under budget with all the Change Orders. sbX Project Manager said all the listed Change Orders are taken into consideration within the budget, and the project will be under budget. Member Gonzales asked if roofs will be on the bus shelters and was told there would be roofs.

M/S (Graham/Gonzales) to receive and recommend to the Board of Directors for receipt and file Construction Progress Report No. 18 for the sbX E Street Corridor BRT Project through June 21, 2013. Motion was unanimous by members present.

4. Recommend Approval to Board of Directors, Sole Source Award, Contract IPMO13-210, Trapeze Transit Master Transit Operations Management On-Bus Systems Software

Director of Procurement Sims said this contract meets FTA requirements and is propriety software for the sbX Project to handle the traffic signals for the sbX buses.

M/S (Graham/Stanckiewicz) to recommend to the Board of Directors approval of Contract IPMO13-210 to Trapeze Software Group, Inc. of Cedar Rapids, Iowa, for development of Trapeze Transit Master Transit Operations Management On-Bus Systems Software to support the sbX E Street Corridor Project in the amount of \$98,350.02, plus a ten percent contingency of \$9,835.00, and the 3.27% Cost Allocation Plan (CAP) of \$3,537.65, for a total not-to-exceed amount of \$111,722.67. Motion was unanimous by members present.

5. Recommend Approval to Board of Directors to Adopt Proposed Change – Personnel Policy #601, Group Health Related Insurance Plans

Director of Human Resources Ewing said Personnel Policy #601 was changed to require all non-represented employees begin contributing ten percent of the plan premium effective September 2013. This will result in a savings to the Agency. Chair Morris said this is being done at all cities and counties in California.

M/S (Ovitt/Roberts) to recommend approval to the Board of Directors to adopt the proposed change to Personnel Policy #601- Group Health Related Insurance Plans, requiring that all non-represented employees being contributing 10% of the plan premium effective the first pay period in September 2013. Motion was unanimous by members present.

6. Recommend Approval to Board of Directors to Adopt Proposed Changes – Personnel Policy #402, Salary Ranges, Management Confidential Classifications

Director of Human Resources Ewing said staff recommends eliminating the Chief Financial Officer position and to place Systems Coordinator position to a Classification Level IV. Both will become effective July 10, 2013. Member Ovitt asked if these changes will result in savings for the Agency, and Director of Human Resources said it will save the Agency \$173,066 annually. Member Graham asked what the Systems Coordinator will do. sbX Project Manager Joshi said the Systems Coordinator will handle the considerable software/hardware issues for the sbX Project, including the Trapeze system for signals, security cameras at the stations, ticket machines at the stations, etc. This position will maintain the system and handle all problems that may come up. A Systems Coordinator is used by other BRT systems at other transit agencies. Member Gonzales asked if this job position has been approved by the Board. Director of Human Resources said it was approved in 2010, and only now is there a need to advertise for the position since the project is nearing completion. The position will be posted for both internal and external candidates.

M/S (Stanckiewicz/Roberts) to recommend approval to the Board of Directors to adopt the proposed change to Personnel Police #402 – Salary Ranges, Management Confidential Classifications, eliminating the position of Chief Financial Officer, effective July 10, 2013, and to approve placement of Systems Coordinator position to Classification Level IV, effective July 10, 2013. Motion was unanimous by members present.

The Administrative & Finance Committee meeting adjourned at 11:30 a.m. The next Administrative & Finance Committee Meeting is scheduled for August 12, 2013 at 11:00 a.m., with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Carol Angier, Recording Secretary

ITEM # E2

DATE: August 12, 2013

TO: Committee Chair Patrick Morris and
Members of the Administrative and Finance Committee

THROUGH: P. Scott Graham, Interim CEO/General Manager

FROM: Donald Walker, Director of Finance

**SUBJECT: DIRECTOR OF FINANCE'S REPORT ON
FORWARD FUEL PURCHASES FOR AUGUST 2013**

FORM MOTION

Receive and file Director of Finance's report on forward fuel purchases for August 2013. This program was implemented on May 6, 2009, to increase the predictability of Omnitrans costs and reduce operational uncertainty in the event of dramatic fuel price increases in the open market.

BACKGROUND

This report is submitted in order to comply with the requirements of the Omnitrans Forward Fuel Purchase Policy and Procedure. The report highlights activities taken under the Board action of November 2011 authorizing staff to hedge up to 150,000 gallons per month of CNG on the NYMEX exchange through Morgan Stanley. The report includes a summary of the hedge that has been established, an estimate of the monthly variance to be recognized in the Agency's financials, and may include articles on significant matters that have impacted the market for CNG. The current hedge fixes the price of approximately 45% of the Agency's natural gas through June of 2014. Staff will make a recommendation on whether or not to extend the hedge within the next 10 months.

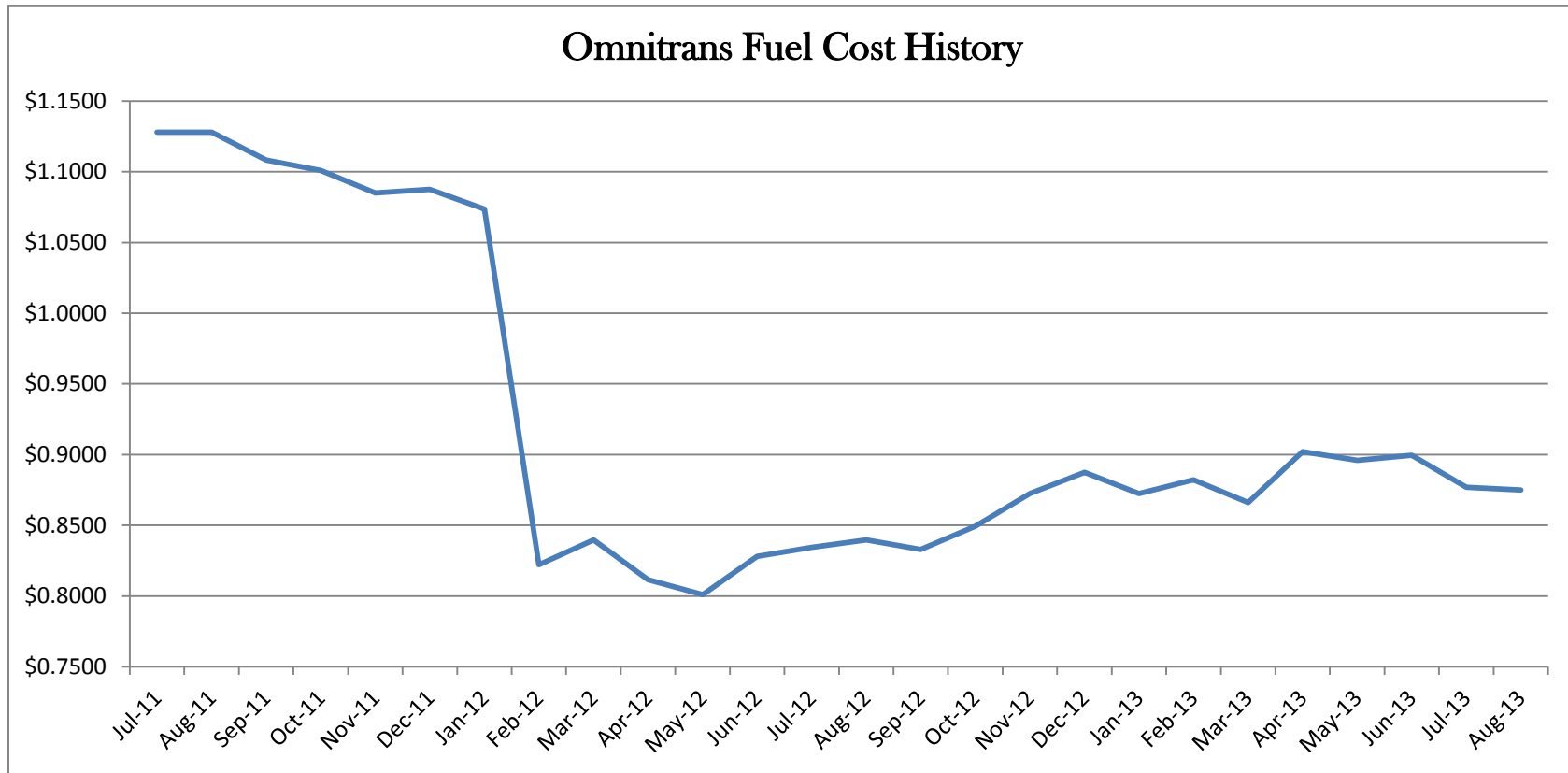
Omnitrans has increased its fuel budget from \$.88 to \$.92 for FY2014, as CNG prices in the market have increased. The August 2013 contract closed above the hedge price. The Agency will record a profit on our futures position for the month of August and that gain will offset a portion of the fuel costs that will be reflected in the Agency's P&L for July 2013.

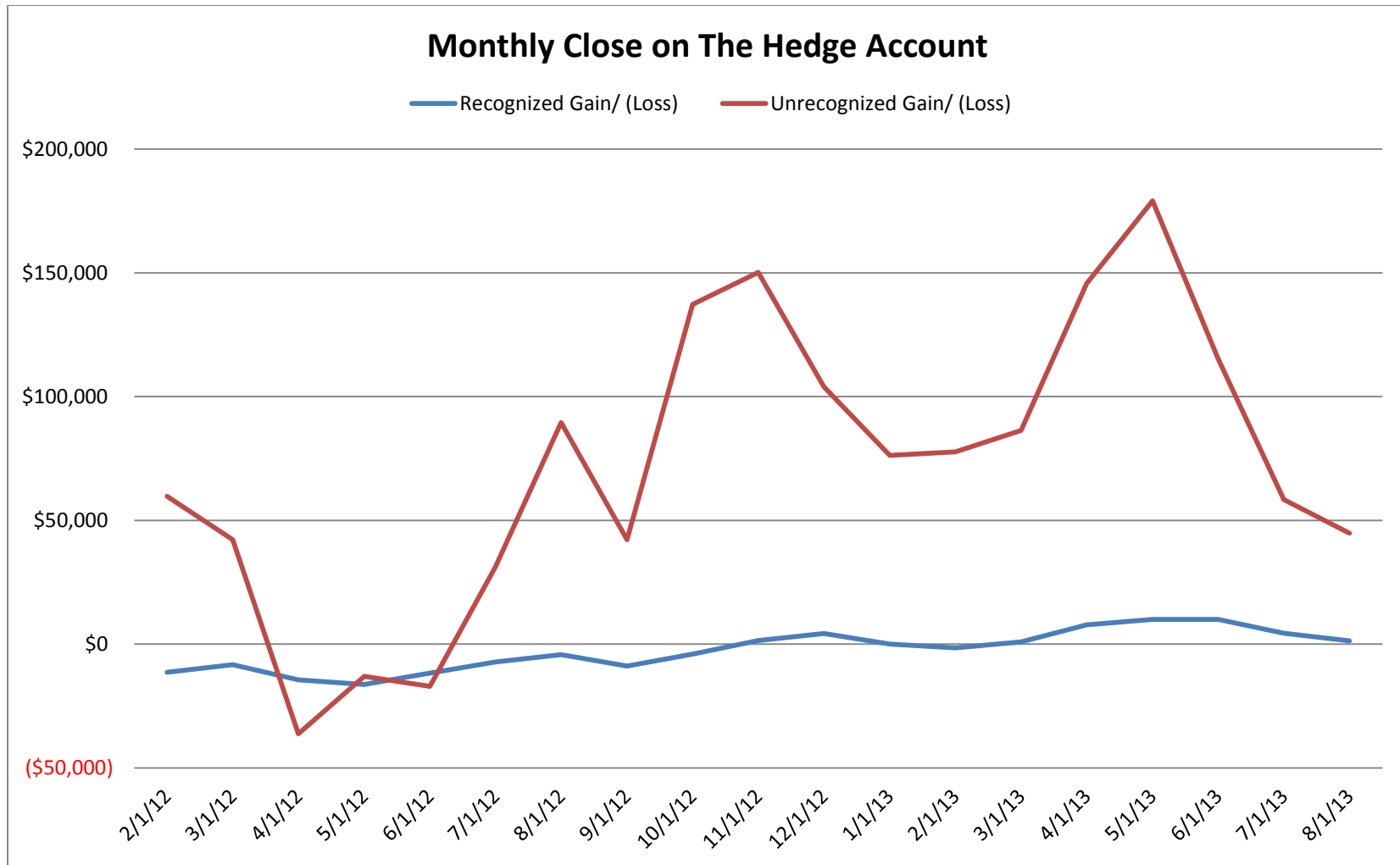
The net price that will be used for Omnitrans' August fuel purchases will reflect a price of \$.8747 per gallon including CNG at the So Cal Index price, the gain on the hedge position, liquefaction, delivery, and sales tax. (Note: We do not hedge the index differential. The gain on the hedge is based on the Henry Hub index. Clean Energy prices our deliveries off the SoCal

index. In August, the SoCal Index settled slightly above Henry Hub.) This price is after recognition of the monthly gain on the hedge position in the amount of \$1,375.

Omnitrans will recognize a favorable budget variance in the CNG account of approximately \$15,399 in the month of August 2013. Omnitrans has recognized a total loss of <\$47,133> on settled hedge positions; February 2012 through August 2013. The Agency has an unrecognized gain of \$44,888 on positions that remain open; September 2013 through June 2014. The forward market is anticipating that CNG fuel prices in the future will remain above the price levels of the Omnitrans hedge.

PSG:dw





ITEM # E3

DATE: August 12, 2013

TO: Committee Chair Patrick Morris and
Members of the Administrative & Finance Committee

THROUGH: P. Scott Graham, Interim CEO/General Manager

FROM: Milind Joshi, sbX Program Manager

SUBJECT: **CONSTRUCTION PROGRESS REPORT NO. 19 THROUGH JULY 15,
2013 - sbX E STREET CORRIDOR BRT PROJECT**

FORM MOTION

Receive and recommend to the Board of Directors for receipt and file Construction Progress Report No. 19 for the sbX E Street Corridor BRT Project through July 15, 2013.

BACKGROUND

This is Construction Progress Report No. 19 for the sbX E Street Corridor Project.

CONCLUSION

Receive and recommend to the Board of Directors for receipt and file Construction Progress Report No. 19 for the sbX E Street Corridor BRT Project through July 15, 2013.

PSG:MJ

Attachment



sbX E Street Corridor Bus Rapid Transit (BRT) Project

Construction Progress Report No. 19

As of July 15, 2013

Submitted By:

JACOBS

Contractor:	SBX Corridor - Griffith/Comet VMF – USS Cal Builders
Contractor Contract No.:	IPMO11-5
Project Manager:	Roger Hatton, P.E.
Resident Engineer	Karim Varshochi, P.E. (Corridor) Anni Larkins, P.E. (VMF)
Omnitrans Program Manager:	Milind Joshi, P.E. Omnitrans Acting Construction Manager



TABLE OF CONTENTS

- I. Project Status Summary
 - A. Project Description – sbX Corridor
 - B. Summary Status Update – sbX Corridor
 - C. February Work – sbX Corridor
 - D. Concerns - sbX Corridor
 - E. Project Description - Vehicle Maintenance Facility (VMF)
 - F. Summary Status Update – Vehicle Maintenance Facility (VMF)
 - G. February Work – Vehicle Maintenance Facility (VMF)
 - H. Concerns - Vehicle Maintenance Facility (VMF)
- II. Project Schedule
 - A. Summary of Project Schedule - sbX Corridor
 - B. Summary of Project Schedule – Vehicle Maintenance Facility (VMF)
- III. RFIs, Submittals, and Non-Conformance Reports
 - A. sbX Corridor
 - B. Vehicle Maintenance Facility (VMF)
- IV. Safety
- V. Project Budget and Cost
- VI. Change Orders and Claims
 - A. VMF Change Orders
 - B. sbX Corridor Change Orders
- VII. Project Photographs
 - A. sbX Corridor Photos
 - B. Vehicle Maintenance Facility (VMF) Photos

I. PROJECT STATUS SUMMARY

A. Project Description – sbX Corridor

The sbX E Street Corridor BRT Project is a 15.7-mile-long transit improvement project that will connect the northern portion of the City of San Bernardino with the City of Loma Linda. Over the past four years, the sbX E Street Corridor Bus Rapid Transit (BRT) Project has evolved as the highest priority corridor identified in the System-Wide Transit Corridor Plan for the San Bernardino Valley.

The Refined LPA includes:

- 15.7 mile corridor
- 5.4 miles of exclusive center-running BRT lanes
- 10.3 miles of mixed flow BRT operation
- 16 BRT station locations, 6 center stations and 10 curb stations
- 23 station boarding structures
- 4 park-and-ride facilities with a total of 610 parking spaces
- Transit signal priority (TSP) applications at select key intersections

B. Summary Status Update – sbX Corridor

In July the contractor completing work on installation of sanitary sewer lining in center running lane from 11th Street to 5th Street; completed installation of underground conduits, curb, curb gutter and sidewalk on the east side of E Street between 2nd Street to 6th Street; and placed base asphalt concrete for roadway.

Landscape installation on the south side of Hospitality Lane between Carnegie West and Tippecanoe was also completed and construction of the center running lanes between Carnegie West and Tippecanoe began. The contractor also continued work on the Tippecanoe Station, Hunts Station and the Carnegie Station (center running stations on Hospitality Lane).

The installation of the video detection, E.V.P systems, and electric services for stations and traffic signals was continued.

The contractor also began installation of platform pavers at Marshall stations, Highland stations, Baseline Station and Rialto station.

The CM team is currently working with Verizon to coordinate the relocation of the manhole at the Baseline north station and the relocation of the cross connect to a permanent location on Hospitality Lane at Hunts Station.

C. Accomplishments – sbX Corridor

- The 23 stations are an average of 80% complete with civil and structural work and 70% complete with electrical work.
- Private utility relocation is 90% complete.
- Construction of approximately 3.5 miles of the 5.5 miles of the center running lane has been completed.
- Two of the three paved park-and-rides are 90% completed.
- Traffic Signal Prioritization has been installed at the majority of the intersections.
- All fourteen (14) of the 60ft articulated buses have arrived.
- Settlement for the last remaining Right-of-Way parcels are reaching completion.
- A total of five (5) change orders were approved; change order costs have not exceeded last month's overall project projections.

D. August Work – sbX Corridor

Work planned for August is as follows:

- Continue working on platforms installing pavers from Rialto to Hunts Lane Installation.
- Construct center running lanes Hospitality Lane between Carnegie West and Tippecanoe.
- Construct center running lane 10th Street to Rialto.
- Continue installation of electric equipment for stations and traffic signals.
- Install irrigation and landscape E Street between 6th Street and 2nd Street.

E. Project Description – Vehicle Maintenance Facility (VMF)

The Omnitrans' Vehicle Maintenance Facility is a 4.4 acre facility which maintains and services the Omnitrans' bus fleet which is comprised of over 160 buses. Modifications to Omnitrans' facility include the demolition of a bus washing station, removal of abandoned underground fuel tanks, new construction of a bus washing system, a new Genset building, 3-lane CNG fueling station, and re-configuring bus parking area. Modifications to the maintenance building will be made in order to accommodate Omnitrans' 60-foot articulated bus fleet.

F. Summary Status Update – Vehicle Maintenance Facility (VMF)

In July 2013 the Contractor continued working at the temporary fuel island (Building D) installing the new CNG dispensers and new buffer panel, compressed air line, and associated mechanical piping. The Contractor also continued installation of conduit, pull boxes, conductors and wiring from the Fire Pump Room to the EMPZD panel outside the temporary IT building at Bldg D. Work continued for cutover of existing CCTV cameras, wireless and IT to Building D per Change Orders 6 and 10.

Coordination meetings were held in July 2013 to ensure Building D, and all IT components, CCTV cameras and associated items are operational for turnover to the Agency.

Contractor started construction of the metal stud framing and installation of the doorframe for the east exterior wall at the new Battery Room at Building A.

The 1,000 gallon unleaded fuel tank is ready to be filled, and functionality tested for Agency personnel training and turnover to the Agency.

Negotiations for the design changes (COR 29) to the lift locations, and associated electrical and mechanical components, at the Maintenance Building (Building A) were finalized on July 12, 2013. Pending Change Order approval, work expects to start in early August 2013.

G. Accomplishments – Vehicle Maintenance Facility (VMF)

- The New Fuel Dispensers (three each) were delivered earlier than scheduled.
- Parking Light poles are all installed.
- The temporary Unleaded 1,000 gallon fuel tank has been filled for use.
- Drywall in Battery Room in Maintenance Building A is completed.
- All power and fiber optics for the Temporary Fuel Island are completed.

H. August Work – Vehicle Maintenance Facility (VMF)

In the August 2013 the Contractor is expected to complete commissioning and turnover of the temporary fuel island (Building D), and of the 1,000 gallon unleaded fuel AST.

Once Building D and the 1,000 gallon AST are turned over to the Agency, the Contractor plans to start demolition work at the existing fuel island (Building C).

Pending Change Order approval the Contractor expects to start demolition of the pits in the Maintenance Building (Bldg A).

The Contractor expects to complete concrete installation of the trash compactor pad and construction of a drain for the emergency eyewash/shower in the storage room.

The sanitary sewer redesign package, which was issued to the Contractor on June 24, 2013 for pricing, remains under review by the City of San Bernardino.

II. PROJECT SCHEDULE

The CM team and the Contractors are using the latest scheduling tools (Primavera V. P6), available to manage the project schedule.

Due to the actual field conditions (SBX Corridor and the VMF), many construction activities have been re-sequenced, resulting in several revisions in the baseline schedules submitted. As a proactive approach, the CM team has created an internal

schedule as a guiding tool being used to monitor and manage the construction progress.

A. Summary of Project Schedule – sbX Corridor

The sbX CM team is targeting to complete construction in February 2014 in order for Revenue Operations to begin by April 2014, per the Project Construction Grant Agreement (PCGA).

The Contractor is currently in the process of updating the schedule to reflect the current project status. Based on the April update, the projected Revenue Start Date remains unaffected.

The May update is scheduled to be submitted on July 26, 2014. Contractor will continue to submit monthly updates on a regular basis.

B. Summary of Project Schedule – Vehicle Maintenance Facility (VMF)

The Contractor's Baseline Schedule (Rev 3) was approved on May 7, 2013. At the request of the Contractor, a revised Baseline Schedule (Rev 4) was submitted and approved on June 3, 2013.

The Contractor submitted May 15, 2013 Monthly Schedule Update on June 21, 2013. The monthly update was reviewed and returned "For Record Purposes Only – Make Corrections Noted" on July 15, 2013. The June schedule update is expected to be submitted July 19, 2013, and the Contractor is working on a July 2013 update such that the Agency can evaluate a current schedule in early August 2013.

The project is behind schedule, and options to mitigate delays are under evaluation. The Agency, the Contractor and the CM Team are collectively working on identifying options to make up lost time to ensure timely completion of the work relative to the Revenue Start Date (RSD) of April 30, 2014.

III. REQUESTS FOR INFORMATION (RFIs), SUBMITTALS, AND NON-CONFORMANCE REPORTS (NCRs)

A. sbX Corridor

To date, the CM team has met the required timelines and no delay has come about as a result of submittal and RFI responses.

Total RFIs – 902
Total Open – 41

Total Submittals – 712
Total Open – 26

Total NCRs - 18
Total Open - 3

Weekly RFI meetings are held every Tuesday morning.
Weekly NCR meetings are held every Thursday morning.

B. Vehicle Maintenance Facility (VMF)

To date, the CM team has met the required timelines and no delay has come about as a result of submittal and RFI responses.

Total RFIs – 119
Total Open – 1

Total Submittals – 250
Total Open – 12

Total NCRs – 6
Total Open – 5

IV. SAFETY

The project team considers safety to be the utmost priority. As such, the entire project team works towards a “no-lost time” goal on a daily basis.

SbX Corridor - As of July 16, 2013 there are 257,612 “no-lost time” hours.
VMF - As of July 16, 2013 there are 4931 “no-lost time” hours.

V. PROJECT BUDGET AND COST**TOTAL PROGRAM BUDGET**

BUDGET AS OF MAY 31, 2013

Approved Budget	\$191,706,000
Cost to Date	\$114,660,291
Estimate to Complete	\$72,660,149
Estimate at Completion	\$186,706,291

SBX CORRIDOR PROJECT COSTS - AS OF JUNE 30, 2013

	CURRENT AUTHORIZED	CURRENT INVOICES PAID	REMAINING CONTRACT BALANCE
Jacobs	\$11,852,647	\$5,713,251	\$6,139,396
Parsons	\$18,097,876	\$16,841,566	\$1,256,310
Griffith/Comet	\$80,000,168	\$46,829,251	\$33,170,917
Total	\$109,950,691	\$69,384,068	\$40,566,623

VMF CORRIDOR PROJECT COSTS - AS OF JUNE 30, 2013

	CURRENT AUTHORIZED	CURRENT INVOICES PAID	REMAINING CONTRACT BALANCE
STV Inc.	\$1,046,132	\$901,757	\$144,375
USS Cal Builders	\$10,927,826	\$895,443	\$10,032,383
Total	\$11,973,958	\$1,797,200	\$10,176,758

SBX CORRIDOR CONTRACT TIME

Activity	Days	Date
Notice to Proceed		11/21/11
Calendar Days per Original Contract	730	
Original Completion Date		12/21/13
Calendar Days Completed as of 15 July 2013	593	
CCO Time Extension to Date	0	
Required Completion Days/ Date as of 18 December 2012	137	12/21/13
Forecasted Completion Date as of 18 December 2012		TBD*
Percent Time Elapsed	81%	

VMF CONTRACT TIME

Activity	Days	Date
Notice to Proceed		12/10/12
Calendar Days per Original Contract	425	
Original Completion Date		02/08/14
Calendar Days Completed as of July 15, 2013	217	
CCO Time Extension to Date	0	
Required Completion Date as of July 15, 2013	208	02/08/14
Forecasted Revenue Start Date as of June 30, 2013		04/30/14
Percent Time Elapsed	51%	

VI. CHANGE ORDERS**SBX CORRIDOR CONTRACT CHANGE ORDERS - As of June 21, 2013**

Change Order Status	Amount Approved
Approved Change Orders	\$14,996,079.41
Pending Change Orders	\$2,358,526.00
Potential Change Orders	\$4,475,306.00
Total	\$21,829,911.41

VMF CONTRACT CHANGE ORDERS - As of June 21, 2013

Change Order Status	Amount
Approved Change Orders	\$306,777.00
Pending Change Orders	\$27,570.00
Potential Change Orders	\$791,955.00
Total	\$1,126,302.00

Note: Currently, pricing for Potential Change Orders are estimated based on Rough Order of Magnitude pending designer plans or final submittal of pricing by the contractor.

Upon the approval of the final to date schedule, an analysis will be completed to determine the effect of the change orders on the scheduled completion date.

VII. Project Photographs

SBX CORRIDOR PROGRESS PHOTOS



1. Construct Electrical for Equipment Module



2. Bore Crossing in Loma Linda

VMF PROGRESS PHOTOS

1. Building A overhead conduit installation.



2. CNG Dispensers are installed at the temporary fuel island.

IPMO/sbX Project Cost Report
Period Ended 6/30/13

Description	Current Budget	Expenditures \$	%	Remaining Budget	Estimate to Complete	Estimate at Completion	Budget Forecast Variance
BRT Construction	84,637,000	46,904,201	55.4%	37,732,799	40,191,220	87,095,421	(2,458,421)
Vehicle Maintenance Facility (VMF) Construction	8,131,000	895,443		7,235,557	13,103,309	13,998,752	(5,867,752)
Vehicles - Design & Manufacturing	16,628,000	14,722,181	88.5%	1,905,819	1,606,714	16,328,895	299,105
ROW Acquisition Services	10,357,000	10,466,829	101.1%	(109,829)	1,271,571	11,738,400	(1,381,400)
3rd Party Utilities Design & Relocation	1,003,000	865,807	86.3%	137,193	240,310	1,106,117	(103,117)
BRT Design	17,849,400	16,841,566	94.4%	1,007,834	1,256,310	18,097,876	(248,476)
VMF Design	1,007,600	916,157	90.9%	91,443	529,775	1,445,932	(438,332)
Other Professional, Technical & Management Services	34,020,000	22,433,958	65.9%	11,586,042	14,467,939	36,901,897	(2,881,897)
SUB-TOTAL	173,633,000	114,046,142		59,586,858	72,667,148	186,713,290	(13,080,290)
Unallocated Contingency	18,073,000	-		18,073,000	4,992,710	4,992,710	13,080,290
TOTAL	191,706,000	114,046,142	59.5%	77,659,858	77,659,858	191,706,000	-

**IPMO/sbX Project
Through 6/30/13**

Standard Cost Category (SCC)	Description	Approved Current Budget	Expenditures \$ %	Remaining Budget	Estimate to Complete	Estimate at Completion	Budget Forecast Variance
10	GUIDEWAY & TRACK ELEMENTS	19,725,000	9,772,775 49.5%	\$ 9,952,225	\$ 8,598,218	\$ 18,370,993	\$ 1,354,007
10.02	Guideway: At-grade semi-exclusive (allows cross-traffic)	\$ 18,353,000	8,357,659 45.5%	\$ 9,995,341	\$ 7,754,089	\$ 16,111,748	\$ 2,241,252
10.03	Guideway: At-grade in mixed traffic	\$ 1,372,000	1,415,116 103.1%	\$ (43,116)	\$ 844,129	\$ 2,259,245	\$ (887,245)
20	STATIONS, STOPS, TERMINALS, INTERMODAL	14,917,000	6,534,158 43.8%	\$ 8,382,842	\$ 7,952,278	\$ 14,486,436	\$ 430,564
20.01	At-grade station, stop, shelter, mall, terminal, platform	14,917,000	6,534,158 43.8%	\$ 8,382,842	\$ 7,952,278	\$ 14,486,436	\$ -
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS	\$ 8,131,000	895,443 11.0%	\$ 7,235,557	\$ 13,103,309	\$ 13,998,752	\$ (5,867,752)
30.02	Light Maintenance Facility	\$ 4,265,000	695,759 16.3%	\$ 3,569,241	\$ 10,083,280	\$ 10,779,039	\$ (6,514,039)
30.05	Yard and Yard Track	\$ 3,866,000	199,684 0.0%	\$ 3,666,316	\$ 3,020,029	\$ 3,219,713	\$ 646,287
40	SITEWORK & SPECIAL CONDITIONS	34,271,000	18,709,226 54.6%	\$ 15,561,774	\$ 9,249,901	\$ 27,959,127	\$ 6,311,873
40.01	Demolition, Clearing, Earthwork	\$ 4,741,000	281,388 5.9%	\$ 4,459,612	\$ 174,171	\$ 455,559	\$ 4,285,441
40.02	Site Utilities, Utility Relocation	\$ 4,993,000	6,754,040 135.3%	\$ (1,761,040)	\$ 3,542,323	\$ 10,296,363	\$ (5,303,363)
40.05	Site structures including retaining walls, sound walls	\$ 90,000	67,969 75.5%	\$ 22,031	\$ 7,769	\$ 75,738	\$ 14,262
40.06	Pedestrian / bike access and accommodation, landscaping	\$ 6,925,000	1,686,646 24.4%	\$ 5,238,354	\$ 2,260,146	\$ 3,946,792	\$ 2,978,208
40.07	Automobile, bus, van accessways including roads, parking lots	\$ 3,601,000	3,234,567 89.8%	\$ 366,433	\$ 1,012,782	\$ 4,247,349	\$ (646,349)
40.08	Temporary Facilities and other indirect costs during construction	\$ 13,921,000	6,684,616 48.0%	\$ 7,236,384	\$ 2,252,710	\$ 8,937,326	\$ 4,983,674
50	SYSTEMS	\$ 16,727,000	12,753,850 76.2%	\$ 3,973,150	\$ 7,610,827	\$ 20,364,677	\$ (3,637,677)
50.02	Traffic signals and crossing protection	\$ 10,810,000	5,151,944 47.7%	\$ 5,658,056	\$ 1,318,733	\$ 6,470,677	\$ 4,339,323
50.05	Communications	\$ 4,210,000	5,091,250 120.9%	\$ (881,250)	\$ 3,202,750	\$ 8,294,000	\$ (4,084,000)
50.06	Fare collection system and equipment	\$ 1,707,000	2,510,656 147.1%	\$ (803,656)	\$ 3,089,344	\$ 5,600,000	\$ (3,893,000)
	Pending Change Orders				\$ 5,460,303	\$ 5,460,303	\$ (5,460,303)
	Risk				\$ 1,560,000	\$ 1,560,000	\$ (1,560,000)
	Construction Subtotal (10-50)	93,771,000	48,665,452 51.9%	\$ 45,105,548	\$ 53,534,836	\$ 102,200,288	\$ (8,429,288)
60	ROW, LAND, EXISTING IMPROVEMENTS	\$ 6,532,000	\$ 5,555,260 85.0%	\$ 976,740	\$ 1,544,005	\$ 7,099,265	\$ (567,265)
60.01	Purchase or lease of real estate	\$ 6,327,000	5,546,166 87.7%	\$ 780,834	\$ 1,348,099	\$ 6,894,265	\$ (567,265)
60.02	Relocation of existing households and businesses	\$ 205,000	9,094 4.4%	\$ 195,906	\$ 195,906	\$ 205,000	\$ -
70	VEHICLES	\$ 16,628,000	\$ 14,722,181 88.5%	\$ 1,905,819	\$ 1,606,714	\$ 16,328,895	\$ 299,105
70.04	Bus	\$ 15,448,000	14,722,181 95.3%	\$ 725,819	\$ 699,666	\$ 15,421,847	\$ 26,153
70.06	Non-revenue vehicles	\$ 250,000	- 0.0%	\$ 250,000	\$ -	\$ -	\$ 250,000
70.07	Spare parts	\$ 930,000	- 0.0%	\$ 930,000	\$ 907,048	\$ 907,048	\$ 22,952
80	PROFESSIONAL SERVICES	56,702,000	45,103,249 79.5%	\$ 11,598,751	\$ 15,981,593	\$ 61,084,842	\$ (4,382,842)
80.01	Preliminary Engineering	\$ 12,921,000	12,876,525 99.7%	\$ 44,475	\$ 17,502	\$ 12,894,027	\$ 26,973
80.02	Final Design	\$ 7,261,000	6,658,638 91.7%	\$ 602,362	\$ 1,480,278	\$ 8,138,916	\$ (877,916)
80.03	Project Management for Design and Construction	\$ 15,997,000	8,981,110 56.1%	\$ 7,015,890	\$ 5,741,591	\$ 14,722,701	\$ 1,274,299
80.04	Construction Administration & Management	\$ 6,632,000	5,713,251 86.1%	\$ 918,749	\$ 6,139,397	\$ 11,852,648	\$ (5,220,648)
80.05	Professional Liability and other Non-Construction Insurance	\$ 1,112,000	- 0.0%	\$ 1,112,000	\$ 500,000	\$ 500,000	\$ 612,000
80.06	Legal; Permits; Review Fees by other agencies, cities, etc.	\$ 10,596,000	10,873,725 102.6%	\$ (277,725)	\$ 1,356,825	\$ 12,230,550	\$ (1,634,550)
80.07	Surveys, Testing, Investigation, Inspection	\$ 1,463,000	- 0.0%	\$ 1,463,000	\$ 25,000	\$ 25,000	\$ 1,438,000
80.08	Start up	\$ 720,000	- 0.0%	\$ 720,000	\$ 721,000	\$ 721,000	\$ (1,000)
	Subtotal (10-80)	\$ 173,633,000	\$ 114,046,142 65.7%	\$ 59,586,858	\$ 72,667,148	\$ 186,713,290	\$ (13,080,290)
90	UNALLOCATED CONTINGENCY	18,073,000	- 0.0%	\$ 18,073,000	\$ 4,992,710	\$ 4,992,710	\$ 13,080,290
	Subtotal (10-90)	191,706,000	114,046,142 59.5%	\$ 77,659,858	\$ 77,659,858	\$ 191,706,000	\$ -
100	FINANCE CHARGES	-	-	\$ -	\$ -	\$ -	\$ -
	TOTAL PROJECT COST (10-100)	191,706,000	114,046,142 59.5%	\$ 77,659,858	\$ 77,659,858	\$ 191,706,000	\$ -

ITEM # E4

DATE: August 12, 2013

TO: Committee Chair Patrick Morris and
Members of the Administrative and Finance Committee

THROUGH: P. Scott Graham, Interim CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: FTA PROCUREMENT SYSTEM REVIEW FINAL REPORT AND
CORRECTIVE ACTION PLAN**

FORM MOTION

Review and forward to Board of Directors for receipt and file the FTA up Procurement System Review Final Report and Omnitrans' Corrective Action Plan.

BACKGROUND

On March 1, 2013, Omnitrans was informed by the Federal Transit Administration (FTA) that Omnitrans was scheduled for a Procurement System Review (PSR) to address issues regarding Federal procurement requirements and Omnitrans' entire procurement system.

The FTA contracted with Calyptus Consulting Group, Inc. of Cambridge, Massachusetts, to conduct the review. An entrance conference was held on Monday, April 15, and concluded with an exit conference on Thursday, April 18. Calyptus reviewed Omnitrans' Procurement Policies and Procedures, analyzed the contents of forty-four contract files, and clarified answers to questions provided by the Procurement Director, sbX Project Manager, Procurement staff, Finance staff, Treasury Manager, Legal Counsel, Director of Internal Audits, and Program Managers.

The review analyzed 60 system-wide and individual elements, as defined in FTA Circular 4220.1F. Omnitrans was found non-deficient in 32 elements, deficient in 22 elements, with six elements not-applicable/observable. The consultant noted during the exit conference that "efforts have clearly been made in the last year in the areas of micro-purchases, cost and price analysis, and responsibility determinations" as well as "focused efforts on increasing training for new and existing employees." Additional strengths noted were the organized file system and efforts underway to address all requirements of the FTA Circular 4220.1F.

Principal weaknesses identified were that the contract administration system does not adequately ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders and applicable Federal, State and Local requirements, that the sbX construction agreement provides cost plus a percentage of cost provisions strictly prohibited by the FTA, and excessive use of sole source procurements.

A draft report was provided to Omnitrans by the FTA in May 2013, listing deficiencies and recommendations for corrective action. Omnitrans respectfully disagreed with four of the twenty-two deficiencies and prepared and submitted a corrective action plan to address the remaining 18 deficiencies. On July 18, 2013, Omnitrans received the FY 2013 FTA Procurement System Review Final Report. The FTA did not remove any of the challenged deficiencies and staff proceeded with developing a corrective action plan to address these remaining four items.

A training session on the initial 18 deficiencies was held on June 13, 2013. The training included detailed segments on Request for Proposals (RFPs) and how to develop cost analysis to form the basis for making fair and reasonable price determinations. Two additional sessions were conducted on July 31, 2013. The first session was focused on the remaining deficient elements, while the latter provided in depth training on developing Independent Cost Estimates and meeting the FTA's brand name restrictions.

The remaining element requires a revision to Procurement Policy 4000 as it relates to Piggyback/Intergovernmental agreements. A time extension will be requested to afford proper vetting through County Counsel. The FTA revised Circular 4220.1F three weeks prior to the PSR. Consequently, staff is revising the policy to meet the current circular requirements and will bring it to the September Administrative & Finance Committee Meeting.

The FTA has requested supplemental documentation on two sbX contracts as they relate to element No. 2, "Contract Administration System," No. 38, "Sole Source If Other Award Is Inadequate" and No. 48, "Cost Plus Percentage of Cost." The FTA will make a Federal participation determination once the documentation is received and reviewed. The /CEO/General Manager will advise the Board of the determination.

In addition to training, all deficiencies require an internal audit be conducted within 30 days of the PSR Final Report. Upon completion of the staff training, internal audits, and policy revision, Omnitrans will have fully complied with the FTA's recommendations as detailed in the Procurement System Review Final Report.

PSG:js

**Omnitrans
July 2013 Procurement System Review
Correction Action Plan**

Element	Reviewers' Observations	Reviewers' Recommendations	Management Correction Action	Target Complete Date/Tasks% Completed
2) Contract Administration System (FTA C 4220 1F, ¶ III, 3.)	The contract administration system was found to be deficient due to multiple concerns in this area based on procurements related to the Omnitrans sbX E Street Corridor Bus Rapid Transit (BRT) Project. For example, a change order for \$400,000 pertaining to this project was not evaluated appropriately, and water channeling work was conducted without adherence to procurement procedures such as developing an independent cost estimate. Furthermore, a staff augmentation contract originally awarded for \$99,000 was allowed to escalate to \$539,000, indicating a lack of control and contract management.	Administration of various contracts for the sbX E Street Corridor BRT Project, including the administration of the staff augmentation services contract, failed to meet the requirements of FTA C 4220.1F, Chapter III, Section 3, related to contract administration systems. Omnitrans must update policies and procedures to ensure that adequate controls are in place for contract management and that all change orders, options periods, and modifications are adequately evaluated. Training must be conducted with staff on these requirements and changes in the procurement system must be verified within ninety (90) days from the date of the final report.	Policies and procedures will be reviewed to ensure adequate coverage of effective contract administration practices, staff will be trained on contract administration requirements, and compliance must be verified within ninety (90) days from the date of the final report.	October 2013 75% Complete (Policies & Procedures reviewed in May 2013; Training conducted on 7/31/13)
7) Independent Cost Estimates (FTA C 4220 1F, ¶ VI, 6.)	Of the thirty-two (32) procurements reviewed, twelve (12) were found to be deficient and twenty (20) were not deficient. The deficiencies stemmed from a range of issues including undated estimates, budgeted amounts being used as the estimate, and insufficient detail or	Omnitrans already has coverage of independent cost estimates in Procedure 4000-1 of their policy and procedure manual; however, the lack of compliance in the element indicates that procedures are not being followed for all procurement methods. Omnitrans must update its manual to include detailed procedural guidance on developing independent cost	Compliance will be verified within thirty (30) days from the date of the final report.	August 2013 0% Complete

	supporting analysis. The deficiencies in this element pertained to sole source and RFP procurements.	estimates for each procurement method such as IFBs, RFPs, sole source, and small purchases. Training must be conducted with staff on updated procedures and compliance with these updated requirements must be verified by conducting an internal audit of procurements within thirty (30) days from the date of the final report.		
13) Brand Name Restrictions (FTA C 4220 1F, ¶ VI, 2. A. (3))	Of the twenty-three (23) procurements reviewed, six (6) were found to contain brand names. Of these, two (2) were found to be deficient. One deficiency was related to the procurement of fourteen (14), sixty-foot buses. The other pertained to the purchase of brand name bus filters that lacked the “or equal” designation and salient characteristics in specifications.	Omnitrans policies and procedures contain adequate coverage of brand name or equal specifications; however, training must be conducted with user departments and requisitioners to ensure that procedures are being followed. Compliance with procedures must be verified by conducting an internal audit of procurements within thirty (30) days from the date of the final report.	Omnitrans will conduct training on brand name requirements and verify compliance within thirty (30) days from the date of the final report.	August 2013 50% Complete (Training sessions conducted on 6/13/13 and 7/31/13)
16) Written Procurement Selection Procedures (FTA C 4220 1F, ¶ III, 3. a.; VI, 2. e.)	Of the seventeen (17) procurements reviewed, seven (7) were found to be deficient and ten (10) were not deficient. In an IFB procurement, the selection procedures in the solicitation document stated that “Contract award will be made to the bidder whose bid meets the requirements contained herein and is most advantageous to Omnitrans.” This statement is clearly inconsistent with the standard	Omnitrans policies and procedures contain contractor selection requirements for each procurement method and do not need to be revised. However, training must be conducted on these requirements and compliance must be verified within thirty (30) days from the date of the final report.	Training was provided to the Procurement Team on June 13, 2013. Compliance will be verified within (30) days from the date of the final report and annually thereafter.	August 2013 50% Complete (Training conducted on 6/13/13)

	<p>process of awarding an IFB to the lowest responsive and responsible bidder. Another deficiency was related to a towing services RFP-method procurement that contained different evaluation factors and weighting assignments across the solicitation, evaluation forms completed by the evaluation committee, proposal analysis completed by the contract specialist, and letters of regret communicated to unsuccessful offerors. Procurements for onsite security services and paratransit on-board video surveillance were also conducted without following the evaluation process stated in the solicitation.</p>			
<p>18) Award to Responsible Contractors (FTA C 4220 1F, ¶ VI, 8. b.)</p>	<p>Of the twenty-six (26) procurements reviewed for compliance with this element, nineteen (19) were found to be deficient and seven (7) were not deficient. In many cases the procurement documentation lacked evidence of an EPLS/SAM check for debarment/suspension or the responsibility determinations were not completed prior to award. However, it was apparent from the contract files reviewed that Omnitrans has made a recent effort to</p>	<p>During the period of the PSR review, Omnitrans added an EPLS/SAM search to their standard responsibility checklist. Evidence must be provided of this updated checklist, staff must be trained on using the new form, and compliance must be verified by conducting an internal audit of procurements within thirty (30) days from the date of the final report.</p>	<p>Omnitrans will conduct training with staff on responsibility requirements and conduct an internal audit of procurements within thirty (30) days from the date of the final report to verify compliance.</p>	<p>August 2013</p> <p>50% Complete</p> <p>(Training session conducted on 6/13/13; Form revised on 6/30/13 and follow-up training on how to use revised form conducted on 7/31/13)</p>

	conduct responsibility checks post-award and that a system is currently in place.			
21) Fair and Reasonable Price Determination (FTA C 4220 1F, ¶ VI, 3. a.)	Of thirteen (13) procurements reviewed for this requirement, twelve (12) were found to be deficient and one (1) was not deficient. These deficient micro purchase files did not include a fair and reasonable price determination that was conducted prior to award. Omnitrans had recently completed a post-award fair and reasonable price determination form, which showed that a process is now being followed.	Policies and procedures currently provide adequate requirements on conducting fair and reasonable price determinations for micro purchases. Staff training must be conducted on these procedures and compliance must be verified by undergoing an internal audit of micro-purchase files within thirty (30) days from the date of the final report.	Staff training was conducted in January, however follow-up training was provided again on June 13, 2013. Compliance will be verified by conducting an internal audit within thirty (30) days from the date of the final report, and annually thereafter.	August 2013 50% Complete (Training conducted on 6/13/13)
23) Price Quotations [Small Purchases] (FTA C 4220 1F, ¶ VI, 3. b.)	Of the six (6) small purchases reviewed for this requirement, one (1) was found to be deficient and five (5) were not deficient. The deficient procurement was for methane detection services and did not include an adequate number of quotations.	Omnitrans explicitly requires three or more price quotations for all procurements between \$3,000.01 and \$25,000 in their current policies and procedures. Staff must be trained on these requirements and compliance must be verified by conducting an internal review of procurement files within thirty (30) days from the date of the final report.	Training will be conducted on obtaining adequate competition for small purchases and compliance must be verified within thirty (30) days from the date of the final report.	August 2013 50% Complete (Training conducted on 7/31/13)
24) Complete Specifications (FTA C 4220 1F, ¶ VI, 2. a.; VI, 3. c.)	Of the thirty-two (32) procurements reviewed for this requirement, one (1) was found to be deficient and thirty-one (31) were not deficient. The deficiency was due to a procurement for MS Office Training that did not include a specification or statement of work.	Omnitrans procurement procedures contain more specific guidance on specifications for formal solicitation methods than for small purchases. Procedures should be revised to incorporate requirements regarding clear and accurate specifications for small purchases to ensure compliance going forward. Training must be conducted on these revised procedures and compliance must be verified	Training was conducted on June 13, 2013, to reinforce their staff understanding. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter	August 2013 50% Complete (Training conducted on 6/13/13)

		through a self-audit of small purchases within thirty (30) days from the date of the final report.		
25) Adequate Competition - Two or Responsible Bidders (FTA C 4220 1F, ¶ VI, 3. c. (b))	Of the seventeen (17) procurements reviewed for this requirement, three were found to be deficient and fourteen (14) were not deficient. The most significant deficiency in this area was related to preliminary architecture and engineering services for the sbX E Street Corridor Bus Rapid Transit (BRT) Project. Only a single bid was received for this procurement, which was valued at over \$15 Million. Given the magnitude of the opportunity and the sizeable market of suppliers available to complete this work, multiple bids should have been received and additional market research should have been conducted to identify potential suppliers.	Procurement policies and procedures currently provide sufficient guidance on adequate competition. However, training must be conducted with staff on these requirements – particularly for those individuals involved in the procurement of A&E services. Training and verification of compliance with procedures must be completed within thirty (30) days from the date of the final report.	Omnitrans will conduct training with staff on adequate competition requirements and verify compliance within thirty (30) days from the date of the final report.	August 2013 50% Complete (Training conducted on 7/31/13)
32) Bid Opening [Sealed Bid] (FTA C 4220 1F, ¶ VI, 3.c.(2)(e))	Of the four (4) sealed bid procurements reviewed for this requirement, three (3) were deficient and one (1) was not deficient. The sealed bid procurement for the sbX E Street construction project contained a bid opening document that was not signed. The bus painting and wrapping procurement only included a sign-in sheet for the	Omnitrans must implement a standard bid opening form that can be utilized in future sealed bid procurements. Evidence of this form must be provided and included in policies and procedures. Staff must be trained on these updated procedures and compliance must be verified within thirty (30) days from the date of the final report.	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter.	August 2013 50% Complete (Training conducted on 6/13/13)

	bid opening and no documentation providing evidence that all bids were opened at the time and date set in the solicitation. The third deficiency related to a VoIP system procurement that was missing a bid opening form altogether. The bid opening documentation associated with the vehicle maintenance facility construction project was not deficient.			
36) Evaluation [RFP] (FTA C 4220 1F, ¶ 3. d. (2) (d))	Of the thirteen (13) procurements reviewed for this requirement, five (5) were found deficient and eight (8) were not deficient. The solicitations for towing services, onsite security services, and paratransit onboard surveillance did not state the relative importance of evaluation factors. In another solicitation for HVAC and EMS maintenance/repair, the evaluation criteria section stated that “any other relevant factors as determined solely by the agency” would be considered in the evaluation of proposals.	There is a lack of knowledge around the RFP evaluation process at Omnitrans. Training must be conducted on RFP procedures and evaluations and compliance with updated requirements must be verified within thirty (30) days from the date of the final report.	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter.	August 2013 50% Complete (Training conducted on 6/13/13)
38) Sole Source if Other Award is Infeasible (FTA C 4220 1F, ¶ VI, 3. h.)	Of the nine (9) sole source procurements reviewed for this requirement, seven (7) were found deficient and two (2) were not deficient. The sole source justifications for the procurement of vehicle	Omnitrans has detailed procedures regarding the appropriate use of sole source procurements; however, there appears to be confusion between the correct approaches for FTA-funded versus non-FTA-funded procurements. Omnitrans must	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually	August 2013 50% Complete (Training conducted on 6/13/13)

	parts, bus wash repair components, computer supplies, and cellular services did not meet FTA conditions for the use of this procurement method. Furthermore, two (2) software maintenance contracts were renewed without competition and lacked base contracts with the software providers. Beyond the nine (9) contract files reviewed, there have been 490 sole source procurements over the last two years alone. This is a cause for overall concern regarding competition and corrective action must be taken to improve in this area.	conduct training on FTA sole source requirements and conduct a follow-up audit evidencing compliance within thirty (30) days from the date of the final report.	thereafter.	
39) Cost Analysis Required [Sole Source] (FTA C 4220 1F, ¶ VI, 6. a.)	Of the nine (9) sole source procurements reviewed for this requirement, eight (8) were found to be deficient. In the majority of these cases, there was no visible effort made to conduct a sole source cost analysis and no documentation was provided.	Omnitrans must conduct training on developing cost and profit analysis for sole source procurements (including analysis of fixed fee) and verify compliance by conducting a self-audit of sole source procurements within thirty (30) days from the date of the final report.	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter.	August 2013 50% Complete (Training conducted on 6/13/13)
40) Evaluation of Options (FTA C 4220 1F, ¶ VI, 7. b.)	Of the twenty-six (26) procurements reviewed for this requirement, two (2) were deficient, five (5) were not deficient, and nineteen (19) were not applicable. Option period pricing was not evaluated at the time of award for the sbX E Street construction project and for the procurement of fourteen	Omnitrans must conduct training on the evaluation of options and verify compliance with FTA requirements within thirty (30) days from the date of the final report.	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter.	August 2013 50% Complete (Training conducted on 6/13/13)

	60 foot buses. Option pricing must be evaluated at the time of award if Omnitrans reasonably expects to exercise options in the future and this evaluation should be sufficiently documented in the procurement file.			
41) Cost or Price Analysis (FTA C 4220 1F, ¶ VI, 6.)	Of the twenty-three (23) procurements reviewed for this requirement, ten (10) were deficient and thirteen (13) were found not deficient. The deficiencies were either caused by missing cost or price analysis or by incomplete efforts that lacked profit evaluation or analysis of extreme discrepancies in pricing received.	Omnitrans must conduct training on cost and price analysis procedures and verify compliance with updated requirements within thirty (30) days from the date of the final report.	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter.	August 2013 50% Complete (Training conducted on 6/13/13)
42) Written Record of Procurement History (FTA C 4220 1F, ¶ III, 3. d)	Of the thirty-one (31) procurements reviewed for this requirement, nine (9) were found to be deficient and twenty-two (22) were not deficient. Though Omnitrans demonstrated the implementation of written record templates, the history of the procurement was often missing elements such as the basis for contract type, basis for contract price, and reasons for contractor selection or rejection. This deficiency was not isolated to a single procurement method and spanned small purchases, sole source, RFPs, and IFBs.	Omnitrans has developed and plans to implement a procurement planning template for use in future procurements. Omnitrans must conduct training on written record procedures and templates and verify compliance with FTA requirements within thirty (30) days from the date of the final report.	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter.	August 2013 50% Complete (Training conducted on 6/13/13)

43) Exercise of Options (FTA C 4220 1F, ¶ V, 7. a. (1) (a) (b))	Of the twenty-six (26) procurements reviewed for this requirement, three (3) were deficient and twenty-three (23) were not applicable. These deficiencies were primarily due to the fact that option periods were exercised without verifying that prices were still fair and reasonable for the sbX E Street construction project and for the procurement of fourteen 60 foot buses.	Omnitrans must conduct training on procedures regarding exercising options, and verify compliance with FTA requirements within thirty (30) days from the date of the final report.	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter.	August 2013 50% Complete (Training conducted on 6/13/13)
44) Out of Scope Changes (FTA C 4220 1F, ¶ VI, 3. h. (3) (c))	Of the twenty-six (26) procurements reviewed for this requirement, two (2) were deficient and twenty-four were not applicable. A change order for \$400,000 pertaining to the sbX E Street construction project was not evaluated appropriately, and a staff augmentation contract originally awarded for \$99,000 was allowed to escalate to \$539,000.	Change orders for the staff augmentation contract for the sbX E Street Corridor BRT Project failed to meet the requirements of FTA C 4220.1F, Chapter VI, Section 3(i)(1)(b), related to out of scope changes. Omnitrans must conduct training on procedures regarding contract changes and verify compliance with FTA requirements within thirty (30) days from the date of the final report.	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter	August 2013 50% Complete (Training conducted on 6/13/13)
47) Time and Materials Contracts (FTA C 4220 1F, ¶ VI, 2.c.(2)(b))	Of the twenty-six (26) procurements reviewed for this requirement, two (2) were found to be deficient, and two (2) were not deficient. The procurements for staff augmentation and vehicle maintenance facility A&E services did not include a determination that no other type of contract was suitable.	Omnitrans must conduct training on procedures for justifying time and materials type contracts and verify compliance with FTA requirements within thirty (30) days from the date of the final report.	Training was provided on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter	August 2013 50% Complete (Training conducted on 6/13/13)

48) Cost Plus Percentage of Cost (FTA C 4220 1F, ¶ VI, 2.c.(2)(a))	Of the twenty-six (26) procurements reviewed for this requirement, one (1) was found to be deficient and twenty-five (25) were not deficient. The joint venture contract for the sbX E Street construction project contained a fifteen percent markup on all change orders, which constitutes a cost plus percentage of cost type contract.	The joint venture contract for the sbX E Street construction project failed to meet the requirements of FTA C 4220.1F, Chapter VI, Section 2(c)(2)(a), related to the prohibition of cost plus percentage of cost contracts. Policies and procedures must be revised to explicitly prohibit the use of cost plus percentage of cost type contracts. Training must be conducted on this requirement and compliance must be verified within thirty (30) days from the date of the final report.	Omnitrans will amend the contract with the Joint Venture. Training was conducted on June 13, 2013. Compliance will be verified by undergoing an internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter	August 2013 33% Complete (Training conducted on 6/13/13; Amendment submitted to the JV for signature on 7/9/13)
50) Piggybacking (FTA C 4220 1F, ¶ V, 7. a. (2))	Of the three (3) procurements reviewed for this requirement, all three (3) were deficient. Common areas of concern in these deficient piggybacks included insufficient inclusion of Federal clauses, missing minimum and maximum quantities, and a lack of market analysis of prices before purchases were approved. In one instance, a purchase for cellular and mobile data services was made off of a GSA contract without obtaining competition. Procurements off of GSA schedules must be competed and are subject to all FTA piggybacking requirements.	Omnitrans must revise its policies and procedures with regards to piggybacking to include FTA requirements and instructions on buying off of GSA contracts. Training must be conducted on revised procedures and compliance must be verified within thirty (30) days from the date of the final report.	Omnitrans will revise its policies and procedures with regards to piggybacking to include updated FTA requirements (FTA C4220.1F, rev 3) and instructions on buying off of GSA contracts. Training was conducted on June 13, 2013. Compliance will be verified within thirty (30) days from the date of the final report.	October 2013 33% Complete (Training conducted on 6/13/13; Revised Procurement Policy 4000 will go to the Admin. & Finance Committee on September 9, 2013 and if approved, forwarded to the Board on October 2, 2013)
56) Clauses (FTA C 4220 1F, ¶ IV, 2.)	Of the thirty-two (32) procurements reviewed for this requirement, twenty-two (22) were found to be deficient and ten (10) were not deficient. There were a variety	Federal clauses must be included on the Omnitrans website if there is reference to them on purchase orders. In addition, Omnitrans must conduct training and verify compliance with FTA requirements within thirty (30)	Federal clauses were posted on the Omnitrans website on April 17, 2013. Training was provided on June 13, 2013. Compliance will be verified by undergoing an	August 2013 75% Complete

	<p>of reasons for clause deficiencies. In some cases, Omnitrans had inserted Best Practice Procurement Manual discussions about clauses rather than designing concrete clauses based on the manual guidance. The Best Practices Procurement Manual should be used only as a guide in the development of clauses. In other cases, the Access to Records clause utilized in contracts did not grant direct access to records by the FTA and federal government. Finally, several purchase orders incorporated clauses by reference to the Omnitrans website without actually having FTA clauses available online.</p>	<p>days from the date of the final report.</p>	<p>internal audit of the files within thirty (30) days from the date of the final report, and annually thereafter.</p>	
--	---	--	--	--

ITEM # E5

DATE: August 12, 2013

TO: Committee Chair Patrick Morris and
Members of the Administrative and Finance Committee

THROUGH: P. Scott Graham, Interim CEO/General Manager

FROM: Marjorie Ewing, Director of Human Resources

SUBJECT: **ADOPT REVISIONS TO PERSONNEL POLICY #701
SUBSTANCE ABUSE**

FORM MOTION

Recommend approval to the Board of Directors, adoption of proposed change to Personnel Policy #701, Substance Abuse, effective September 4, 2013.

BACKGROUND

In December 2011, the Board of Directors approved changes to Personnel Policy 701, Substance Abuse as a result of an FTA Audit conducted in September 2011. Changes made to the policy at that time were FTA required language, with the exception of two sentences in Part III (B)(4), which eliminated the self-identification and rehabilitation provision. Subsequent to approval of those changes, the Amalgamated Transit Union Local #1704 filed a grievance regarding the changes alleging that Omnitrans violated the Memorandum of Understanding (MOU) with the implementation of the changes to the policy. This matter advanced through the grievance process and was ultimately heard by Arbitrator Robert D. Steinberg, Arbitration Case No. 12-11.

Arbitrator Steinberg's Award was received on December 22, 2012, which stated:

1. The grievance is sustained as it relates to the elimination of the "self-identification and rehabilitation" provision of the pre-audit substance abuse Policy 701.
2. Part III(B)(4), at least the non-FTA required language of the first two sentences, shall be (*de facto*) restored and remain in effect until the Agency satisfies its bargaining obligation as required by the MOU, interpreted in light of the law.
3. In no other respect did Omnitrans fail to meet and confer with the Union.

As the Memorandum of Understanding with the Amalgamated Transit Union Local #1704, Grievance Procedure, stipulates that the Arbitrator's decision is final and binding, Omnitrans has reinstated the language in Part III(B)(4) that was removed with the December 2011 revision. This language is highlighted on Page 6 of the attached policy.

FUNDING SOURCE

There are no increased costs associated with the recommendation.

_____ Verification of Funding Source and Availability of Funds.
(Verified and initialed by Finance)

CONCLUSION

Adoption of the proposed changes to Personnel Policy #701, Substance Abuse, will bring the policy in compliance with the Arbitrator's final and binding decision.

PSG:ME

Attachment



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 1 OF 44

SUBJECT

Substance Abuse (Alcohol, Drugs & Narcotics)

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011 – September 4, 2013

I. Purpose

Omnitrans is dedicated to providing safe, dependable and economical transportation services to our transit system passengers. The Federal Transit Administration (FTA) has specifically noted the use of alcohol and illegal drugs has been demonstrated to significantly affect the performance of individuals in the mass transportation industry. Omnitrans employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to (1) assure employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse affects of drug and alcohol substance abuse or misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs. The Agency has developed and implemented a drug and alcohol testing program designed to help prevent accidents and injuries resulting from the misuse of alcohol and illegal drugs by employees who perform safety-sensitive functions. While it is difficult to estimate the precise cost to society from alcohol misuse, there is no doubt that the cost is enormous. The potential side effects of alcohol misuse are substantial in absenteeism, increased health care costs, etc. This program will also help discourage substance abuse, and operate as a deterrent to those individuals who might be tempted to try drugs for the first time or who currently use drugs. Finally, we believe this program enhances the safety of our employees and the users of mass transportation by fostering the early identification and referral for treatment of workers with alcohol or drug abuse problems.

This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transit industry. The Federal Transit Administration (FTA) of the U. S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive functions and prevents performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (DOT) has also enacted 49 CFR part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the Federal government published 49 CFR Part 32, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 2 OF 44

SUBJECT

Substance Abuse (Alcohol, Drugs & Narcotics)

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: ~~December 7, 2011~~ September 4, 2013

of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees and others when so noted.

All provisions set forth in **bold face print** are included consistent with requirements set forth in 49 CFR Part 40 and Part 655, as amended. All other provisions are set forth under the authority of the Agency.

II. Scope

This policy applies to all safety-sensitive and non-safety-sensitive Agency applicants, transferees, employees, paid part-time employees, contracted employees, and contractors when they are on transit property or **when performing any transit related safety-sensitive or non-safety-sensitive business**. Visitors, vendors, and contractor employees are governed by this policy while on transit premises and will not be permitted to conduct transit business if found to be in violation of this policy.

A. For purposes of this policy “safety-sensitive function” includes:

- 1. Operating a revenue service vehicle, including when not in revenue service;**
- 2. Operating a non-revenue vehicle, when required to be operated by a holder of a Commercial Driver’s License;**
- 3. Controlling dispatch of movement of a revenue service vehicle;**
- 4. Maintaining a revenue service vehicle or equipment used in revenue service, or**
- 5. Carrying a firearm for security purposes.**

An individual will be considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform or immediately available to perform such functions. Supervisors who may also perform safety-sensitive functions will be considered covered employees by this policy.

Appendix A lists Safety-Sensitive job titles at Omnitrans.

B. Contractors

This policy also applies to recipients of FTA assistance as defined in 49 CFR Part 655, as well other entities that provide mass transportation services or perform safety-sensitive functions for such recipients or entities, including subrecipients, operators and contractors. Contractors



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 3 OF 44

SUBJECT

Substance Abuse (Alcohol, Drugs & Narcotics)

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

subject to the requirements of the regulations include persons or organizations that provide services for the Agency consistent with a specific understanding or arrangement that reflects an ongoing relationship between the parties. The Agency will ensure that any contractors who perform safety-sensitive functions within the scope of this policy and the regulations certify their compliance with the requirements of 49 CFR Part 655.

III. Procedure

A. Prohibited Substances

1. Alcohol

Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol. "Alcohol use" means the consumption of any beverage, mixture, or preparation, including any medication, which contains alcohol. "Alcohol concentration" (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

2. Illegally Used Controlled Substances or Drugs

Although this policy prohibits the use of any controlled substances not lawfully prescribed by a physician, any drug test required under this policy will analyze an individual's urine to test for the presence of marijuana, cocaine, opiates, amphetamines and phencyclidine. The use of these five drugs is always illegal. Therefore, safety-sensitive employees may be tested at any time while on duty.

Appendix B indicates cut off levels for the initial and confirmatory tests.

3. Prescription & Non-Prescription (Over-the-Counter Drug Use)

While the use of legally prescribed drugs and non-prescription medications is not prohibited, employees must understand they have a responsibility to notify their supervisor if they are taking any medication which indicates that mental functioning, motor skills, or judgment may be adversely affected.

A legally prescribed drug is one written for you by a licensed physician and it includes the patient's name, the name of the medication, quantity/amount to



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 4 OF 44

SUBJECT

Substance Abuse (Alcohol, Drugs & Narcotics)

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011 – September 4, 2013

be taken, and the period of authorization. The safety-sensitive employee is required to complete and have their physician complete the Safety-Sensitive Employee Prescription Drug Use Form (Appendix K). If the employee is taking any non-prescribed over-the-counter medications, the employee must also notify their supervisor by completing the Safety-Sensitive Employee Non-Prescription Form (Over-the-Counter Medications Only) (Appendix L).

The misuse or abuse of legal drugs while performing transit business is prohibited and subject to disciplinary action, up to and including termination of employment. **An individual will be allowed to list on the back of the donor copy of the Urine Custody and Control Form, any prescribed medication that he/she may be taking or may have recently taken.**

B. Conditions of Employment

Participation in Omnitrans drug and alcohol testing program is a requirement of each safety-sensitive employee and, therefore is a condition of employment. Covered employees are also prohibited from refusing to submit to a required substance abuse test as outlined by this policy.

1. Prohibited Conduct

a. Manufacture, Trafficking, Possession, and Use.

Any **employee engaging in the manufacture, distribution, dispensing, possession, or use of prohibited substances** on Omnitrans premises, **in transit vehicles**, in uniform, or while on Omnitrans business will be subject to termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

b. Impairment

Any **safety-sensitive** or non-safety sensitive employee who is reasonably suspected of being impaired by a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition. Employees found to be impaired by prohibited substances or **who fail to pass a drug or alcohol test shall be removed from duty** and subject to termination. **A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.**



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 5 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

c. Alcohol Use

Agency and the **Federal Transit Administration Regulations** prohibit the following conduct as it relates to alcohol use:

- 1) **No safety-sensitive or non-safety-sensitive employee should report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her blood alcohol concentration is 0.04 or greater.**
- 2) **No employee shall have used alcohol within four hours of reporting for duty.**
- 3) **No employee shall use alcohol while performing safety-sensitive functions, or just before or just after performing a safety-sensitive function.**
- 4) **No employees shall use alcohol during the hours they are on call.**
- 5) **No safety-sensitive employee shall use alcohol for eight hours following an accident, unless the employee has first undergone a post-accident alcohol test.**

Violation of these provisions is prohibited, and will make the employee subject to disciplinary action up to and including termination.

2. Notifying the Transit System of Criminal , Alcohol and/or Drug Conviction

Any employee who fails to notify Omnitrans in writing within five (5) days of any criminal, alcohol and/or drug statute conviction shall be subject to disciplinary action up to and including termination. Omnitrans will then report the conviction as stated above to the FTA Regional Counsel within ten (10) calendar days.

3. Compliance with Testing Requirements

All safety-sensitive and non-safety-sensitive employees will be subject to urine drug testing and breath alcohol testing. Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately, and be subject to dismissal proceedings. Refusal can include an inability to provide a urine specimen or breath sample without



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 6 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

4. Self Identification and Rehabilitation

It is Omnitrans policy to encourage employees to identify and detect their alcohol and substance abuse problems, and to enter a rehabilitation program. Accordingly, the Agency will allow employees, with a minimum of one year's service, one opportunity to enter a rehabilitation program if they identify themselves before Agency detection of the problem, or the occurrence of a situation that may result in a requirement to undergo urine and breath testing.

5. Proper Application of the Policy

Omnitrans is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, all supervisory employees are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisory employee who knowingly disregards the requirements of this policy, or who is found to deliberately misuse, or neglect to enforce the policy in regard to subordinates, shall be subject to disciplinary action up to and including termination.

C. TESTING CIRCUMSTANCES

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as required by Federal regulations. **All safety-sensitive and non-safety-sensitive employees shall be subject to testing prior to employment (post offer) or transfer to safety-sensitive positions, for reasonable suspicions/probable cause, fit for duty medical examination (post 90 day return from leave), and following an accident. Those employees who perform the safety-sensitive job listed in Appendix A to this policy shall also be subject to testing on a random, unannounced basis.**

Before performing any alcohol or drug test required by this policy, the Agency will notify the test subject the test is being required pursuant to this policy and/or Federal Transit Administration Regulations (49 CFR Part 655). The Agency will not represent that any requested test is required by federal regulations if, in fact, the individual to be tested is not subject to those regulations.



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 7 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011 – September 4, 2013

1. Pre-employment Testing

All safety-sensitive and non-safety-sensitive position applicants shall undergo urine drug testing prior to (post offer) employment. Receipt by Omnitrans of negative test result is required prior to beginning safety-sensitive duties. All employees being transferred from a non-safety-sensitive function to a safety-sensitive function will also be required to have a negative pre-employment drug test result prior to beginning any safety-sensitive function. The test must be performed within 90 days of beginning any safety-sensitive duties. If a test is cancelled for any reason, the employee or applicant must retake and have a negative result prior to being hired or beginning any safety-sensitive function. Failure of a drug test will disqualify an applicant for employment for a period of two (2) years.

Omnitrans will obtain written consent from applicants to request information from previous DOT regulated employers that had employed the individual within the previous two years. If the applicant does not provide consent, he/she may not perform any safety-sensitive functions.

Pursuant to Section 655.41(a)(2), all applicants and/or employees of safety-sensitive positions will be asked during the oral interview portion of the selection process if they have ever failed or refused a DOT pre-employment drug test including requiring evidence that the applicant and/or employee has successfully completed a referral, evaluation and treatment plan.

An employee who has not performed a safety-sensitive duty for 90 consecutive days or more and has not been in the random selection pool shall take a pre-employment physical examination that includes a DOT drug test with a verified negative result before returning to safety-sensitive duties.

2. Reasonable Suspicion Testing

All safety-sensitive and non-safety-sensitive employees may be subject to a fitness for duty evaluation, to include appropriate urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance including, but not limited to, any employee suspected of possessing, using or being impaired by alcohol or an illegal drug, a legal drug if such use would violate this



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 8 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

Policy or pose a safety threat, **while on duty** and/or in Agency uniform.

A reasonable suspicion referral for testing must be based upon specific, contemporaneous, articulate observations concerning appearance, behavior, speech, or body odors of the covered safety-sensitive and non safety-sensitive employee consistent with possible drug use or alcohol misuse. These observations will only be made by one supervisor who has received appropriate training in detecting the signs and symptoms of drug and alcohol use and will be documented by that individual on a “Reasonable Suspicion – Individual Test Summary” (Appendix J). A reasonable suspicion alcohol test will only be required if the reasonable suspicion observations are made just before, during or after the period of the work day that the covered employee is required to be in compliance with this policy.

If the reasonable suspicion alcohol test is not administered within two (2) hours following the reasonable suspicion determination, the Agency will document the reasons why the test was not promptly administered. If the test is not administered within eight (8) hours following the reasonable suspicion determination, the Agency will no longer attempt to administer an alcohol test and will document the reasons for its inability to do the test.

In any reasonable suspicion testing circumstance, an Agency representative will transport the individual to the collection facility and await the completion of the collection procedure. The Agency representative will then transport the individual back to the Agency’s premises where a family member or designated individual will be contacted to transport the individual from the premises. In the event no such individual is available, the Agency will contact a taxi to transport the employee home. The cost of the taxi will be reimbursed to the individual if the reasonable suspicion test result is negative. If the individual refuses to comply with any of these procedures and attempts to operate his/her own vehicle, the Agency will take appropriate efforts to discourage him/her from doing so, up to and including contacting local law enforcement officials. Any employee failing to cooperate with any of the above procedures will be subject to disciplinary action, up to and including termination.

Any safety-sensitive or non-safety-sensitive employee may not be assigned to a safety-sensitive function until a negative result has been received. An employee receiving a negative result shall be promptly returned to his/her former duties. While awaiting test result(s), employees



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 9 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

will be put on paid administrative leave.

3. Post-Accident Testing

a) Safety-sensitive employees will be required to undergo alcohol and drug testing if they are involved in an accident while operating an Omnitrans vehicle (regardless of whether or not the vehicle is in revenue service), if as a result of the accident:

- 1) An individual dies;**
- 2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident;**
- 3) With respect to an occurrence in which the mass transit vehicle involved a bus, electric bus, van or automobile, one or more vehicles incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. Disabling damage does not include damages which can be remedied temporarily at the scene of the accident without special tools or parts, tire disablement without other damage (even if no spare tire is available), headlamp or taillight damage, or damage to turn signals, horn or windshield wipers which makes them inoperative; or The total damage caused by the accident is estimated to exceed \$5,000.00.**

A post-accident test will be conducted on all surviving covered employees whose performance could have contributed to the accident, as determined by the Agency using the best information available at the time of the decision.

Post accident testing is stayed while the employee assists in the resolution of the accident or receives medical attention following the accident. In the event following an accident, an alcohol test is not administered within two (2) hours; the Agency will prepare and maintain record stating the reasons why the test was not promptly administered. The employee will be tested for alcohol within eight (8) hours of the accident, or the Agency will make no further effort to administer and will document the reasons why the test was not



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 10 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

administered within eight (8) hours. In the event a drug test is not administered within 32 hours following an accident, the Agency will cease its attempts to administer further drug testing. Any employee involved in an accident must refrain from alcohol use for eight hours following the accident or until he/she undergoes a post-accident alcohol test. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to drug and alcohol testing will be considered to have refused the test. Employees tested under this provision will include not only the operations personnel, but any other covered employee whose performance could have contributed to the accident.

- b) The Post-Accident Individual Test Summary form (Appendix I) shall be used by the supervisor to ensure that proper procedure is followed in post-accident drug and alcohol testing. This form will be identified with an identification number that corresponds with accident records. The form will be kept as part of the testing records.
- c) Testing will not be required after non-fatal accidents if the Agency determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident and that the employee's performance could not have contributed to the accident.

4. Random Testing

Any safety-sensitive employees subject to the Federal Transit Administration guidelines of this policy will be required to submit to random drug and alcohol testing. The Agency will conduct random drug and alcohol tests at no less than the minimum annual percentage rate as required by the FTA. The current minimum annual percentage rates are located in Appendix C.

The random selection process is completely objective and anonymous and utilizes a scientifically valid method using a computer-based random number generator matched with a random number assigned to the employee's social security number. The tests will be unannounced and the dates for the tests will be reasonably spread throughout the course of the calendar year and occur throughout the work shift. All employees will have an equal chance of being tested each time selections are made, regardless of the number of his/her previous



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 11 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

selections, if any.

Any covered employee notified of his/her selection for random testing will be required to proceed immediately to the test site. If a covered employee is performing a safety-sensitive function at the time of notification of the random test requirement, he/she will be required to cease performing the safety-sensitive function and proceed to the testing site as soon as possible. Covered employees will only be required to submit to a random alcohol test if they are performing a safety-sensitive function, about to perform a safety-sensitive function, or have just ceased performing a safety-sensitive function.

5. Refusal to Submit

Any covered employee who refuses to submit to an alcohol or drug test will be prohibited from performing or continuing to perform a safety-sensitive function and be subject to termination "Refusal to submit" to an alcohol or drug test constitutes a positive result, a violation of this policy, and includes the following conduct:

- a. Failing to provide adequate breath for alcohol testing, without a valid medical explanation after an individual has received notice of a required breath test;
- b. Failing to provide an adequate urine sample for drug testing, without a genuine inability to provide a specimen (as determined by a medical evaluation), after an individual has received notice of a required urine test;
- c. Engaging in conduct that clearly obstructs the testing process, including the failure or refusal to sign any document or form required under this policy or by any party authorized to carry out testing under this policy;
- d. Failing to remain readily available for testing, including notifying the Agency of his/her location if he/she leaves the scene of the accident, when an individual is involved in an accident as defined in this policy; and
- e. Failure of the employee to report to the collection/testing site in a timely manner, as defined by Omnitrans, once notification is given without a reasonable excuse for a required test (except for a pre-



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 12 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

employment test).

- f. Leaving a collection facility prior to a test completion (except in a pre-employment test where leaving before the test begins is not considered a test refusal).
- g. Failure to permit an observed or monitored collection when required.
- h. Failure to take a second test when required (i.e. a cancelled test).
- i. Failure to undergo a medical exam when required.
- j. For an observed collection, failure to follow the observers instructions to raise clothing above the waist, lower clothing and underpants and turn around.
- k. Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process.
- l. Admitting to the adulteration or substitution of a specimen to the collector or MRO.
- m. MRO's verification of a test as adulterated or substituted constitutes a refusal.

D. ALCOHOL TESTING METHODOLOGIES

- a. Alcohol Testing Personnel
 - a) Breath Alcohol Technician

All alcohol testing required under this policy will be carried out by a breath alcohol technician ("BAT") trained to proficiency in the operation of the evidential breath testing device ("EBT") being used by the Agency for alcohol testing and in the alcohol testing procedures required herein. The BAT will be required to successfully complete a course of instruction that meets the standards of the National Highway Traffic Safety Administration (NHTSA) model course and documents that the BAT has demonstrated competence in the operation of the specific EBT being used by the Agency.



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 13 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011 – September 4, 2013

b) Screening Test Technician (STT)

Anyone qualified to act as a Breath Alcohol Technician may act as a Screening Test Technician (STT), provided that he/she has demonstrated proficiency in the operation of the non-evidential screening device to be used by that individual. Any other individual may act as an STT as long as he or she successfully completes the Department of Transportation model course, or a course of instruction determined by the Department of Transportation's Office of Drug and Alcohol Policy Compliance to be equivalent to it.

2. Alcohol Testing Device

- a) **Evidential Breath Testing Device for the evidential testing of alcohol is listed in the "Conforming Products List (CPL) of Evidential Breath Measurement Devices." For confirmatory breath tests, the Agency will use an EBT that is capable of providing a printed result of each breath test in triplicate (or three consecutive identical copies). This device will be capable of assigning a unique and sequential number to each completed test. The EBT will also be able to distinguish alcohol from acetone at the 0.02 alcohol concentration level and be capable of testing an air blank prior to each collection of breath and performing an external calibration check.**
- b) **In order to be used for any alcohol testing under this policy, the EBT and must have a quality assurance plan (QAP) developed by the manufacturer and approved by National Highway Traffic Safety Administration (NHTSA). The Agency or its designated agent will ensure compliance with the QAP for each EBT it uses for alcohol testing under this policy.**

3. Alcohol Testing Site

- a) **The Agency will use an alcohol testing site that affords visual and aural privacy to the individual being tested sufficient to prevent unauthorized persons from seeing or hearing test results. The alcohol testing site will be secure and no unauthorized persons will be permitted access to it at any time when testing is being conducted or when the EBT remains unsecured. Alcohol testing will take place at locations designated by the Agency.**



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 14 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

b) In unusual circumstances (e.g., when it is essential to conduct a test outdoors at the scene of an accident) a test may be conducted at a place other than a designated testing facility, but the Agency or the BAT will ensure that visual and aural privacy will be provided to the greatest extent practicable.

4. The Breath Alcohol Testing Form

a) The Agency will use a Breath Alcohol Testing Form prescribed by the Department of Transportation for EBT alcohol screening devices.

E. ALCOHOL TESTING PROCEDURES

1. Screening and Confirmation Testing

All alcohol testing conducted under this policy will be done in accordance with the procedures outlined in 49 CFR Part 40, Subpart L. After providing photo identification to the BAT or STT, the employee and the BAT/STT will complete the Breath Alcohol Testing Form. Any employee who refuses to sign the acknowledgment of testing in Step 2 of the form will be considered to have refused to test. The employee will follow the BAT/STT's instructions and provide a breath sample for the initial test. If the result of the test is <0.02 alcohol concentration, the test is considered negative and the process is complete. The BAT/STT will complete and sign the breath alcohol testing form.

If the initial alcohol test result is 0.02 or greater, a confirmation test, using an EBT capable of printing the test results, will be conducted. After a waiting period of at least 15 minutes, during which the employee is observed and requested not to take anything by mouth or to the extent possible, not to belch during the waiting period; the employee will be asked to provide a breath sample.) The confirmation test will be completed within 30 minutes of the completion of the screening test. The purpose of the waiting period is to ensure that no residual mouth alcohol is present for the confirmation test. If the confirmation test result is >0.02 , the BAT will immediately notify the Agency representative, and the employee will remain at the testing facility until provided transportation home. The employee and the BAT will complete and sign the breath alcohol testing form and a copy of the form, including the test results, will be provided to the employee.

2. Inability to Provide a Sample



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 15 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

The employee will be asked to submit to a breath alcohol test. If the employee is unable to provide, or alleges he/she is unable to provide a breath sufficient to permit a valid breath test because of a medical condition, the BAT/STT shall again instruct the employee to provide an adequate amount of breath. If the employee cannot provide an adequate breath sample, the BAT/STT shall discontinue the testing process, notify the Agency representative, and the employee shall, as soon as practical, be evaluated by a physician, designated by the Agency. The physician shall determine if there is a medical condition or diagnosis that prevents the employee from providing an adequate breath sample. If the physician is unable to document a medical condition or diagnosis responsible for the employee's failure to provide an adequate sample, it is considered a refusal to test.

3. Invalid Alcohol Test Results

Alcohol results >0.02 on the confirmation test are deemed invalid if certain critical errors or omissions occur in the testing process. The reasons for invalidation of a test result include: failure of the EBT/STT on the next external calibration check; less than 15 minutes elapsed between screening and conformation; omission of or failure on an air blank before the confirmation test; failure of the BAT/STT to sign the Breath Alcohol Testing Form; no printed EBT result; or the BAT/STT's failure to note employee's refusal to sign the final certification statement in step 4 of the Breath Alcohol Testing Form; the sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result. If an event occurs during the testing process, or an error is discovered, that would invalidate a confirmation test result, the employee shall be subject to repeat the testing process, if practical.

4. Refusal to Test

For purposes of alcohol testing, the following are considered refusals to test:

- a) The employee refuses to sign Step 2 of the Breath Alcohol Testing Form
- b) The employee refuses to attempt to provide a sample
- c) The employee fails to cooperate with the testing process
- d) The employee is unable or unwilling to provide an adequate breath



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 16 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

sample and the examining physician does not find a medical condition or diagnosis that prevents the employee from providing the sample

- e) The employee fails to remain readily available for testing following an accident as defined in this policy.
- f) The employee fails to report to the collection/testing site for a required test in a timely manner, as defined by Omnitrans, once notification is given without a reasonable excuse.
- g) Failure to submit to a medical examination when required.
- h) Any employee who is deemed to have "refused to test" will be immediately removed from performing safety sensitive functions as defined by the FTA rules (49 CFR Part 655). The "refusal to test" constitutes a positive result. The Agency will impose disciplinary action as outlined in this policy.

F. CONTROLLED SUBSTANCE ABUSE TESTING METHODOLOGIES

1. Laboratory Analysis

All urine specimens tested for drugs of abuse under this policy will be analyzed at a laboratory certified by the Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA). The laboratory selected by the Agency for testing conducted under this policy is listed at Appendix D.

2. Initial Screening

All specimens will be tested for the drug or drug classes listed below using an immunoassay screen approved by the Food and Drug Administration (FDA). The immunoassay screen will use cut-off levels established by the DHHS to eliminate negative specimens from further consideration. Any initially positive test will be subject to confirmation through an additional, more precise testing methodology.

3. Confirmatory Tests

Any urine specimen identified as positive on the initial screen will be confirmed by a second analytical procedure which uses a different chemical technique and procedure. Gas chromatography/mass spectrometry (GC/MS) methodology will be used to conduct the confirmation analysis. GC/MS analysis will use cut-off levels established by the DHHS for confirmation. Any specimen that does not contain drug or drug metabolites above the



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 17 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

GC/MS confirmation cut-off levels will be reported by the laboratory as negative.

4. Specimen Adulteration/Dilution

When appropriate the laboratory may conduct analyses to determine if the specimen has been adulterated. Adulteration tests include, but are not limited to, specific gravity, creatinine, and pH. In addition, the laboratory may conduct additional analyses to identify or detect a specific adulterant added to the urine specimen. If the laboratory identifies an adulterant added to the specimen, the laboratory will report the specimen as adulterated, presence of (the substance identified).

A urine sample will be considered dilute when the creatine concentration is equal to or greater than 2 mg/dL, but less than 20 mg/dL, and the specific gravity is greater than 1.0010, but less than 1.0030.

5. Laboratory Reporting of Results

The laboratory will report all test results to the Medical Review Officer (MRO). The reporting of test results must be by confidential, secure electronic (not telephone) or hard copy transmission. The laboratory will send to the MRO a copy of the custody and control form bearing the test results. Test results will be reported as negative, positive (if positive, the drug(s) found will be specified), canceled, unsuitable for testing, test not performed, or specimen adulterated.

The laboratory shall only report quantitative levels of positive results to the MRO upon his/her specific request. Quantitative levels shall only be released to the employer if the employer is involved in an administrative or legal proceeding brought by the employee in challenging a test result. Otherwise, the Agency will receive a result of either "Positive- with the substance being identified", or "Negative". The laboratory will provide a quarterly statistical report to the Agency summarizing the testing activity for each quarter.

6. Specimen Retention and Storage

Negative specimens will be destroyed and discarded by the laboratory after results are reported to the MRO. Positive specimens will be retained in long-term frozen storage (-20 degrees C or less) for a minimum of one (1) year. Split specimens of positive results will be retained in frozen storage



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 18 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

for at least 60 days or until the MRO provides a written request for the split to be transferred to another laboratory for analysis (whichever occurs first).

7. Split Specimen Analysis

When a laboratory receives a split specimen (Bottle B) from the laboratory that conducted the confirmation analysis of Bottle A, the laboratory will conduct the analysis of Bottle B using GC/MS methodology. The specimen will be reported as a “reconfirmation of the drug(s)” if there is any detectable presence of the drug(s); GC/MS cut off levels do not apply. The results of the split specimen analysis are reported to the MRO. The split specimen will be retained in long-term frozen storage for a minimum of one (1) year by the laboratory that conducted the split specimen analysis. (Or longer if litigation concerning the test is pending).

G. CONTROLLED SUBSTANCES TESTING PROCEDURES

1. Urine Specimen Collection

Any person requested to undergo a drug test will be required to provide a urine sample at a designated collection site. Photo identification will be required. In order to ensure integrity of the specimen collection procedure, a standard Drug Testing Custody and Control Form will be used. This form will be completed by the employee and the specimen collection and will be forwarded along with the urine sample to a designated laboratory. The MRO, employee, collector and Agency representative also receive a copy of the Drug Testing Custody and Control Form.

All urine specimens will be collected in a clean, single-use specimen bottle(s) securely wrapped until filled with the specimen. A clean, single-use collection container that is securely wrapped until used may also be provided. The specimen bottle(s) will be labeled and sealed with tamper-evident tape/label by the collector in the employee's presence. The employee will initial the bottle(s) seals.

Any person requested to undergo a drug test will be provided a copy of written specimen collection procedures, which must be followed by the individual and the collection site personnel.

2. Specimen Collection Sites



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 19 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

The Agency will designate specimen collection sites/facilities. The facilities will have the personnel, materials, equipment and supervision necessary to provide collection in accordance with 49 CFR Part 40. The collection sites/facilities listed in Appendix D have been designated for specimen collections conducted under this policy.

Procedures shall provide for the collection site to be secure. If a facility cannot be dedicated solely to drug testing, the portion of the facility used for testing shall be secured during the drug testing. A facility normally used for other purposes, such as a public rest room or hospital examining room, may be secured by visual inspection to ensure other persons are not present and undetected access is not possible.

3. Chain of Custody and Collection Control

The collection site personnel shall keep the individual's specimen bottle within sight both before and after the individual has urinated. After the specimen is collected, it shall be properly sealed and labeled. The chain-of-custody block on the Drug Testing Custody and Control Form shall be executed by authorized personnel upon receipt of the specimen. This form shall be used for maintaining control and accountability of each specimen from the point of collection to shipment/transportation of the specimen.

4. Individual Privacy

Collection procedures shall allow urine specimens to be provided by the individual in private, unless there is reason to believe that the individual may alter or substitute the specimen, as set forth below:

- a) The employee has presented a urine specimen that falls outside the normal temperature (32°-38° C/ 90°-100° F
- b) The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g., substitute urine in plain view, blue dye in specimen presented, etc.).
- c) An employee may also be required to provide a urine specimen under direct observation in the event specimen adulteration is suspected under Section F.4. and H.4. of this policy. However, a higher-level supervisor of the collection site or a designated employer representative shall review and concur in advance with any decision by



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 20 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

a collection site person to obtain a specimen under the direct observation of a same gender collection site person based upon the circumstances described above. During an observed collection, the employee will be required to raise and lower clothing and turn around in plain view as well as allowing the observer to view the urine stream from the donor to the collection container. Failure to follow the observers instructions during an observed collection to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the employee has any type of prosthetic or other device that could be used to interfere with the collection process will be considered a refusal per Section 40.191(a) (9) (10).

- d) If the sample is being collected from an employee in need of medical attention (e.g., as part of a post-accident test given in an emergency medical facility), necessary medical attention shall not be delayed in order to collect the specimen. Specimens will not be collected from deceased or comatose employees.

5. Insufficient Volume

Original specimen (with insufficient volume) will be discarded unless temperature is out of range or shows evidence of adulteration or tampering. The individual will remain at the collection site until process is complete.

The individual will be allowed to drink up to forty (40) ounces of fluid. If the specimen is not provided within three (3) hours of the first attempt, the collection process will be discontinued. The individual then will be referred to the MRO.

The individual will then have five (5) days to obtain a medical examination. The referring physician must be acceptable to the MRO. The medical examination will look for ascertainable physiological conditions or documented pre-existing psychological disorders present at the time of the examination.

6. Specimen Integrity and Identity

The Agency, the employee, and the collection site shall take appropriate precautions to preserve the integrity of the urine specimen by ensuring that it is not adulterated or diluted during the collection procedure and that



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 21 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

the urine specimen tested is that of the person from whom it was collected. Collection site personnel will be responsible for maintaining the integrity of the specimen collection and transfer process, but employees are expected to cooperate with collection site personnel and to exercise good faith in conjunction with the specimen collection procedures.

7. Split Specimen Procedures

There must be a sufficient volume of each specimen to allow for it to be subdivided, secured and labeled in the presence of the tested individual and retained in a secured manner to prevent the possibility of tampering. This will allow an individual the opportunity to request a retest of the specimen by an appropriate laboratory in accordance with Section F.7. of this policy.

8. Transportation to Laboratory

Collection site personnel shall arrange to ship the collected specimens to the drug-testing laboratory. The specimens shall be placed in a container designed to minimize the possibility of damage during shipment (e.g., specimen boxes and/or padded mailers); and those containers shall be securely sealed to eliminate the possibility of undetected tampering with the specimen and/or form. The collection site person shall ensure that the chain of custody documentation is enclosed in each container sealed for shipment to the drug-testing laboratory.

9. Failure to Cooperate

Any employee required to provide a urine sample may be asked to sign a consent or release form authorizing the collection of the specimen, analysis of the specimen for designated controlled substances, and release of the results to the employer. The employee will not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen or to indemnify any person for the negligence of others.

If the employee refuses to cooperate during the collection process (e.g., refusal to provide a complete specimen, complete paperwork, initial specimen), the collection site person will inform the Agency representative and document the employee's conduct on the Drug Testing Custody and Control Form. Employees are expected to exercise good faith and cooperate during the collection process and failure to do so will subject



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 22 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011 – September 4, 2013

the employee to disciplinary action, up to and including termination, independent and regardless of the results of any subsequent drug test.

H. CONTROLLED SUBSTANCE TEST RESULTS

1. Medical Review Officer (MRO)

All confirmed positive and negative test results will be reported by the laboratory directly to the medical review officer (MRO) prior to any results being released to the Agency. The MRO will be a licensed physician with knowledge of substance abuse disorders who has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information. The MRO will review and consider possible alternative medical explanations for the positive test result as well as the chain of custody to ensure that it is complete and sufficient on its face. The Agency will designate an MRO for its controlled substance testing program. The designated MRO is listed in Appendix D.

2. MRO Duties

The MRO will perform the following functions for the Agency:

- a) Review the results of drug testing before they are reported to the Agency;**
- b) Review and interpret each confirmed positive test result to determine if there is an alternative medical explanation for the confirmed positive test result. The MRO may include these steps:**
 - 1) Conducting a medical interview with the individual tested;**
 - 2) Reviewing the individual's medical history and any relevant biomedical factors;**
 - 3) Reviewing all medical records made available by the individual tested to determine if a confirmed positive test resulted from legally purchased medication.**
- c) Requiring, if necessary, that the original specimen be reanalyzed to determine the accuracy of the reported test result; and**
- d) Verifying that the laboratory report and assessment are correct.**

3. Action on Positive Test Results

Prior to making a final decision to verify a positive test result for an individual, the MRO will give the individual an opportunity to discuss the test



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 23 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

result. The MRO will contact the individual directly, on a confidential basis, to determine whether the individual wishes to discuss the test result. A staff person under the MRO's supervision may make the initial contact and a medically licensed or certified staff person may gather information from the individual. Except as provided below, the MRO will talk directly with the individual before verifying a test as positive.

If, after making and documenting all reasonable efforts to contact the individual, the MRO is unable to reach the individual directly, the MRO will contact a designated Agency representative who will direct the individual to contact the MRO as soon as possible. If it becomes necessary to reach the individual through an Agency representative, the representative will utilize procedures to ensure, to the maximum extent practicable, the requirement that the individual contact the MRO is held in confidence.

The MRO may verify a test as positive without having communicated directly with an individual about the results in three circumstances:

- a. If the individual expressly declines the opportunity to discuss the test;
- b. If the designated Agency representative has successfully made and documented a contact with the individual and instructed him/her to contact the MRO, and more than five (5) days have passed since the individual was successfully contacted; or
- c. If neither the MRO nor employer has successfully contacted the employee after fourteen (14) days of reasonable effort.

If a test is verified as positive because of an individual's failure to contact the MRO, the individual will have the opportunity to provide the MRO with evidence documenting that serious illness, injury or other circumstances unavoidably prevented him/her from timely contacting the MRO. The MRO, on the basis of such information, may reopen the verification and allow the individual to present information concerning a legitimate explanation for the confirmed positive test. If the MRO concludes that there is a legitimate explanation, the MRO will declare the test to be negative.

In verification of an opiate positive result the MRO may require that the employee submit to a medical examination by an Agency-designated physician. The purpose of the examination is to determine if there is clinical evidence of unauthorized use of an opiate substance. An employee's refusal to undergo the medical examination may result in a positive test determination.



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 24 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

4. MRO Determinations

If the MRO determines, after appropriate review, that there is a legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO will report the test as negative.

If the MRO determines, after appropriate review, that there is no legitimate medical explanation for the confirmed positive test result other than the unauthorized use of a prohibited drug, the MRO shall refer the individual tested to the Agency for further proceedings in accordance with this policy, report the test as positive, and provide the name of drug(s) detected.

If the MRO determines, based upon his/her review of the laboratory inspection reports, quality assurance and quality control data, and other drug test results, that a particular drug test result is scientifically insufficient for further action, the MRO will conclude that the test is canceled.

If the MRO determines that a specimen is unsuitable for testing, the MRO will cancel the test. The MRO will provide medical review and verification for all laboratories and reported substituted specimen results. If the MRO receives a laboratory report identifying the specimen as adulterated, the MRO will report the test as adulterated and inform the Agency that the employee has “refused to test”.

5. Disclosure of Information

The MRO will not disclose to any third party medical information provided by the individual to the MRO as part of the testing verification process, except as provided below:

- a. Before obtaining medical information from the employee as part of the verification process, the MRO will advise the employee that the information may be disclosed to third parties and of the identity of any parties to whom the information may be disclosed.

6. Split Specimen Procedures

The MRO will notify each employee who has a verified positive test that he/she has seventy-two (72) hours in which to request a test of the split



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 25 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: ~~December 7, 2011~~ September 4, 2013

specimen. If the employee requests an analysis of the split specimen within seventy-two (72) hours of such notice, the MRO will direct, in writing, the laboratory to provide the split specimen to another DHHS-certified laboratory for analysis. The employee will not be allowed to request a reanalysis of the primary specimen and any retest will be at the employee's expense.

If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing, or untestable, the MRO will cancel the test and report the cancellation and the reasons for it to the DOT, the employer and the employee. However, because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement, but must provide data sufficient to confirm the presence of the drug or metabolite.

If an employee has not contacted the MRO within seventy-two (72) hours, the employee may present the MRO with information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the employee from timely contacting the MRO. If the MRO concludes that there is a legitimate explanation of the employee's failure to contact him/her within 72 hours, the MRO will direct that analysis of the split specimen be performed.

I. CONFIDENTIALITY AND RECORDKEEPING

1. Confidentiality

The Agency will maintain all records generated under this policy in a secure manner so that disclosure to unauthorized persons does not occur. Thus, the results of any tests administered under this policy and/or any other information generated pursuant to this policy will not be disclosed or released to anyone without the express written consent of the employee, except where otherwise required or authorized by law. In addition, the Agency's contract with its designated laboratory requires it to maintain all employee test records in confidence.

However, the laboratory or the Agency may disclose information required to be maintained under this policy to the employee, the employer or the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol and/or



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 26 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

drug test administered under this policy, or from the employer's determination that the employee engaged in conduct prohibited by this policy (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.)

2. Access to Facilities and Records

Upon written request by any covered employee, the Agency will promptly provide copies of any records pertaining to the employee's use of alcohol or drugs, including any records pertaining to his or her alcohol or drug tests. Access to a covered employee's records will not be contingent upon payment for records other than those specifically requested.

The Agency will also permit access to all facilities utilized and alcohol or drug testing documents generated in complying with the requirements of 49 CFR Part 655 to the Secretary of Transportation, any DOT agency with regulatory authority over the employer or any of its covered employees, or to a State oversight agency. When requested by the National Transportation Safety Board as part of an accident investigation, the Agency will disclose information related to the employer's administration of a post-accident alcohol and/or drug test administered following the accident under investigation.

Records will also be made available to an identified person or a subsequent employer upon receipt of a written request from an employee, but only as expressly authorized and directed by the terms of the employee's written consent. The subsequent release of such information by the person receiving it will be permitted only in accordance with the terms of the employee's consent.

J. EMPLOYEE ASSISTANCE PROGRAM/SUBSTANCE ABUSE PROFESSIONAL

1. Employee Education

The Agency will provide employees subject to this policy with education materials explaining the requirements of the Federal Transit Administration drug and alcohol regulations and the Agency policies and procedures for meeting them. In addition, employees will be provided with information concerning the effects of drug use and alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol or drug problem. This information will be



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 27 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

included in the following:

- a. Distribution of an employee Personnel Policy Manual.
- b. Display and distribution of a community service hot-line telephone number for employee assistance.
- c. Appendix E.

Covered employees will receive at least sixty (60) minutes of training on the effects and consequences of prohibited drug use on personal health, safety and the work environment and on the signs and symptoms which may indicate prohibited drug use.

Copies of the above materials and this policy will be distributed to each covered employee prior to the start of alcohol and drug testing required herein and to each employee subsequently hired or transferred into a position requiring the performance of a safety-sensitive function covered by this policy. Each employee who receives a copy of these materials will be required to sign a statement certifying that he or she has received a copy of the same. The Agency will retain the original of the signed certificate and will provide a copy to the employee, if requested. Appendix F. The Agency will also provide written notice to representatives of employee organizations as to the availability of this information.

Any questions about the requirements of this policy should be directed to the program contact individual listed in Appendix D.

Please refer to Appendix E on the effects of Alcohol Abuse.

2. Supervisory Training

Any individual designated to determine whether reasonable suspicion exists to require a covered employee to undergo a drug or alcohol test under this policy will be required to receive at least sixty (60) minutes of training on alcohol misuse and 60 minutes of training on drug use. This training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and prohibited drug use.

3. Referral, Evaluation and Treatment

- a. Available Resources

Any employee who engages in conduct prohibited by this policy will



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 28 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

be provided with information about the resources available for evaluating and resolving problems associated with the misuse of alcohol or prohibited drug use, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. Appendix D.

b. Substance Abuse Evaluation

Although an employee's employment with the Agency may be **terminated** for a violation of this policy, **employees will be advised to undergo an evaluation by an appropriate substance abuse professional, who will determine what, if any, assistance the employee may need in resolving problems associated with alcohol misuse and/or prohibited drug use.** This requirement will apply regardless of whether such conduct is discovered as a result of a positive drug or alcohol test, or independent employer knowledge. **The referral, evaluation and rehabilitation requirements outlined above do apply to job applicants who refuse to submit to or test positive in a pre-employment drug test.**

4. Substance Abuse Professional (SAP)

For purposes of this policy, a substance abuse professional (SAP) is defined as a licensed physician (M.D. or D.O.), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by DOT, NAADAC or ICRC) who has knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.

K. DISCIPLINE

In addition to the removal from safety-sensitive functions required by Federal Transit Administration Regulations, the Agency will take the following disciplinary action against any individual who violates this policy.

1. Applicants

An individual who tests positive on a pre-employment or pre-duty test for a prohibited drug will not be hired for a covered function position. Failure of a drug or alcohol test will disqualify an applicant for employment for a period of two (2) years. **Information on referral to a substance abuse professional will be provided to all applicants who test positive.**



PERSONNEL POLICY MANUAL

POLICY 701 PAGE 29 OF 44

SUBJECT

**Substance Abuse
(Alcohol, Drugs & Narcotics)**

APPROVED BY OMNITRANS
BOARD OF DIRECTORS

DATE: December 7, 2011– September 4, 2013

2. Employees

An employee who has a confirmed alcohol concentration of 0.02 or greater but less than 0.04 will result in removal from his position for eight (8) hours unless a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy.

Any employee that has a confirmed positive drug or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and evaluated by a Substance Abuse Professional (SAP). A positive drug and/or alcohol test will also result in termination of employment.

L. RECORDKEEPING AND REPORTING

1. Retention of Records

The Agency will maintain records relating to this policy as outlined in 49 CFR Part 655. These records will be maintained in a secure location with controlled access for the specified periods of time, measured from the date of the document's or data's creation.

2. Management Information System

The Agency will prepare and submit by March 15 of each year, two (2) summary results report of all drug and alcohol testing performed under this policy. The Agency will also submit these reports for all contractors who were doing contracted services for the covered year. These reports will be submitted to the FTA Office of Safety and Security. The alcohol summary will contain all of the information required by 49 CFR Part 655 and the drug summary will contain all the information in 49 CFR Part 655.



APPENDIX A

OmniTrans' Safety-Sensitive Function Job Titles

Dispatcher
Dispatch Supervisor
Coach Operator
Field Supervisor
Fleet Safety and Training Supervisor
Fleet Safety and Training Instructor
Shop Supervisor
Equipment Mechanic
Mechanic Helper
Tire Repair Worker
Utility Service Worker
Any Other Employee who holds a Commercial Driver's License and
Performs a Function that Requires a Commercial Driver's License.

APPENDIX B

Minimum Thresholds – Cut Off Levels

Initial Testing

1. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following initial cut off levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

<u>Types of Drugs</u>	<u>Initial Test Cut Off Levels (ng/ml)</u>
Marijuana Metabolites	50
Cocaine Metabolites	150
Opiate Metabolites	2000*
Phencyclidine	25
Amphetamines	500

*-25ng/ml if immunoassay specific for free morphine.

Confirmation Testing

2. All specimens identified as positive on the initial test will be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cut off levels listed in this paragraph for each drug. All confirmations will be by quantitative analysis. Concentrations that exceed the linear region of the standard curve will be Documented in the laboratory record as “greater than highest standard curve value”.

<u>Types of Drugs</u>	<u>Confirmation Test Cut Off Levels (ng/ml)</u>
Marijuana Metabolites	15*
Cocaine Metabolites	100 **
Opiates: Morphine	2000
Codine	2000
Phencyclidine	25
Amphetamine: Amphetamine	250
Methamphetamine	250 ***

* Delta –9-Tetrahydrocannabinol-9-Acid

** Benzoylcegonine

*** Specimen must also contain amphetamine at a concentration greater than or equal to 100 ng/ml.

Cut off levels at both the initial and confirmatory levels are subject to change by the Department of Health and Human Services as advances in technology or other considerations warrant identification of the substances at other concentrations.



APPENDIX C

Random Testing – Minimum Annual Percentages for Drug and Alcohol Testing

The annual random testing rates for drug and alcohol are determined separately based on the industry wide positive rate for the preceding two (2) consecutive year period, based on annual MIS reports submitted by covered employers. Rates for future years will be announced each year with the rates dependent on industry wide experience rates.

Drugs

The current annual percentage of covered employees that need to be tested on an annual basis is 25%.

Alcohol

The current annual percentage of covered employees that need to be tested on an annual basis is 10%.



APPENDIX D

Company Designated Service Providers for Drug and Alcohol Testing Conducted Under the Terms of This Policy:

1. Company Drug and Alcohol Testing Program Contact

For all questions concerning the Agency's policy or implementation of the Agency's drug and alcohol testing program, employees should contact the individual named below:

Name: Marjorie Ewing
Title: Director of Human Resources
Address: 1700 W. 5th Street
San Bernardino, CA 92411
Phone: (909) 379-7261

2. Drug Testing Laboratory

The following DHHS-certified laboratory has been designated by the Agency to conduct the analysis of all urine specimens tested under the terms of this policy:

Name: Clinical Reference Laboratory
Address: 8433 Quivira
Lenexa, KS 66215

3. Medical Review Officers

The following physicians have been designated by the Agency to perform Medical Review Officer functions for all drug tests conducted under the terms of this policy:

Name: U.S. HealthWorks National MRO/Doctor Donald L. Bucklin, MD
Address: 28035 Avenue Stanford West
Valencia, CA 91355
Phone: (800) 340-3810

Name: U.S. HealthWorks/Doctor Mohammed Mahmud, MD
Address: 2171 S. Grove Avenue, Ste. A
Ontario, CA 91761
Phone: (909) 923-4080

Name: U.S. HealthWorks/Doctor Michael S. Valdez, MD
Address: 1760 Chicago Avenue. Ste. J
Riverside, CA 92507
Phone: (909) 781-2200

Name: U.S. HealthWorks/Doctor G. L. McMurray, MD
Address: 599 Inland Center Drive, Suite 105
San Bernardino, CA 92408
Phone: (909) 889-2525



Name: U.S. HealthWorks Colton Clinic/Doctor Donald L. Bucklin, MD
Address: 28035 Avenue Stanford West
Valencia, CA 91355
Phone: (800) 340-3810

4. Substance Abuse Professional (SAP)

Substance Abuse Professional (SAP) services, including information, referral, assessment, and evaluation, are available from the following Agency designated individuals/organization:

Name: Dr. Kathleen Bruner
Robert Bruner, CEAP
Gordon Van Cleve, DOT
National Substance Abuse Professionals Network
Address: 1615 Orange Tree Lane
Redlands, CA 92374
Phone: 1-800-879-6428

5. Collection Sites

The following clinics have been designated by the Agency to perform collection functions for all drug and alcohol tests conducted under the terms of this policy.

Name: U.S. HealthWorks
Address: 2171 S. Grove Avenue, Ste. A
Ontario, CA 91761
Phone: (909) 923-4080

Name: U.S. HealthWorks
Address: 1760 Chicago Avenue, Ste. J
Riverside, CA 92507
Phone: (909) 781-2200

Name: U.S. HealthWorks
Address: 599 Inland Center Drive, Suite 105
San Bernardino, CA 92408
Phone: (909) 889-2525

Name: U.S. HealthWorks
Address: 850 East Washington St.
Colton, CA 92324
Phone: (909) 370-0572

APPENDIX E

ALCOHOL MISUSE INFORMATION

Alcohol is a drug. It is a central nervous system depressant that slows down the body's functions. For some people, the use of alcohol can become addictive. The body develops a tolerance for alcohol, thus needing more of the drug to achieve the same effects. Once addicted to alcohol, the body experiences withdrawal symptoms when alcohol is not present in the bloodstream. Alcohol addiction, or alcoholism, is a disease. If left untreated, alcoholism is progressive- that is the damage to the body continues, and it is ultimately fatal.

Alcohol misuse, alcohol abuse, and alcoholism affect an individual's work performance. Alcohol, even in very small amounts, affects judgments, reflexes, thinking ability, coordination, and attention. Alcohol is particularly dangerous when an individual needs to make a decision and act in an emergency or unfamiliar situation. Alcohol in a person's bloodstream affects one's ability to operate a vehicle or complex machinery, and to perform many safety-sensitive related tasks. Coming to work with a "hangover" also affects an employee's ability to perform. Hangover symptoms include diminished clarity in thinking, tremors that reduce fine motor coordination and flu-like feelings that decrease alertness and well-being.

Alcohol misuse, alcohol abuse and alcoholism also affect an individual's personal and family life. Heavy alcohol drinkers have more illness and medical conditions requiring treatment. Financial and legal complications from excessive drinking are common problems. In the late stages of alcoholism, the individual's life is centered around alcohol; family, job, friends (except drinking buddies) are unimportant and ignored. Alcohol abuse and alcoholism can cause permanent damage to the liver, heart, brain, and other vital organs.

The following are indicators that alcohol is a problem in an individual's life: Calling in "sick" from work because of heavy drinking or hangover. Making repeated promises to family/friends to "cut down" or stop drinking.

- Needing increasing amounts of alcohol to "feel good or get high".
- Morning shakes or tremors that are relieved by taking a drink.
- Being arrested for drunk driving.
- Needing a drink to get through a shift at work.
- Refusing to participate in leisure activities where alcohol is unavailable.
- Experiencing periods of "blackout" when drinking (not remembering some events or situations that occurred while drinking).



SUBSTANCE ABUSE POLICY ACKNOWLEDGEMENT

I, the undersigned, do hereby acknowledge that I have received a copy of the Omnitrans SUBSTANCE ABUSE POLICY and understand that I must abide by its provisions.

Employee's Name (PLEASE PRINT)

Employee's Signature

Date

APPENDIX F



APPENDIX G

Breathe Alcohol Testing Procedures

9/30/11 FTA determined this appendix is not required



APPENDIX H

DOT Urine Specimen Collection Procedures

9/30/11 FTA determined this appendix is not required



APPENDIX I

POST-ACCIDENT INDIVIDUAL TEST SUMMARY

- 1) Accident Identifier: _____
- 2) Location of Accident: _____

- 3) Accident Date: _____ Time: _____
- 4) Report Date: _____ Time: _____
- 5) Name of Employee: _____
- 6) Identification Number: _____
- 7) Position: _____
- 8) Result of Accident: _____ Fatality
_____ Disabling Damage*to One or More Vehicles
_____ Injury Requiring Immediate Transport to
Medical Facility
_____ Employee _____ Other Vehicle
_____ Passenger _____ Other, Specify: _____

- 9) Was the Employee sent for a post-accident test? _____ Yes _____ No
- 10) If No, Explain: _____

- 11) Decision to Test: FTA Authority _____ Yes _____ No
Company Authority _____ Yes _____ No
- 12) Type of Test: _____ Drug _____ Alcohol
- 13) Supervisor Making Determination: _____
- 14) Notification of Test: Date: _____ Time: _____
- 15) Test Conducted, Drug: Date: _____ Time: _____
Alcohol: Date: _____ Time: _____



16) Did the alcohol test occur more than two hours from the time of the accident?

_____ Yes _____ No

If Yes, Explain:

17) If no alcohol test occurred because more than eight hours elapsed from time of the accident, please explain:

18) Did the employee leave the scene of the accident without just cause? ____ Yes ____ No

If Yes, Explain:

19) If no drug test was performed because more than 32 hours had passed since the time of the accident, explain why:

Supervisor making determination: _____

20) Test Result: _____ Positive _____ Negative _____ Cancelled

21) Attachments:

- # Test Result Summary
- # Order to Test
- # Chain of Custody
- # Alcohol Testing Form

* *Disabling Damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement, without damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors, or windshield wipers that makes them inoperative.



APPENDIX J

**REASONABLE SUSPICION
INDIVIDUAL TEST SUMMARY**

Employee Name: _____

Safety Sensitive Position: _____

Observation Date: _____ **Time:** _____

Circumstances of

Observation: _____

(Attach additional sheets as necessary)

Objective Facts Identified (Attach additional sheets as necessary)

Behavior: _____

Appearance: _____

Speech: _____

Odor: _____

Other: _____

Determination Date: _____ **Time:** _____

Notification Date: _____ **Time:** _____

Test Date: _____ **Time:** _____

Type of Test Conducted:

_____ **Drug**

_____ **Alcohol**

_____ **DOT**

_____ **Non-DOT**

Supervisor: _____

Date of Supervisor Training: _____

Test Results **Drug:** _____ **Positive** _____ **Negative** _____ **Cancelled**

Alcohol: _____ **Positive** _____ **Negative** _____ **0.02-0.039**

Comment: _____

Attachments: () **Test Result Summary Form** () **Consent Form** () **Other**

() **Chain of Custody** () **Alcohol Test Form**



APPENDIX K

SAFETY- SENSITIVE EMPLOYEE PRESCRIPTION DRUG USE FORM

INSTRUCTIONS FOR EMPLOYEES IN SAFETY SENSITIVE POSITIONS

You must complete this form if:

1. You are disclosing the use of a new prescription drug. You must complete the "Employee Section" of this form. Have your physician complete the "Physician Section" and forward to your supervisor or the Human Resources Department.
2. You are disclosing a prescription drug renewal (#1 has previously been completed). You must complete the "Employee Section" of this form and attach a copy of your prescription renewal label, and forward to your supervisor or the Human Resources Department.

Employee Section:

Printed Name: _____ Employee # _____

Employee's Safety-Sensitive Job Function (check those that apply) (for a list of Safety-Sensitive positions refer to Policy 701, Appendix A):

- ____ Operate a public transit bus
- ____ Operate a non-revenue service vehicle
- ____ Control the dispatch or movement of company transit buses
- ____ Maintain and/or repair transit vehicles
- ____ Supervisor whose duties require the performance of any of the above functions

- Employees must wait at least 4 hours after taking any medication containing alcohol before working.
- Employees must wait 8 hours after taking any over-the-counter medications containing the following ingredients before they perform safety-sensitive duties:

Cold & Allergy Medications	Diphenhydramine, Chlorpheniramine, Clemastine
Motion Sickness Medications	Bonine (Meclizine) and Dramamine (Dimenhydrinate)
Sleep Medications	Doxylamine, Diphenhydramine

I understand that it is my obligation to inform my physician of my job functions and inform Omnitrans of any medication I am taking and to obtain approval from Omnitrans to work while taking this medication.

Employee's Signature

Date



Physician Section:

PRESCRIPTION DRUGS

**** To Be Completed By Physician Only ****

Based on your best medical opinion, make your determination and complete the section below and check the applicable box. You may contact the Human Resources Department at (909) 379-7260 if you have any questions.

Safe – This patient's condition and medication will not interfere with his/her ability to perform job duties safely.

Potential Impairment – This medication may impair functioning; patient should not take while performing job duties or for a period of time prior to duties (please specify).

Name of Drug

Dosage/Frequency

1. _____

☐ Safe ☐ Potential Impairment – Employee should not take during or for _____ hours before duties.

2. _____

☐ Safe ☐ Potential Impairment – Employee should not take during or for _____ hours before duties.

3. _____

☐ Safe ☐ Potential Impairment – Employee should not take during or for _____ hours before duties.

I have reviewed the above named employee's job functions and medical records. It is my opinion that this patient's condition and the medication(s) he/she is taking or has been prescribed will not interfere with his/her ability to safely perform those job functions.

Physician's Signature

Physicians Medical Office Stamp

Physician's Printed Name

Date

FOR HR OR SUPERVISOR USE ONLY

Date Supv. Received: _____

Received by: _____

Date HR Received: _____

Received by: _____

HR: ☐ Approved ☐ Not Approved

☐ Supervisor Notified: _____

Date: _____ Time: _____

[Fn 04/07/10]



APPENDIX L

SAFETY- SENSITIVE EMPLOYEE NON-PRESCRIPTION FORM
**** Over-the-Counter Medications Only ****

INSTRUCTIONS FOR EMPLOYEES IN SAFETY SENSITIVE POSITIONS

You must complete this form if you are disclosing the use of non-prescription over-the-counter medications.

Name of Medication: _____

Dosage Taken: _____

I take this medication during my work hours (check one): Yes ☐ No ☐

This medication affects my ability to drive or operate machinery (check one): Yes ☐ No ☐

- Employees must wait at least 4 hours after taking any medication containing alcohol before working.
- Employees must wait 8 hours after taking over-the-counter medications containing the following ingredients before they perform safety-sensitive duties:

Cold & Allergy Medications	Diphenhydramine, Chlorpheniramine, Clemastine
Motion Sickness Medications	Bonine (Meclizine) and Dramamine (Dimenhydrinate)
Sleep Medications	Doxylamine, Diphenhydramine

I understand that it is my obligation to inform my supervisor/Omnitrans of any medication I am taking that may affect my ability to perform my safety-sensitive job duties while taking this medication (Policy 701, Prescription & Non Prescription (Over-the-Counter) Drug Use, III., A., 3.).

Employee's Name (printed)

Employee #

Employee's Signature

Date

FOR HUMAN RESOURCES OR SUPERVISOR USE ONLY

Date Supv. Received: _____

Received by: _____

Date HR Received: _____

Received by: _____

HR: ☐ Approved ☐ Not Approved

Supervisor Notified: _____

Date: _____ Time: _____

[Fn 04/07/10]

ITEM # E6

DATE: August 12, 2013

TO: Committee Chair Pat Morris and
Members of the Administrative and Finance Committee

THROUGH: P. Scott Graham, Interim CEO/General Manager

FROM: Samuel Gibbs, Director of Internal Audit Services

SUBJECT: **SUMMARY OF RISK ASSESSMENT RESULTS AND
FY 2014 INTERNAL AUDIT WORKPLAN**

FORM MOTION

Receive and forward to the Board of Directors for receipt and file the results from the risk assessment and the FY 2014 Internal Audit Workplan.

BACKGROUND

The Department of Internal Audit Services was approved by the Omnitrans Board of Directors on January 9, 2008. Internal Audit Services has been providing services to Omnitrans since April 2008. One of the responsibilities assigned to the Director of Internal Audit Services is to conduct a risk assessment of the Agency annually and develop a workplan which includes audit engagements and activities for mitigation of risk.

ANALYSIS

Internal Audit Services helps Omnitrans accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes. The workplan outlines the audit activities to mitigate the potential risk identified by the assessment matrix and summary of the interviews. Mitigation will consist of a mixture of audit engagements, strengthening of internal controls, and an evaluation of policies and procedures.

PSG:SJG

Attachment- List of planned engagements, and risk matrix and methodology



Omnitrans Department of Internal Audit Services

Internal Audit Report 13-02

Risk Assessment and FY 2014 Workplan

Auditor Name: Samuel Gibbs

Audit Date: June 17, 2013

TABLE OF CONTENTS

	<u>PAGE</u>
INTERNAL AUDIT ATTRIBUTES	
Purpose	3
Organizational, Independence, Structure, and Resources	3
RISK ASSESSMENT	
Standards of Audit Practices	5
Audit Frequencies	5
Process and Methodology	5
Determination of Audit Universe	7
Risk Domains	8
Recommended Areas for Audit Engagements	13
FY 2014 Audit Workplan	14

INTERNAL AUDIT ATTRIBUTES

Purpose

Mission

Omnitrans has established the Department of Internal Audit Services (DIAS) to strengthen internal controls and to promote the economy, efficiency and effectiveness of Omnitrans operations. The mission of the DIAS is to provide independent, objective assurances of Omnitrans. The DIAS will help Omnitrans accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes. The DIAS shall carry out independent and objective audits and reviews to accomplish its mission.

Goals and Objectives

DIAS is an internal service organization which assists Omnitrans management in ensuring:

- Omnitrans operates in accordance with Omnitrans procedures and applicable laws and regulations.
- Risks are appropriately identified and managed.
- Programs, plans and objectives are achieved.
- Adequate and effective systems of internal controls are in place.
- Important financial, managerial and operating information is accurate, reliable, and timely.
- Omnitrans contract and contract change order audits are conducted in a timely manner.
- Quality and continuous improvement are fostered in Omnitrans' control process.
- Significant legislative or regulatory issues impacting Omnitrans are recognized and addressed appropriately.
- Omnitrans assets and resources are adequately safeguarded, and Omnitrans operations are managed economically, efficiently and effectively.

DIAS participates and cooperates with management to ensure that Omnitrans successfully achieves its mission.

Organizational, Independence, Structure, and Resources

DIAS is given complete independence by Omnitrans executive management in using its resources, in selecting the area to be audited and the methodology to be used, and in determining the conclusions and recommendations resulting from its work. The Director of DIAS reports directly to the Chief Executive Officer/General Manager.

DIAS shall submit written audit reports to the Board of Director's Administrative and Finance Committee and the CEO/General Manager, informing them of individual department's compliance with policies and procedures.

Risk Assessment
June 2013

All Omnitrans departments, programs, functions, systems, contracts and activities are subject to audits by DIAS. DIAS shall initiate audits activities based on assessed risk, legislative mandates and regulations, and on response to requests from Omnitrans Board of Directors, CEO/General Manager, and department heads. DIAS auditors and staff shall have complete and unrestrictive access to all books, records, documents, reports, plans, contracts, and other relevant materials, as well as to all Omnitrans personnel and its third party contractors. Omnitrans management and staff shall cooperate fully with DIAS auditors during discharge of their duties, to include prompt reply to DIAS audit reports findings and recommendations, in accordance with Omnitrans procedures for audit resolution and follow-up.

RISK ASSESSMENT

Standards of Audit Practices

DIAS auditors in conducting this risk assessment adhered to the professional standards set forth in the Government Audit Standards promulgated by the Comptroller of the United States, and the Institute of Internal auditors (e.g. *Standards for Professional Practice*).

What is Risk?

Risk can be defined as the combination of the probability of an event and its consequences. In simple terms risk can be seen as a combination of the chance that something may happen and the degree of damage or loss that may result if it does occur.

What is Risk Management?

Risk management is the process of recognizing risk and developing methods to both minimize and manage the risk. This requires the development of a method to identify, prioritize, treat (deal with), control and monitor risk exposures. In risk management, a process is followed where the risks are assessed against the likelihood (chance) of them occurring and the severity or amount of loss or damage (impact) which may result if they do happen.

The annual internal audit risk assessment is intended to demonstrate:

- the breadth and depth of audit activities addressing financial, operational, strategic, hazards, and compliance of the Agency in relationship to the associated risk;
- accountability for our resources; and
- The progress in our efforts to continually improve the Agency's Internal Audit program.

It is my intent to convey a current sense of the Agency's internal control environment and the extent to which controls are being assessed by regular audit activities, addressed proactively through advisory services, or investigated as a result of issues raised.

Frequency Performed

Risk assessments shall be performed annually, or as directed by the Administrative and Finance Committee of the Board of Directors, or the CEO/General Manager. Audit engagements will be conducted in accordance to the potential for weakened internal control or increased risk.

Process and Methodology

The process will involve consideration of all potential risks facing Omnitrans in pursuing its strategies with risks broken down into appropriate headings (e.g. strategic, operational, financial, and hazard etc.) and identified with the operating departments.

Risk Assessment

June 2013

All risks should be clearly defined together with the controls that currently exist to manage them. An assessment of the adequacy of the present control system will avoid duplication of resources, because several of the identified risks may already prove to be effectively controlled.

Risk will be determined by performing the following evaluations:

- Interview of the director and all key personnel in each operating department.
- A recap of all previous internal and external audits over the last 24 months.
- The use of a risk evaluation matrix recommended by the Institute of Internal Audits.
- The use of a self-assessment risk review list of questions provided by the FTA specifically designed to address risk in transit.

It is important that the internal systems and procedures in place are adequate to manage the identified risk. Where control weaknesses are identified, these should be noted so that the proposed action is taken to remedy such weaknesses.

Internal Audit Services will undertake the identification of risks. Input will be obtained from the individual operating departments to ensure that all risks have been taken into account and that important risk and control issues have not been overlooked.

Risks will be categorized as strategic, financial, hazard, or operational.

As not all risks represent equal significance to the Agency, each area shall be ranked high, medium or low in terms both of likely frequency and impact. The risk weighting is provided below by category.

Risk Matrix:

The risk matrix is designed to assess risk for the entire organization. The categories are: key risk that are identified as either operational, strategic, financial, or hazard; the impact of the risk which is weighted from 1-3 (1 being the lowest and 3 the highest); the probability of occurrence for the risk which is also weighted 1-3; the status of the activities for mitigating the risk, classified as open, in process, completed, or signed off; the residual risk rating which is rated 1-9, 1 being the lowest and 9 the highest risk; and trends which are defined as static, trending up or trending down. A category shaded in red is not an indication that this area is bad or unaddressed; it implies that attention will have to be applied in that area.

Determination of Audit Universe

Once risks have been identified and quantified, the next step is to control and manage the risks. This will involve the consideration of cost-effective actions, which will be judged against the risk ranking, and the likelihood of occurrence. The proposed action to be taken will then be mapped against the specified risk together with an implementation date reflected by the perceived urgency and the named person designated as responsible for managing the risk. Additional consideration will be given for recommendations from the Administrative and Finance Committee of the Board of Directors, and the CEO/General Manager. The evaluation was made for any Agency operating in our risk environment, and a red, yellow, and green matrix was created that shows the potential and probability for risk activities assuming all things are equal. Red is high risk, yellow is moderate risk, and green is low risk. Please note that a red risk indicator does not necessarily mean bad or negative, but could instead indicate the need for mitigation.

RISK DOMAINS

The risks facing the Agency today can be classified into domains that Enterprise Risk Management (ERM) recognizes:

Operational:

The Operational domain (the term operation in this case is not referring to vehicle operations) is derived from the organization's core business, including its systems, practices, policies, and procedures. Examples include procurement and planning policies. The senior leadership team has developed a dashboard that includes key performance indicators (KPI). The KPI will be used to report the effectiveness of the annual management plan to the Board of Directors.

Financial:

The Financial domain deals with risk related to the organization's ability to acquire, raise, or access capital as well as the costs associated with the transfer of risk. Examples might include federal, state, and local funding. Additionally, the Agency has to determine the risk appetite versus the potential savings for all forms of insurance. Finance has to determine and maintain the right risk management strategy for a public agency while optimizing the potential savings. Additional potential financial risk could be associated with the changes to the cash allocation from SANBAG.

Human Resources:

The Human Resources domain relates to the risk related to recruiting, retaining and managing the workforce. Examples include workers' compensation, FMLA, employee turnover, absenteeism, and discrimination. The Agency needs to place an emphasis on succession planning, skills inventory, training, and development to improve the internal applicant base. During this growth and transition period, the Agency will have to re-establish the relationships with the labor unions and identify how to best form equitable partnerships. Salaries have been frozen since July of 2008 for all employees. This could present human capital risk going forward. Improvement in the economy may cause key employees to evaluate other employment options. Additionally, an area of major concern is the average age of the Omnitrans' workforce, which is 52 years of age.

Strategic:

The Strategic domain is risk related to the ability of the organization to grow and expand. Examples include customer relations, plan growth, new projects, and any change in governance structure as a result of planned growth. This includes an evaluation of the alignment of the Agency's strategies to the actual activities of the Agency; additionally, how will the strategies and activities be measured? The strategic plan for the Agency has been re-evaluated and key performance indicators applied to key measurements. The leadership of the Agency is tasked

with identifying the best organizational structure going forward. This will be aided through the SANBAG study.

Legal/Regulatory:

The Legal/Regulatory domain is risk related to transit statutory and regulatory compliance. Examples include the changes in internal policies as a result of the changes in the new circular 4220.1F revised March 18, 2013. The Agency presently receives direction from the county's legal staff and Best, Best and Krieger. Additionally, close attention will be paid to changes in federal, state, and local regulations. The construction phase of the sbX project has surfaced a need for training and, management of the contracts in accordance with FTA guidelines.

Technological:

The Technology domain is risk associated with equipment, devices, and reporting systems. Examples include new fare box recovery equipment, and the implementation of a new Enterprise Resource Planning (ERP) system. The Department of Internal Audit Services will need to address additional vulnerability associated with a complex information technology department. The audit department will continue to assess the institutionalization of the new ERP system. The assessment will include an evaluation of the efficiency realizations relative to the implementation objectives. Additional IT support will be needed for the operational and maintenance phase of sbX starting in late December.

Other Areas of Interest

Fuel prices

Fuel prices continue to fluctuate and the price of fuel is presently showing a downward trend. Also of concern is the availability and dependability of Liquid Natural Gas. Omnitrans presently is under contract with one of the two available sources to Southern California. The hedge program and the pursuit of alternative fuel strategies were monitored during FY 2013. The first hedge contract expired at the end of December 2011 and Omnitrans has entered into a new two year contract in January of 2012. Contract one provided budget certainty, but yielded a negative gain due mostly to a \$14,400 a month administrative cost. The last six months of contract, one the spot market was below the hedge price and resulted in a \$42,309 a month negative gain. The price of CNG has gone down and appears to be on a continuing downward trend. The Agency is presently enjoying an average of \$.275 per gallon over the two year life of contract two. The contract is settled daily and recorded to the balance sheet at the end of each month. As of May 2013, the LNG market has increased, causing higher prices on the spot market and a favorable variance in the hedged LNG. The primary objective is to create budget certainty for the Agency. Both hedge contracts have been successful with providing budget certainty. At the end of June 2013 contract two which began in January 2012 is (\$1618.00).

sbX (IPMO) Project

The sbX project entered into the construction phase on January 30, 2012. This is the first major capital project for Omnitrans and the project requires both quality assurance and process audits by the external control team and internally. Audits of the invoices submitted for payment and the delivery matrixes, are being conducted to meet the FTA definition of progress payments in Circular 4220.1F. Now that the project is in the construction phase, we are conducting QA audits, financial audits, Work Breakdown Structure (WBS) audits, and random audits of the deliverables associated to the invoices. The QA Manager primary job is to audit the job sites, materials, and quality of the work conducted. The QA Manager reports directly to the Director of Internal Audit and spends 80% of his time in the field, reporting back to the Director of Internal Audit monthly. The Internal Audit department will remain engaged to audit compliance to FTA best practices identified in April 2013 Procurement System Review (PSR). Additionally, it will be required to conduct close-out audits and quality audits at the conclusion of the project at the end of this fiscal year.

Service Optimization

Service optimization; the issue is the optimization of service levels during a downward or static economy. The launching of the sbX Green Line and other future premium services will change the way that service delivery is viewed. Changes will be implemented changing the approach from a radius delivery network to a grid delivery network. Instead of tweaking the system in small bits and pieces: the system will be evaluated in a more comprehensive manner, integrating the fixed routes with sbX services. Reliability has to be maintained as demand increases and service remains flat.

Contract Management

The Agency is in the construction stage of sbX; therefore, contract management becomes a very important component of delivering a successful project. It is critical to manage all of the contracts according to the original document and in accordance to federal guidelines. A change order protocol has been established that gives the final authority to the CEO/GM, construction manager, and project manager contingent on their dollar authority. The execution of the change order process will be audited randomly and routinely. A key component to tracking the change order process is the documentation of each change and how the change order board arrived at the decision. The FTA had a consultant conduct a PSR late April 2013, there were 60 elements evaluated and 22 areas were found to be deficient. Of the 22 deficiencies, three were singled out as needing immediate attention.

Grant Process

Funding of the FTA grants for transit operators in the state of California has been placed on hold. The ATU has invoked Section 13(c) of the Labor Code that is preventing Federal Transit Administration grant funding to all transit agencies in California with ATU representation. This was done in response to the new California laws pertaining to the changes in the California Public Employees' Retirement System (CalPERS) that took effect in January. Internal Audit will

Risk Assessment

June 2013

also continue to review the weekly cash management report and provide guidance to the Finance team. Additionally, the internal auditor will review the execution of the quarterly FTA 1512 reporting requirements.

Economic Conditions/Budgeting

Challenging economic conditions are always a genesis for fraudulent or unethical practices. In support of the required SAS 114 examination during our external audit, the DIAS will continue with the fraud detection element to every internal audit engagement.

Succession Planning and Management Development

Succession planning is a strategy to recognize and promote internal growth and development at every level of the organization. The succession planning process requires the documenting of skill levels, identification of developmental needs, and tailored individual development programs. The first of many such programs is the Leadership Action Program. Additionally, the performance manager element will equip directors and senior leaders with the information about each of their direct reports to make sound developmental and staffing decisions. Key components of succession planning are: training and development, a skill inventory, and effective performance management. The FTA has awarded Omnitrans a \$340,000 grant to conduct workforce development, which will serve as a starting point for the succession planning and management development for the Agency.

Communication

The communication channels deal with the strategies for disseminating information internally and externally. The Agency is obligated to communicate policy and procedures consistently across all departments, and have effective methods to ensure important information affecting all employees is communicated. Critical information must be communicated to the Board of Directors effectively and in a timely manner.

The Quality Management process

During the construction phases of the sbX project, a comprehensive QA program has been developed to measure and monitor quality. A member of the quality assurance (QA) team is in the field daily monitoring the quality of the work performed by the contractor and the Construction Management Services (CMS). The QA representative will also be engaged on the construction sites evaluating the adherence to the contract, to the design specifications, document control, and conducting material testing. The QA representative will play a key role in project close out.

Operations Management Plan (OMP)

As required by the FTA, Omnitrans has to establish an OMP for the operations of the sbX line from the responsibilities of Operations, Maintenance, Marketing, Safety and Security, and

Risk Assessment
June 2013

Information Technology. The OMP is not limited to the departments mentioned, it will include all activities related to operating the sbX Green line.

Employee Compensation

The Agency has been on a salary freeze for the past five years. Senior leadership will need to discuss strategies for employee retention. As the economy starts to recover, key employees may start to evaluate options.

Recommended Areas for Audit Engagements

Risk can be mitigated by conducting audit engagements in the following areas:

- Construction quality audits and reporting
- Construction close-out audits
- Cash Management
- Succession Planning, including performance management and employee development
- Information technology
- Grant Process
- sbX construction timelines, milestones, and invoicing
- Construction change order process
- The institutionalization of the SAP platform in three areas: knowledge sharing, improvement in production operation, and business integration.
- PSR reviews and audits to follow up on corrective actions to the 22 deficiencies
- Preparations for upcoming Financial Management Oversight (FMO) and Triennial Review from the FTA

Strategic

Future Funding and Growth-The Agency has to determine strategies for future funding and growth. The out years after FY 2014 will have some uncertainties. The Agency will address methods for cost containment/reductions to optimize current funding to maximize efficiencies. Additionally, the Agency is facing a \$14.5 million dollar funding shortfall over the next six years. In addition, the withholding of 11.7 million dollars in Section 5307 funds due to the objection by the ATU to the Department of Labor regarding the CalPERS reform that took effect in January 2013.

Operational

Service Optimization- The development of strategies to address the optimization of service levels during a downward or static economy. The launching of the sbX Green Line and other future premium services will change the way that service delivery is viewed. Changes will be implemented changing the approach from a radius delivery network to a grid delivery network. Instead of tweaking the system in small bits and pieces: the system will be evaluated in a more comprehensive manner, integrating the fixed routes with the sbX services. Reliability has to be maintained as demand increases and service remains flat.

QA Site Visits- A comprehensive quality program was written to administer quality control to the construction phase of the sbX project. The QA Manager will conduct onsite quality audits and report the results monthly. DIAS will monitor the QA activities which will include periodic site visits.

Random Review of Invoices- Both DIAS and the QA Manager will conduct random audits of the invoices submitted for payment to ensure that all regulations are followed and the deliverables match the reported percent of completion.

Procurement Review- the Agency's procurement process was audited by the FTA in April 2013 and there were 60 elements reviewed, 32 were deemed non deficient, 22 deficient and 6 not applicable. The Department of Internal Audit Services will continue to randomly evaluate the effectiveness of the procurement processes and provide support to ensure that the controls are strengthened.

PSR Reviews and Audits- Follow up on the areas identified as deficient during the PSR. Some follow up calls for reviews while others suggest full audits.

Procurement System Review (PSR) Details- Continue to perform random audits using the guidelines provided by the FTA for a PSR. Procurement System Review (PSR) audit will include, follow-up on procurement contracts. Look for spot checks, checklists, proper price and price/cost analysis.

Contract Administration- DIAS will conduct regular random audits of the administration of active contracts, including sbX. Additionally, there will be reviews of the change order process and the resolutions to submitted change orders.

Site Visit I St. and Feron St. - Internal Audit will conduct follow up reviews and visits to assess proper monitoring of the safety and security and drug and alcohol compliance audits for the contract provider First Transit.

Bus Ride- Take a monthly bus ride and monitor rider perception, customer service, driver behavior, and Agency image. Whenever feasible, comparison audits will be conducted on the reliability of the Trapeze, TransitMaster data, and data reported for NTD.

HR

Review Succession Planning- The Agency is tasked with developing a comprehensive succession plan that includes elements of performance management, employee development, and mentoring. The success of these initiatives is reliant on the full participation of each department director and their management staff.

Work Schedules and Flex- Conduct biannual follow up reviews of individual work schedules by department. Reviews will address the following questions, are all employees working within core hours as defined by that department by the department director, is the management confidential and represented employees working within the policies for each designation? This process will consist of a full audit annually and quarterly follow ups.

Workers' Compensation- A follow-up audit will be performed to review compliance with law and regulations for workman's compensation and surveys will be conducted to find methods to reduce workman compensation claims.

Employee Recreation Club (ERC) - Conduct ongoing random and routine audits on the ERC activities and financial management process.

Financial

Transaction Flow Review- Select random transactions in accounts payable, accounts receivable, receiving, and procurement and follow the flow from beginning to end. The review will include monitoring who has access to that area, what the lines of authority are, and the process.

Cycle Count/Inventory Control- a weekly assessment and recap of the previous week's cycle count will be performed. The normal full review will be conducted on a quarterly basis.

Inventory Control- A full review will be conducted biannually to ensure that all processes for inventory management are being completed at both East Valley and West Valley. These processes include cycle counts Mon-Thurs., timely reconciliation, and proper reporting.

Fuel Audit- Conduct a review of fuel use and management of the Forward Fuel Purchase Policy. Additionally, all transactions for the Forward Fuel Purchase Policy will be subject to random and routine audits as deemed necessary by the CEO/General Manager or the Administrative and Finance Committee of the Board of Directors.

Risk Assessment
June 2013

Grant Review and Update- routine review of the grant process is needed to ensure that the Agency is maximizing the funding options available. In addition, the grant process will be evaluated to ensure that all funds are drawn down as soon as the funds are available to the Agency. For example, the Treasury Manager is requesting federal reimbursement as soon as the Agency pays the invoice and there is not more than 72 hours between when invoices are paid and reimbursements are drawn down from ECHO. Follow up on FTA requirement for timely close out of grants.

Cash Accountability- Internal Audit and the Finance staff will conduct both quarterly and random audits of the cash collection and counting process for the fareboxes. The counting and deposit of these funds are performed by an outside vendor. Omnitrans is able to monitor the process by matching the GFI reports to the bank deposit slips.

Petty Cash- Conduct biannual reviews of all petty cash funds. Review petty cash funds to ensure that transactions are conducted in accordance to the Agency's policy (approved 4-10-2006 and revised 12-15-2006).

P-Cards- Conduct biannual reviews of P-Card use within compliance of applicable laws, regulations, and Agency policy 3000.

Technology

IT Evaluation- The help desk and other portions of the IT department have been outsourced since July 7, 2010. The proposed engagements with IT will include the monitoring of IT security such as passwords, security levels, and delegations of duties (no one IT employee should have exclusive access to all levels of the IT infrastructure). Additionally, in FY 2014 emphasis will be placed on implementing a management dashboard, Capability Maturity Model Integration (CMMI) process improvement, and a project proposal and management system. Some of the responsibilities for IT monitoring might be delegated to consultants or contract help.

Information Technology (IT) - Audit to review license and security levels on the network. An additional review will be performed addressing the safeguard of confidential information. An audit will be performed to measure the effectiveness of SAP implementations. Internal Audit will look into contracting an IT auditor and billing it to the SAP contract.

Additional Engagements

Carry-forward audits

This category will be dependent upon current audits that are incomplete at the end of the fiscal year end.

Other audit engagements to be complete this fiscal year

Conflicts of Interest- A review will be conducted of current laws, regulations and policies and their application at the Agency.

Discipline and Termination- A review will be conducted of the discipline and termination process and compliance with applicable laws, regulations and policies.

Hiring Processes- A random review of the hiring process, and compliance with applicable laws, regulations and policies will be conducted.

Special Projects- Any activity deemed necessary by the CEO/GM, or the Administrative and Finance Committee.

Risk Assessment- An updated risk assessment will be conducted in late May 2014 no later than early July 2014.

Follow-Up- Conduct reviews of completed audits to assess the progress and implementation of previously issued audit recommendations and management responses as required by the Professional Standards. Follow up on any material issues or deficiencies identified by the Financial Review currently in progress.

Dept./Function :	Omnitrans
Head/Manager :	Omnitrans
Date :	Monday, June 24, 2013

ID	Key Risk	Description of RISK Concern (the issue is x, caused because of y, results in z)	Description of potential IMPACT (with estimated costs if possible)	Description of PROBABILITY factors	Impact	Probability	Level of RISK	Owner of Risk	Risk Mitigation	Risk Trend	Residual Risk Rating
1	Operational	Procurement System Review (PSR), Financial Management Oversight (FMO), and Triennial Reviews The FTA 4220.1f needs to be communicated and training provided on how to apply to Procurements Agency wide. Accordingly, training will be provided on the FTA guidelines for Triennial and FMO reviews.	This could impact vendor relations, cost, change orders, funding, and timely completion of projects.	The probabilities are moderate to high.	3	3	6	Scott Graham, Interim CEO/GM and all Directors and project managers.	Provide leadership, guidance, and communication to ensure all staff is familiar with 4220.1f.	Downwards	6
2	Strategic	The Agency has to determine strategies for future funding and growth. The out years after FY 2014 will have some uncertainties. The Agency will address methods for cost containment/reductions to optimize current funding to maximize efficiencies. Additionally, the Agency is facing a \$14.5 million dollar funding shortfall over the next six years. In addition, the withholding of 11.7 million dollars in 5307 funds due to the challenge by the ATU to the Department of Labor could lead to reduction in service.	The proper funding strategy will drive future growth. The Agency will have to look at staffing, service levels, and alternate funding sources.	Probabilities are high.	3	3	9	Scott Graham, Interim CEO/GM and all Directors.	The CEO and senior leadership will continue to evaluate and engage the Board of Directors in dialogue about cost containment and the release of operational and capital funding.	Upwards	6
3	Operational	Service optimization; the issue is the optimization of service levels during a downward or static economy. The launching of the sbX Green Line and other future premium services will change the way that service delivery is viewed. Changes will be implemented changing the approach from a radius delivery network to a grid delivery network. Instead of tweaking the system in small bits and pieces, the system will be evaluated in a more comprehensive manner, integrating the fixed routes with the sbX services. Reliability has to be maintained as demand increases and service remains flat.	The proper alignment and service optimization will lead to increased ridership.	The probabilities are moderate to moderately high.	3	3	9	All Senior Leaders	Continue to survey the riding public and formulate strategies to address the needs. Look for alternative delivery of services.	Upwards	3
4	HR	The issue is the Agency's approach to workforce management which has to incorporate a succession planning element to provide internal staff with a tool for development that promotes loyalty and longevity. The Agency has an aging workforce with the average age of 52 years old.	This will lessen turnover and the cost associated with turnover. Succession planning will improve employee development, increase morale, and provide the Agency with a better trained workforce.	The probabilities are high that the leadership program and other employee based development programs will yield positive results.	1	1	1	Marjorie Ewing, HR Director, Sam Gibbs, and Ray Lopez	The agency needs to continue to provide the time and resources to develop and track employee's competencies.	Upwards	1

Dept./Function :	OmniTrans
Head/Manager :	OmniTrans
Date :	Monday, June 24, 2013

ID	Key Risk	Description of RISK Concern (the issue is x, caused because of y, results in z)	Description of potential IMPACT (with estimated costs if possible)	Description of PROBABILITY factors	Impact	Probability	Level of RISK	Owner of Risk	Risk Mitigation	Risk Trend	Residual Risk Rating
5	Operational	The development of a coordinated and comprehensive Operation and Management Plan (OMP) will ensure efficient operation of the sbX Green Line	Improved efficiency in the maintenance and operation of sbX, and rider confidence in the service delivery.	Without ongoing assessment, the probabilities are high.	3	2	6	Scott Graham Interim CEO/GM and Senior Leadership Team	A QA Manager will be hired who will be responsible for daily assessments and assurance. The report will be provided to the Director of DIAS.	Upwards	6
6	Financial	The issue is the proper management of the Agency's financial risks relative to insurance. This includes the ability to evaluate trends and assign the proper amount of coverage based on the probability of occurrences, in concert with the CalTIP consortium.	Setting the proper risk appetite for the Agency. This includes estimating the liability for CalTIP based on the trend of all members in the consortium.	The probability of occurrences is a moving target that is dictated by external conditions. OmniTrans is a member of a consortium and prices may vary depending on conditions with other members of the consortium.	2	2	4	Marge Ewing, Director of Human Resources; Donald Walker Director of Finance; Samuel Gibbs, Director of Internal Audit	Form a risk management team who will regularly evaluate the Agency's position and make recommendations to the senior leadership team.	Static	3
7	HR	The Agency will need to address the compensation strategy for all employees.	The impact could be the loss of key employees.	Moderate to high	3	2	6	Donald Walker, Finance Director, Human Resources Director	The senior leadership will need to discuss strategies to retain employees.	Upwards	4