



Contractor Safety Management: The Minefield

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Purpose

- Gain an understanding of how Municipalities (Boards, Libraries, Commissions and their Contractors) have a responsibility to ensure all work is carried out safely and according to WorkSafeBC legislation.
- The principles discussed can assist in establishing due diligence for all employers.



Key legislation

Criminal Code of Canada s.217.1 (Bill C-45, Westray Amendment)

- establishes a legal duty for all persons directing work to take reasonable steps to ensure the safety of workers and the public.
- applies to contract workers, to the public affected by contract workers
- cannot contract out of the Criminal Code

Key legislation

General Duties of Employers

- **WC Act 115 1(a)(ii)**
Every employer must ensure the health and safety of any other workers present at a workplace at which that employer's work is being carried out

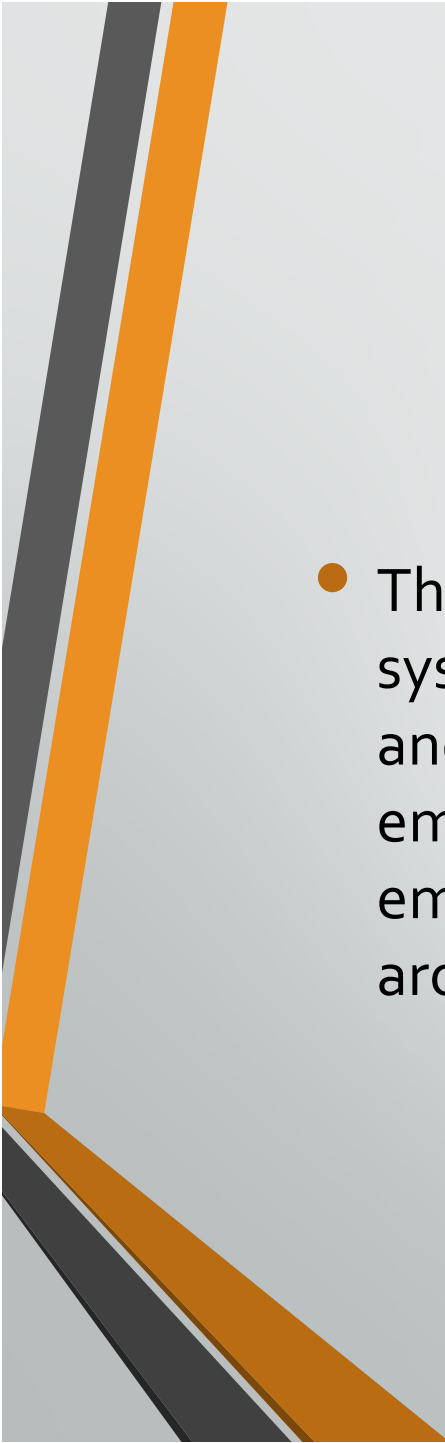


Key legislation

Coordination at multiple-employer workplaces

- **WC Act 118 (2)(b)**

The prime contractor of a multiple-employer workplace must do everything that is reasonably practicable to establish and maintain a system or process that will ensure compliance with this Part and the regulations in respect of the workplace.

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- This requirement extends to maintaining a system for dealing with complaints of bullying and harassment between workers of different employers (and the public) and ensuring employers comply with the requirements around bullying and harassment.

Key legislation

General duties of owner WC Act 119(a)


- Every owner of a workplace must provide and maintain the owner's land and premises that are being used as a workplace in a manner that ensures the health and safety of persons at or near the workplace




Key legislation

General duties of owner WC Act 119(b)

- Every owner of a workplace must give to the employer or prime contractor at the workplace the information known to the owner that is necessary to identify and eliminate or control hazards to the health or safety of persons at the workplace,



What you need to do and how to
do it

- 
1. ENSURE A SAFE WORK ENVIRONMENT
 2. IDENTIFY THE CONTRACT SITUATION
 3. DESIGNATE A PRIME CONTRACTOR
 4. MONITOR CONTRACTOR SAFETY PERFORMANCE



The Municipality as an Employer



Section 115


gives every employer the **duty** to ensure the health and safety of any other workers present at a workplace at which that employer's work is being carried out.

(Sections 115 General Duties of Employers)



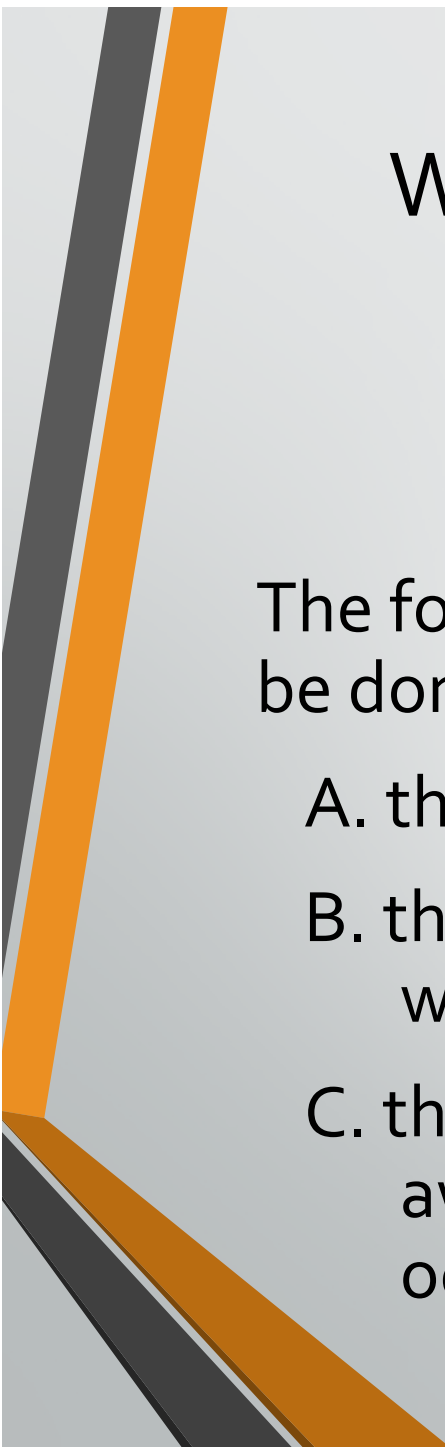
When Does The Duty Apply?

- whenever *other workers* are present at a workplace at which municipal work is being carried out.



What Does the Duty Require? (Scope of the Duty)


Once the duty applies, section 115(1)(a)(ii) requires the municipality to take **all reasonable steps** in the circumstances to ensure the health and safety of the *other workers*.



What Does the Duty Require? (Scope of the Duty)

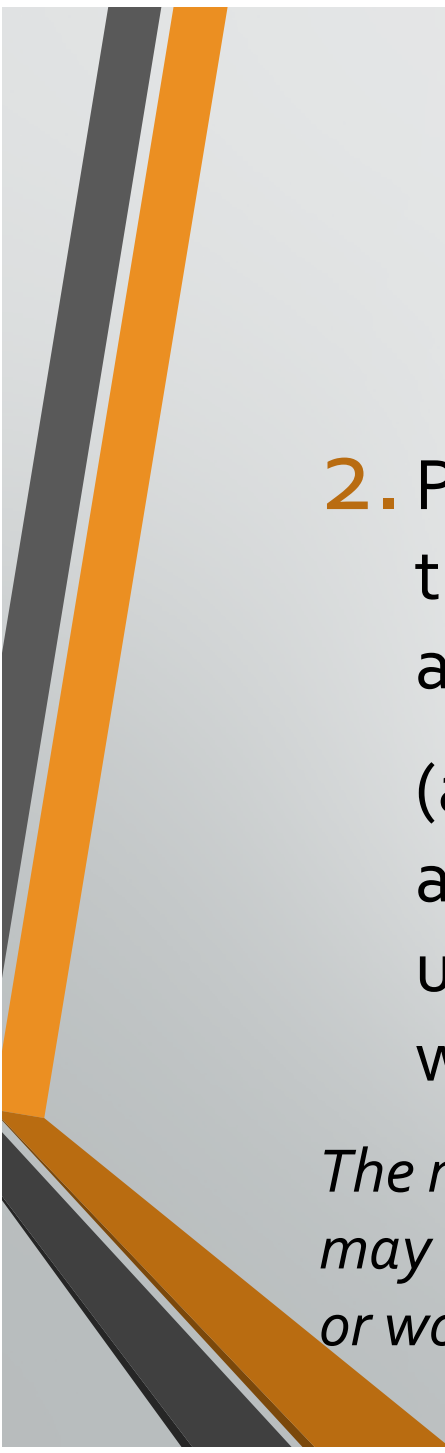
The following three factors will affect what must be done:

- A. the municipality's degree of control,
- B. the municipality's level of expertise in the work being performed, and
- C. the extent to which the municipality is aware or ought to be aware of what is occurring in the workplace.



reasonable steps:


1. Making reasonable inquiries prior to a firm doing work on the municipality's behalf;
 - (a) The municipality's expertise in the area may affect the extent of inquiries:
 - (i) to determine whether the firm is capable of safely doing the work; and
 - (ii) about the firm's plans to safely conduct the work.



reasonable steps:

2. Preventing unsafe conditions or work that may affect the *other workers* and addressing those that arise; and
 - (a) The extent to which the employer is aware or ought to be aware of the unsafe conditions or work may affect what must be done.


The municipality's familiarity with the worksite may affect the ability to identify unsafe conditions or work.



reasonable steps:

- (b) The employer's level of expertise may affect the ability to identify the unsafe conditions or work.

For example, a roofing firm subcontracting to another, will have a good understanding of when fall protection is required. A municipal employer that engages a roofing contractor to service its facility may not.




reasonable steps:

- (c) The municipality's degree of control over the other workers or the site, may affect:
 - (i) the processes implemented to address safety compliance; and
 - (ii) the municipality's response to unsafe conditions or work.

reasonable steps:

- *Where the municipality exercises a high degree of control, the municipality will have a higher level of responsibility. This could include stopping the work, if necessary.*
- *Where there is no control, the duty may be satisfied by reporting the situation to a supervisor of the other workers.*



reasonable steps:

3. Ensuring that the municipality's workers do not put the *other workers* at risk.

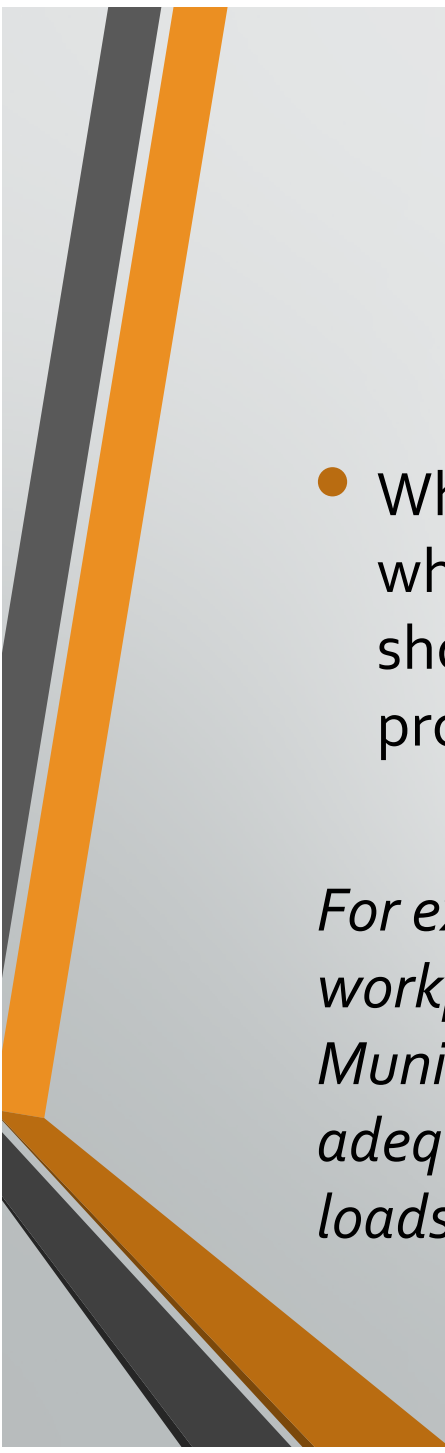
The municipality must address any aspects of municipal work that could create a hazard for other workers. This would include workers coming on to the site after the work day. For example, security guards patrolling in the evening risk injury if hazards are left at the end of the work day.



1. ENSURE A SAFE WORK ENVIRONMENT




The Municipality as an Owner



owner's obligation

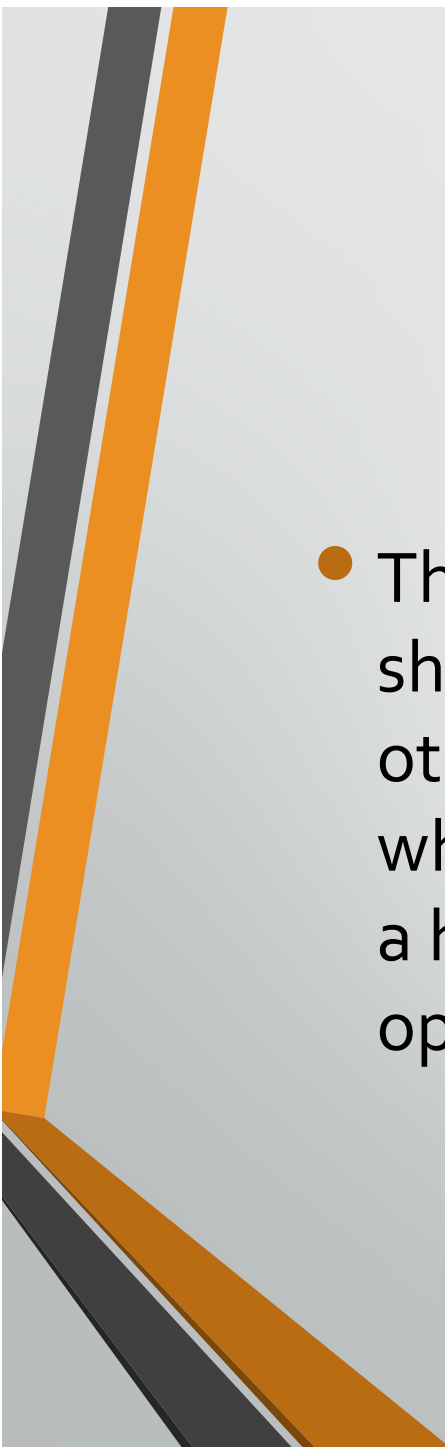
- Where the Municipality provides access to lands on which they own improvements, these improvements should be provided and maintained in a condition that provides a safe environment for workers.

For example, where an employer is provided access to a workplace across a bridge owned by a Municipality, the Municipality must ensure that the bridge has been adequately maintained and has the capacity to withstand loads placed on it.




owner's obligation

- The Municipality would be expected to provide information about unusual hazards present at such workplaces, but not about hazards that can reasonably be expected by the employer.



owner's obligation

- The information that the Municipality should provide includes the presence of other permit holders to the same area, where overlapping operations might create a hazard to the workers of the different operations.




owner's obligation

- Providing information about the presence of other permit holders allow them to take steps to coordinate among themselves.

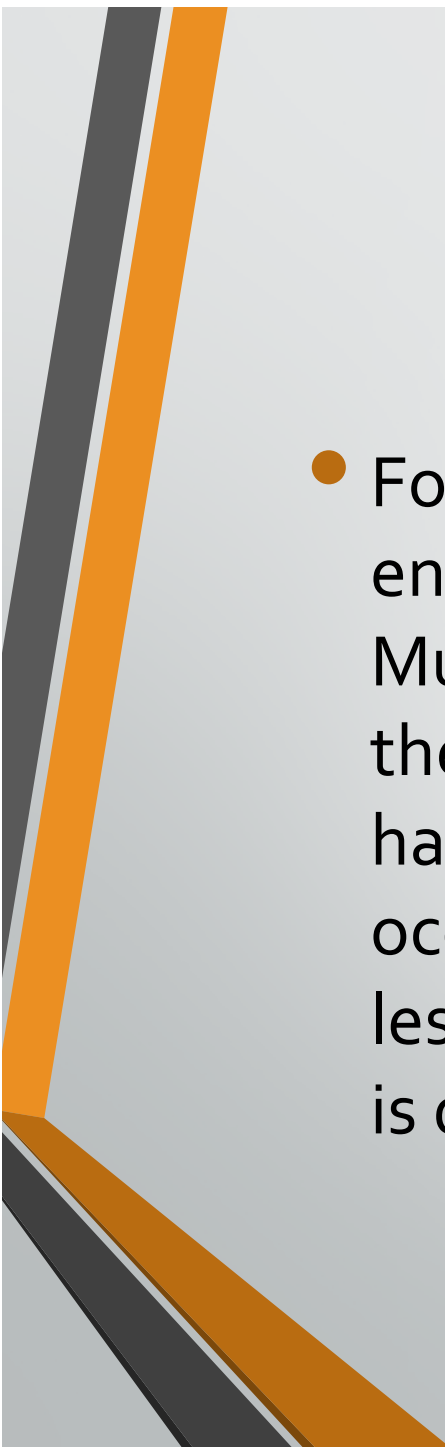
Who is the owner?

- It is important to recognize that while the Municipality is clearly an owner of the public lands, the definition of "owner" is broad, and includes permit holders, licensees, lessees and other delegates of the owner.
- workplaces on public lands will often have **multiple owners**.
- Considerations for determining responsibilities in multiple owner situations are **knowledge, control** and **reasonableness**.



owner's obligation

- In most situations, the Municipality will not have sufficient knowledge of or control over the workplace to be considered the owner (or Prime Contractor if none is designated).



owner's obligation


- For example, where a Municipality leases an entertainment venue to a third party, the Municipality will tend to provide control over the facility to the lessee, and the lessee will have the most knowledge of the work that occurring at the venue. This suggests that the lessee would be the Prime Contractor if none is designated.

owner's obligation

- However, each situation is unique and must be evaluated independently. Where the Municipality maintains the greatest degree of **control over** and **knowledge of** the operations of a multiple employer workplace on its land, it will be responsible for the obligations under s. 118 if no Prime Contractor is designated.




2. IDENTIFY THE CONTRACT SITUATION



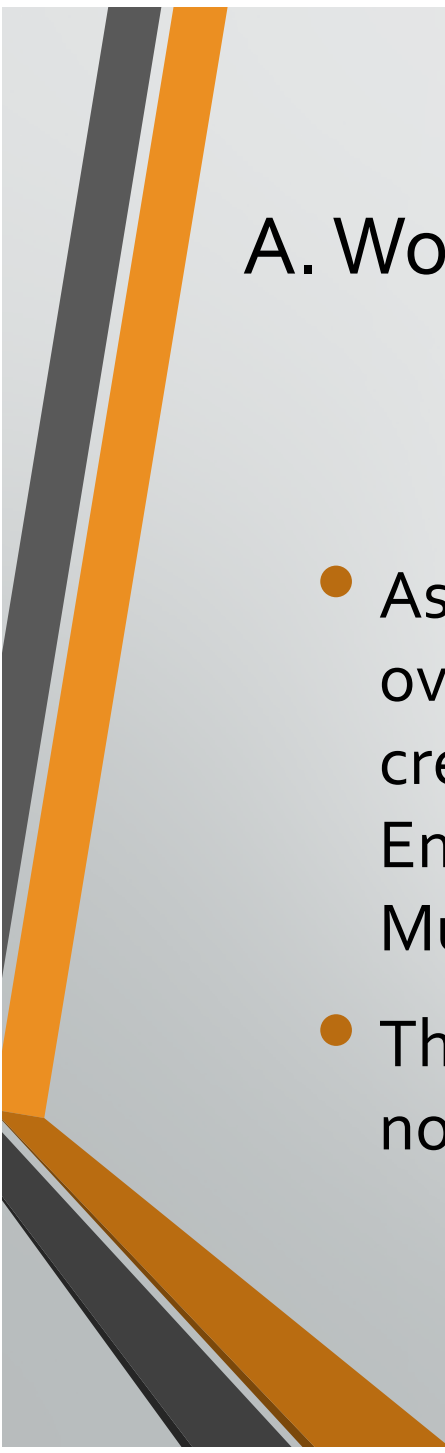
A. Workers not performing contract work for the Municipality

- A typical example might be workers of a gas utility company who have set up traffic control to do repair work on the gas distribution system. They are at a workplace, and Municipal workers may be working on or at the same workplace.




A. Workers not performing contract work for the Municipality

- ensure that the workplace is safe and that all workers, including the other Employer, Contractors and their employees, are aware of the workplace hazards which the Municipality has knowledge of as owners.




A. Workers not performing contract work for the Municipality

- As long as there are no interactions, or overlap between workplaces that would create hazards for the workers of the other Employer or for the workers of the Municipality, no further action is required.
- This is a “MULTIPLE-OWNER” situation, not a “MULTIPLE-EMPLOYER” situation.



B. Contractors performing work for the Municipality

- responsibility to ensure that the workplace is safe
- Contractor must be aware of pre-existing hazards.
(WCA 119)



B. Contractors performing work for the Municipality

- determine if this is a single employer workplace or a multiple employer workplace
- determine if this is a Day Labour contract
- decide whether or not there should be a Prime Contractor



3. DESIGNATE A PRIME CONTRACTOR



Designate a Prime Contractor

- The Municipality may appoint a Prime Contractor on a single employer workplace or can appoint one Contractor to be the Prime Contractor on a multiple employer workplace.
- **There can be only one Prime Contractor at a workplace.** If there is more than one Prime, the Owner is Prime Contractor by default.



Designate a Prime Contractor

- There must be a **written** agreement to be the Prime Contractor at a worksite and all affected Contractor(s) must be given written notice.
- When designating a Prime Contractor in writing, wording should include a reference to *section 118 of the Workers Compensation Act of British Columbia*



when the owner is an employer:

- From time-to-time, the Owner may visit the project for QC or inspection purposes, or to do work on the Project that can only be done by the Owner (lockout, for example).
- In that case, the Owner is acting as another employer, and **must** report to the Prime to discuss work activities and any safety implications, following the Prime's direction.



when the owner is an employer:

- Likewise, if the Owner's operations or maintenance workers visit the site or facility to do any work, they **must** report to the Prime.
- The mere presence of the Owner does not automatically strip the Prime Contractor of their responsibilities. The Owner (or any sub-contractors) are simply other employers.



4. MONITOR CONTRACTOR SAFETY PERFORMANCE

Monitor Contractor Safety Performance

- Section 118(2)(b) of the Workers Compensation Act requires the owner or Prime Contractor of a multiple-employer workplace to “do **everything** that is reasonably practicable to establish and maintain a system or process that will ensure compliance with this Part and the regulations in respect of the workplace”.



Monitor Contractor Safety Performance

- Your system or process to ensure compliance should include:
 - regular inspections
 - monitoring of the Contractor's work site.

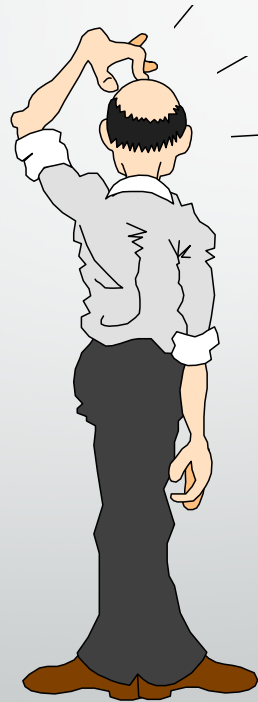
Inspections can become part of weekly project meetings on site or be unscheduled as time permits.

What you can look for:

- Work Practices
- Housekeeping
- Machinery & Mobile Equipment
- Hoists, Cranes & Derricks
- Elevating Work Platforms
- Scaffolds
- Ladders
- Protection Against Falls from Elevation
- Electrical & Lighting
- Excavations
- Confined Space Entry
- Traffic Control

CONTRACTOR SAFETY PERFORMANCE CHECKLIST

what to do . . .



the devil is in the detail

the detail . . .

- ensuring compliance

- what you can do
- what you should look for





housekeeping

- ☐ Clutter
- ☐ Passageways clear
- ☐ Flammables storage/disposal
- ☐ Exposed nails in scrap piles



hoists, cranes and derricks

- ☐ Annual inspection of crane
- ☐ Daily inspection (logbook dated)
- ☐ Operator has required certification
- ☐ Documentation for critical lifts



elevating work platforms

- ☐ Operation manual
- ☐ Records of inspection
- ☐ Guardrails
- ☐ Fall protection
- ☐ No worker transportation
(except minor adjustments)



scaffolds

- ☐ Scaffolds adequately braced and tied in at regular intervals
- ☐ Assembled correctly, e.g., adequate access, bracing and toe boards where necessary
- ☐ Fully decked platforms, no large gaps between perimeter edge and platform
- ☐ Guardrails: top & mid-rails



ladders

- ☐ Ladder tied off and angled correctly.
- ☐ Proper ladder for task
- ☐ No over-reaching
- ☐ Working off ladders >6.0m (fall protection required)



fall protection

- ☐ Adequate fall protection in place:
guardrails;
fall restraint;
fall arrest;
control zones
- ☐ Floor openings guarded or covered and cover secured.
- ☐ Swing fall



hazardous energy

- ☐ Cords, cables off the ground and no exposed wires or cuts.
- ☐ Equipment, including switchboard, is tagged and current.
- ☐ GVCI fitted to supply or portable generator.
- ☐ Lighting adequate enough to conduct work activities.



excavations

- ☐ Utilities: identified; located; marked; and exposed
- ☐ Excavation plan/certificate if required
- ☐ Manufactured cage certification
- ☐ Minimum sloping requirements
- ☐ Proper shoring
- ☐ Emergency response



confined space entry

- ☐ Hazard Identification
- ☐ Risk Assessment
- ☐ Effective control measures
- ☐ Site specific safe work procedures/entry permit
- ☐ Atmospheric testing
- ☐ Ventilation
- ☐ Standby person
- ☐ Rescue procedures
- ☐ Documentation



traffic control

- ☐ Traffic control plan
- ☐ Required devices in place
- ☐ TCP's has required PPE
- ☐ TCP's positioned in a safe place
- ☐ TCP's perform duties competently & safely (certified)



RECAP

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2. IDENTIFY THE CONTRACT SITUATION
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thanks for your time

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