



2018 Joint Annual Conference & Trade Show

Contractor Safety Management

Sept 18th 2018



Presentation Objectives

- A - Identify legal requirements for all key parties**
- B - Describe what should be considered during selection of contractors**
- C - Understand the systems for contractor management and compliance**
- D - Identify how to evaluate a contractors safety performance**

Contractor Case Study

City of Surrey Event (16th Dec 2005):

There was a shoring collapse on a land developer's worksite (**FATALITY**)

Issue stemmed from WSBC orders written against the City of Surrey (as the "Owner"), who failed to:

- appoint the "**prime contractor**" and
- failed to file a "**Notice of Project – NoP**", and
- failed to have a "**Qualified Safety Coordinator**"

Problems were predicated from outdated language in their development contracts, whereby the City agreed to allow the construction of a 50-unit residential apartment **PROVIDED THAT** the underground water and sewer services were upgraded by the Development Company



(Source: WSBC IIR – 2005113830569)

A - Legal requirements for all key parties

The law (BC):



Workers Compensation Act – Part 3, Div 3

- General Duties of Employers, Workers, Others
- Coordination of multiple-employer worksites
- Responsibilities for Prime Contractors



The law (BC):

WorkSafeBC OH&S Regulation



Part 20: Construction, Excavation and Demolition

...in part, identifies general requirements for Notice of Projects (NOP) **and** Coordination of Multiple Employer Workplaces (M E W's)

Regulatory Rules for Multiple-Employer Worksites

If 2 or more employers and more than 5 combined workers **OVERLAPPING** at a worksite:

- Each employer (**Contractor**) must notify “Owner” or Prime Contractor if any work is likely to create hazard for any worker

Owner or Prime Contractor must:

- Appoint a Qualified Safety Coordinator
- Provide up to date safety information
- Site drawing, emergency procedures, safe work procedures, etc

The law (BC):

- This **Part (20)** details what a construction project is, and the **Guidelines** provide additional information
- The definition of a construction project is very broad:

*"**construction project**" means any erection, alteration, repair, dismantling, demolition, structural or routine maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, concreting, the installation of any machinery or any other work deemed to be construction by the Board*

- Within this description, is **"routine maintenance"**. In the corresponding **Guideline**, routine maintenance includes activities such as:

"painting or glass replacement that are required as part of owning and operating a building or facility"
A **NOP** is not required unless a particular maintenance project triggers one of the criteria listed . . .

- It's the **"any other work deemed to be construction by the Board"** that can be of concern

Notice of Project (N o P)

NOP must be submitted at least 72 hours before starting a construction project

Responsibility for submitting the N o P is clearly specified:

Owner OR Prime Contractor are responsible to submit

KNOW: the N o P submission criteria

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Excavations

Hazardous materials (asbestos / lead)

B - What should be considered during selection of contractors

1. Ensure a Safe Work Environment
2. Identify the Contract Situation
3. Determine Day Labour Contracts
4. Determine Multiple Employer Workplaces
5. Designate a Prime Contractor
6. Identify Hazards Prior to Contract Work



What should be considered during selection of contractors (cont'd)

7. Establish Safety Requirements of the Contract
8. Accumulate Contractor Safety Records
9. Establish a Municipal Qualified Coordinator
10. Monitor Contractor Safety Performance

1 - Ensure a Safe Work Environment

The Municipality as an Employer:

Section 115 of the Act 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

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

Once the **duty** applies, the Act requires the municipality take ***all reasonable steps*** in the circumstances to ensure the health and safety of the other workers present

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

The following three factors will affect what must be done:

1 - the municipality's *degree of control*

2 - the municipality's *level of expertise* in the work being performed,

and

3 - the extent to which the municipality is *aware or ought to be aware* of what is occurring in the workplace

2. Identify the Contract Situation

1 Gas Utility Company

- 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, unrelated to the work the gas utility company is doing

2 Contractor performing work for municipality

- Responsibility to ensure that the workplace is safe
Contractor must be aware of pre-existing hazards



2. Identify the Contract Situation

Steps to take:

- 1 - Determine if this is a single employer workplace or a Multiple Employer Workplace (M E W)
- 2 - Determine if this is a Day Labour contract – supervisory implications
- 3 - Decide whether or not there should be a ***Prime Contractor***

Question: *What is the nature of the relationship between the Contractor (contracted work) and the Municipality?*

*Do you know **CONCLUSIVELY?***

3. Day Labour Contractors

If Municipal employees direct or supervise a contract, the Contractor is treated as if they are Municipal workers and are subject to all safety requirements of the Municipality

EXAMPLES of day labour contractors:

Heavy Equipment

Traffic Controllers

Painters

Backhoes

Arborists

Electricians

Traffic Control persons

Communications Contractors

Welders

Grounds-Keepers

Locksmiths

Gravel Trucks/Haulers

Plumbers

Consultants

Electrical maintenance contractors



3. Day Labour Contractors

The Municipality accepts a significant amount of liability and can be viewed as both the “Owner” **and** “Prime Contractor” because of the direct control

It is important to have the Municipal Project Manager review all Day Labour or Operator and equipment contracts to determine how they will be supervised and determine what the safety responsibilities are

4. Determine Multiple Employer Workplace

If 2 or more employers and more than 5 combined workers **OVERLAPPING** at a worksite:

- Each must notify “Owner” or Prime Contractor if any work is likely to create hazard for any worker

Owner or Prime Contractor must:

- appoint a Qualified Safety Coordinator
- Provide up to date safety information
- Site drawing, emergency procedures, safe work procedures, etc

4. Determine Multiple Employer Workplace

Whether the workers of the one employer come into actual contact with workers of the other employer does not generally affect the determination of whether the workplace is a *“Multiple-Employer Workplace”*

However, the degree to which the activities of the first employer and its workers affect the health and safety of the second employer's workers (**OVERLAP**) will generally affect the determination of the responsibilities of the Prime Contractor and of the two employers

C - Understand the systems for contractor management and compliance

5. 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 (MEW)

There can be only one Prime Contractor at a workplace. If there is deemed to be more than one Prime Contractor present, under these circumstances the ***Owner is Prime Contractor by default***

Rules – for Designating a Prime Contractor

Must be a written agreement between parties (Owner and the Designated Prime Contractor – if it is not written ***IT DOES NOT EXIST***)

All contractors must be given written notice of who the designated Prime Contractor is

Be careful of the wording – be sure to include reference to: *Section 118 of the Workers Compensation Act of British Columbia*



Responsibilities of the Prime

- Supervisor at the workplace
- Obtain written information on hazards
- Directing and coordinating the work activities related to the safety of all Contractors and any other workers at the worksite
- Ensure first aid facilities – this can incur additional costs
- Take reasonable steps to ensure everyone complies with WC Act and OH & S Regs
- Identify non-compliers

6. Identify Hazards Prior to Contract Work

- workplace access difficulties
- confined spaces
- chemical exposures
- excavations
- underground and overhead utilities
- work at heights
- lockout and isolation
- Any other . . .
- electrical hazards
- Asbestos
- temperature extremes
- Noise
- workplace hazardous materials
- Traffic
- adjacent hazards

7. Establish Safety Requirements of the Contract

Basic Safety Requirements of the Contract

Contractor Requirements:

- **Comply** with the Act and Regulation.
- Have their **own** Safety Program
- Comply with their safety program **and** Municipal (or the Prime's) safety requirements



Basic Safety Requirements of the Contract

- Ensure ***NOP*** identifies the Prime
- Obtain name of ***Qualified Person*** in writing
- Ensure JOHSC is formed if req'd
- Coordinate First Aid – for all workers at the MEW
- Require the Prime to advise of reportable incidents
- Receive safety records and documentation

8. Accumulate Contractor Safety Records

Municipal Project Manager (or their Delegate) OR the Prime Contractor:

- Ensures Contractor has Safety Program that meets WSBC requirements
- Records of workplace safety orientation
- Worker training records
- Written evidence of inspections within the workplace
- Occupational first aid records
- Notification of all reportable incidents and injuries
- Receives progress of investigations and coordinates all responses to requests for information

9. Establish a Municipal Qualified Coordinator

If a Prime Contractor is appointed, the Municipal Project Manager (or other designated Municipal staff member) can fulfil the role of the ***Municipal Qualified Coordinator***

(Note: The term “***Municipal Qualified Coordinator***” is used here for convenience. It is **NOT** WSBC terminology)

Duties and Responsibilities

- Ensure all Contractors are informed of appointment of the Prime Contractor
- Inform the Prime Contractor that they must be copied in all communications
- Monitor the Prime Contractor's ***compliance*** with the safety requirements of the contract
- Ensure pre-existing hazards and controls are conveyed to the Prime Contractor

Municipal Qualified Coordinator

If there is no designated Prime Contractor:

- the responsibility to coordinate the activities of all employers at the workplace lies with the **“Owner”** or the Owner’s representative: the *Municipal Qualified Coordinator* (or Municipal Project Manager / Contract Representative)
- watch for situations where the work of one Contractor or a worker of the Municipality could cause a hazard to the workers of another Contractor (*ie: confined space entry; lockout; working at heights; hazardous materials; etc...*)
- ensure that these situations are controlled
- First aid, evacuation, written procedures

D – How to evaluate a contractor's safety performance

10. Monitor Contractor Safety Performance

WorksafeBC Expectations:

The “Owner” or 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 the Act and Regulation

Your system or process to ensure compliance ***should include:***

Regular inspections – of contracted work

Monitoring of the Contractor’s work site



WorksafeBC Case Studies

WorksafeBC Magazine

M E W Penalty Sanctions

Resources / References

BC – Municipal Safety Association (BC-MSA) Training

Other Industry Associations:

BC Construction Safety Alliance

ENFORM

Certificate of Recognition (COR) Program

Others...

THANK YOU

