

THE CORPORATION OF THE CITY OF VAUGHAN

CORPORATE PROCEDURE

PROCEDURE TITLE: CONTRACTOR SAFETY

PROCEDURE NO.: HS 1.4

Section:	Human Resources		
Effective Date:	January 1, 2022	Date of Last Review:	January 1, 2023
Policy Parent: Corporate Health and Safety Policy		Procedure Owner: DCM, Corporate Services & CFO	

PROCEDURE STATEMENT

This Procedure follows the City of Vaughan's Corporate Occupational Health and Safety Policy.

PURPOSE

To ensure the compliance of contractors with occupational health and safety legislation to minimize any potential liability from the City of Vaughan. It also ensures that contractors undertake safe work practices that will eliminate workplace accidents.

SCOPE

The City of Vaughan will ensure that contractors working for the Corporation will perform their duties in accordance with current Health and Safety standards, including the Occupational Health and Safety Act, as well as meeting or exceeding the applicable practices set out in City of Vaughan Corporate policies and procedures.

The City of Vaughan contracts out many services or projects either through utilizing a bidding process established by the Procurement Services OR through low value and/or emergency services/projects directly hired by a department. When hiring an independent contractor to provide services for the City of Vaughan, the city may be named the "employer" or "constructor" under the *Occupational Health and Safety Act (OHSA)*.

LEGISLATIVE REQUIREMENTS

Occupational Health and Safety Act

*Section 23
Section 25, 26*

*Duties of the Constructor
Duty of the Employer*

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Section 27

Section 29

Section 32

Duties of the Supervisor

Notice of Owners

Duties of Directors and Officers of a Corporation

DEFINITIONS

Contracted Service – for the purpose of this document includes **any** persons, contractors, and subcontractors, hired by the City of Vaughan to perform work on its behalf.

Bid Specifications/Contract – for the purpose of this document includes any written agreement or information created for the purpose of obtaining contracted work/service.

Corporate Bid Document – is referred to as the corporate standard bid document for acquiring bids issued through purchasing services. The sections of the Corporate Bid Document referred to in this procedure shall apply to all contracted services or construction.

Construction – includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting, or concreting, the installation of any machinery or plant, and any work or undertaking in connection with a project but does not include any work or undertaking underground in a mine;

Contracting Department Representative - this is the city employee or department responsible with overseeing the service or project work.

Service work – includes major services other than construction such as janitorial, window cleaning, snow plowing, sewer cleaning, waste management, street sweeping, electrical street light services, tree planting etc

Constructor – Means a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer.

Employer – Means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services.

Maintenance vs. Construction – According to the Ministry of Labour's Construction vs. Maintenance Policy, contract work is considered construction if the contract activities are mentioned in the OHSA definition of "construction" and are performed on objects mentioned in the OHSA definition of "project". Those "construction" activities not performed on objects mentioned in "project" would be industrial or maintenance. For example, if an alteration, repair or dismantling is performed on a building, bridge, or structure, this is construction. However, if the same activities are carried out on machinery or equipment this would be industrial. Other examples are structural maintenance, which is considered to be construction, and routine plant maintenance, which is industrial, and installation, which is construction.

Owner – Includes a trustee, receiver, mortgagee in possession, tenant, lessee, or occupier of any lands or premises used or to be used as a workplace, and a person who acts for or on behalf of an owner as an agent or delegate.

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PROCEDURE

- The Occupational Health and Safety Act assign obligations to any corporation that uses third parties, including contractors or subcontractors, to perform work at a workplace. This guidance information is designed to outline these obligations when contracts for services/projects are undertaken on City of Vaughan property. The assignment of responsibility for health and safety at the work site depends on the roles assumed by the various parties involved with the contract work. Several serious accidents pertaining to contract work in Ontario have highlighted the need for the Corporation to review its health and safety practices with respect to contracting and to establish information to:
 - Protect the health and safety of city and service providers' employees.
 - Meet corporate obligations.
 - Minimize corporate and individual liability.

CONTRACTOR SELECTION PROCESS UNDER THE STANDARD BID PROCESS WITH THE PROCUREMENT SERVICES

- This Contractor's Safety Compliance procedure shall be in effect from the development of any bid specifications/contract until the contract has been awarded and terminated.
- Procurement Services shall ensure that the Occupational Health and Safety Act and Safety Standards sections of the Corporate Bid Document (Appendix A) are included with the specifications/contract even if the complete Corporate Bid Document may not be utilized for the service or project. No modifications to this process shall be made without written approval from the contracting departments' Director in consultation with the Human Resources, Workplace Health and Safety Lead or designate.
- Upon receipt of any bid specifications/contract, the procurement services shall ensure that health and safety compliance items noted within the contract have been complied with. If the bid specifications/ contract is incomplete, the bid/contract should not be processed until the necessary compliance items have been complied with.
- Upon the determination of the successful bidder or prior to award of any contract, procurement services shall review copies of the Workplace Safety & Insurance Boards' clearance certificates to ensure the successful bidder is in good standing. Procurement Services shall ensure the successful bidder provides a WSIB Certificate of Clearance prior to the commencement of any work/project.
- Once the contract has been approved, the Contracting Department Representative must determine the Department's role in the contract (e.g., is the contract a service agreement vs. construction work – see definition on page 2) – The HR, Workplace Health and Safety Lead or designate can assist in determining the Department's role in the contract. If the contracting department will have a role in the service or project or the service or project will be on City premises, the contracting department

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representative will be required to complete the Pre-Construction/Service checklist (**Appendix B**) prior to the commencement of any work/service.

CONTRACTS HIRED DIRECTLY BY A DEPARTMENT

- Staff preparing **any** bid specifications/contract shall ensure that Occupational Health and Safety and Safety Standards sections of the Corporate Bid Document (**Appendix A**) are included with the specifications/contract even if the complete Corporate Bid Document is not utilized for the service or project. **No modifications** to Appendix A shall be made without written approval from the contracting departments' Director in consultation with the HR, Workplace Health and Safety Lead or designate. Once the contract has been approved, the Contracting Department Representative must review and complete the Pre-Construction/Maintenance checklist prior to the commencement of any work/service.
- The Contracting Department must obtain and review a copy of the contractor's clearance certificated from the Workplace Safety & Insurance Board showing the contractor is in good standing with the WSIB. The Contracting Department shall ensure each contractor provides their WSIB Certificate of Clearance prior to the commencement of any work/service.
 - o Bidders who have been confirmed as Independent Operator Status under the Workplace Safety and Insurance Act (WSIA) shall submit proof of Independent Operator Status upon being awarded the Contract. (Independent Operator Status is done through completion of the Workplace Safety and Insurance Board's - WSIB Independent Operator questionnaire and signed by both parties). Independent Operator questionnaires are available on the Workplace Safety and Insurance Board's website.
 - o In cases where a contractor has been identified as an independent operator under the WSIB and the contract work may identify a level of risk (working from ladders, working on construction site, etc.), the city contracting department may request the contractor to obtain compulsory optional coverage. The HR Health and Safety Lead or designate can assist.

AFTER THE CONTRACTOR HAS BEEN SELECTED

- The attached Pre-Construction/Service meeting checklist (Appendix B) shall be reviewed by the Contracting Department with the Contractor. The Pre-Construction/Service checklist **MUST** be reviewed and completed prior to the start of any work and kept on file by the contracting department for review. This pre-construction/service meeting checklist is used to identify any potential hazards and necessary controls in the scope of work prior to work commencing.
- The contractor shall provide the city contracting department with copies of any applicable Health and Safety Procedure/ Policy relevant to the project/service. In the absence of an internal corporate procedure, the contractor will be required adhere to the appropriate section of the *OHSA* and/or applicable regulation. The pre-service/contract checklist (appendix B) shall be completed prior to the start of any work/service and filed by the city contracting department for review by internal or external parties.
- Any further health and safety documentation deemed necessary shall be reviewed and copies kept on file by the contracting department (i.e., training records, MSDS's, hazardous chemical/material lists, designated substances control program, specific emergency procedures, competent supervisor designation..etc). The HR,

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Workplace Health and Safety Lead or designate may request copies of documentation at any time from the contracting department.

- Equipment and materials to be used as specified by the contract may be reviewed by the Department's contract representative for health and safety standards/codes/regulatory compliance if applicable (e.g., equipment/materials may have potential to injure city staff or public). The HR, Workplace Health and Safety Lead or designate can be available to assist with this inspection.
- This procedure shall be in effect from the development of any bid specifications/contract until such time as the contract has been executed and terminated.
 - **For Construction Projects Only:** With the exception of a ***“Turnkey”*** operation which clearly outlines The City of Vaughan is **not** the ***“Constructor”***, the City of Vaughan contracting department shall ensure that any observations on the project are strictly done for the quality control purposes. The contractor is ultimately responsible for the project and must ensure the site safety on the project at all times. If a serious health and safety violation is identified, the city representative shall inform the Site Supervisor in charge of the infraction. Should repeated violations occur on the site, the City of Vaughan contracting department shall inform the Ministry of Labour, Immigration, training and skills development (MLITSD) of the contraventions. For turnkey operations, the pre-service checklist is not required.

MONITORING THE SERVICE/PROJECT FOR THE DURATION OF THE CONTRACT

- For service contracts, regular site visits by a competent City of Vaughan Department representative should be conducted to ensure quality control. Should a health and safety issue arise during the site visit, the City representative shall verbally inform the Supervisor in charge of the work. The City representative shall request the Supervisor in charge to follow up on and provide corrective actions to address the non-compliance safety issue.

CONTRACTOR HEALTH AND SAFETY NON-COMPLIANCE

- For **minor violations** that do not present a significant hazard, the City employee identifying the hazard should notify the Site Supervisor responsible for the site so that he/she can take appropriate action to rectify the hazard.
- The City's representative will determine:
 - If this is a first offense, verbally inform the constructor of the violation and request that he/she take action to correct it as soon as possible.
 - On a second similar offense, provide written documentation of the violation of the contract agreement to the constructor. See form 9 – Notice of Contractor Non-Compliance to document the violation.
 - If a third similar offense occurs, discuss the situation with your manager, and review the actions taken by the constructor to correct the violations. Consideration to notify the MLITSD to investigate should be considered at this stage. If deemed appropriate, contact the HR, Workplace Health and Safety Lead, or designate and internal legal counsel for advice.
- Any completed form 9 – Notice of contractor noncompliance reports must be submitted to procurement services so that it may be included in the contractor's file for future reference or consideration. If procurement services was not involved in retaining the contractor, the department shall file any non-compliance in a department file for future consideration or reference.

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- For **major violations where a dangerous circumstance exists** (A dangerous circumstance means that there has been a contravention of the OHS Act or regulations which poses a danger, and any delay in controlling the danger may seriously endanger a worker) the contractor Supervisor shall be notified immediately of the dangerous circumstance. If the contractor fails to address to the dangerous circumstance in a timely manner, consideration should be given to contact the MLITSD to investigate.
- Follow up the verbal notification with a written summary of the dangerous circumstance to the Contractor. The notice of non-compliance form (form 9 attached) can be used for this purpose. Retain a copy of all notices of non-compliance in the contract file. Forward any written correspondence to Procurement Services or retain a copy in the department file for future reference/review.
- The City's representative will review the situation with a senior manager of the division engaging the service/contract provider to determine if additional action is necessary.
- **UNDER NO CIRCUMSTANCES SHALL A CITY EMPLOYEE DIRECT A CONTRACTOR'S WORKER OR DIRECT ANY HEALTH AND SAFETY DIRECTION/CONTROL OVER THE PROJECT/SERVICE, UNLESS THERE IS IMMEDIATE DANGER TO LIFE OR HEALTH.**

ADMINISTRATION

Administered by the Office of the City Clerk.

Review Schedule:	SELECT If other, specify here	Next Review Date:	January 1, 2024.
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Related Procedure(s):	
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Related By-Law(s):	
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Supporting Documentation:	
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Revision History

Date:	Description:
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TO BE PROVIDED TO THE BIDDERS PRIOR TO BE AWARDING THE CONTRACT

1. WORKPLACE SAFETY AND INSURANCE BOARD (WSIB)

The Contractor shall submit to the Owner, prior to the issuance of the Contractor's last payment of each year, and at any other time when requested to do so, a statement from the Workers' Safety Insurance Board that all of the assessments the Contractor or any Subcontractor is liable to pay under the Worker's Safety Insurance Board Act or successor legislation have been paid.

Bidders who have been confirmed as Independent Operator Status under the Workplace Safety and Insurance Act (WSIA) shall submit either a clearance certificate from the WSIB or proof of Independent Operator Status upon being awarded the Contract. (Independent Operator Status is done through completion of the Independent Operator questionnaire and signed both parties). Independent Operator questionnaires are available on the Workplace Safety and Insurance Board's website.

2. OCCUPATIONAL HEALTH AND SAFETY

- 2.1 The following requirements and conditions shall be included in all agreements with Contractors (and sub-Contractors) engaged by or on behalf of the Corporation of the Owner.
- i. Contractors with known poor safety records or with inadequate qualifications or equipment may not be considered for award.
 - ii. Contractors acknowledge that they have read and understood the Occupational Health and Safety Act OHSA (R.S.O. 1990 C. 0.1) and regulations relating to the proposed work.
 - iii. The Contractor shall comply with all health and safety requirements established by the Occupational Health and Safety Act (OHSA) and regulations, the Owner and any applicable industry standards. The Contractor agrees to assume full responsibility for the enforcement of same.
 - iv. The Contractor shall participate in a pre-project meeting to verify its full understanding of the major contractual requirements and expectations in the area of health and safety before the start of any work.
 - v. The Contractor shall understand that its performance may be monitored and that their overall performance will be a major consideration for future contracts with the Owner. The frequency and detail of ongoing project monitoring will be dependent upon the nature of the work and safety precautions specified.
 - vi. The Contractor shall allow access to the work site on demand to representatives of the Owner.
 - vii. The Owner may take all action necessary to support the Contractors health and safety efforts and to ensure that the Owner owned and controlled environments in the vicinity of the project are free from hazards.
 - viii. The Contractor acknowledges and agrees that any breach or breaches of health and safety requirements, whether by the Contractor or any of its sub-contractors may invalidate the contract.
 - ix. The Contractor acknowledges and agrees that any damages or fines that may be assessed against the Owner by reason of a breach or breaches of the OHSA by the Contractor or any of its sub-Contractors will entitle the Owner to set off the damages so assessed against any monies that the Owner may from time to time owe the bidder under this contract or any other contract what so ever.

- x. Where required by the *Occupational Health and Safety Act* and its regulations, the Contractor shall register the project with the Ministry of Labour, Immigration, Training and Skills Development (MLITSD) Construction Health and Safety Branch within thirty (30) days of undertaking the project and prior to starting work on the site. The Contractor shall pay all registration fees. A copy of the registration must be posted in a visible location at the site, and submitted to the City's representative before starting work on site.
- 2.2 The Contractor shall provide a list and post in a conspicuous place at the worksite all controlled hazardous materials or products containing hazardous materials, all physical agents or devices or equipment producing or omitting hazardous physical agent and any substance, compound, product or physical agent that is deemed to be or contains a designated substance in accordance with the Workplace Hazardous Materials Information System (WHMIS) as defined under the Occupational Health and Safety Act and shall provide appropriate Material Health and Safety Data Sheets for these substances used for the performance of the required work, all prior to the performance of said work.
- 2.3 Where hazardous materials, physical agents and/or designated substances are used in the performance of the required work, the successful Contractor shall ensure that the requirements of the Occupational Health and Safety Act and associated regulations are complied with.
- 2.4 The Contractor shall follow Workplace Hazardous Materials Information Systems (WHMIS) requirements and ensure all employees are given required training and support.
- 2.5 The Contractor shall have a clearly defined and written emergency plan for workers, which includes but not be limited to a process for addressing a critical injury, occupational illness, accident or incident as defined by the *Occupational Health and Safety Act*. The plan must be readily available. If work is on a project, the emergency plan shall be posted on site prior to any work commencement.
- 2.6 The Contractor agrees at all times to comply with Occupational Health and Safety Standards in the workplace and further agrees to adhere to Health and Safety Standards set out in applicable statutes and regulations and to comply with written Health and Safety Policies and Procedures of the Owner.
- 2.7 A copy of the most current version of the Act and the Regulations as well as the Contractor's health and safety policy and procedure manual are available at the Contractor's office within the Working Area, or, in the absence of an office, in the possession of the supervisor responsible for the performance of the Work.
- 2.8 The Contractor shall ensure its supervisory employees are Competent Persons as defined in the Occupational Health and Safety Act and carry out their duties in a diligent and responsible manner with due consideration for the health and safety of the workers; and all Subcontractors and their employees are properly protected from injury while they are at the workplace.

3. SAFETY STANDARDS

It is the responsibility of the Contractor to work in a safe and orderly manner so as not to constitute any safety hazards and compromise the safety of workers. The following standards are some of the standards which must be complied with, but not limited to the Contractor when working on the project:

- 3.1 The Contractor will be responsible for the placement of appropriate physical barriers between the work area, public and staff occupied areas.
- 3.2 The Contractor shall control pedestrian and vehicular traffic as required and in accordance with current Ministry of Transportation Book 7 for Traffic Control Devices.
- 3.3 When operating Equipment in a School Zone or Playground appropriate physical barriers and

personnel shall be in place to ensure the safety of the public.

- 3.4 No loose clothing, jewelry shall be worn in the vicinity of moving or rotating equipment. Long hair shall be tied back or tucked away to prevent entanglement hazards.
- 3.5 The Contractor shall not operate, tamper or alter with the Owner's equipment unless given express permission to do so.
- 3.6 Housekeeping standards are to be maintained in the work area. Debris and material are not to be allowed to accumulate.
- 3.7 Keep extension cords and hoses off the floor and out of traffic aisles. Highlight any tripping, slipping, or bump hazards by using cones, hazard tape or other means appropriate to the situation.
- 3.8 The Contractor shall have and use a "Lock, Tag and Try" procedure that, as a minimum, meets the requirements of the Regulations made under the Occupational Health and Safety Act.
- 3.9 The Contractor is responsible for ensuring that all reasonable precautions for the protection and safety of workers in addition to those listed above are maintained.
- 3.10 The Contractor shall provide written notice to the Owner in advance of the need to close any exit or emergency exit, electrical system etc. that may affect a potential evacuation of an Owner's workplace or facility.
- 3.11 The contractor shall provide a list of all controlled hazardous materials or products containing hazardous materials, all physical agents or devices or equipment producing or omitting physical agent and any substance, compound, product or physical agent that is deemed to be or contains a designated substance in accordance with the Workplace Hazardous Materials Information System (WHMIS) as defined under the Occupational Health and Safety Act and shall provide the appropriate Material Health and Safety Data
- 3.12 In accordance with the *Designated Substances Regulations*, the City Representative will advise the contractor of any known designated substances in the workplace prior to the work commencing. Where the Work involves potential worker exposure to a Designated Substance, the Contractor shall:
 1. Propose a work plan for Work which includes
 - (a) methods to be used to limit worker exposure to the substance to the extent possible and, in any case, to within exposure limits specified in the applicable *Designated Substance Regulation* made under the *Occupational Health and Safety Act* and
 - (b) methods to ensure compliance with other requirements of the applicable *Designated Substance Regulation*;
 2. Review and discuss the work plan with the designated City representative and sub-contractors prior to work in this area;
 3. Perform regular inspection of the work to monitor adherence to the applicable *Designated Substance Regulation* and work plan;
 4. Take immediate action to ensure that non-compliance with *the Designated Substance Regulation* and/or the work plan, is addressed;
 5. Document the results of inspections; and
 6. Notify the City's representative immediately, by phone or fax, if non-compliance is noted.