



Alberta Prime Contractor Legislation

CAGC INFORMATION ALERT

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Canadian Association of Geophysical Contractors

1045, 1015 - 4th Street SW

Calgary, Alberta

T2R 1J4

Phone: 403 265 0045

Fax: 403 265 0025

E-mail: info@cagc.ca

Information Alert

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The following information is not a definitive guide to government legislation and does not release users of this document from their responsibilities under applicable legislation.

Purpose: This document is to review requirements of OHS legislation in Alberta relation to Prime Contractors. This document reviews what impact these changes have to companies in the seismic industry.

Additional Resources: Here are links to the Alberta OHS Act, regulations, code and standards.

Official on-line version of the Act.

- [Occupational Health and Safety Act](#)

Official on-line version of the Regulation.

- [Occupational Health and Safety Regulation](#)

Official on-line version of the 2009 Code, and Explanation Guide

- [Occupational Health and Safety Code \(2009\)](#)
- [Explanation Guide \(2009\)](#)

WorkSafe AB Bulletin LI018, Prime Contractors

- [The Prime Contractor](#)

Prime Contractor Requirements in Alberta

OVERVIEW OF CHANGES

Effective Jan 1, 2013, all worksites with more than one employer must have a prime contractor. This will now default to the owner unless a written agreement is in place to delegate the duties. It used to be that an owner could sequentially schedule different contractors to have sequential exclusive access to a site to evade the prime contractor duties. Now that “at the same time” provision has been stricken to invoke the prime contractor requirements.

Prior to Jan 1, 2013, all the previously existing requirements were retained. They included:

- | | |
|-------------------------------------------------------------------------|-------------------|
| 1) OHS legislation compliance by all employers | AB OHS Act S.3(3) |
| 2) First aid services, equipment and supplies are available at the site | OHS Code S.178 |
| 3) Serious injury incident investigations are carried out | OHS Code S.18 |
| 4) Controlled products are managed | AB OHS Act S.30 |

It should be understood that the controlled products inventory must include all controlled products from all employers. This compels the prime contractor to compile all the employer-specific controlled products list into one site compendium. Also, the prime contractor must ensure all employers train their employees how to best reduce exposure to substances brought to site by other employers, if there is a risk of exposure from one employers controlled substances to other employers.

The new requirements are:

- 5) Equipment is erected/installed on behalf of prime contractor meets legislation. Examples include toilet facilities, scaffolds, guardrails, garbage disposal systems, propane tanks, shared entry/exit ramps & portable ladders, and fall protection anchors OHS Code S2(1)

This section pertains to structures and facilities jointly used/shared by multiple employers. For example, if a portable ladder is used as a means to access an area by multiple employers, than the prime contractor is as equally bound as the employer that set-up the ladder, to ensure it meets legislative requirements.

If the ladder is exclusively used by one employer for a temporary use, than only the employer that set up the ladder is bound to ensure it meets code. The prime contractor’s duty requires that employers generally comply with legislation, so the prime contractor’s obligation is incidental.

All services and structures used/shared by multiple employers bind the prime contractor equally liable for compliance.

- 6) All worksites with two or more employers will have a prime contractor, regardless whether or not they will be on site at the same time.

APPENDIX:

WorkSafe AB Bulletin #LI018 Prime Contractor

Occupational Health and Safety Bulletin



The Prime Contractor

Avoiding confusion

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

It makes sense to have a single party coordinate the activities for the entire work site.

Responsibilities under the law

Section 3(1) of Alberta's *Occupational Health and Safety Act* requires a prime contractor whenever two or more employers engage in work at a work site. The two employers may not be working at the same time at the site, but their activities may have a health and safety impact on each other or are interrelated. The prime contractor is responsible for coordinating potentially incompatible internal health and safety systems of multiple employers, and for coordinating effective communication in relation to health and safety at a worksite. This is necessary as different employers may all have very effective, independent health and safety systems but which might not be compatible with other employers' systems. Furthermore, a lack of effective communication and a cohesive approach to health and safety may place workers at risk. As a high level "oversight" or "auditing" function the prime contractor is expected to monitor activities to ensure that a worksite's health and safety system is functioning properly.

The Act requires a prime contractor whenever two or more employers engage in work at the same site, even if they are not working at the same time.

The general duty of the prime contractor is to do what is reasonably practicable to ensure that the OHS legislation is complied with on the work site (Section 3(3) of the *OHS Act*). One of the ways a prime contractor can meet this obligation is establishing and maintaining a system or process that ensures compliance with the OHS legislation.

In addition, a prime contractor has the obligation to:

- (1) ensure that, under Section 178 of the Occupational Health and Safety (OHS) Code, required first aid services, equipment and supplies the are available at the work site;
- (2) ensure that, under Section 2 of the OHS Code, equipment erected or installed by or on behalf of the prime contractor complies with requirements of the OHS Code as if the prime contractor was the employer;
- (3) carry out, under Section 18 of the *OHS Act*, investigation of serious injury incidents;
- (4) in accordance with Section 30 of the *OHS Act*, manage controlled products.

When is a prime contractor required?

A work site with only one employer does not require a prime contractor. A work site with multiple employers carrying out inter-related work activities and/or whose activities may have a health and safety impact on each other (i.e. multiple employer work sites which require coordination, communication, etc. amongst employers to ensure safety) must have a prime contractor for the site. The multiple employers and their workers do not have to be working at the same time at the site to meet the requirement. For example, a construction site involving multiple employers will require a prime contractor until the construction is fully completed.

Multiple employers carrying out inter-related work activities and/or whose activities may have a health and safety impact on each other, must have a prime contractor for the site.

Even with the appointment of a prime contractor, each employer, worker, contractor, and supplier retains responsibility for ensuring the health and safety of workers.

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 may 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 that party (an individual or a corporate entity). A written document can provide proof that an agreement has been made between parties.

The owner of the work site is the prime contractor unless other arrangements have been made.

In entering into this agreement, it is necessary to ensure that the other party is capable of, and likely to, fulfill the prime contractor responsibilities.

A work site within a work site

Situations may arise involving work sites where there is some advantage to creating one or more smaller work sites within the boundaries of the main work site. Doing so allows the owner of the main 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 site. Such a transfer of responsibility can form the basis of an agreement and it is good practice to have such an agreement be in writing.

When partitioning a work site it should be remembered that:

- (1) The hazards at one work site should not impose or create a danger to workers at the other work site. This may mean 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 area within a refinery site can be treated as a separate “work site within a work site.” The fenced work site is clearly separated from the main 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 health and safety matters within their own sites.

Fulfilling prime contractor responsibilities

Establish and maintain a system

The prime contractor has the responsibility to ensure that contractors, employers, and workers at the work site comply with OHS legislation.

One way to meet this obligation is to establish and maintain a system or process that will ensure compliance. For example, an effective health and safety plan can do this. 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 expected to monitor activities at the work site to ensure that the system is functioning properly. Instances of non-compliance can be considered to be a breakdown of the health and safety system. The prime contractor’s system will intervene, correcting the situation and altering the health and safety system if necessary.

The prime contractor has the overall responsibility for ensuring compliance with health and safety legislation at the work site.

The prime contractor is expected to monitor activities at the work site to ensure that the health and safety system is functioning properly.

First aid

The prime contractor must also ensure 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 prime contractor's responsibilities in cases where equipment *is erected or installed by or on behalf of the prime contractor*. In such cases the requirements in the OHS Code that have to do with the design, construction, erection or installation of that equipment apply to the prime contractor even though the requirements also apply at the same time to an "employer". This will most often occur in those situations where a prime contractor erects or installs equipment that is to be shared among multiple employers. Sharing equipment in this way may have safety, logistical and economic advantages and can avoid 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) entry and exit ramps (including portable ladders) – used at construction sites by workers to access the premises (or parts of it), where this is a shared resource it may best be looked after by the prime contractor; and
- (g) fall protection anchors – if used by multiple employers during a project, installation of anchors by a prime contractor may be a preferred option. This approach may minimize any potential problems resulting from each employer installing his or her own anchors at the site.

Subsection 2(1) of the OHS Code does *not* require the prime contractor to erect or install this shared equipment unless the prime contractor chooses to do so.

For more information



<http://humanservices.alberta.ca/documents/OHS-Act-Amended-LI031.pdf>

Occupational Health and Safety Act Amended in 2012 — Highlights




http://humanservices.alberta.ca/documents/WHS-LEG_ohsc_p11.pdf


Occupational Health and Safety Code Explanation Guide –
Part 11

Contact us:

Province-Wide Contact Centre

 Edmonton & surrounding area:
(780) 415-8690

 Throughout Alberta:
1-866-415-8690

 Deaf or hearing impaired

- In Edmonton: (780) 427-9999
- or
- 1-800-232-7215 throughout Alberta

Web Site

 www.worksafe.alberta.ca


Getting copies of OHS Act, Regulation & Code:

Queen's Printer

 www.qp.gov.ab.ca

Occupational Health and Safety

 <http://humanservices.alberta.ca/working-in-alberta/295.html>

 Edmonton (780) 427-4952

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