

ACTPS Managing Work Health and Safety Obligations with Contractors Policy

PURPOSE

1. The policy provides a directive to ACT Public Sector (ACTPS) directorates and agencies to apply a systematic approach when engaging and managing contractors, consultants, suppliers and contingency labour (referred to in the policy as 'contractors') to ensure the ACTPS and contractors understand their respective work health and safety (WHS) obligations under the *Work Health and Safety Act 2011* (WHS Act).

APPLICATION

2. This policy contains a set of instructions issued by the Head of Service under the *Public Sector Management Act 1994* which binds all employees and officers engaged under that Act.

BACKGROUND

3. Directorates and agencies might engage contractors as they have skill, training, knowledge or services not available in the ACTPS.
4. The *Work Health and Safety Act 2011* (the WHS Act) Section 7 definition of a worker includes:
 - a. a contractor or subcontractor (s 7(1)(b));
 - b. an employee of a contractor or subcontractor (s 7(1)(c); and/or
 - c. an employee of a labour hire company who has been assigned to work in the person's business or undertaking (s 7(1)(d).
5. The ACTPS owes a WHS duty to these workers and they in turn owe a duty to not put workers and others at risk from the work they undertake.
6. Contractors carrying out work for the ACT Government may be:
 - a. firms and individual contractors/sole traders, including but not limited to, tradespeople, building maintenance, specialist matter experts or suppliers of contingent labour;
 - b. service contractors, including but not limited to, building and equipment maintenance, cleaning and waste removal, professional services and computer technology services;
 - c. contractors providing services at events, including but not limited to, waste, security, first aid, traffic management services;

- d. consultants providing specialist services, including but not limited to, ICT systems development, professional services including medical practitioners, legal advisers and accounting personnel; and/or
- 7. Infrastructure firms delivering specialist works including construction projects. The ACTPS has a range of initiatives in place to maintain safe workplaces in situations where contractors are engaged. These initiatives include safety criteria in procurement documentation, clauses relating to work health and safety in contracts and an [Active Certification Policy](#) for construction related contracts. The [Secure Local Jobs Code](#) also specifies contractors, in some types of work, must hold a Secure Local Jobs Code Certificate.
- 8. Reviewing and checking the performance credentials of contractors is required irrespective of the level of familiarity or trust between the Person Conducting the Business or Undertaking (the PCBU) and a contractor.

PRINCIPLES

- 9. When engaging contractors directorates and agencies must:
 - a. be clear on what they require the contractor to do and reach an agreed understanding of expected deliverables;
 - b. verify the contractor has the necessary expertise for the work;
 - c. verify the contractor has their own systems in place to carryout work safely;
 - d. consult, co-operate and co-ordinate with the contractor to ensure their work (and the ACTPS work) does not put each other at risk of harm and agree on health and safety arrangements (control of the worksite, access to first aid, evacuation protocols etc);
 - e. ensure all relevant parties are advised of the health and safety arrangements agreed to;
 - f. induct contractors into the workplace; and
 - g. verify the contractor is carrying out work safely (so far as it is possible).

RESPONSIBILITIES

- 10. In addition to general responsibilities under the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*, the following responsibilities apply under this policy.

A. DIRECTORS-GENERAL, DEPUTY DIRECTORS GENERAL OR EQUIVALENTS AND AGENCY HEADS

- Have arrangements in place to ensure that the principles outlined above are considered and applied when engaging contractors.
- Understand their officer due diligence responsibilities with particular emphasis on:
 - a. they cannot contract out a WHS duty (section 14 and 272, of the WHS Act); and
 - b. how the term 'reasonably practicable' applies in relation to contract management.

B. EXECUTIVE AND MANAGERS

- Ensure employees who engage and/or manage contracts have the necessary knowledge and skills to consult with the contractor.
- Ensure consultation with the contractor occurs to ensure a common understanding of the work and work practices.

C. EMPLOYEES

- Follow any directorate procedures for engaging or managing contractors.

LEGISLATIVE REFERENCES

This policy is to be delivered in accordance with:

- [Work Health and Safety Act 2011](#)
- [Work Health and Safety Regulation 2011](#)
- [Work Health and Safety \(Construction work code of practice\) approval 2018](#)
- [Government Procurement Act 2001](#)
- [Government Procurement Regulation 2007](#)
- [Public Sector Management Act 1994](#)
- [Information Privacy Act 2014](#)
- [Workplace Privacy Policy 2011](#)

REVIEW

This policy will be reviewed after three (3) years unless earlier review is required.

APPROVAL AUTHORITY

This policy is approved by: Head of Service

Date: 17 December 2022

Issue Date: 11 April 2023

Review Date: 11 April 2026