

**Audit of NARA's
Drug Testing Program**

OIG Audit Report No. 11-15

July 7, 2011

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Executive Summary

On September 15, 1986, President Reagan signed Executive Order 12564, establishing a Drug-Free Federal Workplace. This Order was established to prevent the serious adverse effects of drug use on a significant portion of the national workforce which result in billions of dollars of lost productivity. The Order made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty and required Federal Agencies to establish standards and procedures to test for the use of illegal drugs.

According to an annual survey from the Substance Abuse and Mental Health Services Administration, the rate of illegal drug use in America rose in 2009 to the highest level in nearly a decade. Illegal drug use could impair the judgment of employees and cause the inadvertent disclosure of highly sensitive, national security information. Further, a drug dependent person in a highly sensitive position could make them a likely target for foreign intelligence sources.

The National Archives and Records Administration (NARA) Office of Inspector General (OIG) performed an audit of NARA's Drug Testing Program to determine whether controls were adequate to facilitate an effective drug testing program.

Our audit disclosed that while NARA has established a Drug-Free Workplace Plan, the controls over the drug testing program were not adequate to ensure the goals of the program were met and the risks associated with illegal drug use were reduced. Specifically, we found the following:

- NARA has not randomly tested its employees for the use of illegal drugs since 2007;
- NARA's Plan does not necessitate random drug testing for all positions that have access to "truly sensitive information"¹;
- Managers are not adequately trained to identify and address illegal drug use by employees nor are employees offered training on drug awareness;
- Evidence of drug testing results are not maintained; and
- NARA's Drug-Free Workplace Plan document is not current and needs to be updated.

¹ The Substance Abuse and Mental Health Administration defines personnel having access to "truly sensitive information" as individuals with access to national security material that a "reasonable person" would consider damaging to national interests if compromised.

This report contains five recommendations for addressing our findings. The recommendations in this report, upon adoption, will improve the effectiveness of NARA's drug testing program.

Background

Recent Trends on Drug Use

A recent survey conducted by the Substance Abuse and Mental Health Administration revealed that illegal drug use in America is on the rise. About 21.8 million Americans aged 12 and older reported using illegal drugs in 2009 which is the highest level since the survey began in 2002 (19.3 million of those users were aged 18 and older). Most drug users in 2009 were employed. Of the estimated 19.3 million current illegal drug users aged 18 or older in 2009, 12.9 million (67%) were employed either full or part time. The survey documented increases in the use of the following illicit drug categories: prescription drugs, marijuana, MDMA (Ecstasy), and Methamphetamine.

Legal Authority

On September 15, 1986, President Reagan signed Executive Order 12564, establishing a Drug-Free Federal Workplace. The Order made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty. The Executive Order recognized that illegal drug use is seriously impairing a portion of the national work force, resulting in the loss of billions of dollars each year. As the largest employer in the nation, the Federal government has a compelling proprietary interest in establishing reasonable conditions of employment. Prohibiting employee drug use is one such condition. On July 11, 1987, Congress passed legislation affecting implementation of the Executive Order under Section 503 of the Supplemental Appropriations Act of 1987 (Public Law 100-71). This Act, along with Executive Order 12564, established that the Department of Health and Human Services would develop guidelines for uniformity among Federal agency drug testing plans and created centralized oversight of the Federal Government's drug testing program.

NARA's Drug Free Workplace Plan

Under the provisions of Section 3(a) of Executive Order 12564 and Section 503 of the Supplemental Appropriations Act of 1987, NARA has established a Drug-Free Workplace Plan to test for the use of illegal drugs in order to achieve a drug-free Federal workplace. NAHR (NARA's Employee Relations and Benefits Branch) is responsible for facilitating NARA's Drug-Free Work Place Plan.

The NARA Plan includes the following types of drug testing: 1) Applicant testing; 2) Random testing of those employees in TDPs; 3) Reasonable suspicion testing; 4) Accident or unsafe proactive testing; 5) Voluntary testing; and 6) Testing as part of or as a follow-up to counseling or rehabilitation.

Approximately 500 positions in NARA have been identified for random testing to provide a means of ensuring that the performance of these functions is not impaired by

the use of illegal drugs. These testing designated positions (TDPs) are positions where use of illegal drugs by employees pose a clear danger to the public health and safety or national security if not executed in a proper manner. The following are NARA's TDPs:

- Archivist of the United States;
- Motor Vehicle Operators; and
- All positions granted special access clearances.

NARA's Plan calls for random drug testing of five percent of employees in TDPs twice per year. [REDACTED]

Objectives, Scope, Methodology

The objective of the audit was to determine whether controls were adequate to facilitate an effective drug testing program. Specifically our review focused on whether (1) NARA's program was implemented as stipulated in NARA's Drug-Free Workplace Plan ("the Plan") and (2) that the Plan was in compliance with existing Federal regulations. All audit work was performed at Archives II in College Park, MD².

We examined applicable laws, regulations, and NARA guidance including (a) Executive Order 12564, *Drug Free Federal Workplace*; (b) The Substance Abuse and Mental Health Administration's *Mandatory Guidelines for Federal Workplace Drug Testing Programs*; (c) Title 41 of the US Code Chapter 10 section 701- Drug Free Workplace Requirements for Federal Contractors; (d) Supplemental Appropriations Act of 1987; (e) NARA's Drug Free Workplace Plan April 17, 1995; (f) NARA notice 95-393, *Drug-Free Workplace Plan*; (g) NARA 273, *Administrative Procedures for Security Clearances* (h) Executive Order 13526, *Classified National Security Information*; and (i) The Substance Abuse and Mental Health Administration's 2010 Guidance for Selection of Testing Designated Positions.

To accomplish our objectives we did the following:

- Reviewed NARA's drug testing program against the requirements set forth on Executive Order 12564 and the Substance Abuse and Mental Health Administration's *Mandatory Guidelines for Federal Workplace Drug Testing Programs*;
- Evaluated adequacy of those positions determined to be testing designated positions;
- Evaluated the sufficiency of the drugs for which individuals are tested for at NARA;
- Reviewed the adequacy of the random selection methodology;
- Evaluated drug awareness training being offered to managers and employees;
- Reviewed drug testing for contractors; and
- Held discussions with NARA employees and officials within the Employee Relations and benefits branch (NAHR), Security Management Branch (NASS), and Acquisitions Services Branch (NAA);

Our audit work was performed between August 2010 and February 2011. We conducted this performance audit in accordance with generally accepted government auditing

² NARA underwent a Transformation effort during the timeframe of this audit. Office names and symbols have subsequently changed to reflect the reorganization. However, the previous office names and symbols are used in the body of this report to reflect the historical names of the offices involved throughout the development of the telework program, as well as to remain consistent with the office names used in applicable NARA policy. Recommendations are addressed using the most current office and management titles.

standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The issuance of this report was delayed due to work on other higher priority assignments.

Audit Results

1. NARA's drug testing program needs to be improved to ensure a drug-free work environment

NARA has not effectively managed its Drug Free Workplace Plan ("the Plan") to ensure a drug free work environment. Specifically our audit disclosed:

- NARA has not tested its employees randomly for the use of illegal drugs since 2007;
- NARA's Plan does not necessitate random drug testing for all positions that have access to "truly sensitive information";
- Managers are not adequately trained to identify and address illegal drug use by employees nor are employees offered training on drug awareness;
- Evidence of drug testing results are not maintained; and
- NARA's Plan document is not current and needs to be updated.

These weaknesses exist because management has not given the program the proper attention needed to effectively manage it. Under Executive Order 12564, Federal Agencies are required to establish standards and procedures to test for the use of illegal drugs by employees thereby achieving a drug-free workplace. It is also NARA's policy that its workplace be free from the illegal use, possession, or distribution of controlled substances, by the officers and employees of NARA. Federal employees who use illegal drugs, on or off duty, tend to be less productive, less reliable, and prone to greater absenteeism than their fellow employees who do not use illegal drugs. In addition, illegal drug use could impair the judgment of personnel having access to sensitive information and cause unauthorized disclosure of highly sensitive, current national security information. Without an effective program in place, NARA cannot adequately detect and deter drug use among its workforce.

We interviewed the Chief Human Capital Officer for NAHR and she agreed there are significant weaknesses with the drug testing program and it had not been given the appropriate attention. She stated there has been tremendous turnover in the Branch Chief position since 2007 making it difficult to ensure the drug testing program was given the attention needed to make it successful. She further stated the Branch Chief administers the program as part of other assigned duties and she believes additional resources are needed to ensure the program is successfully implemented. According to the Executive Order, a comprehensive drug-free workforce approach includes five components—a policy, supervisor training, employee education, employee assistance, and drug testing.

NARA's drug testing program requires improvements in each of those five components to ensure it is an effective program.

Random drug testing not performed

NARA has not administered random drug testing since 2007³. As stated above, random testing has not been administered due to the high turnover rate in the Branch Chief position and the high workload of this position. In addition, the allotted budget has not been large enough to accommodate random testing. According to NARA's Plan, random testing of five percent of the 500 testing designated positions is to be done twice a year (50 individuals); however, this is currently not being done. If random drug testing were in place, an estimated 50 tests would have been given per year with an associated cost of about \$7,500. The purpose of performing random drug testing is to prevent and deter the use of illegal drugs in the workplace. Without administering random drug testing, NARA is not preventing and deterring drug use amongst its workforce as required by law.

Year	Random test given	Random tests that should have been given*	Associated cost (x\$150)
2008	0	50	\$7,500
2009	0	50	\$7,500
2010	0	50	\$7,500
Total	0	150	\$22,500

*Based on testing 5% of an estimated 500 testing designated positions twice per year.

This chart reflects that NARA has not performed 150 random tests over the last three years as required by the Plan. The Chief Human Capital Officer stated budget concerns have affected their ability to do random testing in the past, but random drug tests would be reinstated during FY2011. NAHR will also start looking into new vendors to determine if they can find a cost savings on the amount paid per test.

Testing Designated Positions (TDPs)

NARA is not testing all employees that have access to sensitive information. According to the Plan, positions designated as TDPs are positions which give employees access to classified information and require employees to engage in activities affecting public health or safety. When the Plan was put into place, the Archivist determined this included the Archivist of the United States, all positions granted special access clearances⁴, and motor vehicle operators. This does not include those with secret and top secret clearances who also have access to classified information. Since the Plan was put into place, an analysis has not been performed to determine if changes to the TDPs list are needed.

³ Since 2007, only applicant drug tests have been given. Applicant drug tests are given to any individual tentatively selected for a testing designated position prior to beginning employment with NARA

⁴ Special access clearances are clearances over and above the normal national security access clearances of Confidential, Secret, and Top Secret.

The SAMHSA has issued guidance to Executive Branch Agencies for selection of testing designated positions. Personnel having access to "truly sensitive information" should be included as a TDP. This guidance defines those having access to "truly sensitive information" as personnel who hold secret and higher clearances. In addition, Executive Order 13526 *Classified National Security Information* describes national security information as classified as confidential, secret, or top secret. Individuals with a confidential, secret, and top secret clearances could have access to classified documents that could cause damage to national security if released. Furthermore, there are employees within NARA holding secret and top secret clearances whose positions give them access to classified information. Given their access to classified information, those employees should be included in the TDP population.

Drug abuse by employees in a sensitive position could impair their capability to exercise the care, discretion, and judgment required in making decisions about safeguarding of classified information and could result in the disclosure of this information.

Given the current environment and the need to protect sensitive and proprietary information, it is increasingly critical that NARA include the appropriate positions in its random drug testing population.

Drug awareness training not effective

Managers are not trained to identify, address and report illegal drug use by employees nor are employees offered training on drug education. NARA's Plan requires the HR Services Division to implement supervisory training, and develop a training package to ensure all employees and supervisors are fully informed of NARA's Plan. Furthermore, Executive Order 12564 requires agencies to develop supervisory training to assist in identifying and addressing illegal drug use by agency employees. Clear, consistent employee drug education can create an informed workforce and may significantly reduce drug abuse problems in the workplace.

There are two supervisory training courses offered by NARA; however, neither one of those training courses assists supervisors in recognizing and addressing illegal drug use by agency employees, nor does it include all elements required under NARA's Plan. Supervisors have a key role in establishing and monitoring a drug-free workplace and according to NARA's Plan, supervisory training should include the following elements:

- Overall agency policy;
- The prevalence of various employee problems with respect to drugs and alcohol;
- The Employee Assistance Program (EAP) approach to handling problems including the supervisor's role and relationship to EAP;
- How to recognize employees with possible problems;
- Documentation of employee performance or behavior;
- Skills in confronting employees with possible problems;

- Agency procedures for referring employees to EAP;
- Disciplinary action, and removals from sensitive positions as required by Section 5(c) of the Executive Order;
- Reintegration of employees into the workforce; and
- Written materials which the supervisor can use at the work site.

During the course of our review we identified two training courses on NARA's intranet designed for employees on awareness of drug use and the effects. However, neither course is active, nor are employees made aware of them. During audit fieldwork, we informed NAHR of this condition. In response NAHR indicated they will reactivate the training and institute a more robust drug training program for supervisors.

New employee applicant drug testing results and documentation are not retained

During the course of the audit, we were not able to obtain any evidence that employees were properly notified of scheduled applicant drug testing nor were we able to obtain evidence that employees successfully passed applicant drug testing. We were told these items were not traditionally retained because no one saw the need to keep the information.

According to the SAMHSA, Federal agencies should establish a recordkeeping system to maintain the records of the agency's Drug-Free Workplace Program consistent with the agency's Privacy Act System of Records and with all applicable Federal laws, rules and regulations regarding confidentiality of records including the Privacy Act (5 U.S.C. §552a). The recordkeeping system should capture sufficient documents to meet the operational and statistical needs of this order, and include:

1. Notices of verified positive test results referred by the Medical Review Officer;
2. Written materials justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen;
3. Anonymous statistical reports; and
4. Other documents the Drug Program Coordinator, Medical Review Officer, or EAP Administrator deems necessary for efficient compliance with this order.

In addition, Government Accountability Office's standards for internal control require that all transactions and other significant events are clearly documented, and the documentation should be readily available for examination. All documentation and records should be properly managed and maintained.

Drug testing program plan document needs to be updated

NARA's Drug Free Workplace Plan document has not been updated since 1998 and needs to be updated to reflect current practice and to be in compliance with SAMSHA guidance. The Drug Free Workplace Plan document sets forth objectives, policies, procedures, and implementation guidelines, to achieve a drug-free Federal workplace, consistent with Executive Order 12564.

[REDACTED]

The SAMHSA issues guidance to agencies periodically on the guidelines to be implemented for Federal workplace drug testing programs. SAMHSA has also developed a model Drug Free Workplace Plan for agencies to reference when creating, reviewing and updating their Plans. Since the development of this plan, there have been changes in language and implementation practice in the following areas: references and authorities, definitions, range of consequences, reasonable suspicion testing, applicant testing, and privacy assured. In addition, SAMHSA's guidance for the selection of testing designated positions was updated in 1999 and 2010.

In order to ensure compliance with any guidance that is issued and to ensure the Plan reflects current practices, NARA should periodically review the Plan. A drug-free program cannot be effective if the governing plan document is outdated.

Recommendations The Chief Human Capital Officer should take the following actions.

- (1) Re-institute random drug testing for those employees determined to be in a testing designated position.
- (2) Amend NARA TDP's to ensure compliance with the SAMHSA's Interagency Coordinating Group Executive Committee "Guidelines for the Selection of Testing Designated Positions" and establish a mechanism to periodically review and update TDPs as necessary.
- (3) Develop a training course for all supervisors that will aide them in recognizing and addressing illegal drug use by agency employees. This training should be mandatory for all supervisors. Also evaluate the current drug awareness training for employees on NARA's intranet and determine if it is acceptable training for NARA employees. If it is, determined to be acceptable reactivate the training. If it is not acceptable identify and offer another suitable training alternative.
- (4) Develop a retention plan for all drug testing related documentation consistent with the guidance issued by SAMHSA.

- (5) Review NARA's Drug Free Workplace Plan and update it as necessary. In addition, a plan for periodic reviews and updates of the Plan document should be developed.

Management Response

Management concurred with each of the recommendations.

Appendix A – Acronyms and Abbreviations

NARA	National Archives and Records Administration
OIG	Office of Inspector General
TDP	Testing Designated Position
NAHR	Employee Relations and Benefits Branch
NASS	Security Management Branch
NAA	Acquisitions Services Branch
HR	Human Resources
SAMHSA	Substance Abuse and Mental Health Services Administration
NSDUH	National Survey on Drug Use and Health
EAP	Employee Assistance Program

Appendix B - Management's Response to the Report



Date: JUN 28 2011
To: Paul Brachfeld, Inspector General
From: David S. Ferriero, Archivist of the United States
Subject: Draft Report OIG 11-13, Audit of NARA's Drug Testing Program

Thank you for the opportunity to comment on this draft report. We appreciate the willingness of the auditor to meet and discuss corrections and changes to some of the language in the report. This report now includes five recommendations. We concur with all five recommendations and have already begun working to contain some of the problems noted in the draft report.

If you have questions about these comments, please contact Mary Drak at mary.drak@nara.gov or by phone at 301-837-1668.



David S. Ferriero
Archivist of the United States

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Appendix C - Report Distribution List

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Deputy Archivist of the United States (ND)

Chief Operating Officer (C)

Chief Human Capital Officer (H)

Management Control Liaison, Performance and Accountability (CP)