

Montana State Library Commission Policy

Drug & Alcohol Free Workplace

Purpose

The Montana State Library will provide a workplace for employees and customers, free from inappropriate use and possession of controlled substances and alcohol.

“Controlled substance” means a controlled substance in Schedules I through V of the Controlled Substances Act (U.S.C) and as further defined by regulation at 21 C.F.R. 1308.11 through 1308.15.

Policy Statement

It is the policy of the State of Montana and of the State Library that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in the workplace by any employee of this agency is prohibited. The unlawful buying, selling, bartering, exchanging, giving away, or offering to buy, sell, barter, exchange, or give away of any dangerous drug in the workplace by any employee is also prohibited. Except as provided for in the State Conduct and Use Policy for State Space and State Grounds in Helena, the possession or use of alcohol in any state facility is strictly forbidden. In accordance with the Conduct and Use Policy, alcoholic beverages may be served by an alcoholic beverage licensee at authorized events if approved by the State Librarian.

This Policy Statement is adopted in compliance with Drug Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D).

An employee who violates this prohibition is subject to disciplinary action, up to and including discharge, as provided in the Discipline Handling Policy, ARM 2.21.6505 et seq.. Disciplinary action may include required participation in an approved drug abuse assistance and rehabilitation program.

In compliance with the Drug Free Workplace Act, an employee who is performing work under a covered federal grant will:

1. Abide by the terms of the state’s policy statement requiring a drug free workplace, and
2. Notify the agency of any conviction of a criminal drug statute which is the result of a violation which occurred in the workplace. The agency must be notified no later than five days after the conviction.

The employee’s supervisor and the State Librarian shall take one of the following actions within 30 days of receiving notice of a conviction from an employee:

1. Take appropriate disciplinary action against the employee, up to and including discharge, or

2. Require such employee to participate satisfactorily in an approved drug abuse assistance or rehabilitation program.

State Library administrative staff will provide a list of local drug counseling and rehabilitation agencies, as well as educational materials relating to drugs and alcohol, through the state's Employee Assistance Program.

New employees will be made aware of this policy as part of the orientation process. Drug awareness information will be an agenda item for at least one staff meeting per year, or more frequently as necessary.

Montana State Library
Drug & Alcohol Free Workplace Policy Notification

I have completed reading the Montana State Library Drug & Alcohol Free Workplace Policy. My signature below indicates that I understand my responsibilities with regard to this policy.

Employee

Date

Printed Name

From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 3, 2005]
[Document not affected by Public Laws enacted between
January 3, 2005 and November 8, 2006]
[CITE: 41USC701]

TITLE 41--PUBLIC CONTRACTS

CHAPTER 10--DRUG-FREE WORKPLACE

Sec. 701. Drug-free workplace requirements for Federal contractors

(a) Drug-free workplace requirement

(1) Requirement for persons other than individuals

No person, other than an individual, shall be considered a responsible source, under the meaning of such term as defined in section 403(8) of this title, for the purposes of being awarded a contract for the procurement of any property or services of a value greater than the simplified acquisition threshold (as defined in section 403(11) of this title) by any Federal agency, other than a contract for the procurement of commercial items (as defined in section 403(12) of this title), unless such person agrees to provide a drug-free workplace by--

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about--
(i) the dangers of drug abuse in the workplace;
(ii) the person's policy of maintaining a drug-free workplace;
(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment on such contract, the employee will--

(i) abide by the terms of the statement; and
(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the contracting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 703 of this title; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

(2) Requirement for individuals

No Federal agency shall enter into a contract with an individual unless such individual agrees that the individual will not engage in the unlawful manufacture,

distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

(b) Suspension, termination, or debarment of contractor

(1) Grounds for suspension, termination, or debarment

Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder or the individual who entered the contract with the Federal agency, as applicable, shall be subject to suspension or debarment in accordance with the requirements of this section if the head of the agency determines that--

(A) the contractor violates the requirements of subparagraph (A), (B), (C), (D), (E), or (F) of subsection (a)(1) of this section; or

(B) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a) of this section.

(2) Conduct of suspension, termination, and debarment proceedings

(A) If a contracting officer determines, in writing, that cause for suspension of payments, termination, or suspension or debarment exists, an appropriate action shall be initiated by a contracting officer of the agency, to be conducted by the agency concerned in accordance with the Federal Acquisition Regulation and applicable agency procedures.

(B) The Federal Acquisition Regulation shall be revised to include rules for conducting suspension and debarment proceedings under this subsection, including rules providing notice, opportunity to respond in writing or in person, and such other procedures as may be necessary to provide a full and fair proceeding to a contractor or individual in such proceeding.

(3) Effect of debarment

Upon issuance of any final decision under this subsection requiring debarment of a contractor or individual, such contractor or individual shall be ineligible for award of any contract by any Federal agency, and for participation in any future procurement by any Federal agency, for a period specified in the decision, not to exceed 5 years. (Pub. L. 100-690, title V, Sec. 5152, Nov. 18, 1988, 102 Stat. 4304; Pub. L. 103-355, title IV, Sec. 4104(d), title VIII, Sec. 8301(f), Oct. 13, 1994, 108 Stat. 3342, 3397; Pub. L. 104-106, div. D, title XLIII, Secs. 4301(a)(3), 4321(i)(13), Feb. 10, 1996, 110 Stat. 656, 677.)

Amendments

1996--Subsec. (a)(1). Pub. L. 104-106, Sec. 4321(i)(13), substituted "(as defined in section 403(12) of this title)" for "as defined in section 403 of this title" in introductory provisions.

Pub. L. 104-106, Sec. 4301(a)(3)(A), substituted "agrees to" for "has certified to the contracting agency that it will" in introductory provisions. Subsec. (a)(2). Pub. L. 104-106, Sec. 4301(a)(3)(B), substituted "individual agrees" for "contract includes a certification by the individual". Subsec. (b)(1). Pub. L. 104-106, Sec. 4301(a)(3)(C), redesignated subpar. (B) as (A), struck out "such certification by failing to carry out" after "contractor violates", redesignated subpar. (C) as (B), and struck out former subpar. (A) which read as follows: "the contractor or individual has made a false certification under subsection (a) of this section;".

1994--Subsec. (a)(1). Pub. L. 103-355 substituted "greater than the simplified acquisition threshold (as defined in section 403(11) of this title) by any Federal agency,

other than a contract for the procurement of commercial items as defined in section 403 of this title," for ``of \$25,000 or more from any Federal agency" in introductory provisions.

Effective Date of 1996 Amendment

For effective date and applicability of amendment by Pub. L. 104-106, see section 4401 of Pub. L. 104-106, set out as a note under section 251 of this title.

Effective Date of 1994 Amendment

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of this title.

Effective Date

Section 5160 of Pub. L. 100-690 provided that: ``Sections 5152 and 5153 [enacting this section and section 702 of this title] shall be effective 120 days after the date of the enactment of this subtitle [Nov. 18, 1988]."

Short Title

Section 5151 of Pub. L. 100-690 provided that: ``This subtitle [subtitle D (Secs. 5151-5160) of title V of Pub. L. 100-690, enacting this chapter] may be cited as the `Drug-Free Workplace Act of 1988'."

Consistency of Regulations With International Obligations of United States; Extraterritorial Application

Section 4804 of Pub. L. 100-690 required that regulations promulgated by agency heads be consistent with international obligations of United States, prior to repeal by Pub. L. 103-447, title I, Sec. 103(b), Nov. 2, 1994, 108 Stat. 4693.