

Contracting Work Performed on Company Premises: A Guide for Contractors

Construction, renovation and demolition projects, as well as removing, installing, maintaining or repairing equipment can create unusual risks when done in or beside a company's regular operations. Whenever contracting work is done on company premises, both you and the company owner must be aware of unfamiliar and hazardous conditions under which their employees will be working.

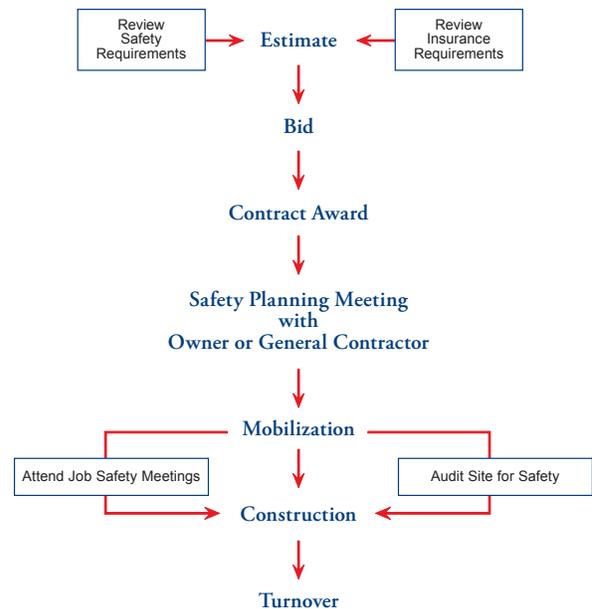
Injuries to your employees result in direct and indirect losses that must be absorbed into your cost of doing business. It is, perhaps, even more important to realize that the owner's employees may be entitled to bring a claim against you—the contractor—if they incur injuries or property loss arising from your work.

An injured employee typically collects workers compensation (WC) benefits from his or her employer or the employer's insurance carrier. However, under certain circumstances, the employee may be entitled to bring a claim against others who may have contributed to the incident. In one such case, an owner's employee fell over a staging plank belonging to the contractor and sustained serious injuries. Although eligible for WC benefits, the employee chose to make an additional claim for damages against the contractor and was successful in collecting an amount much larger than would have been received under WC alone.

Protecting Your Interests

Contractors can take several positive steps to protect themselves from incident losses stemming from work performed on an owner's premises:

- Be sure you understand all specifications and clauses in the contract before signing. If you have questions, consult your legal counsel to interpret special phrases or clauses such as "hold harmless."



Milestones for Owner/Contractor Safety Agreements

- The contract review should identify any language regarding defense and indemnification. Because of the impact on insurance and other costs, decide if these obligations are acceptable.
- Make sure you have the required insurance coverage before signing the contract. Besides asking legal counsel, you can refer questions about coverage to your Liberty Mutual account representative.
- Seek the same contractual protection from your subcontractors as you are required to provide to the owner, and have the subcontractors provide verification of adequate insurance coverage.
- Carry all necessary insurance coverages at adequate limits, including workers compensation, automobile liability, builder's risk and comprehensive general liability.

Your account representative can advise you whether you have the proper amount of coverage. Certain additional coverages under liability may be necessary. Note: Builder's Risk coverage is necessary because your standard general liability policy is not intended to provide insurance coverage for damage to the work under construction.

Loss Prevention

A well-developed and implemented incident prevention program is a key factor in preventing losses. Meet with the owner for a planning session well in advance of the job starting date. During this session, discuss and agree upon the following topics:

Outline the work area: Ask the owner to define the work areas in which your workers will be allowed, along with any necessary equipment routes, parking and storage areas, and sanitary facilities. Contractual arrangements should also include handling both expected and unexpected toxic waste and debris.

Equipment loaning: From a liability exposure standpoint, loaning or borrowing equipment is not generally desirable. The casual loaning of tools, such as ladders or planking, which the borrower could easily provide, should be prohibited. In the case of heavy equipment loaning or where scaffolding is already in place in the owner's plant, protect your company against possible claims by means of a waiver or contract prepared by legal counsel. These documents will be valuable to your defense in the event of a claim.

Exchange of safety information: Owners and contractors should provide each other with a set of safety policies and procedures. This exchange should include hazardous communication training. The owner should expect that the contractor will comply with laws and regulations such as the Occupational Health and Safety Act and Environmental Protection Agency requirements. In turn, you should expect plant employees to observe all safety requirements of the contract work.

Control of utilities: Reach a clear understanding with the owner regarding use of utilities and the protective measures the company will take with regard to construction operations. These measures may include locking out, blanking and tagging all electric power, gas, oil and steam lines. Make arrangements with the owner to ensure

that utility lines will be identified, marked and denergized before you begin any demolition or construction operations.

Controlling fire hazards: Have the owner clearly define responsibilities for fire control, giving particular attention to welding hazards. Review the owner's procedures for the care and use of firefighting and alarmed equipment, especially sprinkler protection and fire watches, and have the owner make changes based on the construction activity. A "permit system" is desirable.

Security: Take all necessary measures to prevent incidental or intentional damage to your equipment and operations.

Medical and first aid treatment: Make sure that first aid and medical facilities are constantly available to your personnel while on the jobsite. If the owner's medical facilities are available to your employees, clarify arrangements for use with the owner. If none is available, you will need to arrange for medical services for your employees.

Hazards at jobsite: Have the owners provide detailed information regarding any special hazards arising from their operations. In industrial plants, for example, these hazards may take the form of flammable material, dusts, chemicals or electrical and mechanical hazards.

Review emergency plans such as evacuation signals, and provide them to your employees. Request information and Material Safety Data Sheets (MSDS) on any hazardous materials that require special handling precautions. Also make arrangements for any special training that is provided to the owner's employees.

What Your Employees Should Know

The owner's safety director or other knowledgeable company representative should instruct your employees about existing hazards in the work area, and about any precautions your employees should take. Use the MSDS to train your employees regarding any hazardous substances or wastes they may encounter.

What the Owner's Employees Should Know

Since your construction superintendent or safety director would be most familiar with the conditions of your operations, they should be responsible for informing the owner's employees who work on or near the jobsite of the hazards and precautions involved.

Periodic Inspections

Every program requires follow up to ensure that it accomplishes its objectives. Designate a responsible employee to keep abreast of “whether the job is proceeding safely and according to agreement.” This individual may gain such knowledge through one or more inspections each day, or by some other means, depending on the nature and size of the job and the contractual agreement. Keep in mind that special hazards may require a review by specialists in the areas of industrial hygiene, occupational medicine or pollution control.

Summary

Having been selected as the contractor to perform work on company premises, you will find it helpful to follow this sequence of activities.

- Examine the contract carefully, with legal consultation if necessary, to be sure you understand it. Once you agree to it and sign the contract, make arrangements to comply with all its requirements.
- Arrange for the necessary insurance coverages, consulting with your insurance manager and/or account representative.
- Conduct a safety planning meeting with the owner or general contractor before the job starts. At this time, reach a mutual understanding regarding the safety requirements and who is responsible for them. This is also a good time to exchange information on hazardous materials and operations.
- Conduct safety meetings with your key people to review plans and procedures.
- Arrange for any necessary specialized evaluations such as structural surveys, industrial hygiene, etc.
- Make sure the owner holds an employee meeting—with your superintendent or safety director present—to explain anticipated job operating and safety requirements. This responsibility is usually handled by the general contractor or construction manager.

- For the duration of the job, see that your supervisors maintain necessary surveillance to keep the loss prevention program effective.
- Report all incidents promptly and document all existing conditions present at the time of any incident.

Incident Reporting

Report all incidents, regardless of how slight they may appear to be. If an incident does occur, for either an owner’s or contractor’s employee, do the following:

- Provide emergency services necessary.
- Gather the facts quickly.
- Get the names of as many witnesses as possible.
- Inspect the incident scene carefully.
- Take photographs or videotape the unaltered scene.
- Telephone your claims office immediately.
- Complete an incident report in duplicate and send the original to Liberty Mutual.
- Take action to prevent a recurrence.

Contractor’s Employee Incidents

For contractor’s employees, make sure to do the following:

- Complete incident report in duplicate and send the original to Liberty Mutual.
- If original report of injury indicates no lost time and the employee loses time at a later date, telephone the claims department the day the employee starts to lose time.
- Telephone your local claims department the day the employee returns to work.
- If the incident involves another contractor’s or the owner’s operation, be sure to include this information.

When a serious injury occurs, notify Liberty Mutual immediately!

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