

GUIDELINE FOR HEALTH AND SAFETY PROTECTION OF STAFF, STUDENTS, CONTRACTOR'S EMPLOYEES, SUBCONTRACTORS AND INDIVIDUALS SAFETY IN CONTRACTING SITUATIONS

Section	Health and Safety
Contact	People and Organisational Development
Last Review	August 2014
Next Review	December 2017
Approval	AVC People and Organisational Development

Purpose

The purpose of this guideline is to recommend processes for ensuring protection of health and safety of staff, students, contractors employees, subcontractors and individuals in contracted work or services. The process uses the word "principal" which is the legal term for the University person who engages the contractor.

Guideline:

The steps below outline the usual features of a process for principals to manage and assist with the safety performance of contractors. It summarises the "best practice" process outlined in the Department of Labours document [A principal's guide to contracting to meet the Health and Safety in Employment Act 1992](#).

All six stages of the contract process will apply to any contracting situation. However, the extent to which each is formalised will vary according to the size and type of contract involved. For each stage the health and safety issue are detailed, along with corresponding task and documentation. *Outcome documents are indicated in italics*. A comprehensive induction may be sufficient for routine maintenance and service contracts.

1. Scoping the work

Health and safety issues	Tasks and documentation
Determining what work needs to be contracted out, and considering the broad health and safety implications.	Initial appraisal of significant hazards and overview of likely risks associated with different options. Existing assessments should be used as starting point.
Considering health and safety issues when selecting the best way to select a contractor and deciding price and other contractual terms.	<i>Relevant tender and/or contract information developed by the principal.</i>

2. Pre-qualifying the contractor

Health and safety issues	Tasks and documentation
Assessing capability of potential contractors (i.e. for an "approved list").	<i>Pre-qualification questionnaire</i>
	Assessing health and safety management and, depending on the scale or significance of the hazards,

	a detailed appraisal of technical competence.
<p>Consider:</p> <ul style="list-style-type: none"> • hazards at the University ▪ hazards the contractor may create during the contract; ▪ emergency preparation; ▪ safety requirements; ▪ restricted areas;(e.g. accommodation, IT finance, containment areas, confined spaces) ▪ security; ▪ after hours work, ▪ other relevant rules.(any special criteria required of contractor and subcontractors?) <p>Note: From 1 November 2011 contractors providing Adventure Activities must be registered with Department of Labour.</p>	

3. Contractor selection and negotiation of terms

Health and safety issues	Tasks and documentation
<p>Providing information to potential contractors on the health and safety, including the hazards of the particular contract.</p> <p>Developing a draft health and safety plan for the project with scope for completion in discussion with the principal.</p> <p>Assessing capability of tenderers (where pre-tender qualification hasn't been done).</p>	<p>Tender contracts Relevant information is given to tenderers by the principal through the information for tenderer document.</p> <p><i>Draft health and safety plan</i></p> <p>Tenderers complete a draft plan. Principal provides information and answers questions specific to the job, assists with completion of hazard assessment and method statements where appropriate.</p> <p>Non-tendered contracts Contract specific health and safety information is provided to pre-qualified contractor. Contractor responds to information provided and depending on the size and nature of the contract provides either:</p> <ul style="list-style-type: none"> • <i>A draft health and safety plan; or</i> • <i>Acknowledgement of receipt and acceptance of health and safety information, terms and conditions; such as through contractor induction (a check list is attached) or</i> • <i>Other documentation as required</i>

4. Awarding the contract

Health and safety issues	Tasks and documentation
--------------------------	-------------------------

<p>For larger projects, developing a job-specific health and safety plan.</p> <p>For smaller jobs, or ongoing work, maintaining agreed standards, systems and processes established by pre-qualification, and modifying them to suit the circumstances of the individual contract.</p>	<p>The contract itself will often draw on the tender documents or other information provided to or by the contractor.</p> <p>Job registration or permit-to-work systems may be used to inform risk assessments.</p> <p><i>Completed health and safety statements or plan</i></p> <p>Principal provides information and answers questions specific to the job, assists with completion of hazard assessment and method statements where appropriate.</p> <p>Incorporation of health and safety plan into contract</p> <p>Includes agreed detail of lines of communication, responsibilities, accountability, safe systems of work, method statements, use of client services, etc.</p>
--	---

5. *Monitoring the contract (as and where applicable)*

Health and safety issues	Tasks and documentation
<p>Monitoring/checking throughout duration of contract.</p> <p>Responding to information as received.</p> <p>Keeping the contractor informed of the results of monitoring.</p>	<p>Checking and ensuring contractor performance meets the agreed standards.</p> <p>Ensuring permit to work or job registration systems, competency requirements, and other controls are in place and maintained.</p> <p>Meeting as appropriate to plan for and resolve health and safety issues.</p> <p><i>Principal's reporting, notification and hazard management documentation as required by the contract.</i></p>

6. *Post-contract review (as and where applicable)*

Health and safety issues	Tasks and documentation
<p>Concluding review to determine success or otherwise of the contract.</p>	<p>Helping principal and contractor learn from health and safety performance during the contract.</p> <p><i>Post-contract evaluation form</i></p>

Definitions:

Who is a principal?

A "principal" is any person, or corporate entity, who engages another to do any work for gain or reward, other than as an employee. The exception is engaging someone to do work on your own home (Residential Work).

If you engage a self-employed person, the duties of a principal under the Act apply — as long as the person meets the accepted tests for that person being an independent contractor and not an employee.

A contractor is considered a "principal" with respect to subcontractors. This is an important point for businesses to consider.

Who is a contractor?

A "contractor" is any person who is engaged, other than as an employee, by another to do work for gain or reward. They may be a self-employed person, corporate entity, or a person engaged on some other basis than as an employee.

Who is an employee?

An "employee" is defined for the purposes of the Health and Safety in Employment Act as any person of any age who is employed by an employer to do any work (other than residential work) for hire or reward under a contract of service, i.e. an employment agreement.

In some situations volunteers, loaned employees or people receiving training or work experience may be deemed "employees" for the purpose of the Health and Safety in Employment Act. Student volunteers are not required to be considered employees by the Act.

Agents and advisers

Often a principal will act through an agent or adviser. This includes situations where a company uses expertise that it does not retain in-house to purchase specialist goods or services.

By using an agent or a management facility a principal does not necessarily avoid their duty under section 18. For example, where a building owner asks a property management company to organise a contractor to repair a roof, and the account is forwarded by the agent to the building owner, the owner still has the duties of a principal. Alternatively, if the property management company commissions the work and pays the bill, it is a principal in relation to the contractor.

Related duties

Three further provisions in the Health and Safety in Employment Act 1992 may apply to principals during the lifetime of a contract. They may overlap with duties under section 18, and are in addition to the duties the principal may have as an employer. The duties apply to

1. Person who controls a place of work, including plant and vehicles
2. Selling or supplying plant for use in a place of work
3. Recording and notifying accidents and incidents

Audience:

Every manager and staff member who engages contractors.

Legislation:

Health and Safety in Employment Act 1992
ACC Regulations and Workplace Safety Management Practices standards



Related procedures / documents:

Campus Regional Facilities Contractor Hand books, agreements, or procedures

Post Completion Review process

[Procedure for Site Safe Accreditation and Membership](#)

Document Management Control:

Prepared by: University Health and Safety Manager

Authorised by: AVC – Operations, International and University Registrar

Date issued: 16 April 2012

Last review: August 2014

Next review: December 2017