Contracting Work Policy

Applicable Legislation:

Occupational Health and Safety Act (OHSA), R.R.O. 1990
O. Reg. 851, R.R.O. 1990, Industrial Establishments
O.Reg. 213/91, R.R.O. 1990 Construction Projects
O. Reg. 145/00 Regulation to Amend O. Reg. 213/91
Occupier's Liability Act, R.S.O. 1990

Intent:

To outline responsibilities of the University as a constructor or an employer of contractors and subcontractors, and to stipulate safety requirements of those contracted.

Definitions:

constructor

a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself/herself or by more than one employer; also called the general or prime contractor. The constructor has complete control of the work on behalf of the construction project owner, and would have responsibility for regulatory compliance and safe work procedures on the job site.

employer

a person who employs one or more workers or who 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 the owner, constructor, contractor or subcontractor to perform work or supply services.

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

project

includes a construction project, whether public or private, including,

a. the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, trench, excavation, highway, railway, street, runaway, parking lot, cofferdam, conduit, sewer watermain, service connection, telegraph, telephone or electrical cable, pipe line, duct or well, or any combination thereof.
b. the moving of a building or structure, and
c. any work or undertaking, or any lands or appurtenances used in connection with construction; and
d. service or maintenance work provided to the University by contractors and subcontractors.

Requirements of the *Occupational Health and Safety Act, Sections 23, 29, 30:*

23.(1) **Duties of constructor**. - A constructor shall ensure, on the project undertaken by the constructor that,

(a) the measures and procedures prescribed by the Act and the regulations are carried out on the project;
(b) every employer and every worker performing work on the project complies with this Act and regulations; and
(c) the health and safety of workers on the project is protected.

(2) **Notice of project**. - Where so prescribed, a constructor shall, before commencing any work on the project, give to a Director a notice in writing of the project containing such information as may be prescribed.

29.(1) **Duties of owners**. - The owner of the workplace that is not a project shall,
(a) ensure that,

(iv) no workplace is constructed, developed, reconstructed, altered or added to except in compliance with this Act and the regulations, and

(b) where so prescribed, furnish to a Director any drawings, plans or specifications of any workplace as prescribed.

30.(1) **Duty of project owners**. - Before beginning a project, the owner shall determine whether any designated substances are present at the project site and shall prepare a list of all designated substances that are present at the site.

(3) An owner shall ensure that a prospective constructor of a project on the owners' property has received a copy of the list referred to in subsection (1) before entering into a binding contract with the constructor.

Policy:

1. The Director of Engineering Services in Physical Resources shall be consulted about the advisability of undertaking construction projects using a constructor (general contractor) or undertaking such projects as owner or employer (of contractors and subcontractors). Physical Resources shall advise about appropriate contract wording and about the due diligence process for engaging constructors and contractors.
2. Constructors, contractors and subcontractors undertaking work at the University of Guelph shall, as part of their contracts, agree to comply with all applicable health and safety legislation (e.g. O.Reg. 213/91 Regulation for Construction Projects and all amendments thereto), environmental protection regulations, industry standards and University safety policies.
3. Constructors engaged by the University of Guelph shall agree to undertake construction project work fully, properly and completely on behalf of the owner.
4. Potential constructors and contractors shall, as part of the tendering process, submit to the University a written construction project **Safety Management Plan** that describes compliance strategies for all applicable safety legislation, foreseeable job-site hazards and precautionary measures, prerequisite employee safety training, safe work procedures, standard operating procedures (SOPs), first aid preparedness, stop work procedures, emergency response plans, incident reporting procedures, and the names and contact numbers of the jobsite safety supervisors.
5. Contractors and subcontractors shall have Workplace Safety and Insurance Board coverage for their workers and shall have accounts in good standing with the WSIB. A WSIB Clearance Certificate (valid for 60 days) and proof of third party and liability insurance, or proof of working-owner's insurance shall be submitted with the tender documents and/or provided in advance of the work to the University employer.
6. A University Project Co-ordinator shall be assigned to every project to ensure compliance with applicable prescribed requirements and that the project is completed safely. If a Project Co-ordinator is not assigned by Physical Resources, the University employee arranging for the contractor's services shall assume this responsibility. Appropriate notices shall be sent to the University community affected by the contractor's work.
7. Constructors shall submit a "Notice of Project" to the Ministry of Labour and a copy to the University (employer) if the nature of the project falls within that prescribed in O.Reg. 213/91.
8. When contracts are awarded, Environmental Health and Safety shall, for information purposes, be provided copies of all construction project Safety Management Plans, WSIB Clearance Certificates, and "Notices of Project".
9. The Project Co-ordinator shall, before the commencement of the project, convene a meeting with the constructor, contractor and subcontractors to review the Safety Management Plan, WHMIS and the designated substances on-site, University Safety Policies and specific requirements (e.g. site security, sign-

in and sign-out rules, work permit systems, hours of work, etc.), and safety related information essential for the completion of the project shall be exchanged.
10. Constructors, contractors, and subcontractors shall be responsible for taking every precaution reasonable at the project to ensure safety for his/her employees, University employees, students, visitors, and the general public. Regular site safety meetings shall be required as the project progresses to facilitate safety communication between all workplace parties.
11. The University employer shall monitor the constructor's or contractors's performance for health and safety compliance. The project-specific monitoring initiatives shall be documented in the contract file.
12. The constructor or the Project Co-ordinator or Environmental Health and Safety shall exercise stop-work authority as required to enforce prescribed requirements and shall authorize the resumption of work by the contractor or subcontractor.

Guidelines:

Under the *Occupational Health and Safety Act*, the constructor exhibits the greatest involvement and exercises the greatest control and direction over a construction project and all persons working on it, and must ensure compliance with all prescribed safety requirements (i.e. *O.Reg 213/91*). Thus the owner of a premise must carefully consider whether to undertake the role of constructor or whether to engage a general contractor to undertake a project. The constructor must, in addition to specific prescribed safety requirements, take every precaution reasonable on the project for the protection of each worker on the project (i.e. implement a work-site **Safety Management Plan**).

Any University department or Regional College which hires an independent contractor has all the duties of an employer toward the contractor and is strictly responsible for safety in the workplace (e.g warning the contractor about specific hazards and ensuring compliance with safety standards). The contractor is deemed to be a worker for the purpose of the *Occupational Health and Safety* Act (*OHSA*). The employer's duty under *OHSA* and *OHSA* regulations cannot be evaded by contracting out the performance of the work to independent contractors (i.e. work can be contracted out but responsibility for health and safety cannot). The employer must take all reasonable steps, including specific training and testing, to ensure that contractors understand their obligations under OHSA. Likewise the contractor and subcontractor must ensure that prescribed measures and procedures designed to protect employee safety are carried out. Contractors and subcontractors are obliged to make necessary enquires and investigations whenever there is doubt about safety information provided by a third party (e.g. information from an owner about the location of utility services).

University departments, administrative units, or Regional Colleges contemplating a construction project or renovation, should consult the University's Engineering Services department for guidance. A constructor or contractor **Safety Management Plan** is a prerequisite for construction projects work at the University. Physical Resources' policies and procedures may be found on their web site **www.pr.uoguelph.ca** [1].

Due Diligence Requirements when Engaging Contractors

- Require prospective contractors to identify applicable OHSA prescribed regulations and to document their job-specific **Safety Management Plan**. Verify their employee qualifications (where necessary), and the contractor's safety performance and standing with the WSIB. (The WSIB Loss Control Officer can provide assistance.)
- Verify the contractor's claims about safety performance and include this consideration in the selection process.
- Review the constructor's or contractor's **Safety Management Plan** that should address:
    - prescribed safety requirements and compliance strategies;
    - foreseeable workplace hazards and surveillance for change;
    - employee orientation, training, qualifications;
    - written policies, practices and safe work procedures;
    - job-site supervision and enforcement of safety standards;
    - stop-work procedures;
    - first aid preparedness;
    - emergency response plans;
    - incident reporting procedures;
    - contact numbers for safety supervisors.

- Request proof of WSIB coverage. The WSIB provides Clearance Certificates that are valid for 60 calendar days. Certificates must be updated if work extends beyond this period. Clearance certificates protect the University in the event that the contractor defaults on his/her WSIB assessments. Consult Engineering Services about the University's standards for liability insurance coverage and for working-owner's insurance.
- When the project is awarded to the successful contractor, specify all contractual requirements including consequences for non-compliance or non-performance, and reiterate the University's expectations for job-site safety and employee health protection.
- Meet with the contractor prior to the commencement of work to review job-site **Safety Management Plan** and administrative details. Conduct contractor orientations that address University safety policies, unusual workplace hazards, presence or use of designated substances, and any special requirements such as sign-in and sign-out. Job-specific training by the University may be required.
- Ensure the contractor understands and complies with Ontario's WHMIS Regulation as it pertains to the hazardous materials brought to and used at the University by the contractor's employees.
- Monitor the contractor's work activity and safety performance and demand accountability for safety. Maintain records in the contract file.
- Require written confirmation of corrective actions for safety deficiencies.
- Conduct a post-contract evaluation to review the contractor's performance and suitability for future work.
- See Safety Policy 851.06.17 [2] for further information about construction safety

The Ontario Construction User Council (CUC) has published an owner's guide for assessing a construction contractor's health and safety management system. Copies may be obtained from CUC Ontario; telephone 905-628-8881.

Hazardous Work Permits

Hazardous work permits are used by employers, owners, and supervisors to promote awareness of workplace hazards and to organize safe work. Hazardous work permits may be issued for:

- hot work (see Safety Policy 851.02.04 [3]);
- confined space entry (see Safety Policy 851.06.02 [4]);
- work on or near exposed electrical equipment (see Safety Policy 851.06.01 [5]);
- work from scaffolds (see Safety Policy 851.07.15 [6]);
- other hazardous work involving:
    - asbestos removal (see Safety Policy 851.06.11 [7]);
    - acid systems: tanks, lines, valves, pumps;
    - caustic systems: tanks, lines valves pumps;
    - steam and hot water (200EF+) systems: lines, valves, pumps;
    - excavations or trenching work (see Safety Policy 851.06.12 [8]);
    - natural gas distribution systems.

Hazardous work permits are available from Environmental Health and Safety upon request.

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Page category: Policy [9]

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Links
[1] http://www.pr.uoguelph.ca [2] https://www.uoguelph.ca/hr/node/3822/ [3] https://www.uoguelph.ca/hr/node/3767/ [4] https://www.uoguelph.ca/hr/node/3810/ [5] https://www.uoguelph.ca/hr/node/3755/ [6] https://www.uoguelph.ca/hr/node/3827/ [7] https://www.uoguelph.ca/hr/node/3728/ [8] https://www.uoguelph.ca/hr/node/3790/ [9] https://www.uoguelph.ca/hr/page-category/policy