

LA TROBE UNIVERSITY

OCCUPATIONAL HEALTH AND SAFETY SECTION

HEALTH AND SAFETY PLANS FOR TENDERING

1. INTRODUCTION

The Occupational Health and Safety Act 2004 requires employers to take every reasonable action, and work proactively to ensure the health and safety of persons in their organisation, or other persons who may be affected by the activities undertaken by the organisation. This duty extends to the actions of contractors under their control.

Employers cannot contract out of their obligations in relation to matters over which they have control. That is, contracts or agreements do not remove or mitigate these duties to an independent contractor and any such agreement will have no effect.

In order to meet their legislative obligations, many employers have implemented contractor management processes to ensure that they engage and supervise contractors in a manner that demonstrates that health and safety matters have been addressed. These management processes can include specification of health and safety standards as a tender requirement and selection of contractors on the basis of their ability to perform the works in a safe manner.

An important part of contractor management processes is the health and safety plan, a document prepared by the contractor in which the processes used to control health and safety risks will be managed are detailed. An effective health and safety plan should demonstrate that the contractor has the capacity to undertake the works in a safe manner.

The benefits of an effective OHS contract management process are:

- Demonstration that the contractor has control over health and safety matters, thus reducing the risk of an adverse event occurring;
- Demonstration that the employer has fulfilled its duty of care in selecting and engaging a contractor that has a capacity to perform the work in a safe manner,
- Demonstration of an awareness of occupational health and safety which can enhance the prospects of the tender being accepted

2. OH&S LAW RELATING TO CONTRACTORS

The Victorian Occupational Health and Safety Act 2004 requires employers to “.. *so far as is reasonably practicable, provide and maintain for employees of the employer a working environment that is safe and without risks to health.*” (Section 21(1))

In relation to contractors, the OH&S Act also states that the duties of the employer extend to independent contractors and its employees engaged by the employer, in relation to matters over which the employer has control. Furthermore, these duties cannot be delegated to the contractor by way of an agreement.

The Victorian Accident Compensation Act 1985 also contains provisions relating to contractors. In some circumstances, an employer may be responsible for workers' compensation claims arising from injuries to contractors or their employees or may incur associated financial penalties.

3. CONTRACTORS AND RISK MANAGEMENT

The risks for an employer arising from an injury, accident or breach of legislation due to the acts or omissions of a sub-contractor can include the following:

- Injury to the employer's staff or clients or damage to property
- Production delays resulting from an incident
- Prosecution by WorkSafe for failure to manage health and safety at work
- Increased costs due to workers' compensation or public liability, or litigation relating to either
- Adverse publicity due to accidents or legislative breaches

The three major stages of managing health and safety in the contracting process are:

Contract specification: Determining OHS tender and contract requirements

The employer calling for tenders should identify the health and safety requirements associated with the works, particularly those over which it has management and control. The employer may also have specific OHS systems or procedures which the contractor must observe during performance of the contracted works. These requirements should be contained in the contract specifications.

Tender evaluation: Evaluating contractor OHS capabilities and systems

Contractors are usually evaluated by examining their OHS management system documentation, and may include reviewing records, inspection reports or other indicators as to the effectiveness of the management system. An interview or discussion may be held with the contractor to confirm their understanding of OHS requirements.

Contract management: Monitoring and supervising Contractor OHS performance

A health and safety plan should be prepared by the contractor prior to commencing the works. The employer may monitor OHS performance of the contract, depending on such factors as the level of risk, task complexity, the extent of control over the works and interaction with other parties and may be combined with other contract management arrangements. Such monitoring does not necessarily reduce the contractor's OHS responsibilities.

4. HEALTH AND SAFETY PLANS

A health and safety plan is a plan that is specific to the contracted works. The plan should be regarded as the means by which the contract will be performed in a safe manner, and should be subjected to regular review. The plan should be signed by the project manager.

When preparing a health and safety plan it is important to first review the contract specifications to ensure that all relevant information is included in the plan. Also, many organizations have their own guidelines for contractors when preparing health and safety plans and these should be referred to wherever possible.

In general, health and safety plans should cover the following matters:

Purpose and scope

Purpose and scope of the tendered works, including a summary of the major activities and works to be undertaken

- Scope of contract
- Work location and boundaries
- Controlling access and traffic management
- Restrictions on work areas or tasks
- Time and duration of specific tasks

Management structure & personnel

Detail the contractor's management structure, key management staff responsible and persons involved in performing the works.

- Project manager
- Other personnel involved (e.g. employees, students, volunteers)
- Statement of roles and responsibilities
- Contact details (e.g. telephone numbers, addresses)
- Will other personnel become involved at a later date?
- Will there be any sub-contracting?

Information, instruction & training

Detail what information, instruction and training has or will be provided. This should include details of induction training and procedures, authorizations, permits, competency certificates or licences that persons may be required to hold prior to undertaking any specialist work.

- Induction program details
- Register of training provided and personnel qualifications
- Register of authorizations, licences, permits and competency certificates

Safe work practices

Provide information on the safe work practices and procedures which will be followed during the contract. This may include reference to University policies and procedures but must include specific procedures which relate to site or contract operations.

- List of applicable University policies, procedures or regulations
- Detail restricted access and permit to work arrangements
- Project specific safe work procedures

Risk assessment

Perform a risk assessment of the hazards associated with the works. The risk assessment process involves identifying all the hazards, evaluating the level of risk associated with each hazard, and establishing appropriate control measures.

- Identify all hazards associated with the project
- Assess the risk associated with each hazard and classify as high, medium or low (refer to the University procedure)
- Determine appropriate control measures (elimination, substitution, engineering controls, administrative controls, personal protective equipment)
- Prepare a job safety analysis

Record keeping

Detail the types of records that will be maintained as part of the contract. This should include a register of induction and training records, licences and permits held, inspection and test reports and who is responsible for holding those records.

- Training and induction records
- Licences and permits
- Audit and inspection reports
- Risk assessments (e.g. chemical, plant, manual handling)
- Material safety data sheets
- Hazardous substance and dangerous goods register
- Test results
- Health surveillance or medical examination results

Monitoring OHS performance

Describe how health and safety performance will be monitored during the works. For example, discussion at regular staff meetings, inspections or audits, or review of incident reports may be appropriate means to gather information for review by the project manager. It may also be appropriate to include a description of issue resolution procedures.

- Audits and inspections
- Meeting agenda and minutes
- Incident reports
- Issue resolution processes (refer to University procedures)

Emergency procedures

The potential emergency situations need to be identified and specific emergency procedures must be developed. The procedures should cover designation of emergency personnel and roles, injury management, incident notification and emergency equipment available.

- How incidents are reported and investigated
- Minor or major spills of hazardous materials
- Emergency contact details (campus emergency numbers, nearest hospital or medical clinic, nearest designated first aiders etc.)
- Location of emergency equipment (e.g. fire extinguishers, SCBA, chemical spill kits)
- Arrangements with other organizations regarding emergencies
- After hours arrangements

5. REFERENCES

Victorian Occupational Health and Safety Act 2004
Victorian Accident Compensation Act 1985
WorkSafe Victoria: Managing contractor health and safety risks –guidelines for local government
WorkSafe NT Bulletin: Safety management –awarding contracts

The La Trobe University OHS Manual can be found at: <http://www.latrobe.edu.au/ohs/>

Occupational Health and Safety Section
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