

Federal Drug-Free Workplace Act of 1988

Any organization that enters into a federal contract for the procurement of property or services valued at \$100,000 or more or receives any federal grant must follow the regulations of the Drug-Free Workplace Act of 1988.¹ The act requires you to certify to the federal agency issuing the contract that you will provide a drug-free workplace. This certification requires you to create a plan that provides for a drug-free workplace and to file that plan with the federal government. Marijuana remains a Schedule I drug under the Controlled Substance Act,² therefore, employers must include marijuana prohibitions in their workplace policies.

To do business with the federal government, you must:

- Certify to the government agency with whom you are doing business that you maintain a drug-free workplace. The government does not approve or disapprove of employee drug testing, but false certification is grounds for suspending or terminating the contract. Serious lack of drug enforcement in the workplace could result in being barred from obtaining any further contracts with the federal government.
- Publish, circulate and provide each employee a statement notifying him or her that it is unlawful to manufacture, distribute, dispense, possess or use a controlled substance in your workplace. The statement must specify the penalties for each violation.
- Establish a drug-free awareness program to inform your employees about:
 - The dangers of drug abuse in the workplace
 - Your policy of maintaining a drug-free workplace
 - The availability of any drug counseling, rehabilitation or employee assistance programs (EAPs)
 - The penalties that can be imposed upon employees for drug abuse violations in the workplace
- Notify all employees in a written statement that, as a condition of employment, employees must:
 - Abide by the terms of the program
 - Notify you of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after a conviction
 - Notify the government contracting office within 10 days of receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace
- Impose corrective measures on the employee convicted of drug abuse violations in the workplace within 30 calendar days of receiving notice of his/her conviction. Options include:
 - Taking action against the employee, up to and including termination; or
 - Requiring the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program that is approved by federal, state or local health agencies; law enforcement or other appropriate agencies.
- Make an ongoing good faith effort to maintain a drug-free workplace

If you fail to follow the requirements of the Drug-Free Workplace Act, you may be subject to suspension of payments on a federal contract or grant, and even barred from receiving future contracts.