

Mandatory Safety Reporting by the Prime Consultant

The following background information is provided for clarification of roles and respective responsibilities.

1. General Information

All employers in the province of Newfoundland and Labrador are required to abide by the Occupational Health and Safety (OHS) Regulations and the Occupational Health and Safety Act.

The Department of Digital Government and Service NL website offers information to all employers on the Occupational Health and Safety Act and Regulations:

See below:

Legislation Summary: Please open the link below:

<https://www.gov.nl.ca/dgsnl/ohs/legislation-summary/>

Occupational Health and Safety Act:

<https://www.assembly.nl.ca/Legislation/sr/statutes/o03.htm>

Occupational Health and Safety Regulations:

<https://www.assembly.nl.ca/Legislation/sr/Regulations/rc120005.htm>

The following sections of the Occupational Health and Safety Act and Regulations are pertinent to the execution of contracts and the unique relationship between communities within the province of Newfoundland and Labrador and the Contracts they engage in with contractors and prime consultants. The owner of the project is the community or group and they are considered the Principal Contractor.

For the purposes of this document the following shall apply:

The designation Prime Consultant shall be interpreted as the firm engaged on a project on behalf of a Municipality or Local Service District. Whether or not a Prime Consultant engages sub-consultants, the general term of Prime Consultant shall apply for this entire document, i.e., Prime Consultant and Consultant shall mean the same.

In terms of the OHS Act and Regulations the term Contractor shall mean the Prime Consultant or Consultant that the Municipality or Local Service District has engaged on a particular project.

1.1. Principal Contractor

Occupational Health and Safety Act, Section 10, Duty of a principal contractor states:

- 10. A principal contractor engaged in a project shall ensure, where it is reasonably practicable for him or her to do so, that employers, workers and self-employed persons performing work in respect of that project comply with this Act and the regulations.*

Mandatory Safety Reporting by the Prime Consultant

In cases where two or more employers exist on a site the following shall apply and each employer shall COMMUNICATE EFFECTIVELY any under taking that will likely create a hazard for another worker from another employer as per the following regulation.

Occupational Health and Safety Regulations – Two or More Employers – Section 20:

20. *Where a construction project involves the work of 2 or more employers or their workers,*
- (a) the principal contractor shall ensure compliance with the regulations where conditions or activities affect the workers of more than one employer; and*
 - (b) each employer shall notify the principal contractor in advance of an undertaking likely to create a hazard for a worker of another employer.*

There may be situations where a Principal Contractor (Municipality or Local Service District) may delegate a person to assume the duty of Principal Contractor. If this occurs, then the following section of the regulations shall apply.

Occupational Health and Safety Regulations – Appointment of a qualified co-ordinator – Section 21:

21. *Where, at a work location, the overlapping or adjoining work activities of 2 or more employers create a hazard to workers and the combined work force at the workplace is more than 5 persons, the principal contractor shall*
- (a) ensure that an individual is designated at the work location to coordinate communication for the purpose of ensuring health and safety on the worksite; and*
 - (b) where the principal contractor is not at the work location the principal contractor shall designate a person to assume the duty.*

The Division of Municipal Infrastructure of the Department of Transportation and Infrastructure are a funding partner with communities throughout Newfoundland and Labrador.

All communities are employers for the staff they have hired and they are a Principal Contractor if they compensate, hire, tender, pay and/or contract a person, people and/or firm, to do work on its behalf. The outside entity performing work on the organization's behalf is by definition a contractor. A principal contractor must ensure work is performed safely and in compliance with the OHS legislative requirements. Prime Consultants may be considered Principal Contractor if they compensate, hire, tender, pay and/or contract a person, people and/or firm, to do work on its behalf. Consultants who engage sub-consultants are considered Principal Contractors for the firms they have partnered with.

Mandatory Safety Reporting by the Prime Consultant

The Principal Contractor ensures safety by:

- a) Checking safety records of the contractor/prime consultant before awarding work
- b) Checking for relevant documents, such as Job Hazard Analysis, Field Level Hazard Assessments, safe work procedures, risk assessments, training/certification records.
- c) Determining what the safe work requirements are and ensure they are met.
- d) Monitor and inspect the work at frequencies appropriate to the risk.
- e) Ensure adequate supervision by qualified personnel.
- f) Ensure safety meetings take place and are recorded.
- g) Ensure compliance with the owner's operation and maintenance manuals for tools, machinery, equipment, construction materials, etc.
- h) Take action to correct deficiencies.
- i) Record all these and other tasks completed to ensure safety.

Pre-Job

- a) Ensure job hazard analysis and risk assessments are performed.
- b) Ensure plans are in place to address the hazards identified in order of priority which is to be based on assessed risk.
- c) Ask for Safe Work Procedures.
- d) Determine the safety requirements and ensure they are met.
- e) Ensure plans and resources are in place to deal with emergencies.
- f) **Optional** - Obtain Letter of Good Standing from Workplace NL to ensure Workers Compensation is in good standing. If it is not then the Principal Contractor may be responsible for workplace injuries.
- g) **Optional** - Obtain Compliance Profile from OHS. This will outline any orders or non-compliance issues a contractor has had with OHS division.

During the Job

- a) Monitor safety performance.
- b) Attend safety talks.
- c) Inspect the work/site at a frequency appropriate to the risk.
- d) Take action to correct deficiencies. Call OHS if necessary.
- e) Keep records of what you do.

After the Job

- a) Determine what went right and wrong from a safety perspective.
- b) Determine what caused things to go wrong.
- c) Determine how best to prevent what went wrong.
- d) Put measures in place to prevent what went wrong from happening again.
- e) Make sure what went right happens again.

1.2. OHS Consultants

Can you hire someone to take care of all your OHS responsibilities?

Mandatory Safety Reporting by the Prime Consultant

- An organization can contract out some or most of its OHS responsibilities, but not all.
- If an OHS consultant is hired the organization must:
 - o Check to ensure the OHS Consultant has the necessary knowledge, experience and training;
 - o Require the OHS Consultant provide you with a plan outlining what they are going to do to ensure the OHS Consultant does what they said they were going to do; and
 - o Occasionally check on the work to ensure safety and compliance.

2. Consultant Bidding Requirements

Requirements by the Prime Consultant in submitting pricing for the current Consultant Fee Request, to be read in conjunction with all other information forwarded to the prime consultant for pricing and shall be inclusive to the Scope of Work currently being bid.

For the purposes of this call for engineering services, your firm will be responsible for completing a Site Specific Safety Plan (SSSP) for work to be completed by your firm ONLY and not the contractor unless you have engaged the contractor to perform a particular scope of work. You will need to identify work tasks required to complete the full scope of work and safety requirements mandated by OHS Act and OHS Regulations.

If you are the successful bidder for the engineering services for which you are quoting, you will be required to complete a SSSP for your work tasks. Your completed SSSP shall be forwarded to the Principal Contractor and the Department of Transportation and Infrastructure for review. After acceptance of the SSSP, work may commence.

No Work shall start until the SSSP is accepted by the Principal Contractor and the Department of Transportation and Infrastructure (TI).

Completion of the SSSP, shall not be deemed as compliance with the Occupational Health and Safety Regulations and the Occupational Health and Safety Act. This document serves as a single source document that the Principal Contractor can review to fulfill their obligations under the OHS Act Section 10 – Duty of a Principal Contractor.

The SSSP must be reviewed by the prime consultant weekly for their companies specific work tasks. If any new hazards are identified, they must be addressed and the SSSP must be revised. Any changes to the SSSP or any new hazards identified must be communicated to the Principal Contractor (Municipality or Local Service District), Transportation and Infrastructure, and all employees working on site.

Prime Consultants are encouraged to complete the following TEMPLATE SSSP as a minimum and to add to the document if their safety procedures are in addition to the sections within this document. If you wish to include your own SSSP then it must address all sections contained within the template document.

3. Effective Communication to the Principal Contractor (Municipality or Local Service District)

As per (the former) Department of Municipal Affairs and Environment circular Dated November 26, 2018, we would like to highlight the following:

Please note that Section 2.1.6 of the Prime Consultant Agreement (Revision Date: July 20, 2012) states:

2.1.6: "The Prime Consultant should be aware of its responsibilities under the Occupational Health and Safety Act and regulations. Notwithstanding any obligation imposed by the Occupational Health and Safety Act & Regulations, the Prime Consultant shall:

a) Verify, prior to issuing approval to proceed with the work, that a contractor(s) has a safe work policy and that a site specific health and safety risk assessment & management plan is in place for the project.

b) Ensure that onsite personnel under the employ of the prime Consultant have reasonable understanding of the industry accepted construction practices, including the Occupational Health and Safety Act & Regulations pertaining to the type of work being undertaken.

c) Through regular project progress meetings obtain copies of contractor documented safety plan activities at site, including but not necessarily limited to reporting of events/incidents, minutes of toolbox meetings, and any required actions to be taken as a result of these activities.

d) Identify unsafe work conditions to the contractor that on site personnel may become aware of, and if necessary report same to the Occupational Health & Safety Regulators.

The circular also indicates the following:

In an effort to ensure safety of all personnel for municipal infrastructure projects, the Department would like to bring this item to your attention and reiterate that the submission of dated (including expiry date) safety training certificates must be forwarded to the Department prior to the commencement of construction. Consultants may provide a training matrix as identified below. Please provide actual certificates if you are indicating a date of expiry or of course completion.

Mandatory Safety Reporting by the Prime Consultant

Example: Employee Training Matrix

--EMPLOYEE TRAINING MATRIX

Please enter dates that training was completed

Employee	Position	WHMIS	Emerg. F/A*	Standard F/A*	Fall* Protection	Confined Space*	Trenching*	TDG*	Powerline Hazards*	Traffic Control*
Bill Smith	Equipment Operator	2019-05-12					2018-01-09		2019-12-06	
Jane White	Electrician									

*Training certificates valid for three years

Prime Consultants and/or Consultants must provide documentation from a training provider certified in Newfoundland and Labrador demonstrating that all field personnel have completed a construction awareness program (at least every three years) which must include, but not limited to, the following topics.

Currently NLCSA offers a Construction Worker Safety course (online) that meets the minimum requirement of the topics for the Construction Awareness Program. Prime Consultants and/or Consultants can check with other service providers to determine if other certified service providers have training meeting the requirements outlined below. Prime Consultants and/or Consultants should contact a service provider of their choice and ask them to provide the required training so that all of the topics below are covered.

- a) Confined Space Entry,
- b) Electrical Hazards,
- c) Fall Protection,
- d) Personal Protective Equipment – the basics,
- e) Powerline Hazards,
- f) Safe Driving – Backing Up,
- g) Scaffolding and ladder safety awareness,
- h) Standard First Aid,
- i) Trench and Excavation safety awareness,
- j) Occupational health and safety orientation, and
- k) WHMIS.

THIS DOES NOT MEAN YOU HAVE TO COMPLETE AND PROVIDE TRAINING CERTIFICATES FOR ALL OF THESE TOPICS, IT MEANS THE AWARENESS PROGRAM OF YOUR CHOICE HAS TO ADDRESS EACH OF THESE TOPICS. INDIVIDUAL COURSES MAYBE COMPLETED TO FULFILL THE OBLIGATION OR YOU MAY CHOOSE TO COMPLETE THE *CONSTRUCTION WORKER SAFETY* COURSE OFFERED ONLINE BY NLCSA. IT IS UP TO YOU TO PROVIDE THE DOCUMENTATION TO SUPPORT THE REQUIREMENT. YOUR FIRM WILL BE RESPONSIBLE FOR IDENTIFYING SPECIFIC TRAINING FOR YOUR EMPLOYEES THAT MAY REQUIRE DEPENDING ON THE WORK TASKS AND HAZARDS IDENTIFIED DURING EXECUTION OF THE SSSP.

As per Section 20 of the Occupational Health and Safety Regulations – Two or More Employers – Prime Consultants and/or Consultants shall ensure there is effective Communication between all employers on a particular work site. Given the specific duties

Mandatory Safety Reporting by the Prime Consultant

outlined and included in the Prime Consultant Agreement it is paramount that the Prime Consultant and/or Consultant provide a means of effective communication to the Principal Contractor (Municipality or Local Service District).

4. Deliverables by the Prime Consultant to the Principal Contractor and TI

The Prime Consultant shall provide copies of all items either received from the Contractor(s) or forwarded to the Contractor(s) on the specified work site.

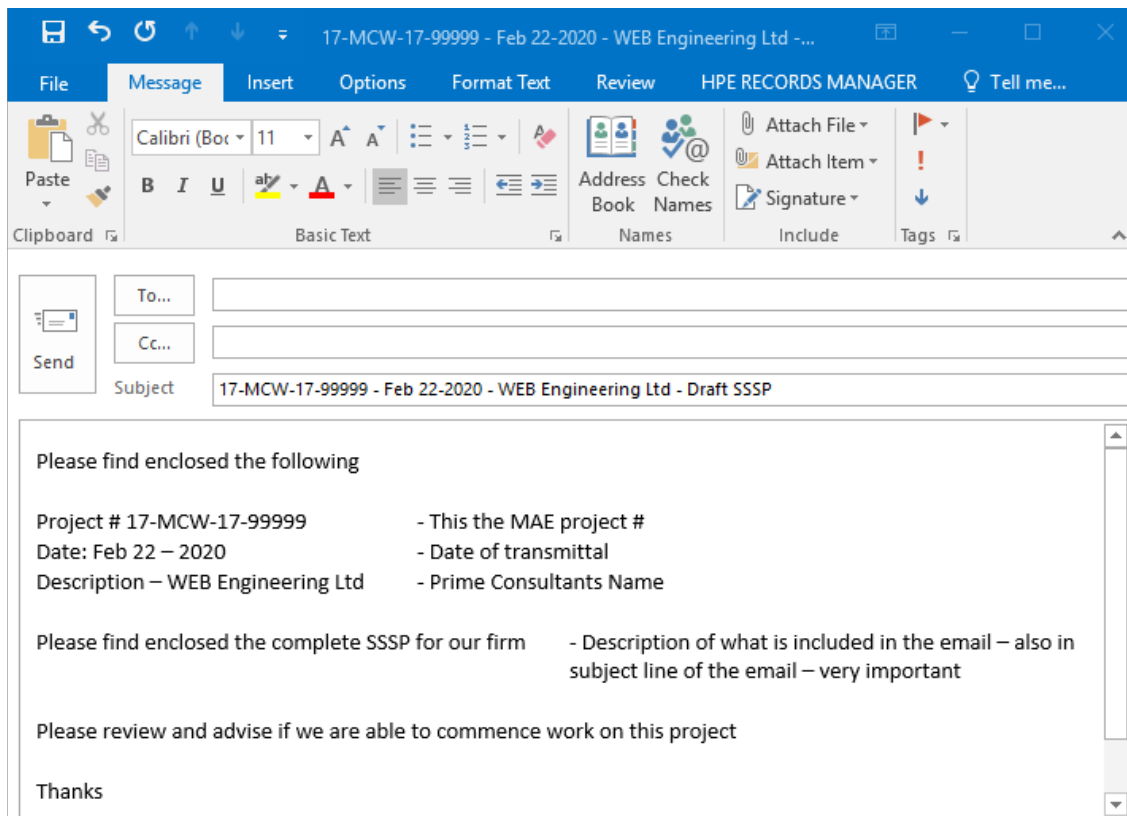
Such items to include but not necessarily limited to the following:

- a) Site Specific Safety Plan – for the Contractor(s)
- b) Verification by prime consultant that the Contractor(s) has an Occupational Health and Safety Manual and Policy
- c) Prime Consultants Approval for the Contractor(s) to start work after confirmation of above two items.
- d) Prime Consultants completed SSSP
- e) Any updates to the Contractor(s) Site Specific Safety Plan or the Prime Consultants SSSP as work progresses, hazards change, or employee numbers change on the work site, etc.
- f) During regular project progress meetings, copies of contractor-documented safety plan activities at site, including but not necessarily limited to reporting of events/incidents, minutes of toolbox meetings, and any required actions to be taken as a result of these activities.
- g) Any and all identified unsafe work conditions that have been forwarded to the contractor(s) on the specific site. Any identified items that on site personnel may become aware of and have reported to their respective employer. Any reports to, or site visits by OHS Division of Service NL.
- h) All directives received from OHS Division of Service NL shall be forwarded to the Principal Contractor and the Project Representative of the Department of Transportation and Infrastructure assigned to the project.
- i) Reporting of Accidents, serious injury or fatalities shall be reported as per section 54 of the Occupational Health and Safety Act and Section 10 of the Occupational Health and Safety Regulations. All employers shall report ALL items to the Principal Contractor and to the Project Representative of the Department of Transportation and Infrastructure assigned to the project.
 - a) Under the OHS Act an Accident shall be defined as: an incident that results in serious injury or results in a death of a person or, that had, or continues to have, the reasonable potential of causing serious injury to or the death of a person. – Please review Section 54 of the OHS Act for current interpretation.
 - b) Under the OHS Regulations a Serious Injury shall be defined as: an injury that places life in jeopardy, produces unconsciousness, results in substantial loss of blood, involves the fracture of a leg or arm but not a finger or toe, involves the amputation of a leg, arm, hand, foot, finger or toe; consists of burns to a major portion of the body or causes the loss of sight

Mandatory Safety Reporting by the Prime Consultant

in an eye. – Please review section 10 of the OHS Regulations for current interpretation.

- j) All reporting from the Contractor(s) or Prime Consultant shall contain the following information in the **SUBJECT LINE** of the email or correspondence
- Project # - Please insert the Department of Transportation and Infrastructure Project Number – 17-XXX-XX-XXXXX
 - Date: Please insert date of correspondence
 - Description: Please indicate CONTRACTOR (contractor name) or PRIME CONSULTANT (consultant name) – And a description of the type of correspondence as identified in the above line items.
 - Principal Contractor: **Please enter the name of the Municipality or Local Service District.**



Please note that the NLCSA offers a resource library for information, samples forms, etc. This is found in the link below: Other service providers may offer other industry sample forms and information. These forms can assist in the documentation of OHS activities for items listed in the SSSP.

<http://www.nlcsa.com/resource/index.php>