

# Prime Contractor Responsibilities

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## Prime Contractor Must Manage Safety

The prime contractor's role is to manage safety at the site. It is not the prime contractor's job to personally ensure the safety of each worker. Rather, the prime contractor makes sure that employers do that job. It is comparable to a manager of any production operation. The manager does not do the actual production work: he plans it, coordinates and facilitates it. In other words, he sees that it gets done.

The owner of a multiple employer work site has the choice of acting as prime contractor or designating one. Typically, this involves a written agreement. The OHS Act is silent on this, but having a written agreement is prudent for parties on both sides. A verbal agreement is not easily proven and is more likely to be disputed.

Employers would do well to review the definitions for prime contractor, contractor, owners, employer, worker and supplier under the act. It is clear that employers in every defined category need to fully comprehend their responsibilities. Those that do not meet the legislated requirements run the risk of prosecution.

## Know the legislation and your responsibilities

In 1995, Alberta Labour set out to clarify the safety responsibilities of employers at multiple-employer work sites. By clearly setting out new definitions and roles for site owners, prime contractors and contractors, Alberta Labour was aiming to ensure that having a comprehensive health and safety system would be standard at all multiple-employers work sites. The amendments were also designed to provide Alberta Labour with the clout to effectively prosecute any out of compliance employer at any contract level on a work site. Regardless, many employers are still coming to grips with their safety responsibilities or searching for clarity on the matter.

## Who's in charge? Do you know?

- A prime contractor is only required at a work site where two or more employers are in the same time period.
- If a prime contractor is required, the site owner is default prime contractor.
- The site owner can act as prime contractor or engage a prime contractor.
- If there are multiple site owners, one owner must be designated as the owner.
- It is advisable, though not legislated:
  - For the owner to have a written contract with a prime contractor when a prime contractor is designated.
  - For the prime contractor to have a written contract with contractors.

At work sites where there is only one employer, legislation makes it clear that the employers is in charge of safety and obligated to ensure the safety of workers at that site. At multiple-employer sites, the answer is not always clear-cut.

At such sites, there are typically several layers of employers involved, which can lead to confusion about roles and responsibilities. Employers include the site owner(s), a prime contractor, several contractors and numerous "subs" - smaller employers or sub-contractors.

Amendments to the Occupational Health and Safety Act I 1995 set out the essential rules for multiple employer sites. Most important is the condition that requires the prime contractor to "establish a system or process" to ensure all employers at a work site comply with the Act and its regulations.

Below are some relevant excerpts from the Act.

### Prime Contractor

- 3 (1) every work site must have a prime contractor if there are 2 or more employers involved in work at the work site at the same time.
- (2) The prime contractor for a work site is
- (a) the contractor, employer or other person who enters into an agreement with the owner of the work site to be the prime contractor, or
  - (b) if no agreement has been made or if no agreement is in force, the owner of the work site.
- (3) If a work site is required to have a prime contractor under subsection (1), the prime contractor shall ensure, as far as it is reasonably practicable to do so, that this Act and the regulations are complied with in respect of the work site.
- (4) One of the ways in which a prime contractor of a work site may meet the obligation under subsection (3) is for the prime contractor to do everything that is reasonably practicable to establish and maintain a system or process that will ensure compliance with this Act and the regulations in respect of the work site.

### Employer

- 1 (k) "Employer" means
- (i) a person who is self-employed in an occupation,
  - (ii) a person who employs one or more workers,
  - (iii) a person designated by an employer as the employer's representative, or
  - (iv) a director or officer of a corporation who oversees the occupational health and safety of the workers employed by the corporation
- 2 (1) Every employer shall ensure, as far as it is reasonably practicable for the employer to do so,
- (a) the health and safety of
    - i. workers engaged in the work of that employer, and
    - ii. those workers not engaged in the work of that employer but present at the work site at which that work is being carried out, and
  - (b) that the workers engaged in the work of that employer are aware of their responsibilities and duties under this Act, the regulations and the adopted code.

### Contractor

- 1 (b) "contractor" means a person, partnership or group of persons who, through a contract, an agreement or ownership, directs the activities of one or more employers involved in work at a work site.
- 2 (5) Every contractor who directs the activities of an employer involved in work at a work site shall ensure, as far as it is reasonably practicable to do so, that the employer complies with this Act, the regulations and the adopted code

in respect of that work site.

For further information & bulletins, refer to the following websites:

<http://www3.gov.ab.ca/hre/whs/publications/bulletins.asp>  
<http://www3.gov.ab.ca/hre/whs/learning/legislation/legislation.htm>  
[http://www.psc.ca/safety\\_info/regulations/provincial/ab/prime\\_contractors.htm](http://www.psc.ca/safety_info/regulations/provincial/ab/prime_contractors.htm)

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