

Policy for Occupational Health, Safety and Environment Requirements for Contracted Construction and Maintenance Work

Policy Statement

Construction and Maintenance work undertaken by contracted parties on Nova Scotia Transportation and Infrastructure Renewal (the Department) sites or on projects owned by the Department (Province of Nova Scotia) must be undertaken in a healthy and safe manner in consideration of all hazards present at the site or associated with the work to be performed.

This policy addresses a need to improve the process for awarding contracts, providing clarity of responsibility for oversight to the Department and contractors, and to ensure regulatory compliance.

Rationale

Construction and maintenance work must be conducted in a manner compliant with the Nova Scotia Occupational Health and Safety Act, Environment Act, Workers Compensation Act, Fire Protection Act, Provincial Building Code Act, Dangerous Goods Transportation and their respective regulations, as applicable. Courts have indicated that Owners (like the Department of Transportation and Infrastructure Renewal) must provide a level of oversight on construction and maintenance projects for which contractors have been hired by the Department.

Policy Objectives

The policy will:

- 1.1 Clarify for both contractors and Department staff the health, safety and environmental requirements of a project.
- 1.2 Streamline the documentation to be gathered and reviewed for contractors wishing to bid and/or work on a project. Thus saving time and resources for the hired contractor.
- 1.3 Ensure regulatory compliance, constant vigilance and due diligence by the Department and the hired contractor.

2.0 Definitions

In this policy,

- 2.1 *Adequate* means sufficient to protect a person from injury or damage to health.
- 2.2 *Competent Person* means a person who is qualified because of their knowledge, training and experience to do the assigned work in a manner that ensures the health and safety of every person in the workplace, and knowledge about the provisions of the act and regulations that apply to the assigned work, and about potential or actual danger to health or safety associated with the assigned work.
- 2.3 *Committee* means a Joint Occupational Health and Safety Committee established under the Act. May also be abbreviated as JOHS, JOHSC or JOHSE (Environment component added).
- 2.4 *Contractor* means a person who contracts for work to be performed at the premises of the person contracting to have the work performed, but does not include a dependant contractor or a constructor.
- 2.5 *Constructor* means a person who contracts for work on a project, or who undertakes work on a project himself or herself.
- 2.6 *Designated* means, in relation to the employee, appointed in writing by the employer.
- 2.7 *Health Safety and Environment (HSE)* means a program that effectively manages the health effects that a task or job function has on an employee, the safety risk an employee is exposed to, and the effects the work or project will have on the surrounding land, water and air.
- 2.8 *Owner* includes a trustee, receiver, mortgagee in possession, tenant, lessee or occupier of lands or premises used as a workplace and a person who acts for, or on behalf of, an owner as an agent or delegate.
- 2.9 *Project* means a construction project and includes the construction, erection, excavation, renovation, repair, alteration, or demolition of any structure, building, tunnel or work and the preparatory work of land

- clearing or earth moving, and work of any nature or kind designated by the director (Department of Labour and Advanced Education) as a project.
- 2.10 *Safe Work Practice* is a generally written method outlining how to perform a task with minimum risk to people, equipment, materials, environment, and processes.
- 2.11 *Safe Work Procedure* is a series of specific steps that guide a worker through a task from start to finish in a chronological order. Designed to reduce the risk by minimizing potential exposure.

Application

This policy applies to the Department and to contractors applying to be hired by the Department through the government procurement process (Public Tenders Office), by Department Purchase Order (DPO) or by verbal contract to complete construction and maintenance work where there exists a hazard(s) to the contractor's employees, Department employees or the public.

This policy does not apply to:

- a) "supply only" or "supply and deliver" contracts where work is not undertaken at a Department site or project; or
- b) "low hazard" work by contract consultants, such as lawyers, accountants, human resource consultants, draftspersons and clerical staff unless they enter the area where the construction or maintenance work is being undertaken.

Accountability

TIR Project Engineer/Manager or designate is responsible for reviewing contractor submissions.
HSE Director is also responsible for signing off on the contractor submissions.

Deputy Minister is responsible for administration of the policy.

Monitoring

HSE Director or designate is responsible for monitoring the effectiveness of this policy.

Directives

1.0 TENDERED WORK BY WRITTEN CONTRACT

1.1 This section applies to all construction and maintenance work that is contracted through the government procurement process (Public Tenders Office).

1.2 Identification and Disclosure of Known Hazards

1.2.1 The Department, as the Owner, will disclose any known hazards relative to the project in the tender document under the heading of *Known Hazards* such as, but not necessarily limited to, asbestos, lead, working at heights, electrical, etc.

1.2.2 The intent behind the disclosure of known hazards by the Department is so the contractor can take all reasonable precautions in the circumstances to ensure the health and safety of persons at or near the workplace (project). The control measures the contractor chooses to undertake for the hazard reduction strategy is required to be included in the contract safety plan and hazard assessment. The contractor is required to complete and submit their own hazard assessment (as part of the HSE Project Plan) for the project prior to commencing work, or as otherwise authorized in writing by an approved authority within the Department.

1.3 Pre-Qualification of the Contractor HSE Program

1.3.1 The purpose of pre-qualifying the contractor's HSE program is to establish the foundation for a healthy and safe working condition for the contractor's employees performing the job tasks, the department's employees, and the public. In order for a contractor to be eligible to bid on TIR contracts, the contractor must first submit relevant aspects of its' HSE Program to the Department for pre-qualification evaluation purposes.

1.3.2 If the program is approved, the contractor will be qualified to bid on future contracts for a period of twelve (12) months, unless the contractor has been suspended from the program due to non-conformance or a dangerous occurrence that has been brought to the attention of the Department.

1.3.3. The HSE Program Pre-Qualification Guide can be found in Appendix A. The guideline provides the contractor with a set of mandatory HSE components that must be included with the program documents. There will also be a set of requirements necessary for specialized work. The contractor must be able to demonstrate its' HSE competence and compliance to the Department.

1.4 Bid submission by Pre-Qualified Contractors

1.4.1 Once the department qualifies the HSE Program document, the contractor will be added to a list of Approved Bidders and be eligible for consideration of publicly tendered contracts for the Department. The successful bidder will be contacted and required to submit a HSE Project Plan to the Department for review and analysis. The Plan will specify how the contractor will ensure the health and safety of its employees, the Department's employees that are required to be onsite, and any public at or near the project site.

1.4.2 The contractor is **not permitted to commence work on the project until the Plan has been approved by the Department**, and the contractor has been so informed by an approved representative.

1.4.3 The formatting requirements of the HSE Project Plan can be found in Appendix B.

1.5 Pre-Project Meeting

1.5.1 This meeting will be attended by a member of the TIR HSE Division. The contractor will submit the following to the Project Engineer/Manager or their representative during the pre-project meeting:

- .1 contact list of the managers and supervisors that will be responsible for the project. The contact information for these individuals will include an email address, office phone numbers and cell phone numbers;

- .2 Site Emergency Response Plan and how the plan will be tested for effectiveness; and
- .3 before work on the project commences, the contractor shall ensure that employees working on the project have received the appropriate training and are competent to perform the work required. A copy of the contractor's Designated Competent List(s) must be provided to the Department representative at the pre-project meeting.

1.6 Department Site Inspections

- 1.6.1 As the owner of the property and/or the project, the TIR Project Engineer/Manager or their designate will conduct periodic unannounced site inspections to monitor the contractor's compliance with the contract requirements. Any contract or HSE non-compliance issues that are observed will be noted and brought to the attention of the senior contractor representative at the site in a timely manner. Further, depending on the severity, complexity or repeat nature of the incident or observation, the Department representative will notify the contractor in writing as soon as reasonably practicable and be requested to take appropriate and timely action to remedy the concern in an effort to prevent recurrence.
- 1.6.2 The frequency of the site inspections will be at the discretion of the Department and will correlate with the severity of the known hazards (e.g., the higher the risk the more frequent the site inspections).

1.7 Contractor Submissions during the Project

- 1.7.1 The contractor will submit the following documents to the Department Project Engineer/Manager on the 1st day of each month throughout the project duration:
 - .1 status of the project in terms of percentage completed;
 - .2 copy of the weekly toolbox meeting minutes;

- .3 site safety committee or JOHSE meeting minutes;
- .4 incident occurrence reports that resulted in an injury to an employee or damage to equipment. The reports must include the immediate and root causal factors as well as the action taken to prevent recurrence;
- .5 weekly project safety inspection reports (note: must include safety inspection reports regarding sub-contractors);
- .6 updated Hazard Assessments as the project progresses; and
- .7 copy of Department of Labour and Advanced Education or Department of Environment compliance orders, inspection reports, administrative penalties, and a summary of any charges made against the contractor or subcontractors on the project by the OHS or Environment regulator.

1.7.2 Failure to submit the above information, as required, may at the sole discretion of the Department result in a delay in transfer payments for the completed portion of the project until the complete documents have been received, reviewed and confirmed by the Department.

1.8 Post-Project Evaluation

- 1.8.1 The Post-Project Evaluation Form, found in Appendix C will be completed by the Department Project Engineer/Manager once the contract has been fulfilled. The purpose of this document is to identify contractor performance, including deficiencies and concerns that occurred during the execution of the contract.
- 1.8.2 Deficiencies will be summarized by the Project Engineer/Manager in a formal letter to the contractor at the completion of the project. In response, the contractor will be required to submit, in writing, the action taken to prevent such occurrences in future (potential) contracts.
- 1.8.3 If a pattern of contract and compliance deficiencies are noted in subsequent projects, the Department has the right to remove the contractor from the Approved Bidder List for a period of time until

the contractor can reasonably satisfy the Department that the deficiencies have been resolved and appropriate measures have been taken to prevent recurrence.

1.9 Safety Submission Acceptance

- 1.9.1 When requested by the Department representative responsible for the administration of the contract, the contractor shall submit additional HSE documentation until the Department representative is satisfied that the requirements of the HSE Program Pre-Qualification, HSE Project Plan, and the Post-Project Evaluation (Appendices A, B, and C) requirements have been met.

2.0 Workers' Compensation Board

- 2.0.1 Every tender specification and contract document for contracted construction and maintenance work will identify that the contractor must have an account, in good standing, with the Workers' Compensation Board (WCB) of Nova Scotia.
- 2.0.2 The contractor must submit to the Department a Clearance Certificate from the WCB that indicates the contractor's account is in good standing.

2.1 OHS Program, WCB Safety Certified or Certificate of Recognition

- 2.1.1 Every tender specification and contract for construction and maintenance work at a Department site or project shall have a clause specifying that the contracted party must either be:
- .1 WCB Safety Certified or have a Certificate of Recognition issued by an occupational health and safety organization approved by WCB; or
 - .2 in the process of qualifying for the WCB Safety Certified designation or Certificate of Recognition from an occupational health and safety service provider approved by WCB.

2.1.2 The contract party must have the sponsoring occupational health and safety organization submit a Letter of Good Standing to the Department in the pre-qualification documentation.

3.0 WORK UNDERTAKEN ON VERBAL CONTRACT OR DEPARTMENT PURCHASE ORDER

3.1 This section applies to smaller jobs that are contracted without using the Public Tenders Process, such as by Department Purchase Order (DPO) or verbal contract.

3.2 Occupational Health and Safety Program

3.2.1 Preference in awarding a tendered contract shall be given to a party that is either:

- .1 WCB Safety Certified or has a Certificate of Recognition issued by an occupational health and safety organization approved by WCB; or
- .2 in the process of qualifying for the WCB Safety Certified designation or Certificate of Recognition from an occupational health and safety organization approved by WCB.

3.2.2 If, based on unique circumstances, it is either not possible or not practical to meet the requirement of section 3.2.1, the Department may consider contracting with a party that does not have a Certificate of Recognition or a Letter of Good Standing, providing that the requirements of Sections 3.2.4 are met.

3.2.3 The Department representative shall ensure that a Hazard Assessment of the project work is conducted. The assessment shall consider whether the:

- .1 work of the party to be contracted may present a hazard to the health or safety of the employees of the party to be contracted, of any Department employee, of members of the public or to the environment;
- .2 work of Department employees may present a hazard to the health or safety of the employees of the party to be contracted,

of any Department employee, of members of the public or to the environment; and

- .3 location of the work to be undertaken may present a hazard to the health or safety of the employees of the party to be contracted, the Department employees, of members of the public or to the environment.

3.2.4 Where the Department's project hazard assessment identifies a hazard to the employees of the Department, to the employees of the party to be contracted, or to the public, the Department representative responsible for the project shall:

- .1 review the training of the employees that will be on site with the party to be contracted to ensure they are competent to perform the work required; and
- .2 ensure that the contracted party complies with all aspects of the Department's Health, Safety and Environment Program relative to the work being undertaken during the time that the work is being undertaken.

4.0 CRITERIA FOR ACCEPTANCE OF LETTERS OF GOOD STANDING

- 4.1 The Letter of Good Standing must be from an approved occupational health and safety organization recognized by the Workers' Compensation Board of Nova Scotia (WCB). Further, there must be reference to participation in an Occupational Health and Safety External Audit Program that leads to the issuance of a Certificate of Recognition or a WCB Safety Certified designation issued by the approved occupational health and safety organization.
- 4.2 The Letter of Good Standing must be dated and signed by an official of the approved occupational health and safety service provider.
- 4.3 The Letter of Good Standing must have a clear expiry date. If the Letter of Good Standing expires before the completion of the contract, a further letter will be required before the expiry and indicate that the contracted party will continue to actively participate in the occupational health and safety service provider's program. If a further letter is not provided, the

Department may consider the non-conformance as sufficient cause for voiding or otherwise terminating the contract for cause.

4.4 The Letter of Good Standing must clearly indicate the category that applies to the party to be contracted:

4.4.1 “WCB Safety Certified or Certificate of Recognition”;

4.4.2 “Audit Pending”; or

4.4.3 “In the Process”.

4.5 The Department will accept only one Letter of Good Standing with “Audit Pending” or “In the Process” status from any party to be contracted. The party must achieve WCB Safety Certified or Certificate of Recognition status within six (6) months of being provided with the “Audit Pending” or “In the Process” letter. (Note: A contracted party is not permitted to submit multiple or consecutive Letters of Good Standing with “Audit Pending” or “In the Process” status from the same or different occupational health and safety service providers. This could result in the contract being voided or otherwise terminated for cause.) 4.6 The Letter of Good Standing referred to in section 4.5 may be applied to more than one contract with the Department provided that the six (6) month time period is not exceeded.

5.0 Failure to Comply

The Department may withhold all or a portion of the progress payments if the contractor fails to supply the necessary documentation or submit documents that do not meet the stated requirements of the Department or fails to appropriately correct an unsafe condition in a timely manner when it has been brought to the contractor’s attention.

Guidelines

None

References

Nova Scotia Occupational Health and Safety Act
Environment Act
Workers Compensation Act

Fire Protection Act
Provincial Building Code Act
Dangerous Goods Transportation and their respective regulations, as applicable.

Enquiries

HSE Director

Appendices

Appendix A - HSE Program Pre-Qualification (Contractor Guide)
Appendix B - HSE Project Plan (Contractor Guide)
Appendix C - Post-Project Evaluation Form (TIR Use Only)
Appendix D - HSE Project Plan Evaluation Form (TIR Use Only)
Appendix E - Pre-Qualification Evaluation Form (TIR Use Only)
Appendix F - Sample: HSE Project