Using another’s program to satisfy random testing requirements

**Section § 382.305: Random testing.**

## Guidance Q&A

**Question 5: May an employer use the results of another program in which a driver participates to satisfy random testing requirements if the driver is used by the employer only occasionally?**

**Guidance:** The rules establish an employer-based testing program. Employers remain responsible at all times for ensuring compliance with all of the rules, including random testing, for all drivers which they use, regardless of any utilization of third parties to administer parts of the program. Therefore, to use another’s program, an employer must make the other program, by contract, consortium agreement, or other arrangement, the employer’s own program. This would entail, among other things, being held responsible for the other program’s compliance, having records forwarded to the employer’s principal place of business on 2 days notice, and being notified of and acting upon positive test results.