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EMPLOYEE DRUG TESTING

A Single Agency Is Needed To Manage Federal Employee Drug Testing

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Before the
Subcommittee on Treasury, Postal Service,
and General Government
Committee on Appropriations
United States Senate

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Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you today to discuss our report entitled "A Single Agency is Needed to Manage Federal Employee Drug Testing."[1] Employee drug testing was implemented as part of an effort to achieve a drug free workplace within the Federal government as mandated in September 1986 by President Reagan's Executive Order 12564.

The executive order requires the head of each executive agency to establish a program to test employees in sensitive positions for the use of illegal drugs. It also authorizes testing

-- when there is reasonable suspicion that an employee is using illegal drugs (reasonable suspicion testing),

-- in an investigation authorized by the agency regarding an accident or unsafe practice (post-accident testing),

-- as part of the follow-up to counseling and rehabilitation for illegal drug use (follow-up testing), and

-- prior to hiring any individual applying for employment (applicant testing).

In May 1987, we testified on employee drug testing before the House Committee on Post Office and Civil Service, Subcommittee on Human Resources. In that testimony, we cited a lack of oversight over employee drug testing as our biggest concern. We said that without oversight, there can be no assurance that employees are being treated equitably, that agencies are complying with existing guidelines, or that needed modifications to the guidelines and program operations are identified and implemented.

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[1]GAO/GGD-91-25, Jan. 18, 1991.

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Our current review, which examined drug testing operations at 18 agencies, has confirmed the existence of such problems. We found that although several agencies were responsible for helping to design employee drug testing programs, there is no federal agency responsible for overseeing their implementation. This lack of oversight has led to:

-- federal employees not always being treated equitably,

-- wide variations in the amounts agencies pay for testing-related services, and

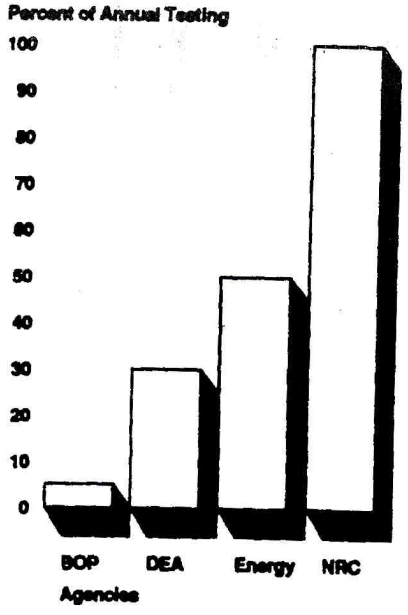
-- failure to identify and deal with some operational problems associated with drug testing.

EMPLOYEES ARE NOT BEING TREATED EQUITABLY

Because the head of each agency is responsible for implementing a drug testing program, the extent to which employees are required to participate in drug testing and the penalties imposed for drug use are primarily dependent on the agency for whom they work. This situation has contributed to inequities in the treatment of federal employees. Because of the pace agencies chose to implement their drug testing programs and other factors, such as court injunctions and union negotiations, employees in some agencies have been subject to drug testing while employees in other agencies have not. Only 6 of the 18 agencies we visited in our review had implemented all aspects of their drug testing programs.

Where programs had been implemented, we found that certain positions were subject to random testing in some agencies but not in others. For example, the Navy made all positions requiring a top secret clearance subject to random drug testing, while the Army subjected only selected positions with a top secret security clearance to such tests. Further, as shown in the following table, the frequency with which agencies planned to test employees in testing designated positions varied significantly. The percentage of such positions to be tested ranged from about 5 percent to 100 percent.

GAO Percent of Random Drug Testing at Selected Agencies



Penalties for the use of illegal drugs also varied. In one agency, employees who used illegal drugs were transferred to a position where random testing was not conducted. Other agencies fired employees after either their first or second offense.

DRUG TESTING COSTS VARIED SIGNIFICANTLY AMONG AGENCIES

Each agency is responsible for obtaining the support services needed to conduct its drug testing program. These services include, but are not limited to, laboratory testing of urine specimens and the independent verification of the laboratory test results by a medical review officer. A laboratory drug test can have two phases--a screen test and a confirmation test.

Some of the agencies we reviewed contracted individually for these services, but others wrote their contracts with the intention of inviting other agencies to participate. We found that the costs to be paid for testing-related services varied significantly, as the following table illustrates.

AMOUNTS CERTAIN AGENCIES ARE PAYING FOR TESTING-RELATED SERVICES

Screening and Confirmation Tests	
Department of the Interior	$ 8.90 per test
Department of Transportation	24.57 per test
United States Customs Service	41.75 per test
Department of Housing and Urban Development	77.00 per test
Medical Review Officer	
Defense Contract Audit Agency	$65 per hour
Nuclear Regulatory Commission	200 per hour
United States Secret Service	8,400 per year
Department of Energy	30,000 per year

OPERATIONAL PROBLEMS ARE NOT BEING IDENTIFIED AND DEALT WITH

To check the reliability of the laboratory tests, guidelines issued by the Department of Health and Human Services (HHS) require that agencies submit control samples to the testing laboratory that either contain known quantities of illegal drugs or no drugs at all along with employee samples. In a previous review, we found that two agencies had not complied with these quality assurance procedures. Additionally, we found that (1) 11 of the 18 agencies we recently reviewed had not provided information on their drug testing activities to Congress as required by Public Law 100-71, and (2) HHS had failed to notify all federal agencies of a problem which had surfaced in distinguishing a legal form of methamphetamine from an illegal form of that drug.

OVERSIGHT IS NEEDED

The Executive Order and the 1987 Supplemental Appropriations Act (Public Law 100-71) designated several federal agencies to help design Federal employee drug testing programs. Among the agencies given such roles were the Office of Personnel Management (OPM), HHS, and the Department of Justice (DOJ). In fulfilling this responsibility, OPM provided guidance to help agencies prepare their drug testing plans. This guidance included information on how to determine the sensitive positions that

would be subject to drug tests and the actions that could be taken against an employee found to have used illegal drugs. HHS provided scientific and technical guidance, certified that agency plans conformed to the executive order, and specified the drugs for which employees could be tested. DOJ provided agencies with legal advice on their proposed drug testing plans. An overview of the organizations involved in employee drug testing appears in Appendix I.

However, no agency has been charged with the responsibility for overseeing the Executive Branch's efforts to implement employee drug testing. A coordinating committee within the Office of National Drug Control Policy (ONDCP) consisting of representatives from OPM, HHS, and Justice exists and has benefitted the program through such means as providing guidance aimed at helping agencies to design their drug testing plans. However, this has not been enough. Little effort has been devoted to overseeing the implementation of such programs or assessing the results that have been achieved.

The federal drug testing program can benefit from and needs better management and leadership. A single agency should be designated with overall responsibility for the design, implementation, and oversight of the program. This does not mean that individual federal agencies should not retain an appropriate degree of flexibility, nor that agencies that currently have

expertise would not be called upon to fulfill that role. The role of the lead agency would be to see that all aspects of program policy, guidance, assistance, monitoring, and reporting are covered and that adjustments or changes are made as needed.

In carrying out its responsibilities, the lead agency could, for example, see that questions, such as the following, are answered:

-- Are agencies complying with legislation, program policy and guidance? Based on agency experience, what changes are needed in these areas?

-- Is the program meeting its objectives and are the approaches that have been taken cost effective? Can desired results be achieved at less cost? For example, do all agencies have positions sensitive enough to be considered testing designated positions?

-- Are advances in technology monitored to determine if changes in drug testing procedures would be beneficial?

-- Could the requirements for agencies to report separately to both another federal agency and to Congress be modified to allow a lead agency to compile a comprehensive report for Congress?

We see three agencies--OPM, HHS, and ONDCP--as likely candidates to assume the lead agency role. While good arguments can be made for each, we believe OPM is in the best position to take on this responsibility. Drug testing is a personnel issue and as the lead federal agency in this area, OPM sets policy, establishes guidance, and monitors agency implementation with regard to personnel-related matters.

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Mr. Chairman, this concludes my prepared testimony. I will be pleased to answer any questions that you or any members of the Subcommittee may have.

APPENDIX I

GAO Organizations Involved in Federal Employee Drug Testing

Organization	Role
OPM	Guidance on implementing drug testing
HHS	Technical guidance and plan certification
Justice	Legal advice
ONDCP	No specific drug testing role, but promulgates overall drug policy
ICG	Members from OPM, HHS and Justice advise and guide