



# Office of Inspector General


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To: Aaron Williams, Director  
From: Kathy A. Buller, Inspector General   
Date: August 16, 2012  
Subject: Management Advisory Report — Peace Corps Drug-Free Workplace Plan

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The purpose of this memorandum is to inform you of the Peace Corps' noncompliance with Executive Order (EO) 12564 and other federal requirements mandating a drug-free federal workplace.<sup>[1]</sup>

EO 12564, signed by President Ronald Reagan in 1986, established a goal of achieving a drug-free federal workplace and made it a condition of employment for all federal employees to refrain from using illegal drugs on or off duty. The EO was issued because the use of illegal drugs in the federal workplace results in lost productivity and the loss of billions of dollars a year. EO 12564 mandated that all executive agencies establish drug-free workplace programs and test employees serving in sensitive positions for drug use. EO 12564 defines sensitive positions as positions with access to classified information, positions appointed by the President, law enforcement officers, and positions determined to be sensitive by the head of each agency. Additional legislation<sup>[2]</sup> and guidance established parameters for these programs and mandated drug testing for contractors and grantees, but the extent of the actual testing of employees was generally determined by the head of each agency.

In 1988, the Peace Corps developed a drug-free workplace plan (DFWP) and submitted the plan to the Department of Health and Human Services (HHS) for certification as required by law. The DFWP, certified by HHS in 1989, emphasized the agency's sensitive international humanitarian and economic development responsibilities as a compelling reason to eliminate illegal drug use from its workplace. In March of 1990 the Peace Corps issued a notice to all domestic Peace Corps employees advising them of the DFWP. In April 1991, the agency issued individual notices advising employees of its intent to randomly test designated positions.

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<sup>[1]</sup> Earlier this year the Peace Corps Office of Inspector General reviewed EO 12564 and other federal mandates to determine whether OIG was required to test its criminal investigators for drug use. We determined that because OIG investigators are law enforcement officers they are subject to mandatory testing. At the same time we determined that other OIG employees, including holders of classified clearances, also need to be tested. In February 2012 OIG executed a memorandum of understanding with USAID for the testing of OIG employees and issued an OIG internal policy directive establishing an OIG drug-free workplace program and corresponding standard operating procedures.

<sup>[2]</sup> Supplemental Appropriations Act of 1987 §503, Pub. L. No. 100-71, 101 Stat. 391; 73 FR 228 (Nov. 25, 2008).

While the Peace Corps DFWP was certified as having met the essential requirements of federal law, there is no evidence indicating that the plan was implemented, particularly the requirement for random drug testing of employees.

The Peace Corps DFWP mandates that sensitive positions must be subject to random drug tests. To meet the goals of testing these sensitive positions, the Director at the time designated 47 testing-designated positions (TDPs) subject to random drug tests. These TDPs include many upper-level management personnel and office directors who handle classified and confidential information, make decisions regarding personnel, funds, and other resources, have high public visibility, and who are integral to the strategic direction of the Peace Corps as a federal agency. An attachment to the DFWP sets out the frequency and number of employees who hold TDPs to be tested during the stated years. At that time, the attachment stated a total of 30% of the employees in TDPs were to be tested annually between the years of 1988 and 1993 (an estimated 14 employees per year). There is no indication that any of the employees were actually tested.

In addition, given the significant structural and organizational changes the agency has undergone since 1991, we believe the DFWP is woefully out of date. There were no updates to the TDPs, testing frequency, or the total number of employees to be tested after the original attachment had been drafted. Furthermore, language within the Peace Corps DFWP has not been amended to be consistent with the model drug-free workplace plan released and revised by the Substance Abuse and Mental Health Services Administration (SAMHSA), which the Peace Corps used to draft and execute its DFWP. As a result, the Peace Corps is not in compliance with federal mandates, cannot ensure it is achieving its goal of a drug-free workplace, and cannot ensure sensitive positions within the Peace Corps are being tested for drug use. OIG acknowledges that the Peace Corps has agreements and contracts in place to undertake reasonable suspicion drug testing as mandated by the DFWP.<sup>[3]</sup> It is unclear whether agency supervisors or managers are aware of their role in referring individuals for testing based on reasonable suspicion. Furthermore, there are no records indicating agency employees have been advised or trained on key aspects of the Peace Corps DFWP. We are aware the agency has made available employee assistance program services for staff, but the agency has a responsibility to educate employees and supervisors concerning their obligations under the DFWP.

Office of Personnel Management (OPM) guidance in implementing the terms of the EO permits agencies to hold a portion of their employees in sensitive positions exempt from random testing because of hardships attributable to remote locations of duty stations, unavailability of testing personnel, or lack of an appropriate test site. The same OPM guidance also mandates that agencies use reasonable means to overcome these hardships.

While the current Peace Corps DFWP only applies to domestic field offices and headquarters, the Department of Interior, Department of Agriculture, and Department of Defense indicate they have successfully implemented drug testing overseas. The State Department Office of Inspector

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<sup>[3]</sup>The agency can likely use the existing contracts for reasonable suspicion testing to work towards implementing its random drug testing requirements.

General (OIG) has recently issued a report<sup>[4]</sup> indicating the State Department should implement overseas drug testing because of the sensitive nature of information overseas employees have access to. The State Department OIG emphasized the number of employees overseas with access to sensitive information and the growing feasibility of overseas testing. To promote the operational integrity of the Peace Corps' overseas operations, and the health and safety of its overseas staff, we recommend the agency amend its DFWP to include random drug tests of sensitive overseas positions.

### **Summary of Recommendations**

- That the Peace Corps review its DFWP and make updates and revisions in accordance with existing guidance and Peace Corps needs. As part of such review, the agency should revise its list of TDPs to reflect the current structure and operations of the Peace Corps, consistent with 2010 guidance issued by HHS for selection of TDPs.<sup>[5]</sup>
- That the Peace Corps amend the DFWP to develop and implement drug testing for employees serving in sensitive positions overseas where feasible.
- That the Peace Corps implement its DFWP and commence random drug testing in compliance with Executive Order (EO) 12564 and other federal requirements mandating a drug-free federal workplace.

We request that you respond within 45 days of receipt of this memorandum, describing actions planned or already taken to address the deficiencies outlined in this memo.

CC: Daljit Bains, Chief Compliance Officer  
Bill Rubin, General Counsel  
Garry Stanberry, Deputy Associate Director, Office of Management

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<sup>[4]</sup> *Audit of Department of State Drug-Free Workplace Program Plan*. United States Department of State and the Broadcasting Board of Governors Office of Inspector General, February 2012.  
<<http://oig.state.gov/documents/organization/187379.pdf>>

<sup>[5]</sup> *2010 Guidance for Selection of Testing Designated Positions (TDPs)*. SAMHSA, April 5, 2010, <<http://workplace.samhsa.gov/pdf/2010%20Guidance%20for%20the%20Selection%20of%20TDPs%20Final%20Version%20April%205%202010%20508%20Compliant.pdf>>.