



NATIONAL SAFETY COUNCIL

Position/Policy Statement

Contractor Management

This policy position will replace #115 Temporary and Contract Workers.

POSITION / POLICY:

The National Safety Council (NSC) encourages host employers to establish policies and programs outlining their processes for vetting and managing contractor, supplier, and vendor safety before permitting work to proceed on host property. *Note that for the balance of this document, the term “contractor” is used interchangeably with supplier, sub-contractor, and vendor and includes consideration of temporary workers. NSC is also engaged in ongoing work with the American Staffing Association related to improving temporary worker safety.*

Host employers often rely on contractors to bring their products and services to the marketplace, and if the current trend continues this reliance will only grow. Both host employers and contractors need to address their full scope of liability and risk and share in the responsibility for ensuring safe workplaces. When selecting contractors, host employers need to look beyond bid pricing, and assess the ability of contractors to work safely. Within this process, there must be established protocols that incorporate assessment of safety performance and verification of safety systems and programs as “go/no-go” criteria for contractor selection.

Host employers and contractors need to assess their approach to continuous process improvement, looking at how they integrate individual initiatives into a larger safety and health management system. This approach should take into account critical elements such as policy, risk assessment and mitigation, leadership development, employee engagement, and the potential impact of their actions and communication on one another. OSHA refers to this interdependent relationship as “Joint Responsibility,” and modern-day safety practitioners see this as extended risk management.

Successful contractor management programs must be fully integrated into the host employer’s business processes. Host employers must have a clear strategy to communicate safety expectations and performance protocols – internally and externally, including the key performance indicators (KPIs) associated with project completion. Including KPIs in a contract or Master Service Agreement (a broader arrangement in which parties agree to most of the terms that will govern future transactions or agreements) ensures that expectations are not only

communicated, but understood. The process of setting KPIs should also identify responsible stakeholders on both sides of the relationship and address consequences for not meeting a host employer's expectations.

Once a contractor is qualified, host employers need to ensure the safety and health metrics used to assess contractors are kept current and stored in a repository where internal hiring stakeholders have access. Host employers must also ensure contractors are periodically reviewed as their size, risk or work scope can change, and should establish clear and transparent protocols for safety infractions. Following the completion of a contract, host employees should review the project from a safety perspective and integrate lessons learned into their safety management system.

JUSTIFICATION

Reliance on contractors

Host employers rely on contractors to supplement their full-time equivalent workforce. In a 2015 research white paper¹, members of the Campbell Institute at the National Safety Council agreed that the trend of relying on contractors to supplement their work staff will continue into the foreseeable future. Other studies have confirmed this, including a 2015 KPMG report that indicated nearly 70% of employers in the construction industry alone hire external resources equivalent to more than 5% of their workforce². The use of contractors allows for flexible staffing models, outside expertise and helps host employers focus on their core competencies.

Contract workers require special consideration. Within the U.S., anecdotal evidence indicates that the line of responsibility is not clearly understood by many host employers. Additionally, the obligations of host employers using temporary workers are quite different from that of hiring contractors. Responsibility for supervision, worker training, personal protective equipment, and injury/illness reporting and recording must be identified and communicated prior to workers coming on-site. For further understanding, host employers should visit OSHA's website on the Temporary Worker Initiative (https://www.osha.gov/temp_workers/index.html) and read the case study that was developed between the American Staffing Association (ASA) and the National Safety Council (NSC), titled, 'A Case Study on Shared Responsibility of Staffing Agencies and Host Employers for Temporary Worker Safety – Personal Protective Equipment and Injury Recordation.'³

Safety risk and legal liability

Bringing in outside workers can add risk and liability to the host employer. An undesirable contractor event could result in worker injury/death, and bring unwanted and adverse public opinion of the host employer brand. Host employers must be transparent in communicating the work they want contractors to perform, the hazards associated with those tasks, and risk mitigation requirements. By the same token, contractors should demonstrate their ability to work safely (with evidence-based examples such as past safety performance, written safety programs, a log of hazards they bring on-site, safety self-assessment processes, employee skills and safety training, and regulatory citation history). This exchange of information and dialog between host employer and contractor is critical to the success of both companies.

¹ Inouye, 2014

² KPMG, 2015

³ ASA/NSC/OSHA, 2016

Lack of regulatory mandate

There is no single-source OSHA regulation requiring host employers to qualify their contractors. For the most part, host employers are left to their own judgment and experience in managing contractors. Unfortunately, many host employers come to realize their need for contractor management only after a significant safety incident involving a contractor.

Understanding OSHA's desire for host employer responsibility of contractor management can be found in various sources (having very specified or limited scope):

1. Process Safety Management of Highly Hazardous Chemicals CFR 1910.119(h)(2)(i): "The employer, when selecting a contractor, shall obtain and evaluate information regarding the contract employer's safety performance and programs."
2. Multi-Employer Citation Policy, CPL 02-00-124 (12/99): "On multi-employer worksites (in all industry sectors), more than one employer may be citable for a hazardous condition that violates an OSHA standard." This policy defines OSHA's interest in joint worksite safety responsibility, and compliance of existing OSHA regulations, to also include the General Duty Clause.
3. Voluntary Protection Programs, CSP 03-01-003 (4/08): "VPP participants must have in place a documented oversight and management system covering applicable contractors. Ensure that safety and health considerations are addressed during the process of selecting contractors and when contractors are onsite." (page 24)
4. Policy Background on the Temporary Worker Initiative, MEMORANDUM (7/15/14): "The purpose of this initiative is to increase OSHA's focus on temporary workers in order to highlight employers' responsibilities to ensure these workers are protected from workplace hazards."
5. OSHA's TWI website, https://www.osha.gov/temp_workers/index.html
6. Recommended Practices for Safety and Health Programs (10/18/16), a) Management Leadership: "Establish a written policy signed by top management describing the organization's commitment to safety and health and pledging to establish and maintain a safety and health program for all workers", b) Communication and Coordination for Host Employers, Contractors, and Staffing Agencies, "All workers at a worksite should participate, including those employed by contractors, subcontractors, and temporary staffing agencies."

Striving for contractor management safety excellence

Having a comprehensive contractor management system allows host employers to base hiring decisions on more than just price. Rewarding contracts to safer performing contractors supports their decisions to invest in safety. Host employers need to address contractor management with the same enthusiasm and program sophistication as they do employee safety initiatives. Furthermore, host employers should invest sufficient budget and resources to administer their contractor management program. Campbell Institute members agree success of contractor management relies on implementing a comprehensive contractor management program.⁴

It is considered a best practice amongst Campbell Institute members to use a third-party prequalifying company or to have an internal company vetting process to help organizations manage their supply chain⁵. NSC research performed within the contractor prequalification industry demonstrates contractors that are managed outperform industry safety benchmarks.⁶

⁴ Inouye, 2014

⁵ Ibid

⁶ Inouye, 2017

- TRR: 34 – 45% better than industry comparisons
- DART: 47% better than industry comparisons
- LWR: 65% better than industry comparisons
- Sustainable improvement over time: 57% from their own baseline & outpacing industry improvements by 35%

Whether a host employer manages their supply chain with an in-house program, or a third-party prequalification company, contractors should perform better if they are managed with an expectation to work safely and continuously improve.

Contractor lifecycle - best practices

The Campbell Institute has identified five steps of the contractor life cycle (graphic below, Figure 1).⁷

Host employers would be short-sighted to omit any of the five steps of the contractor lifecycle. Host employers are encouraged to use this model to assess their current contractor management programs as a gap analysis and work to close deficiencies.

1. **Prequalification:** This step presumes a host employer has a contractor management program, along with internal and external requirements and contractor qualification protocols.
2. **Pre-job task and risk assessment:** This step involves the host employer establishing risk-level rankings for the work contractors perform on-site. There are many stratification options, but a typical contractor risk ranking system would be divided into three categories: low, medium and high. The purpose of establishing categories is to set applicable protocols based on risk. The level of scrutiny for a low-risk supplier would not be the same as a high-risk supplier.
3. **Contractor training and orientation:** This step covers site orientation or induction training. Some host employers include requirements for contractors to demonstrate that their workforce is trained and qualified to perform specific duties (a few examples: lockout/tagout, confined spaces, fork truck operator, or other specialty training).
4. **Monitoring of job:** This step involves host employer assurance that contractor worksite practices are compliant with applicable regulations and meet host employer expectations. Assurance can take the form of job site observations, inspections or program audits. In this step, the host employer has the opportunity and responsibility to provide oversight that the contractor is working safely. When handling contractor non-compliance, more than 50% of Campbell Institute members surveyed stated they have specific courses of action to take when a contractor infraction occurs⁸. An almost equal number of members stated they make a determination of what to do based on the severity of the event.
5. **Post-job evaluation:** This step takes place after the contractor work has been completed. The host employer evaluates the overall performance of the contractor's work. Documentation for other internal stakeholders includes items such as: (1) did the contractor perform their work in a safe and efficient manner, (2) were they responsive to the host's input, and (3) would they recommend hiring the contractor again. This step is also a significant challenge for host employers – some not having an available record repository, process for how evaluations can impact contractor metrics and a scoring system itself. Within this step, the host employer and contractor can greatly impact the existing partnership.

⁷ Inouye, 2014

⁸ Ibid



Figure 1 – Reprinted from “Best Practices in Contractor Management,” (2014), Joy Inouye, Campbell Institute

IMPORTANCE TO COUNCIL

It is standard practice for NSC member companies to hire contractors to supplement their full-time equivalent work staff. Conservatively, the number of contractor companies involved with host employers is in the hundreds of thousands, impacting millions of workers. With the complexities of today’s worksites, host employers and contractors must take swift action to ensure the safety of all workers – host and contractor alike. This inter-dependence on one another cannot be successfully executed without both entities drafting contractor management safety and health programs.

Anecdotal evidence suggests many small- to medium-sized contractor companies struggle with ‘how’ to develop a comprehensive safety and health management system – and to be in a position to be awarded work with a host employer. These companies have been targeted by the Council with an initiative called the “Journey to Safety Excellence,” which includes a free assessment tool, employee safety perception survey and incident rate calculator along with additional resources and information. NSC member companies help make small- to medium-sized companies aware of these free resources so they too can learn how to start down a path of continuous safety and health process improvement.

Host employers implementing a comprehensive contractor management program across their supply chain will help Council members manage a large risk within their business operation. Host employers need to address contractor management with the same enthusiasm and program sophistication as employee safety initiatives. By adopting this policy/position statement for Contractor Management, and offering companies free resources, such as the “Journey to Safety Excellence,” the Council is acknowledging more mentoring is needed from larger companies (host employers) to protect all classes of workers.

It is clear that this policy/position aligns with the Council’s vision: “Eliminating preventable deaths in our lifetime.”

There are numerous benefits to adopting this policy/position, as well as a few considerations to take into account. In terms of benefits, the policy allows NSC to advocate for many practices that support its mission and vision. It:

- Promotes the need for contractor vetting and on-going supplier re-qualification
- Provides a defensible best practice-based structure for host employers to manage their contractors
- Helps improve traditional worksite injury/illness performance
- Creates the opportunity for additional leading indicator metrics for contractor management
- Promotes productive dialog between host employers and their supply chain
- Establishes host employer safety culture and risk tolerance for worksite safety
- Provides justification to hire safer performing contractors over lowest bid contractors

In terms of considerations, it is worth noting that the policy may be unpopular amongst some member companies, and that care should be taken to look for opportunities to address some of the following challenges faced by organizations adopting the practices outlined in this policy, including:

- Difficulty overcoming internal change-management concerns (existing cross-departmental jurisdictions, concern about being able to hire favorite contractors, the speed and authority of contractor hiring)
- Budget allocation and resource investment (operation management: internal training, contractor communication, verification of annual contractor data, data repository, program auditing/evaluation)

WORKS CITED

- Best Practices in Contractor Management (2014), Joy Inouye, Campbell Institute
- Global Construction Survey 2015 (2015), KPMG
- A Case Study on Shared Responsibility of Staffing Agencies and Host Employers for Temporary Worker Safety – Personal Protective Equipment and Injury Recordation (2016), Occupational Safety and Health Administration (OSHA), American Staffing Association (ASA) and the National Safety Council (NSC)
- US Department of Labor, OSHA, Process Safety Management of Highly Hazardous Chemicals CFR 1910.119(h)(2)(i)
- US Department of Labor, OSHA, Multi-Employer Citation Policy, CPL 02-00-124 (12/99)
- US Department of Labor, Voluntary Protection Programs, CSP 03-01-003 (4/08), page 24
- US Department of Labor, Policy Background on the Temporary Worker Initiative, MEMORANDUM (7/15/14)
- US Department of Labor, Recommended Practices for Safety and Health Programs (10/18/16)
- Making the case for contractor management: Examining the safety benefits of 3rd-party management (NSC white paper at www.nsc.org/contractormanagement)

This position statement reflects the opinions of the National Safety Council but not necessarily those of each member organization.

Adopted by the National Safety Council, 2019