

PSATS CDL Program Suggested Clause for Independent Contractor Contracts

It is suggested that all participants in the PSATS CDL Program include the following language in any contract with any contractor hired to do work for the participating employer. This language puts on record that the hiring party is not responsible for ensuring that the hired party's CDL employees are covered by a qualified drug and alcohol testing program.

It is also suggested that the employer use a "Contractor's Statement of Compliance with CDL Testing Program Requirements" form to obtain the required information pertaining to any contractor's compliance with these federal regulations.

Contract Language:

"The Parties agree that the relationship between the Contractor and the Employer is one of independent contractor and not employer/employee and that the individual employees of the Contractor who will be performing the work pursuant to this Contract are not employees of the Employer. Contractor hereby certifies, represents, and warrants to the Employer that all persons performing any aspect of the work pursuant to this Contract who are required to have a commercial driver's license are in a program for drug and alcohol testing in accordance with the Omnibus Transportation Employee Testing Act of 1991 and the federal regulations adopted pursuant thereto."

Contractor's Statement of Compliance with CDL Testing Program Requirements

Due to the nature of the work that this contractor may perform for this employer, this contractor must use employees who perform safety-sensitive functions for which a Commercial Driver's License (CDL) is typically required. Section 49 CFR 382.301(c)(2) of the federal CDL regulations requires that, prior to the first time an employer uses a CDL employee employed by another entity (i.e., a contractor to whom the township is awarding a contract), and every six months of the contract, this employer must certify that any CDL employees used by each contractor remain covered by a qualified CDL drug and alcohol testing program.

An original signed copy of this form must be permanently retained by the employer with this contract and a new form received every 6 months of the contract's duration.

If the contractor is *not* participating in a qualified CDL drug and alcohol testing program at the time of the awarding of the contract, or at any six-month re-certification point, then all the contractor's CDL employees must obtain a negative result on a pre-employment drug test before beginning (or continuing) contracted work for this employer.

Contractor Name _____

By signing here, I, as the contractor's authorized representative, verify that the contractor named above is a current participant in the below identified CDL testing program conforming to 49 CFR Part 40.

Contractor's Authorized Representative _____

Today's Date ____/____/____

Signature of Authorized Representative _____

CDL Testing Program Name _____

Testing Program Contact Person _____

Testing Program Address _____

Phone #: (____) _____ City _____ State ____ Zip _____

Contact person confirms program conforms to 49 CFR Part 40? (____) Yes (____) No

Contact person confirms list of contractor's CDL employees covered in this program and that all drivers are qualified to driver under 49 CFR Part 382.301? (____) Yes (____) No