

How to Perform Prequalification Safety Audit of Prospective Contractors



Hiring contractors and subcontractors to work at your site creates safety risks. Contractors' workers are likely to be unfamiliar with your facility, machinery, and work processes, especially since you don't get to train them on the hazards of the site the way you do with your own workers. This may compromise your OHS program and put your own workers at risk, for example, where a contract worker who isn't familiar with your safety systems inadvertently shuts off or disables key controls. Adding to the risk is that you may be liable for the injuries contractors' workers cause or suffer while working at your facility.

OHS laws require "employers" to protect the health and safety of their workers. Most jurisdictions define "workers" or "employees" protected by law as going beyond the traditional employment relationship where a company hires an individual to perform work in exchange for a wage or salary. Definitions vary by jurisdiction. The basic approaches:

- In BC, Manitoba, Québec, and Yukon, "worker" status seems to require the existence of a contract between the employer and individual performing work.
- In Alberta, Newfoundland, Nova Scotia, Northwest Territories, and Nunavut, simply being "engaged in" an employer's work is enough to be considered an "employee"

or “worker,” which would include those employed by contractors hired by the employer to do the employer’s work.

- New Brunswick and Prince Edward Island have even broader definitions of, respectively, “employee” and “worker” as including any person at an employer’s workplace in connection with work performed for the employer.
- Saskatchewan defines “worker” as including anybody an employer “permits” to perform work or services on its behalf.

You might be able to make contractual arrangements that make the lead contractor, aka “primary contractor” or “constructor,” primary responsibility for ensuring that the contract work is carried out in accordance with applicable OHS requirements. However, [a prime contractor arrangement](#) might not be [possible in all provinces and work situations](#). And even when it is, designating a prime contractor doesn’t relieve an employer of all OHS liability for the work.

Bottom Line: The most important thing you can do [to manage the safety and liability risks of contractor arrangements](#) is to hire contractors that you can trust to carry out the work safely and compliantly. Establish [clear and comprehensive safety criteria for contractors](#) and carefully screen all prospective contractors to ensure they meet those criteria before you hire them. Here’s how to perform a contractor prequalification safety audit.

1. Establish a Prequalification Audit Process

“Although well-intentioned, the field level people who screen contractors tend to use an informal process that emphasizes price and job completion over safety,” explains a veteran Alberta OHS lawyer and former prosecutor. But selecting contractors simply because they submit the lowest bid or

because you've worked with them before is risky. That's why companies should establish a formal contractor prequalification process that emphasizes safety. In addition to minimizing injury risks, this approach generates the documentation you need to prove that you exercise due diligence in hiring contractors in case you're later charged for a contractor's OHS violations.

2. Prequalify All Prospective Contractors

Prequalify each and every contractor you're considering to a baseline standard. But also keep things in proportion. The focus should be not necessarily on the size of the job but on the kind of work involved and the hazards associated with that type of operation. Thus, prequalifying contractors for small complex jobs involving unusual hazards should be more intensive than screening contractors for larger but more simple, basic jobs with common hazards. **Best Practice:** Use a basic hazard matrix which considers the probability and severity of hazards associated with the risk. The higher the probability or severity of an accident, the closer you should look at who you're bringing onto the site.

Requalify contractors that you've worked with in the past, even if you were satisfied with their safety program and performance. While experience working with a particular contractor may enable you to lower the level of scrutiny, be mindful that contractors change over time and that reliable safety performance in the past doesn't guarantee that it will continue in the future. In fact, you may actually need to perform more extensive requalification if you're considering the contractor for a new or different type of work, especially if it involves more significant hazards than the previous job.

Subcontractors must also be prequalified, either by you or the general contractor, depending on the project strategy. The

agreement you sign with any general contractor that performs subcontractor prequalification should specifically describe the prequalification process used while requiring the general contractor to adhere to that process.

3. Make Proper Use of Registries for Prequalification Audit

Many companies use outside “Registries” to perform the administrative work necessary to review a contractor against a baseline of safety, according to the Alberta. The problem with these Registries is that what they generate is only a paper review. What’s said on the paper doesn’t always get practiced in the field. Accordingly, he advises against farming out prequalification completely and instead suggests treating it as a two-stage process:

- **Stage 1:** General assessment of the contractor to weed out unqualified candidates.
- **Stage 2:** Assessment of the contractor’s OHS program and resources as they relate to your specific project.

Registries can be a big help in Stage 1 since they can quickly and efficiently collect information on potential contractors and their paper OHS programs. While this should give you a good start, you’ll need to gather additional information for Stage 2 that registries may not provide, specifically information related to the proposed work and hazards it involves. Also keep in mind that just because a contractor isn’t included in a particular registry doesn’t necessarily mean it’s unqualified to do the job. For example, a contractor that’s not approved by a registry because it doesn’t have an asbestos exposure control plan might still be suitable to hire for a job that involves no exposure to asbestos.

4. Use Effective Prequalification Audit Methods

Many companies use [prequalification questionnaires](#) to screen potential contractors. These questionnaires run the gamut in complexity from two- to three-page basic forms to elaborate documents listing 400 question forms, depending on the job. While questionnaires can help with Stage 1 to the extent they enable you to determine whether the contractor has an OHS system. But prequalification should go beyond merely reviewing the contractor's answers on a form. You also need to ensure that the contractor's OHS system is effective and addresses all OHS requirements. In addition to questionnaires, prequalification may also involve:

- Obtaining and checking references.
- Checking out other jobs the contractor performed that weren't listed as references.
- Checking for clearance certificates and any other information on the contractor available from the province's workers' comp board.
- Doing a site check.
- Interviewing workers and supervisors.

5. Ensure Prequalification Audit Covers the Right Ground

The prequalification audit should gather the information you need to make a reasonable determination that the contractor will perform the job safely and in compliance with OHS laws. According to a Toronto OHS lawyer, there are "generally accepted" parameters of what an inquiry should focus on, including these 5 aspects of a contractor's organization:

(a) Contractor's OHS Program

Most provinces and territories require “employers” to create written safety policies and detailed safety programs to implement them. The first part of your audit should be to [review the policies and programs the contractor has created for its own workers and subcontractors](#). Are all the appropriate policies and programs in place? Are they clearly written? Do they contain all legally required elements, such as regular inspections and incident reporting? Does the contractor post its policies and programs and distribute them to workers and subcontractors? When was its most recent safety audit? What were the results of that audit?

(b) Contractor's Safety Training Program

Verify that the contractor provides appropriate safety training to all of the people it uses to perform a job, including subcontractor workers. Contractors that simply hire experienced workers without providing them training on the specific job and OHS requirements involved should raise a red flag.

(c) Contractor's Managers & Supervisors

OHS laws require the furnishing of adequate supervision by “competent” persons. If the contractor intends to use its own people to supervise, find out who its managers and supervisors are, how much experience they have, the qualifications they possess, and that they're “competent” or “qualified” to oversee the work. Make sure the contractor has enough competent supervisors to conduct the work safely. **Rule of thumb:** The more hazardous the activity, the greater the number of supervisors required. And if the work is particularly hazardous, supervisors

might also have to be present at the site while it's being performed.

(d) Contractor's Safety Record

Do some digging into the contractor's safety record, including:

- The contractor's "safety numbers," such as injury and illness rates, incident frequency, severity, etc.
- Previous convictions or charges under safety laws.
- If a contractor has been convicted or charged of an OHS offence, find out what happened and how the matter was resolved—you can get this information from the contractor and, depending on the province, from regulatory agencies and/or press releases.
- Convictions and charges against supervisors the contractor plans to rely on to oversee the project.
- Workers' comp rating records, especially as compared to other contractors in the same industry or sector.

(e) Contractor's Insurance

Find out how much liability coverage the contractor has and determine whether that's enough for the job. Also verify that it has a clearance certificate or proof of good standing under the workers' comp authorities of each jurisdiction in which it operates.