

**Performance Audit 23-06:
Human Resources Department
CDL Driver Verification**

June 2024

City Auditor

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OFFICE OF INTERNAL AUDIT

Stan Sewell, City Auditor

June 12, 2024

To: Mayor Kelly
City Council Members

Subject: City CDL Driver Verification Audit (Report #23-06)

Dear Mayor Kelly and City Council Members:

The attached report contains the results of our audit of Risk Management's oversight of the City's drug and alcohol program as it relates to commercial driver's license (CDL) drivers. Our audit found Risk Management's process and procedures did not ensure the required number of random drug tests were performed on CDL drivers. We found the division needs more comprehensive procedures for the random drug and alcohol program. We also discovered departments are not maintaining complete employee driver files as required by the Employee Information Guide (EIG).

In order to address the noted areas for improvement, we recommended actions to ensure the minimum number of employees are randomly tested for drugs and alcohol. We also recommended Risk Management review the departments' driver files periodically and develop comprehensive random drug and alcohol program procedures.

We thank the management and staff of Risk Management, City Wide Services, Wastewater Systems, Fleet Division, Fire and Marathon Health for their cooperation and assistance during the audit.

Sincerely,

Stan Sewell, CPA, CGFM, CFE
City Auditor

Attachment

cc: Audit Committee Members
Jermaine Freeman, Chief of Staff
Mande Green, Interim Chief Operating Officer
Julia Bursch, Deputy Chief Operating Officer
Phil Hyman, Fire Chief
William Pitcairn, Public Works Administrator
Jim Arnette, Tennessee Local Government

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AUDIT PURPOSE

This audit was conducted in accordance with the Office of Internal Audit's 2023 Audit Agenda. The objectives of this audit were to determine if:

- Risk Management Division is complying with Federal Motor Carrier Safety Administration (FMCSA) random alcohol and drug testing requirements;
- Risk Management Division is ensuring records are maintained as required by FMCSA for alcohol and drug programs; and,
- City Departments are maintaining driver files as required by the EIG.

BACKGROUND

State law defines a commercial motor vehicle as any vehicle or combination of vehicles weighing more than 26,000 pounds. To drive these types of vehicles a CDL is required. CDLs are issued after passing written and practical driving tests, ensuring the driver's ability to safely operate heavy, large, or placarded hazardous material vehicles in commerce. To drive certain specialized types of vehicles, such as buses or tanker trucks or to carry hazardous materials, drivers must also apply for the proper CDL endorsements. To obtain an endorsement, drivers must pass a specialized knowledge exam and possibly a specialized driving skills test.

To ensure compliance with the FMCSA, the City has assigned the responsibility of administering the City's alcohol and drug program to the Director of Safety, Compliance and Risk Management. The Risk Management Division is responsible for working with the City's healthcare provider in administering the random testing, notifying the employees of the test results, and maintaining the records.

The EIG outlines responsibilities of City departments that employ CDL drivers to maintain a driver file for each CDL driver and to ensure the driver has the proper endorsement(s) to operate City vehicles.

Random Testing Process

The City contracted with Marathon Health (Marathon) to perform the random drug and alcohol testing of CDL employees¹. Marathon was also responsible for maintaining the alcohol and drug program records. Risk Management provided the CDL employee list to Marathon to perform the random selection for testing. Marathon sent the employee testing list to Risk Management who informed the employee’s supervisor of the testing requirement. Marathon communicated any positive test results or any other deviations in the testing process to Risk Management. Risk Management notified the appropriate department of these results.

Statistical Information

During 2023, Marathon administered 66 random drug and 24 alcohol tests on CDL drivers. The monthly tests performed, and results are illustrated in Exhibit 1.

Exhibit 1: 2023 CDL Random Testing Results

Month	Drivers	Tests Performed		Positive Results	
		Drug	Alcohol	Drug	Alcohol
January	186	5	2	0	0
February	191	7	2	0	0
March	202	5	2	0	0
April	203	5	2	0	0
May	204	8	3	1	0
June	207	5	2	0	0
July	213	5	2	0	0
August	218	5	2	0	0
September	222	4	2	0	0
October	225	7	2	0	0
November	142	4	2	0	0
December	145	6	1	1	0
Total		66	24	2	0

Sources: Compiled by Auditor from Oracle "Monthly Safety Requirement Report for Testing", Employee Test Result forms and M. Anthony's 2023 test results. The Drivers column totals include duplicates as discussed in the following finding.

Note: The May positive test result was dismissed by the City Attorney's Office due to the employee not being in a CDL position when tested.

¹ Marathon’s contract ended on December 31, 2023. One to One is the new healthcare provider who is administering the random drug and alcohol testing.

FINDINGS AND RECOMMENDATIONS

Procedures are not in place to ensure compliance with regulations

Risk Management needs to develop comprehensive procedures to ensure compliance with regulations. The drug and alcohol testing program needs to be monitored more closely.

The City did not perform the required number of drug tests and exceeded the minimum number of alcohol tests.

FMCSA 49 CFR 382.305 (b) requires the minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of driver positions and a minimum of 10 percent of the average number of drivers is required for alcohol testing.

Using the number of employees in CDL positions in 2023 as 139. We determined 70 employees should have been tested for drugs and 14 for alcohol. Our review found 66 were tested for drugs and 24 were tested for alcohol. Therefore, an additional four employees should have been tested for drugs and ten employees were tested unnecessarily for alcohol. Risk Management should monitor the number of tests performed during the year to ensure they are in compliance with the regulations.

The insufficient number tested for drugs resulted in noncompliance with regulations. The excess number tested for alcohol puts an unnecessary strain on the daily operations of City departments by removing employees from their daily duties. Further, the City expended more funds than required on alcohol testing.

We discovered the Oracle data provided by Risk Management to Marathon (used in the selection of CDL employees for the monthly random testing) contained duplicate employee names and non-CDL employees. This caused non-CDL employees to be selected for testing and increased some employees' chances of being tested more often than others. FMCSA 49 CFR 382.305 (i) states each driver selected for random drug and alcohol testing shall have an equal chance of being tested each time selections are made.

Recommendation 1:

We recommend Risk Management ensure the minimum number of employees are drug and alcohol tested as required by FMCSA.

***Auditee Response (Risk Management):** We concur with the audit finding and recommendation.*

***Estimated Implementation Date:** November 22, 2024*

Priority Level: 1**Recommendation 2:**

We recommend Risk Management develop procedures to verify accurate and complete data is used in the random testing.

***Auditee Response (Risk Management):** We concur with the audit finding and recommendation.*

***Estimated Implementation Date:** November 22, 2024*

Priority Level: 1**Risk Management has not developed comprehensive methodology/procedures for random drug and alcohol testing.**

The City delegated the responsibility of the selection for random testing to a third party (Marathon). Marathon controlled the scientifically valid method to generate the random list. However, Risk Management did not document the process used by Marathon. Further, Risk Management did not maintain records to document the 2023 total number of CDL positions used as the population for randomized testing.

During the monthly random testing, Risk Management often encountered an employee who was absent or no longer in a CDL position, so an alternate was chosen. When this occurred, they did not maintain complete and accurate notes of why the alternate was chosen. In addition, their written procedures do not address when or why an alternate is used.

FMCSA 49 CFR 382.401 states each employer shall maintain records of its alcohol misuse and controlled substances use prevention programs such as collection process records, driver's test results, and education and training.

Risk Management has not developed comprehensive procedures regarding the monthly random testing process. This has led to employees being tested more frequently than required and the possible perception that selection is not random.

Recommendation 3:

We recommend Risk Management develop comprehensive procedures to document a comprehensive random drug and alcohol testing process.

Auditee Response (Risk Management): We concur with the audit finding and recommendation.

Estimated Implementation Date: November 22, 2024

Priority Level: 2

Departments are not maintaining CDL driver files as required by the EIG

We examined 43 CDL department driver files out of 139 CDL drivers in 2023. We found the departments do not maintain the required documentation with the exception of the employee's current driver's license. We found the following during the review of the driver files:

- Two Fire Equipment Specialists did not have the proper CDL endorsement to drive the mobile fuel truck.
- Forty-two of the 43 (98%) employee files reviewed did not have documentation present to show what type of vehicle the employee was authorized to operate.
- Fifteen of the 43 (35%) files examined did not have the documentation showing receipt of the *Vehicle Use Policy*.
- Thirty of the 43 (70%) employees did not have documentation showing completion of a defensive driving course.
- Nine out of the 43 (21%) employees' files did not document safety training.
- Fleet and Fire only maintain the employees' current license in their driver file.

EIG Section 15.6 Commercial Driver's License Qualifications states each department must create and maintain a driver file for each employee who is authorized to drive a city vehicle. The file should contain at a minimum: a current driver's license; documentation outlining the type of vehicle the driver is authorized to operate; signed acknowledgement receipt of the *Vehicle Use Policy*; training related to the policy; if applicable, accident reports and disciplinary action related to violation of the policy and a defensive driving certificate.

Further, EIG 15.4B states the City shall ensure that all drivers are informed of the *Vehicle Use Policy*. City drivers shall sign a statement acknowledging they have reviewed the policy. The City shall ensure all City drivers are trained in defensive driving principles and safe operation of vehicles.

The City lacks adequate oversight to ensure CDL drivers have a current license and proper endorsement for the vehicle they operate. Further, departments are not complying with the EIG. This creates a

potential risk for the City if a CDL driver has an accident without the correct endorsement or proper training.

Recommendation 4:

We recommend Risk Management periodically review the departments' driver files to ensure they are following the EIG. This should include, but not be limited to, ensuring CDL drivers have the proper license to operate the authorized vehicle for their current position.

***Auditee Response (Risk Management):** We concur with the audit finding and recommendation.*

***Estimated Implementation Date:** November 22, 2024*

***Priority Level:** 2*

Recommendation 5:

We recommend City Departments maintain driver files as required by the EIG. (Fire and Public Works)

***Auditee Response (Fire Department):** We concur with the audit finding and recommendation.*

***Auditee Response (Public Works Department):** We concur with the audit finding and recommendation.*

***Estimated Implementation Date:** November 22, 2024*

***Priority Level:** 1*

APPENDIX A: SCOPE, METHODOLOGY AND STANDARDS

Based on the work performed during the preliminary survey and the assessment of risk, the audit covers Risk Management's oversight of the City's drug and alcohol program from January 1, 2023 to December 31, 2023. When appropriate, the scope was expanded to meet the audit objectives. Source documentation was obtained from Risk Management, CWS, Wastewater Systems, Fire and Fleet. Original records as well as copies were used as evidence and verified through physical examination.

To accomplish our audit objectives, we interviewed staff to gain an understanding of the process, evaluated the internal controls, reviewed policies, procedures, and federal regulations, analyzed Marathon's random employee lists, Risk Management's list of employees tested and employee test forms. We also compared policies and procedures to operations.

The sample size and selection were statistically generated using a desired confidence level of 95 percent, expected error rate of 5 percent, and a desired precision of 5 percent. Statistical sampling was used in order to infer the conclusions of test work performed on a sample to the population from which it was drawn and to obtain estimates of sampling error involved. When appropriate, judgmental sampling was used to improve the overall efficiency of the audit.

To achieve the audit's objectives, reliance was placed on data maintained in Oracle. We assessed the reliability of the data and conducted sufficient tests of the data. Based on these assessments and tests, we concluded the data was sufficiently reliable to be used in meeting the audit's objectives.

We conducted this performance audit from December 1, 2023, to April 2024 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 provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: PRIORITY LEVEL DEFINITIONS

Priority 1: Critical control weakness exists that exposes the City to a high degree of risk. Noncompliance with federal, state or local law, regulation, statute, charter or ordinance will always be considered a priority 1.

Priority 2: Control weakness exists that exposes the City to a moderate degree of risk.

Priority 3: The opportunity for improved efficiency or reduced exposure to risk exists.

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