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| Policy Title: | Prime Contractor Designation Policy |
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1. **Purpose and scope**

This policy concerns designation of a third party “Prime Contractor”. This policy applies any time there are more than one employers working at a worksite owned by the City. Examples of situations that trigger this policy include but are not limited to construction or demolition projects, film or TV projects, and special events.

The default rule is that the City designates a Prime Contractor on every project, even if there may not be multiple employers at that workplace. However, the City must not designate a contractor as Prime Contractor when the contractor is not qualified for those responsibilities. There may also be circumstances where the City should retain workplace safety coordination in-house, in which it will not designate a prime contractor. Contact the City Manager of Health of Safety for further clarification in the event the decision is not clear.

This policy is not meant to set out all the requirements concerning multiple-employer workplaces. City staff working in this area must familiarize themselves with the *Workers Compensation Act* and OH&S Regulation.

1. **Background**

Section 118[[1]](#footnote-1) of the *Workers Compensation Act* provides that if a workplace has two or more employers working at the site, it is deemed a multiple-employer workplace. Unless a Prime Contractor is designated, the Owner of that site will have those responsibilities.

Once designated, the Prime Contractor is responsible for all occupational health and safety coordination between individuals at a multiple-employer workplace and is required to, as far as reasonably practicable, establish and maintain a system or process to ensure that all obligations under the *Workers Compensation Act* are met in respect to the workplace.

For certain construction projects, the Prime Contractor also has to provide a **Notice of Project** to WorkSafeBC, and may also have to appoint a **Qualified Coordinator** (more information below). Special additional obligations for construction are set out in s. 20.3[[2]](#footnote-2) of the OH&S Regulation.

The *Workers Compensation Act* does not allow employers at a multiple-employer workplace to carve out separate zones of responsibility such that a prime contractor is not required. Either a workplace is a multi-employer workplace, in which case a prime contractor must be appointed, or it is not, in which case no prime contractor is necessary.

1. **Is it a multi-employer workplace?**

The *Workers Compensation Act* defines a “multiple-employer workplace” as a workplace where workers of 2 or more employers are working at the same time. The *Act* does not currently define the term “workplace”. However, WorkSafeBC Policy Item D3-118-1 confirms that:

Two or more adjacent workplaces do not constitute a "multiple-employer workplace", even though the activities at one workplace might affect the health and safety of workers at an adjacent workplace. Therefore, in situations where multiple employers are working side by side in the same building and the employees of the different employers will never occupy the same space, it is possible that there might not be a singular workplace but rather two or more adjacent work sites.

In order to trigger the multiple-employer workplace obligations, two or more employers must work at the same worksite. Even if the employees of the two different employers are scheduled to be at the worksite at different times of the day, where it is possible that the actions of one employer’s employees at the worksite could have safety implications for the employees of a different employer at that same worksite, the worksite will be considered a multiple-employer workplace within the meaning of the legislation. Short term visits for example to deliver or pick up goods, or to inspect a premises will not change a single-employer workplace into a multiple-employer workplace.

1. **How to designate a Prime Contractor**

A Prime Contractor must be appointed by a written agreement in place between the contractor and the owner of the worksite. Neither a verbal agreement nor unilateral appointment are sufficient or acceptable. If more than one prime contractor is appointed, the responsibilities and liabilities of the Prime Contractor will revert to the Owner of the site. In simple terms, all that is needed is a written document where both an owner and contractor agree that the contractor will be the Prime Contractor for the project. However, to ensure that all parties understand the meaning of the designation, the City uses specific forms that spell out the obligations in more detail.

Tender Process

The Tender documents state that the winning contractor will be the Prime Contractor. In addition, the City requires that the bidding contractor sign a project agreement such as the city’s agreement (i.e. Contract for Services Agreement) or industry standard agreement (i.e. CCDC2, MMCD, etc.) prior to work commencing on the project. The Prime Contractor Designation Schedule (City Doc#905789) is part of the project agreement so is included as part of the tender documents.

These project agreements and schedule are to be used for tender or contract for services situations.

Non-Tender Process

When a city agreement (i.e. Contract for Services Agreement) or industry standard agreement is not being used in the non-tender process, the City requires the hired contractor to sign the Prime Contractor Designation Agreement form (City Doc#918979).

The Prime Contractor Designation Agreement form is to be used for purchase order situations and when a city agreement or industry standard agreement is not used.

Other Non-Construction Projects

The City requires appointment of Prime Contractor, even if it is possible that there will only be one employer at the worksite. Such projects include film or television shoots and special events. Contact the City’s Manager of Health and Safety for appropriate documentation.

1. **Prime contractor responsibilities**

As set out in OH&S Regulation 20.3, a Prime Contractor’s obligations may differ depending on the nature of the workplace, the work being performed and the number of employees present.

In all cases, the Prime Contractor is responsible for ensuring that the activities of employers, workers and other persons at the Project relating to occupational health and safety are coordinated; and doing everything that is reasonably practicable to establish and maintain a system or process that will ensure compliance at the Project with the *Workers Compensation Act* and the OH&S Regulation (see s. 118 of the *Workers Compensation Act*).

The Prime Contractor at a construction project may be required to provide WorkSafeBC with a **Notice of Project** at least 24 hours before starting a construction project if the cost of the project exceeds $100,000, if all or part of the project requires the involvement of a professional engineer, if certain types of activities are undertaken (i.e. asbestos-related, lead abatement, etc.) or if the project involves erection, major alteration, structural repair or demolition of certain structures. For more information, see OH&S Regulation 20.2(1)[[3]](#footnote-3) . In addition, if there are 5 or more employees at the multiple-employer workplace and work activities create a hazard to workers, the Prime Contractor must appoint a **Qualified Coordinator and must provide certain additional up-to-date information**, as per the requirements of OH&S Regulation 20.3[[4]](#footnote-4). The qualified coordinator’s role includes informing employers and workers of existing hazards and ensuring that such hazards are addressed throughout the duration of work activities.

Further obligations of the Prime Contractor are spelled out in the OH&S Regulation, and in the Prime Contractor designation agreement form and schedule for both tender and non-tender construction projects (City Doc # 918979 and # 905789, respectively).

1. [s. 118 of WCA](http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20W%20--/Workers%20Compensation%20Act%20%5bRSBC%201996%5d%20c.%20492/00_Act/96492_03.xml#section118) [↑](#footnote-ref-1)
2. [s. 20.3 OH&S Reg.](http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20W%20--/Workers%20Compensation%20Act%20%5bRSBC%201996%5d%20c.%20492/05_Regulations/15_296_97%20-%20Occupational%20Health%20and%20Safety%20Regulation/296_97_16.xml#section20.3) [↑](#footnote-ref-2)
3. [s. 20.2 OH&S Reg](http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20W%20--/Workers%20Compensation%20Act%20%5bRSBC%201996%5d%20c.%20492/05_Regulations/15_296_97%20-%20Occupational%20Health%20and%20Safety%20Regulation/296_97_16.xml#section20.2) [↑](#footnote-ref-3)
4. [s. 20.3 OH&S Reg](http://www.bclaws.ca/civix/document/LOC/complete/statreg/--%20W%20--/Workers%20Compensation%20Act%20%5bRSBC%201996%5d%20c.%20492/05_Regulations/15_296_97%20-%20Occupational%20Health%20and%20Safety%20Regulation/296_97_16.xml#section20.3) [↑](#footnote-ref-4)