



# **Sun Metro Drug and Alcohol Testing Program Audit Report**

Issued by the  
Internal Audit Office  
October 18, 2010

**City of El Paso  
Internal Audit Office  
Sun Metro Drug and Alcohol Testing Program Audit**

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***EXECUTIVE SUMMARY***

Per the request of the Sun Metro Director, the Internal Audit Office has concluded its audit of Sun Metro Drug and Alcohol Testing Program. Based on the results of the audit, three findings were identified to indicate that improvements are needed in order to be in compliance with Federal Transit Administration (FTA) regulations. All three of these findings are considered significant in nature.

Listed below is the summary of the three significant findings identified in this report.

1. Sun Metro is not accurately reporting their random drug and alcohol tests results to FTA.
2. Sun Metro's training records are not accurate and do not keep track of its contractors training records.
3. The negative/cancelled drug and alcohol test results were not maintained in a secured location with controlled access.

For a detailed explanation of each of the findings please refer to the appropriate finding contained in the body of this Audit Report.

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***BACKGROUND***

Sun Metro's Drug and Alcohol testing program is governed by policies and procedures established and mandated by the Federal Transit Administration (FTA) of the Department of Transportation. These policies and procedures are based on the Omnibus Transportation Employee Testing Act of 1991 (the Act) which mandated the Secretary of Transportation to issue regulations to combat prohibited drug use and alcohol misuse in the transportation industry. (Pub. L. 102-143, October 28, 1991, FTA sections codified at 49 U.S.C. 5331).

The Act requires FTA to issue regulations requiring recipients of Federal Transit Funds under 49 U.S.C. 5307, 5309, and 5311, and 23 U.S.C. 103(e)(4) to test safety-sensitive employees for the use of alcohol or drugs in violation of law or federal regulation.

Other sources of guidance include Procedures for Transportation Workplace Drug and Alcohol Testing Programs under the Department of Transportation (DOT) Rule 49 CFR Part 40, which describes required procedures for conducting workplace drug and alcohol testing for the Federally regulated transportation industry. Sun Metro has also been reporting to the Federal Motor Carrier Safety Administration (FMCSA) due to its interstate routes.

In June of 2010, FTA completed the 2010 Triennial Review of Sun Metro which included a review of the Drug and Alcohol Program. Per the 2010 Triennial review no deficiencies were found during the period reviewed for the Drug and Alcohol Program.

***AUDIT OBJECTIVE***

The audit objectives for the Sun Metro Drug and Alcohol Testing Program Audit were to:

- Determine if Sun Metro has internal policies and procedures to ensure compliance with FTA drug and alcohol regulations.
- Determine the reliability of compliance by Third Party Administrators (TPAs) who perform contracted drug and alcohol testing on behalf of Sun Metro.
- Determine if Sun Metro and the related TPAs are in compliance with FTA drug and alcohol regulations (designed to help prevent accidents, injuries, and fatalities resulting from the misuse of alcohol and use of prohibited drugs by employees who perform safety-sensitive functions).

***AUDIT SCOPE***

This is a limited scope audit and the time period covered all drug and alcohol testing during the 2009-2010 fiscal year.

***AUDIT METHODOLOGY***

To achieve our audit objectives we:

- conducted interviews with Sun Metro management,
- conducted interviews with Genesis Testing Facility staff,
- obtained and reviewed a copy of Sun Metro's Annual Summary Reports submitted to FTA,
- conducted site visits,
- performed tests of selected drug and alcohol testing results, and
- reviewed other requirements Sun Metro must comply with FTA Regulations.

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We conducted this performance audit in accordance with generally accepted government auditing 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 provided a reasonable basis for our findings and conclusion based on our audit objectives.

This audit was also conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors.

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***SIGNIFICANT FINDINGS, RECOMMENDATIONS,  
AND MANAGEMENT'S RESPONSES***

The definition of a significant finding is one that has a material effect on the City of El Paso's financial statements, identifies an internal control breakdown, a violation of a City and/or procedure, or a violation of a law and/or regulation, which the City is required to follow. Any finding not meeting these criteria will be classified as an "Other Finding".

**Finding 1**

**Random Drug and Alcohol Testing Reports**

Per FTA Drug and Alcohol Regulation Updates, Winter 2009, Issue 39, Page 2:

"Drug tests must be conducted at a minimum rate of 25% of the number of safety-sensitive employees and alcohol tests must be conducted at a minimum rate of 10%."

For calendar year 2009:

- The actual numbers verified by the Internal Audit Office, Sun Metro Reports, and Random Drug and Alcohol Tests reported to FTA differ for the following:

**Number of Random Drug Testing Instances**

Verified by Internal Audit Office	Sun Metro	FTA Reports as of 3/15/2010
Total Random Drug Tests verified by Internal Audit	Total Random Drug Tests Per Sun Metro	Total Random Drug Tests Reported to FTA
Job Express	16	18
Checker/Yellow Cab	26	27
SM - Maintenance	64	65
SM - Operations	230	212

**Number of Random Alcohol Testing Instances**

Verified by Internal Audit Office	Sun Metro	FTA Reports as of 3/15/2010
Total Random Alcohol Tests verified by Internal Audit	Total Random Alcohol Tests Per Sun Metro	Total Random Alcohol Tests Reported to FTA
Checker/Yellow Cab	11	12
SM - Maintenance	17	17
SM - Operations	62	58

**Recommendation**

Sun Metro should correct the reports submitted to FTA, review and reconcile the reports prior to submitting to FTA, and seek a software solution to avoid any problems in the future.

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**Management's Response**

Sun Metro has reviewed, reconciled and resubmitted the corrected reports to FMCSA MIS on 10/11/10 and FTA MIS 10/11/10.

**Number of Random Drug Testing Instances**

Verified by Internal Audit Office		Sun Metro	FTA Reports
	Total Random Drug Tests verified by Internal Audit	Total Random Drug Tests Per Sun Metro	Total Random Drug Tests Reported to FTA
Job Express	16	16	18

**Job Express** – The Auditor's copy of the database has an empty field for employee (*employee name deleted*). The original file shows an entry for that employee for the month of 9/29. The Auditor's copy of the file shows all the sheets selected in a group mode which is the process the DER used to clear the SS#'s. Working with grouped sheets the same function to one field transfers to all the sheets simultaneously. By doing such, the DER mistakenly cleared the data on field F14 for all the sheets, resulting in this record to not be counted by the automated formula. The Auditor's count does not include the result on field F14 on the active sheet and one positive result on the gone sheet. However, the original data base reflects the correct information. Confirmation of the above correct information reflects on an email dated August 16, 2010, which was a copy of the totals reporting 17 as the total count for Job Express. The file submitted to the auditor was dated August 18, 2010. FTA and Sun Metro Data Base reports reflect total tested are 16 individuals on the active list (all with negative results) and two on the gone list, one being a positive. Total results reported to FTA was 18.

Verified by Internal Audit Office		Sun Metro	FTA Reports
	Total Random Drug Tests verified by Internal Audit	Total Random Drug Tests Per Sun Metro	Total Random Drug Tests Reported to FTA
Checker/Yellow Cab	26	26	27

**Checker Yellow Cab** - FTA report reviewed by Auditor did not reflect an amended report sent to FTA by Sun Metro on 3/29/10. This was Sun Metro's error; we failed to provide this revised document to the auditing team. Sun Metro is in agreement with the auditor's finding of 26 (See amended FTA MIS report dated 3/29/10).

Verified by Internal Audit Office		Sun Metro	FTA Reports
	Total Random Drug Tests verified by Internal Audit	Total Random Drug Tests Per Sun Metro	Total Random Drug Tests Reported to FTA
SM - Maintenance	64	64	65

**SM Maintenance** - FTA and Sun Metro Data Base report reflects a total of 65 individuals tested. Auditor's findings do not reflect one individual in the gone list, whose result was positive.

Verified by Internal Audit Office		Sun Metro	FTA Reports
	Total Random Drug Tests verified by Internal Audit	Total Random Drug Tests Per Sun Metro	Total Random Drug Tests Reported to FTA
SM - Operations	230	210	212

**SM Operations** - We are in agreement with the Auditor's finding of a total 230 counted on the active list. This error was attributed to a cell formula error on Sun Metro's part. However, the auditing team did not include the two (2) positive results on the gone list. The total number, end result, reported to FMCSA MIS 10/11/10 and FTA MIS 10/11/10 total 230 negative results and two positive results for a total of 232.

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**Number of Random Alcohol Testing Instances**

Verified by Internal Audit Office		Sun Metro	FTA Reports
	Total Random Alcohol Tests verified by Internal Audit	Total Random Alcohol Tests Per Sun Metro	Total Random Alcohol Tests Reported to FTA
<b>Checker/Yellow Cab</b>	11	11	12

**Checker/Yellow Cab** - The Auditor's copy of the database has an empty field for employee (*employee name deleted*). The original file shows an entry for that employee for the month of 9/2. The Auditor's copy of the file shows all the sheets selected in a group mode which is the process the DER used to clear the SS#'s. Working with grouped sheets the same function to one field transfers to all the sheets simultaneously. By doing such, the DER mistakenly cleared the data on field F14 for all the sheets, resulting in this record to not be counted by the automated formula. The Auditor's count does not include the result on field F14 on the active sheet. However, the original data base reflects the correct information. Confirmation of the above correct information reflects on an email dated August 16, 2010, which was a copy of the totals reporting 12 as the total count for Yellow Cab. The file submitted to the auditor was dated August 18, 2010.

Verified by Internal Audit Office		Sun Metro	FTA Reports
	Total Random Alcohol Tests verified by Internal Audit	Total Random Alcohol Tests Per Sun Metro	Total Random Alcohol Tests Reported to FTA
<b>SM - Maintenance</b>	17	19	17

**SM – Maintenance** – Sun Metro is in agreement with the Auditor's findings. During this audit Sun Metro discovered an error within one of its data base cells. Amended reports were submitted to FMCSA MIS 10/11/10 and FTA MIS 10/11/10 reflecting 17 total.

Verified by Internal Audit Office		Sun Metro	FTA Reports
	Total Random Alcohol Tests verified by Internal Audit	Total Random Alcohol Tests Per Sun Metro	Total Random Alcohol Tests Reported to FTA
<b>SM - Operations</b>	62	62	58

**SM – Operations** - During this audit the findings were attributed to misreading of data by the DER. The error did not include 4 individuals in the gone list. Amended reports were filed with FMCSA MIS 10/11/10 and FTA MIS 10/11/10 reflecting a total of 62 negative results.

Sun Metro has contacted C Transit (GP Program/Microsoft a Human Resource Finance Program), Viva Transit (Drug Pak), DART Transit (Everitest), and Metropolitan Transportation Authority (Drug Pak). C Transit and DART claim that major modifications had to be introduced to the programs they purchased. Viva and Metropolitan Authority claim that they are extremely satisfied with the results but they also claim that they had major modifications that needed to be made to their program. FTA and FMCSA have been contacted concerning Canned Programs and informed Sun Metro that they could not endorse any programs. Sun Metro is requesting information from Drug Pak and has contacted (*name deleted*) (Sun Metro's MRO) for recommendations of programs that will interact with his reporting database. His response was that the program that Sun Metro has established is better than any canned program on the market. (*Name deleted*) also offered his assistance by providing any reports generated by his program at any interval we desire.

**Responsible Party**

Paul J. Manzanares, Transit Safety Manager  
Blanca Hernandez, Transit Supervisor for Safety

**Implementation Date**

Already under implementation.

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**Finding 2**

**Training Records**

Per FTA, 49 CFR Part 655 §655.14 (b):

- (1) "...Covered employees. Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment and on the signs and symptoms that may indicate prohibited drug use.
- (2) Supervisors. Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse."

A sample of 78 employees (40 Sun Metro employees and 38 contractor employees) was selected for review.

- Sun Metro does not keep training records for Checker/Yellow Cab, Ruiz Protective Services, Firestone, and Job Express employee's attendance at the Drug and Alcohol Awareness and Reasonable Suspicion Trainings.
- Sun Metro's Training Matrix did not list all Sun Metro employees. Six out of 40 Sun Metro employees did not have a date of attending the Drug and Alcohol Awareness Training.

**Recommendation**

All safety sensitive employees and supervisors should receive the proper Drug and Alcohol Awareness training, and Sun Metro should keep track of attendees' attendance.

**Management's Response**

Sun Metro has initiated a process of collecting training records from its contractors. A copy of the electronic matrix file has been provided to the contractors to ensure that all records are up to date and accurate. The matrix employee list and training records will be updated on a monthly basis.

**Responsible Party**

Paul J. Manzanares, Transit Safety Manager  
Blanca Hernandez, Transit Supervisor for Safety

**Implementation Date**

October 1, 2010



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**Finding 3**

**Records**

Per FTA, *49 CFR Part 40 §40.333 What records must employers keep?:*

- (a) As an employer, you must keep the following records for the following periods of time:
  - (4) You must keep records of negative and cancelled drug tests and alcohol tests results with a concentration of less than 0.02 for one year.
  
- (c) You must maintain the records in a location with controlled access.

At the time of the site visit the negative/cancelled drug and alcohol test results were maintained in an unlocked cabinet inside of an unlocked office which may allow unauthorized access to sensitive employee records.

**Recommendation**

Sun Metro should maintain their negative/cancelled drug and alcohol test results in a secured location with controlled access.

**Management's Response**

All D&A records have been transferred to a secured and locked cabinet controlled at all times. Only two individuals have access to the cabinet.

**Responsible Party**

Paul J. Manzanares, Transit Safety Manager  
Blanca Hernandez, Transit Supervisor for Safety

**Implementation Date**

Abated at 4:45 pm Wednesday, September 15, 2010.

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***INHERENT LIMITATIONS***

Because of the inherent limitations of internal controls, errors or irregularities may occur and not be detected. Also, projections of any evaluation of the internal control structure to future periods are subject to the risk that procedures may become inadequate due to changes in conditions, or that the degree of compliance with the procedures may deteriorate.

***CONCLUSION***

The Internal Audit Office identified that Sun Metro met the objectives of the audit for the following:

- Sun Metro has internal policies and procedures to ensure compliance with FTA drug and alcohol regulations,
- Third Party Administrators are reliable with performing contracted drug and alcohol testing on behalf of Sun Metro.
- Sun Metro has met the FTA guidelines of 25% random drug testing and 10% random alcohol testing.

Based on the results of this audit, we have determined that the Sun Metro Drug and Alcohol Program has partially complied with applicable FTA regulations related to Drug and Alcohol Testing. Based on results of our audit work the following issues were identified:

- Sun Metro is not accurately reporting their results of random drug and alcohol testing to FTA.
- Sun Metro's training records are not accurate and do not keep track of contractors training records.
- Records are not located in a secured location with controlled access.

We wish to thank the Sun Metro Department's management and staff for their assistance and courtesies extended throughout this audit.

Signature on File  
Edmundo S. Calderón, CIA, CGAP  
Chief Internal Auditor

Signature on File  
Kristina A. Aguilar  
Internal Auditor

cc: Legislative Review Committee – Finance, Internal Audit, Engineering/CIP, Management Services  
Joyce A. Wilson, City Manager  
Jane K. Shang, Deputy City Manager  
William F. Studer Jr., Deputy City Manager  
Jay Banasiak, Sun Metro Director