

Workplace Health and Safety Bulletin



The Prime Contractor

Avoiding confusion

It is quite common for more than one contractor or employer to be working at a work site at the same time. Each of these contractors or employers may be directing the activities of one or more other employers. With so many people at the work site, each responsible for health and safety, it makes sense to have a single party coordinate the activities for the entire work site.

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Responsibilities under the law

The amendment in 1995 of Alberta's *Occupational Health and Safety Act* introduced the concept of "prime contractor". The arrangement eliminates confusion about who is responsible for health and safety at a work site having multiple employers. Section 3 of the *Act* requires a prime contractor whenever two or more employers perform work at a work site at the same time. The prime contractor is responsible for

- (1) establishing and maintaining a system or process that ensures compliance with the *Occupational Health and Safety Act*, Regulation and Code;
- (2) ensuring that first aid services, equipment and supplies required by the Occupational Health and Safety (OHS) Code are available at the work site;
- (3) ensuring that the equipment erected or installed by or on behalf of the prime contractor complies with the requirements of the OHS Code as if the prime contractor was the employer.

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When is a prime contractor required?

A work site with only one employer present does not require a prime contractor. A work site having multiple contractors or employers engaged in work at the same time must have a single prime contractor for the site. There can only be one prime contractor for a work site. If the contractors and employers perform work at the site at different times of the day, so that only one employer is on-site at a given time, then there is no need for a prime contractor. The employer is responsible for conducting a hazard assessment of the work site and ensuring the health and safety of the workers. Table 1 provides typical work site examples of when a prime contractor is required.

Table 1 When a prime contractor is required

Typical Work Site Situation	Prime Contractor Required?
One employer performing work at the work site	No
Two or more employers performing work at the work site but at different times	No
Two or more employers performing work at the work site at the same time	Yes
A contractor at the work site directing one or more self-employed workers at the work site	Yes (the contractor counts as the first employer, the self-employed worker counts as the second employer)
A joint venture project with multiple companies participating	Yes

Who is the prime contractor?

In cases where a prime contractor is required, the owner of the work site is the prime contractor unless other arrangements have been made. In some cases, the owner does not have the knowledge or is unable to take on this responsibility. By entering into an agreement with another party, the owner can transfer the prime contractor title and responsibilities to a person, a group of persons, or an employer. To prove that an agreement has been made between parties, Alberta Employment and Immigration recommends that the agreement be in writing.

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In transferring this responsibility, the owner should be sure that the other party is capable of, and likely to, fulfill the prime contractor responsibilities. This is necessary because prime contractor responsibilities originate with the owner and the owner must be diligent in transferring these responsibilities.

A work site within a work site

Situations may arise involving very large work sites such as refineries and construction projects where there is some advantage to creating one or more smaller work sites within the larger work site. Doing so allows the owner of the larger site to transfer prime contractor responsibilities for the smaller site to someone else, yet the owner or the owner's designate continues to be responsible for the remainder of the larger site. Such a transfer of responsibility forms the basis of an agreement and as stated previously, Alberta Employment and Immigration recommends that the agreement be in writing.

Two conditions should be met when partitioning a work site:

- (1) The hazards at one work site should not impose or create a danger to workers at the other work site(s). This means that in some cases the perimeter of the partitioned work site will need to be clearly defined and effectively marked to prevent movement of workers, equipment and materials between sites.
- (2) There should be no work-related interaction between workers of the partitioned work sites.

For example, a fenced construction site within the land occupied by a refinery can be treated as a separate “work site within a work site”. The smaller work site is clearly separated from the larger work site and vehicular and foot traffic between the two sites is controlled. The prime contractors of two adjacent sites have the responsibility to coordinate all health and safety matters within their own sites.

Fulfilling prime contractor responsibilities

Establish and maintain a system

The prime contractor has the overall responsibility for health and safety at the work site. In fulfilling this responsibility, the prime contractor must ensure that contractors and employers at the work site comply with the *OHS Act*, Regulation and Code.

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The *OHS Act* requires the prime contractor to establish and maintain a system or process that ensures compliance. An effective health and safety plan is one way of meeting this requirement — other equally effective alternatives may also be used. The purpose of the system or process is to have employers cooperate with one another to ensure the health and safety of workers at the work site. Having a prime contractor also helps to make clear who is accountable for what.

The prime contractor is required to monitor activities at the work site to ensure that the health and safety system is functioning properly. This is intended to be a high level “oversight” or “auditing” function.

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Obvious instances of non-compliance are considered to be a breakdown of the health and safety system. The prime contractor is expected to intervene, correcting the situation and altering the health and safety system if necessary. If the prime contractor notices an imminent danger situation, the prime contractor is expected to intervene immediately to correct the problem and prevent worker injury.

First aid

The prime contractor is also responsible for ensuring that first aid services, equipment and supplies required by the OHS Code are available at the work site. The required services, equipment and supplies vary depending on the location of the work site, the number of workers at the site and whether the work being performed is considered to be of a low, medium or high hazard. Complete details of the requirements can be found in Schedule 2 of the OHS Code.

Erecting or installing equipment

Subsection 2(1) of the OHS Code extends the scope of the prime contractor's responsibilities in cases where equipment *is installed by or on behalf of the prime contractor*. In such cases the requirements of the OHS Code that have to do with the design, construction, erection or installation of that equipment apply to the prime contractor as if the prime contractor were an employer. Subsection 2(1) most often applies in those situations where a prime contractor erects or installs equipment that is shared among multiple employers. Sharing equipment in this way may have safety, logistical and economic advantages. It also avoids confusion as to who is responsible for the initial and ongoing safety of the installed equipment.

Examples of equipment that can be erected by or on behalf of a prime contractor and for which the prime contractor has responsibility include:

- (a) toilet facilities – the prime contractor can have these installed for use by all employers at the site rather than having individual employers supply toilet facilities for their individual workers;
- (b) scaffolds – erected by or on behalf of the prime contractor, multiple employers may then use the scaffolds throughout the lifetime of the project. Individual employers need not erect and dismantle scaffolds for use by their own workers. The prime contractor retains responsibility for inspecting and maintaining the scaffolds;
- (c) guardrails – once installed by or on behalf of the prime contractor, the guardrails remain in place for the duration of the project;
- (d) garbage and waste disposal – in many cases it may be more efficient if the use and removal of waste bins is coordinated through the prime contractor;

- (e) propane tanks for site heating – this is a shared resource that may best be looked after by the prime contractor;
- (f) high quality entry and exit ramps – used at construction sites by workers entering and leaving the premises, this is a shared resource that may best be looked after by the prime contractor; and
- (g) fall protection anchorages – if used by multiple trades and employers during a project, installation of anchorages by a prime contractor may be a preferred option. This approach may minimize any potential damage resulting from each employer installing his or her own anchorages at the site.

Subsection 2(1) does *not* require the prime contractor to erect or install this shared equipment. It remains the prime contractor's option to do so. If equipment *is* installed by or on behalf of the prime contractor, then subsection 2(1) is triggered. The prime contractor must then comply with the requirements of the OHS Code that have to do with the design, construction, erection or installation of that equipment as if the prime contractor were an employer.

For more information



www.hre.gov.ab.ca/documents/WHS/WHS-PUB_li020.pdf

Occupational Health and Safety Act Amended in 2002 — Highlights




www.hre.gov.ab.ca/documents/WHS/WHS-LEG_ohsc_p11.pdf

Occupational Health and Safety Code Explanation Guide –
Part 11

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Workplace Health and Safety



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