

A GUIDE FOR  
**PROPERTY**  
OWNERS AND MANAGERS

HEALTH AND SAFETY FOR CLEANING CONTRACTORS IN NSW



**GUIDE 1** 2003

**Disclaimer**

This publication contains information regarding occupational health, safety, injury management or workers compensation. It includes some of your obligations under the various Workers Compensation and Occupational Health and Safety legislation that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate Acts.

This publication may refer to WorkCover NSW administered legislation that has been amended or repealed. When reading this publication you should always refer to the latest laws. Information on the latest laws can be checked at [www.nsw.gov.au](http://www.nsw.gov.au) or contact (02) 9238 0950 or 1800 463 955 (NSW country only).

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**Industry Support**

The guidelines have been developed by a cleaning industry working party, which was co-ordinated by WorkCover NSW. Members of the industry working party are thanked for their participation and support.

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Building Service Contractors Association of Australia

Broadlex Cleaning Australia

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# Preamble

Some property owners and managers have the belief that they can remove health and safety responsibilities by engaging contractors. This is not the case. Engaging contractors does not remove a duty of care, it only makes it more complex.

These guidelines are designed to assist property owners and managers to systematically manage contractors in the workplace, in particular, cleaning contractors.

Cleaning Industry workers compensation premiums have risen from 2.67 to over 10.52 percent (of an employer's payroll) over the last 7 years. Cleaner's injuries have a higher on average cost and are more likely to lead to a permanent disability. The cleaning employer initially pays for higher insurance premiums, but everyone pays in the long run in the form of higher cost of services.

This guide is intended for owners and managers of such locations as shopping centres, office buildings, hotels, event locations and private schools. This guide may also assist government agencies, however, they may have additional NSW government requirements.

## Benefits of using this guide

Property owners and managers can assist in reducing injuries to cleaners by adopting the principles contained in this guide.

- Property owners and managers can gain information on legal obligations and practical advice on ways of meeting these obligations
- Property owners and managers can demonstrate their commitment to Occupational Health and Safety
- All parties that hold workers compensation insurance can work towards being eligible to apply for the WorkCover Premium Discount Scheme
- Contractors know up front that they must comply with requirements governing Occupational Health and Safety and Workers Compensation
- Contractors know up front they must demonstrate the effectiveness of their own OHS management systems.

## Companion Guide

This guide is complemented by *Guide 2, Health and Safety for Cleaning Contractors in NSW: A Guide for Cleaning Employers and Contractors.*

## Help and Information

Appendix 1 details further references and resources for assistance and information.

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# INTRODUCTION

This guide is intended to provide practical guidance to assist property owners and managers meet their obligations under:

- NSW Occupational Health and Safety Legislation
- NSW Workers Compensation and Injury Management legislation.

While work such as cleaning can be contracted out, responsibility for health and safety cannot! This means that the property owner or manager must take all reasonable steps, including training and testing, to ensure that any contractors retained to provide services at the workplace understand their obligations under the *Occupational Health and Safety Act 2000*, and comply with them. (See WorkCover NSW *Due Diligence*, 1997)

The table below summarises the responsibilities of key stakeholders.

	What they are responsible for	Notes
<b>Property owner</b>	<ul style="list-style-type: none"> <li>• Providing and maintaining premises, access, egress, plant and substances that are safe and without risks to health</li> <li>• Risk management</li> <li>• Ensuring that contractors are not exposed to risks to their health and safety arising from the conduct of the employer's undertaking while they are at the employer's place of work.</li> </ul>	A person who has only limited control of the premises, plant or substances is responsible for those matters over which the person has control.
<b>Property/ facilities manager</b>	<ul style="list-style-type: none"> <li>• Providing and maintaining premises, access, egress, plant and substances that are safe and without risks to health</li> <li>• Risk management</li> <li>• Ensuring that contractors are not exposed to risks to their health and safety arising from the conduct of the employer's undertaking while they are at the employer's place of work.</li> </ul>	
<b>Cleaning employer</b>	<ul style="list-style-type: none"> <li>• Ensuring the health, safety and welfare at work of all their employees</li> <li>• Risk management</li> <li>• Ensuring that contractors are not exposed to risks to their health and safety arising from the conduct of the employer's undertaking while they are at the employer's place of work.</li> </ul>	For further information see the companion guide, <i>Guide 2, Health and Safety for Cleaning Contractors in NSW – A Guide for Cleaning Employers and Contractors</i> .
<b>Contractors engaged by the cleaning employer</b>	<ul style="list-style-type: none"> <li>• Ensuring the health, safety and welfare at work of all their employees</li> <li>• Risk management.</li> </ul>	

# LEGAL RESPONSIBILITIES/ DUTY OF CARE

## Overview

This section aims to provide an insight into the Occupational Health and Safety laws and Workers Compensation laws and how they affect workplace controllers, employers, contractors and directors and managers. Included in the section is:

- **NSW Occupational Health and Safety Legislation and Codes of Practice**
  - Employer responsibilities
  - Engaging contractors
  - Controller of a workplace
  - Personal liability of directors and managers
  - Employee responsibilities
  - Powers of inspectors
- **Workers Compensation and Injury Management**
  - Workers compensation
  - Injury management.

## NSW OCCUPATIONAL HEALTH AND SAFETY LEGISLATION AND CODES OF PRACTICE

The NSW *Occupational Health and Safety Act 2000* (OHS Act) places duty on employers, controllers of workplaces and contractors to provide a safe and healthy workplace.

The NSW *Occupational Health and Safety Regulation 2001* (OHS Regulation) is a Regulation made under the OHS Act. This Regulation which consolidates all previous OHS Regulations, contains more detailed mandatory provisions that apply to property owners and managers for workplace health and safety matters such as risk management, consultation and first aid.

The OHS Regulation also calls up 8 Codes of Practice, some of which are particularly relevant to this guide. For further information see Appendix 2.

There are penalties for breaches of the OHS Act. The maximum penalty for a corporation is \$550,000 or \$825,000 for secondary offenders. At time of publication one penalty unit was equal to \$110.

## Employers' responsibilities

Employers have a general duty of care for their employees and must ensure the health, safety and welfare of their employees while at work.

Section 8(1) states that employers must:

- Ensure that places of work under their control are maintained in a safe condition, including entrances and exits
- Make arrangements for ensuring the safe use, handling, storage and transport of plant and substances
- Provide and maintain systems of work, and working environments, that are safe and without risks to health
- Provide the information, instruction, training and supervision necessary to ensure the health and safety of employees
- Provide adequate facilities for the welfare of employees.

Chapter 2 of the OHS Regulation places a duty on employers to undertake the risk management process, and can assist employers to understand and undertake this process.

Chapter 3 of the OHS Regulation requires employers to consult with their employees about OHS matters, so that employees can contribute to decisions affecting their health, safety and welfare.

## Engaging contractors

When a property owner or manager is an employer, they have an obligation to ensure the health and safety of their own employees as well as other workers (ie cleaning contractors) and persons generally. The OHS Act states that:

*'An employer must ensure that people (other than the employees of the employer) are not exposed to risks to their health or safety arising from the conduct of the employer's undertaking while they are at the employer's place of work.'* (OHS Act s 8(2))

A property owner/manager who retains contractors to provide services at the workplace remains primarily liable for ensuring that the contractor's employees are not exposed to risks to their health or safety while they are at his/her place of work.

Where the property owner or manager is self-employed, the law states:

*'A self-employed person must ensure that people (other than the employees of the employer) are not exposed to risks to their health or safety arising from the conduct of the employer's undertaking while they are at the persons place of work.'* (OHS Act s 9)

***Contractors and their employees must be treated in regard to OHS as if they were the same as your own employees.***

*When making a judgment following the injury of contractor, the magistrate stated.*

*'The Employer must realise it is under an obligation to eliminate safety hazards from its undertakings and to communicate and enforce safety regulations to every person who enters a work situation.*

*In particular, formal risk and hazard investigations on all operations should be carried out with all contractors involved, both prior to the grant of the contracts and during its term.....*

*[The employer] should require that prospective contractors provide indication of induction procedures, operating procedures, OHS systems, safety meetings systems, 'tool box' meeting systems, and safety systems in place for the contractor's operation.'*

## Controller of a workplace

A property owner or manager may be defined as a controller of a workplace if the following is satisfied:

- they have control of premises used by people as a place of work
- the premises, plant or substances are controlled in the course of a trade, business or other undertaking (whether for profit or not).

The property owner or manager will not be a controller where:

- ONLY employees of the property owner or manager use the premises, plant or substances
- the premises are occupied only as a private dwelling.

Where a property owner or manager is a controller of work premises, they are responsible under the law to make sure that premises, access, egress, plant and substances are safe and without risks to health (OHS Act s 10).

Where property owners or managers do not have full control of the premises, the law states: 'Where a person has only limited control of premises, then their responsibility applies only to the matters that they have control over.' (OHS Act s 10)

Before a cleaning contractor uses premises as a place of work, the controller (eg the property owner and manager) has specific responsibilities regarding risk management. The property owner / manager must:

- Identify any foreseeable hazard arising from the premises that has the potential to harm the health or safety of any person accessing, using or egressing from the premises both during the design of the premises and before the premises are provided as a place of work. (OHS Reg. Clause 34)
- Assess the risk of harm to the health or safety of any person arising from any hazard identified by way of evaluating the likelihood and potential severity of injury or illness. (OHS Reg. Clause 35)
- Eliminate or control risks arising from the premises. (OHS Reg. Clause 36)
- Review risk assessment and control measures whenever there is a significant change or if an injury or illness results. (OHS Reg. Clause 37)
- Provide any employer who uses the premises concerned as a place of work with information pertaining to the assessment and control of these risks. (OHS Reg. Clause 38)

### ***Window Cleaner falls four floors. Building owner liable.***

*A building owner who was found to be a controller of a workplace, was prosecuted under OHS legislation when a window cleaner fell four floors to his death when cleaning the exterior of a building's windows.*

*The judge found the building owner liable. The court heard that the building owner and tenant both observed the deceased working on the window sill, but did not warn him against doing so.*

## Personal liability of directors and managers

Directors and managers of corporations can be held accountable.

If a corporation contravenes, whether by act or omission any provision of the Act or Regulations, each director and person concerned in the management of the corporation is taken to have contravened the same provision *unless* the director or person satisfies the court that:

- they were not in a position to influence the conduct of the corporation (in relation to the offence), or
- they used all due diligence to prevent the contravention by the corporation.

(OHS Act s 26). The maximum penalty against an individual is \$82,500 penalty units (at time of publication one penalty unit was \$110.00) and/or imprisonment for 2 years.

## Employee responsibilities

Employees also have responsibilities under the OHS Act.

Under sections 20 and 21 of the Act, employees must:

- take reasonable care for the health and safety of others at work
- cooperate with the employer on health, safety and welfare matters
- not interfere or misuse items provided for health, safety and welfare.

Under the Act, an employer must not charge an employee for anything done or provided that are necessary for the employer to comply with occupational health and safety obligations.

Also, an employer cannot dismiss or alter an employee's position to their detriment because that employee makes a health and safety complaint about their workplace or is an OHS committee member or OHS representative.

## Powers of inspectors

WorkCover Inspectors are responsible for ensuring that all persons and organisations meet their OHS and workers compensation obligations. Inspectors also provide advice and assistance. Part 5 of the OHS Act contains details for the appointment, entry and inspection powers of inspectors. Under the Act, inspectors have a range of powers including the power to:

- enter and investigate any premises they have reason to believe is a place of work
- conduct interviews and make inquiries
- take photographs, recordings and measurements or samples
- gather information, examine and copy documents

### *Senior Management have greater degree of responsibility.*

In a case heard before the Industrial Commission of NSW an organisation had been exposing its workers to low level hazardous substances leakages over many years. In this instance there was a significant leakage, and one worker was overcome with fumes and taken to hospital. The judge stated:

*'The responsibility for compliance with obligations imposed by safety legislation reposes on each and every employee within a corporation as well as on executive officers.*

*...the greater the degree of responsibility within the corporate hierarchy and the greater the ability to rectify the problem, the greater the degree of culpability which results.*

*Once senior management became aware of the problem ... the degree of culpability for the defendant increases accordingly.'*

- issue directions
- issue notices that:
  - require employers to remedy unsafe working conditions or hazards
  - prohibit work from continuing until a hazard is fixed
  - require employers to provide proof of correct workers compensation insurance
  - issue on-the-spot fines for breaches of the legislation.

## NSW WORKERS COMPENSATION ACT 1987 and WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION ACT 1998

The NSW *Workers Compensation Act 1987* and the NSW *Workplace Injury Management and Workers Compensation Act 1998* detail an employer's workers compensation and injury management responsibilities.

### Workers Compensation Policy

The workers compensation system provides financial benefits and other assistance to workers and/or their dependants if a worker sustains an injury/illness as a result of their work.

Workers compensation insurance is available through licensed insurance companies and is compulsory for anybody who operates a trade or business and:

- employs workers and/or
- engages contractors who are or may be deemed as workers.

You can be held accountable for costs if a contractor's worker is injured and the contractor you engaged failed to take out workers compensation. Under section 20 of the *Workers Compensation Act 1987*, where a contractor fails to take out workers compensation and one of his workers is injured, then in certain cases the 'principal (eg the property manager) shall be substituted for reference to the employer' (ie the property manager or owner incurs the costs).

### Injury Management

Injury management is a term that includes all the activities associated with ensuring the early return of an injured worker to the workplace. These activities include treatment, claims management, and retraining. An employer must establish a Return-to-Work Program that details procedures that are to be followed if a worker is injured or becomes ill.

#### ***Employers can be liable to pay claims of subcontractor's workers.***

*A worker sustained injuries resulting in a broken finger. The contractor for whom the injured person worked held no workers compensation policy. The employer who engaged the contractor held a workers compensation insurance policy with NRMA, and was found liable under Section 20 of the NSW Workers Compensation Act 1987. The cost of the claim was then transferred to the employer's insurance policy.*

# THE CONTRACT PROCESS

When engaging contractors it is important that the property owner or manager exercise due diligence in attempting to meet health and safety obligations. Due diligence means taking every precaution reasonable in the circumstances to protect the health, safety and welfare of all workers.

As a property owner or manager, there are three important stages you should consider when managing OHS for contractors. These are:

**Contract planning** ensuring that appropriate health and safety requirements are incorporated into specification documents

**Tender evaluation** establishing a systematic approach to evaluating a tenderer's health and safety capabilities and resources

**Contract Management** ensuring contractor health and safety performance is adequately monitored and supervised for the duration of the contract.

The diagram that follows explains what information is provided in these guidelines in relation to each of these stages. Following the diagram the stages are then discussed in further detail.

Stages in Contract process	Tools to assist cleaning employers and contractors
<b>Contract planning</b>	<b>Tool 1:</b> Elements of an OHS Management System and Workers Compensation <b>Tool 2:</b> Tenderer OHS System questionnaire
<b>Tender evaluation</b>	<b>Tool 1:</b> Elements of an OHS Management System and Workers Compensation <b>Tool 2:</b> Tenderer OHS System questionnaire
<b>Contract Management</b>	<b>Tool 3:</b> Risk Management <b>Tool 4:</b> Work Method Statements <b>Tool 5:</b> Contractor OHS Monthly Report <b>Tool 6:</b> General OHS Checklist

# PLANNING FOR CONTRACTORS

## Overview

This section discusses the benefits of incorporating OHS requirements during the early stages of contract planning. It discusses:

- Benefits of specific OHS requirements
- Property specific risk management information provided by a property manager
- What OHS requirements should be considered in Contract Planning?
- Tenderer OHS Management System Questionnaire.

### Benefits of specific OHS requirements

- Property owners and managers demonstrate their commitment to occupational health and safety
- Property managers and owners establish appropriate control from the beginning
- Contractors know up front that they must comply with occupational health and safety requirements and workers compensation requirements
- Contractors know up front they must demonstrate the effectiveness of their OHS management systems
- Contractors are given information on foreseeable and known hazards associated with the premises so that they can effectively control these risks.

### Property specific risk management information provided by a property manager

As discussed earlier under 'Legal Responsibilities' the property owner and manager have a legal duty to provide any person who will use the premises concerned as a place of work with information about:

- any foreseeable hazards arising from the premises
- an assessment of the likelihood and severity of such injuries/illnesses arising from hazards
- measures currently taken to eliminate or control such risks, and
- any measures that the employer may need to adopt to control any such risk.

If the property owner or manager choose *not* to provide this information at the time of contract specification, then it may be more difficult to evaluate how each tenderer will address certain risks.

**Tool 3** provides guidance on the risk management process and sample risk assessments.

## What OHS requirements should be considered in Contract Planning?

In **Tools 1 and 2** 'Elements of an OHS Management System and Workers Compensation' you will find practical guidance for OHS and workers compensation elements to be considered during the contract planning phase. In summary, these 8 elements are:

<b>SUMMARY OF TOOL 1 – ELEMENTS OF AN OHS MANAGEMENT SYSTEM AND WORKERS COMPENSATION</b>	
Element 1	Tenderer OHS Management System Questionnaire
Element 2	Comply with OHS legislation
Element 3	Demonstrate evidence of OHS management systems
Element 4	Hazard identification and risk assessment
Element 5	OHS incident notification
Element 6	Performance reporting
Element 7	Property Specific Safety Management Plan <i>(applicable to a major contract)</i>
Element 8	Workers compensation and injury management requirements

### Tenderer OHS Management System Questionnaire

The Tenderer OHS Management System Questionnaire – **Tool 3** assists the property owner and manager to gain an overview of the status of the tenderer's OHS management systems.

The questionnaire should then be attached with their tender submission. The questionnaire enables a uniform assessment of the status of the cleaning contractor's OHS management system.

# TENDER EVALUATION

## Overview

At tender evaluation stage, the property owner/manager should establish whether contractors have adequate OHS management systems and have considered health and safety issues in relation to this contract work.

- Verifying a tenderer's OHS Management Systems

## Verifying a tenderer's OHS Management Systems

**Tool 1** provides basic, practical guidance for evaluation of a contractor's OHS and workers compensation under the heading 'Evaluation Guidance'.

The property owner or manager should examine the tenderer's OHS Management systems and workers compensation. Three Techniques are suggested below:

TOOL 1 – Summary		
Element 1	Tenderer OHS Management System Questionnaire	<b>Technique 1 REVIEW</b> of the completed questionnaire
Element 2	Health and safety legislative requirements	
Element 3	Demonstrate evidence of OHS management systems	
Element 4	Risk Management	<b>Technique 2 EXAMINATION OF TENDERER DOCUMENTATION</b>
Element 5	OHS Incident notification	
Element 6	OHS Performance reporting	<b>Technique 3 INTERVIEWS</b> Undertaking interviews to clarify any particular issues or areas where more information is needed.
Element 7	Property Specific Safety Management Plan (major contracts only)	
Element 8	Workers compensation and injury management requirements.	

# ON-GOING CONTRACT MANAGEMENT

## Overview

Once the contract has been awarded, the property owner or manager needs to adequately monitor and supervise the contractor to ensure that they are meeting their OHS obligations under the contract. The level of monitoring and supervision will depend on such factors as complexity of the tasks, level of risk and level of control the property manager has over the workplace.

This section provides practical advice with five means of monitoring and supervising a contractor:

- Technique 1 – Risk Management
  - risk management during tender evaluation
  - risk management documentation from the successful tenderer
- Technique 2 – Workplace inspections
  - independent inspections
  - in-house inspections
- Technique 3 – Effective communication
- Technique 4 – Problem solving
- Technique 5 – Record keeping

## Technique 1 – Risk Management

### Risk management during tender evaluation

During evaluation of tenders by the property manager, the cleaning employer demonstrated that they had a 'system' for risk management (see **Tool 1**, Element 5, Hazard Identification and Assessment). At this time, the tenderer's risk management systems were generic. The cleaning employer may have provided generic documentation or examples of past risk assessment documentation.

### Risk management documentation from the successful tenderer

This guide suggests that the successful tenderer complete a Property Specific Risk Assessment. The Property Specific Risk Assessment should then be reviewed and approved by the property manager. A controller of premises has a legal obligation to identify hazards and assess risks. (NSW *OHS Regulation 2001*, Clause 34, 35)

Prior to work commencing by the cleaning contractor, the law states that the cleaning employer 'must ensure that effective procedures are in place and implemented to identify hazards.' (NSW *OHS Regulation 2001*, Clause 9 (3))

In order to assist the cleaning employer undertake a Property Specific Risk Assessment, the following should be considered:

- The property owner and manager must **pass on** property specific **hazard identification** information, especially:
  - information about any foreseeable hazard arising from the premises that has the potential to harm the health or safety of any person entering or exiting the premises
  - information about any risks the property manager has assessed and controlled, but not eliminated. (NSW *OHS Regulation 2001*, Clause 38)
- The property owner or manager must **make the site available to the cleaning contractor** to undertake such a hazard identification prior to commencement of work. This may require some flexibility on the part of the property owner or manager. The law requires **cooperation** between different parties in order to carry out risk assessment duties. (NSW *OHS Regulation 2001*, Clause 8)
- The cleaning contractor should **integrate risk management into their standard business activities**. Appropriately trained supervisors and managers can perform hazard identification and risk assessments. In almost all cases it will be unnecessary to engage OHS consultants to carry out the property specific risk assessments.
- The cleaning employer can develop **general risks assessments** for tasks their cleaners regularly undertake, for example, mopping, vacuuming, dusting, polishing etc. These risk assessments can then be applied to particular premises, after consideration of the property manager's hazard identification and the cleaning employer's site visit.
- The cleaning employer must **consult with employees** when risks are being assessed and when decisions are being made about how to eliminate or control those risks. (NSW *OHS Act 2000*, section 15)
- Risks should be appropriately **assessed in terms of likelihood and severity** of any injury or illness that may occur. If risks cannot be eliminated, then they must be effectively controlled. It is suggested that Safe Work Method Statements should be in place for all medium to high risk tasks. (see **Tools 1** and **4**)

In some circumstances, for example, small contractors tendering for minor contracts, the property manager may have to provide guidance and assistance in completing risk assessments and Work Method Statements.

The following tools may provide guidance on the risk management process:

- **Tool 3** – Risk Management
- **Tool 4** – Work Method Statements.

If the property owner or manager believes the contractor's Risk Assessment is not acceptable, then the contractor should be notified and appropriate changes made.

## Technique 2 – Workplace inspections

Regular workplace inspections play a significant preventative role in identifying health and safety issues before they result in injury or damage at the workplace. The property owner and property manager have an obligation to monitor OHS performance of cleaning contractors.

### Independent inspections

Cleaners are often referred to as 'invisible workers'. They do not work the hours that most people work. Often it is difficult to undertake OHS inspections when the cleaners are at work. One means of overcoming this problem is to use an external independent OHS inspection service. This service could be built into the contract at the planning stage.

### In-house inspections

The property owner or manager can undertake two types of inspections. Joint inspections are undertaken in conjunction with a representative of the contractor to enable discussion and resolution of issues as they are identified. The second type of inspection is random. This inspection should be conducted at a time when the cleaners are on the premises when work practices can be observed with no prior warning given.

It is a good idea for the property manager/owner to use a general health and safety checklist that is designed to consider a broad range of general health and safety issues in the workplace. For example, see **Tool 6**. Where appropriate, the checklist can be modified based on specific safety aspects associated with the contract.

## Technique 3 – Effective communication

One of the most important means of monitoring and supervising cleaning contractors is through a Contractor OHS Monthly Report – **Tool 5**.

In addition to the Contractor OHS Monthly report, the following activities are also suggested:

- regular review of contractor health and safety documentation
- providing contractors with advice on unusual or unexpected risks
- ensuring corrective action is taken where problems have been identified
- incorporating health and safety issues as part of regular contract review meetings.

## Technique 4 – Problem solving

During the contract, OHS problems may arise which are difficult to resolve. Sometimes the responsibility for resolving some OHS problems may fall across different parties.

NSW legislation requires that where more than one person has responsibility for a health and safety matter, each party retains responsibility for the matter, and that the responsibility must be **discharged in a coordinated manner**.

In order to resolve OHS problems quickly and efficiently all parties should:

- focus on the particular health and safety matter at hand in an unbiased, objective manner without issuing blame
- rely on risk management principles, that is, assessing likelihood and potential severity of injuries and illness and if it is not possible to eliminate the hazard then using the hierarchy of hazard control. (see **Tool 3**)

If the parties cannot resolve the matter quickly, a cleaner cannot be left working in a situation where they may become injured or ill. It is very valid to seek assistance. Help can be sought from employer associations, unions, OHS consultants or Workcover NSW. For more information see Appendix 2.

OHS problems and issues should be documented. For example:

- **Tool 5** – Contractor OHS monthly report – This type of reporting method ensures that all parties are kept informed
- **Tool 3** – Risk Management – Hazard identification, risk assessment and controls may need to be reviewed
- **Tool 4** – Work Method Statements – may need to be reviewed
- Incident investigation.

***Case Study:** At a particular shopping centre a cleaner sustained a needle stick injury in her leg when a sharp protruded from a garbage bag she was collecting. The cleaning employer immediately called a meeting with the property manager and owner.*

*The property manager agreed to re-position bin locations to highly visible locations and install video surveillance cameras. The property manager also agreed to discuss the possibility of sharps disposal units being placed in public toilets with local council.*

*The cleaning employer agreed to always use a specific trolley for rubbish collection and provided training and vaccination programs for the cleaners.*

## Technique 5 – Record keeping

Relevant health and safety records are not only necessary for effective contract management, but they also provide documentary evidence of the property owners and manager's due diligence in relation to the health and safety of contractors.

Relevant health and safety records that should be retained by the property owner/manager include:

- Contractor Monthly reports
- Risk assessments
- Health and safety workplace inspection reports
- Minutes of safety meetings/site meetings
- Incident/accident investigation reports
- Non-conformance reports
- Site instructions and diary notes.

# DEFINITIONS

<b>Hazard</b>	anything (including work practices or procedures) that has the potential to harm the health and safety of a person.
<b>Hazard Identification</b>	the process of recognising that a hazard exists and defining its characteristics.
<b>Injury management</b>	is a term that includes all the activities associated with ensuring the early return of an injured worker to the workplace. These activities include treatment, claims management and rehabilitation.
<b>OHS Management System</b>	(OHSMS) is an overall management system including organisation structure, planning activities, responsibilities, practices, procedures and resources for developing and maintaining and OHS policy and managing OHS risks associated with the business of the organisation.
<b>OHS Policy</b>	is a statement by the organisation of its intention and principles in relation to overall OHS performance.
<b>Premium Discount Scheme</b>	is a financial incentives scheme administered by WorkCover NSW. Employers who can meet certain OHS Management Systems and Injury Management criteria are eligible to apply for a discount on their workers compensation premiums.
<b>Return-to-Work Program</b>	An employer must establish a Return-To-Work Program that allows for rehabilitation of injured workers. Usually the employer's Workers Compensation insurer will assist the employer. (See s 52 <i>Workplace Injury Management and Workers Compensation Act 1998</i> )
<b>Rehabilitation</b>	the managed process of maintaining injured or ill employees in or returning them to suitable employment. Rehabilitation is an activity under 'injury management'.
<b>Risk Management</b>	is a system of hazard identification, risk assessment and control of risks. Risk management is a requirement of the NSW <i>Occupational Health and Safety Regulation 2001</i> .
<b>Risk Assessment</b>	also known as risk analysis. A systematic use of available information to determine how often specified events may occur and the magnitude of their consequences.
<b>Work Method Statement</b>	outlines a safe method of work for a specific job. A Work Method Statement helps effectively coordinate the work, the materials needed, the time required and the people involved to achieve a safe and efficient outcome.
<b>Workers Compensation</b>	is a system providing financial benefits and other assistance to workers and/or their dependants if a worker sustains an injury/illness as a result of their work. Workers Compensation insurance is a compulsory insurance that is taken out by all employers in NSW.

# TOOL 1

## OHS AND WORKERS COMPENSATION ELEMENTS

### Overview

This tool can assist the property owner during contract planning and tender evaluation. With regard to contract planning, the left hand column summarises key OHS concepts that should be considered when contractors are to be engaged.

This tool is divided into 8 elements that are commonly found in OHS contractor management systems:

Element 1 – Complete tenderer OHS management system questionnaire

Element 2 – Comply with OHS legislation

Element 3 – Demonstrate evidence of OHS management systems

Element 4 – Undertake hazard identification and risk assessment

Element 5 – OHS incident notification

Element 6 – OHS performance reporting

Element 7 – Develop a property specific safety management plan

Element 8 – Comply with workers compensation and injury management legislation.

### ELEMENT 1. COMPLETE TENDERER OHS MANAGEMENT SYSTEM QUESTIONNAIRE

#### PLANNING

Tenderers should complete a tenderer OHS Management System Questionnaire. This should then be incorporated with their tender submission. This will enable a uniform assessment of the status of the cleaning contractors OHS management systems.

Tenderers who do not complete the questionnaire should be ineligible for selection.

(See **Tool 2** for a model Questionnaire)

#### EVALUATION GUIDANCE

- Completed OHS Management System Questionnaire should be found within tender submission.

<b>ELEMENT 2. COMPLY WITH OHS LEGISLATION</b>	
<p><b>PLANNING</b></p> <p>At a minimum, cleaning contractors must comply with and ensure their employees, subcontractors and agents comply with:</p> <ul style="list-style-type: none"> <li>• <i>NSW Occupational Health and Safety Act 2000</i> (In particular see section 8 for Employer Duties)</li> <li>• <i>NSW Occupational Health and Safety Regulation 2001</i></li> </ul> <p>Depending on the particular nature of the workplace, there may be further Regulations, Standards or Codes of Practice that may also be applicable.</p>	<p><b>EVALUATION GUIDANCE</b></p> <ul style="list-style-type: none"> <li>• Cleaning contractors must demonstrate how they access and keep up to date with OHS legislation</li> <li>• Cleaning contractors must demonstrate how they access and keep up to date with relevant Codes of Practice.</li> </ul>

# TOOL 1

<b>ELEMENT 3. DEMONSTRATE EVIDENCE OF OHS MANAGEMENT SYSTEMS</b>	
<p><b>PLANNING</b></p> <p>Cleaning Contractors should have a working Occupational Health and Safety Management System.</p> <p>At a minimum, the OHS Management System should contain the following six components:</p> <p><b>3.1 Management Responsibility</b></p> <p><b>3.2 Sub-contracting and purchasing</b></p> <p><b>3.3 Consultation and Communication</b></p> <p><b>3.4 Risk Management and process control</b></p> <p><b>3.5 Records and records management</b></p> <p><b>3.6 Corrective actions</b></p>	<p><b>EVALUATION GUIDANCE</b></p> <p><b>3.1 Management Responsibility</b></p> <ul style="list-style-type: none"> <li>• OHS Policy and goals developed and circulated eg OHS Policy is readily available</li> <li>• OHS Policy spells out senior management commitment to health and safety, including appropriate resourcing and regular review of performance</li> <li>• A senior manager has been assigned responsibility for establishing and maintaining the health and safety system</li> <li>• All staff positions which can impact on health and safety performance have health and safety responsibilities identified and assigned to them eg job descriptions and selection criteria for all relevant positions show that health and safety responsibilities have been identified and assigned</li> </ul> <hr/> <p><b>3.2 Sub-contracting and purchasing</b></p> <ul style="list-style-type: none"> <li>• All materials, equipment, plant and services to be bought or hired are assessed against specified OHS standards, ie purchasing policy and procedures which spell out OHS requirements</li> <li>• Sub-contractors meet OHS standards set by Health and Safety Acts, Regulations standards and Codes of Practice</li> <li>• Sub-contractors should maintain the necessary level of OHS performance. Systems should be in place to ensure subcontractors take full responsibility for compliance with OHS systems particularly those covering Hazard Identification and management, Work Method Statements, appropriate insurances and training and induction</li> <li>• Health and safety standards are used to select subcontractors and suppliers, eg sub-contractor Risk Assessments and Work Method Statements are available.</li> </ul>

	<p><b>3.3 Consultation and Communication</b></p> <ul style="list-style-type: none"> <li>• Management identifies, collects and disseminates information relevant to the OHS management issues of the workplace, eg records of team meetings, tool-box talks and group discussions</li> <li>• Appropriate reporting and feedback mechanisms are in place and well known by cleaning staff, eg daily report log, hazard reporting form</li> <li>• An appropriate communication process to discuss workplace OHS and Injury Management issues has been established, eg employee involvement in development of Risk Assessment and Work Method Statements; employee involvement in Return-to-Work Programs</li> <li>• Information and training needs of the workforce are identified and taken into consideration, eg information and training needs are reflective of literacy/language and shift work considerations.</li> </ul> <p><b>3.4 Risk management and process control</b></p> <ul style="list-style-type: none"> <li>• Hazards intrinsic to activities at workplaces have been identified and their risks have been assessed and either eliminated or controlled, eg Risk Assessments are available</li> <li>• Work Method Statements have been developed for hazardous tasks, eg working at heights, waste removal, sharps collection and disposal</li> <li>• Consultation with employees is undertaken when risks to health and safety arising from work are assessed. Those employees are directly involved in the task, hazardous substance or plant to which the assessment relates, eg Risk Assessment documentation carries name of employee representative with position and workplace given</li> <li>• Training for specific work activities is provided along with induction training for new workers on site, eg training records are available</li> <li>• Emergency procedures for the workplace have been developed and tested, eg site emergency procedures are available along with testing reports</li> <li>• Workplace hazard reporting procedures are made known to employees, eg relevant memos, training procedures are in place. Bulletin board updated and maintained.</li> </ul>
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## TOOL 1

	<p><b>3.5 Records and record management</b></p> <ul style="list-style-type: none"><li>• Records are kept in accordance with legislative obligations and a system of records management appropriate to the workplace is implemented, eg accident notification, register of injuries, Material Safety Data Sheets, maintenance</li><li>• For example, more specific records may include certification, inspections, atmospheric monitoring, immunisations</li><li>• Record keeping provisions are communicated to employees, eg training and information records available. Relevant forms and documentation are current and maintained</li><li>• All operations of the OHS Management System are recorded. This provides evidence of legal compliance and benchmarks against which to assess performance, eg records of the relevant and specified OHS Activity are available.</li></ul> <p><b>3.6 Corrective Actions</b></p> <ul style="list-style-type: none"><li>• Incidents and accidents are investigated and the results are recorded, eg procedures and forms for the investigation of incidents and accident are available</li><li>• Hazard reporting and investigation systems are in place, eg copies of Hazard Report Form available</li><li>• Corrective action is taken to eliminate the cause of the incident or accident to prevent a recurrence, eg Corrective Action reports are available</li><li>• Inspection and audit reports are analysed to identify areas of improvement, eg results of inspections and audits are available and system improvements documented.</li></ul>
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<b>ELEMENT 4. UNDERTAKE HAZARD IDENTIFICATION AND RISK ASSESSMENT</b>	
<p><b>PLANNING</b></p> <p><b>Hazard Identification and Risk Assessment</b></p> <p>Prior to commencing the contract, the successful cleaning contractor should prepare and submit a Hazard Identification and Risk Assessment (see <b>Tool 3</b>) to the property manager for review and approval prior to commencement of contract work.</p> <p>Hazards associated with the contract should be identified and assessed and appropriate control measures developed.</p> <p><b>Work Method Statement</b></p> <p>Where hazards are present and they have been identified as high risk or medium risk according to the risk rating matrix, the contractor should provide a Work Method Statement (see <b>Tool 4</b>).</p> <p>For hazards categorised as low risk, risks should be eliminated or minimised as far as possible. For further information see the risk ranking matrix in <b>Tool 3</b>.</p>	<p><b>EVALUATION GUIDANCE</b></p> <ul style="list-style-type: none"> <li>• Hazard Identification and Risk Assessment documentation is readily available. Examples of hazard identification and risk assessment from other contracts have been appropriately considered and control measures recommended appear appropriate</li> <li>• Work Method Statements are readily available. Examples of a Work Method Statement from other contracts.</li> </ul>

## TOOL 1

<b>ELEMENT 5. OHS INCIDENT NOTIFICATION</b>	
<p><b>PLANNING</b></p> <p>Cleaning contractors should be required to notify the property owner/manager of any accident, injury or dangerous occurrence associated with the contract works.</p> <p>The property manager/owner should be made aware of lost time incidences ASAP along with complete details of the incident, results of investigation into its cause and any recommendations for prevention in the future.</p> <p>In those circumstances where the cleaning contractor is required by the NSW OHS legislation (<i>OHS Regulation 2001</i>, Chapter 12) to notify WorkCover NSW of an injury/illness or serious incident, then the contractor should also at the same time or as soon as possible provide a copy of the notification form to the property manager/owner.</p>	<p><b>EVALUATION GUIDANCE</b></p> <ul style="list-style-type: none"> <li>• Contractor incident and accident recording forms are readily available</li> <li>• Documented process detailing when incident/accident forms are completed and person in organisation who will review and action forms</li> <li>• A person is responsible for notifying WorkCover of those injuries/illness required to be notified under the <i>NSW OHS Regulation 2001</i>.</li> </ul>

<b>ELEMENT 6. OHS PERFORMANCE REPORTING</b>
<p><b>PLANNING</b></p> <p>The property owner/manager needs to receive regular reports on health and safety performance in relation to the contract work. Information required on a monthly basis in the form of a Contractor OHS Performance Report (see <b>Tool 5</b>) includes:</p> <ul style="list-style-type: none"> <li>• number of lost time injuries</li> <li>• working days lost due to injury</li> <li>• current status of any injured personnel, damaged property or environmental damage or pollution</li> <li>• status of the implementation and outcome of corrective actions undertaken as a result of OHS inspections and risk assessments</li> <li>• results of OHS management systems audits undertaken.</li> </ul> <p>Depending on the size of the contract external (independent) OHS inspections or verification audits may need to be built into the contract. This would particularly be useful where the property owner or manager cannot undertake workplace inspections at a time when cleaning contractor workers are on site.</p>

## TOOL 1

The following element is to be used for a major contract. (*Major contract can be defined as having a value of over \$50,000*)

<b>ELEMENT 7. DEVELOP A PROPERTY SPECIFIC SAFETY MANAGEMENT PLAN</b>	
<p><b>PLANNING</b></p> <p>For major contracts the successful tenderer should prepare and submit a Property Specific Safety Management Plan prior to commencing work.</p> <p>The Property Specific Management Plan is a complete coordinated package that outlines the structure and means by which OHS will be managed by the cleaning contractor for the term of the contract.</p> <p>The Property Specific Management Plan brings together allocation of responsibilities, risk management and OHS systems and methods used in the performance of this contract.</p>	<p><b>EVALUATION GUIDANCE</b></p> <ul style="list-style-type: none"> <li>• Examples of previous property specific safety management plans that cover all appropriate elements.</li> </ul>

<b>ELEMENT 8. COMPLY WITH WORKERS COMPENSATION AND INJURY MANAGEMENT LEGISLATION</b>	
<p><b>PLANNING</b></p> <p>A cleaning contractor must comply with and ensure their employees, subcontractors and agents comply with:</p> <ul style="list-style-type: none"> <li>• NSW <i>Workers Compensation Act 1987</i></li> <li>• NSW <i>Workplace Injury Management and Workers Compensation Act 1998</i></li> </ul>	<p><b>EVALUATION GUIDANCE</b></p> <ul style="list-style-type: none"> <li>• Certificate of Currency for Workers Compensation in NSW under correct tariff rate</li> <li>• Register of Injuries book in readily available location</li> <li>• Return-to-Work program displayed and accessible to all employees.</li> </ul>

## TOOL 2

### TENDERER OHS SYSTEM QUESTIONNAIRE

#### Overview

This tool will assist the property owner and manager gain an overview of the status of the tenderer's OHS management system.

The information provided in this questionnaire should be an accurate summary of the company's occupational health and safety management system.

This questionnaire forms part of the tender evaluation process and is to be completed by tenderers and submitted with their offer.

Tenderers will be required to verify their responses noted in their questionnaire by providing evidence of their ability and capacity in relevant matters.

Source: WorkCover Victoria Managing Contractor Health and Safety Risks: Guidelines for Local Government – (Tool 2, Document 2)

## Tenderer OHS Management System Questionnaire

### Company Name

Signed \_\_\_\_\_ Name \_\_\_\_\_  
 Position \_\_\_\_\_ Date \_\_\_\_\_

### Contract Details

Contract Name \_\_\_\_\_ Contract No \_\_\_\_\_

**1. OHS Policy and Management** Yes No

1.1 Is there a written company health and safety policy?    
*If yes, provide a copy of the policy.*

1.2 Are health and safety responsibilities clearly identified for all levels of staff?    
*If yes, provide details.*

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1.3 Is there a company OHS management system manual or plan?    
*If yes, provide a copy of contents page(s).*  
*Comments.*

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**2. Subcontracting and purchasing**

2.1 Does the company have policies and procedures for purchasing that include OHS?    
*If yes, provide details.*

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## TOOL 2

Yes No

- 2.2 Does your company use health and safety standards to select subcontractors?

*If yes, provide details.*

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### 3. Consultation and Communication

- 3.1 Is there a workplace health and safety committee?

*Comments.*

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- 3.2 Are employees involved in decision making over OHS matters?

*If yes, provide details.*

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- 3.3 Are there employee elected health and safety representatives?

*Comments.*

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### 4. Risk Management and process control

- 4.1 Does the company use a risk management approach throughout its operations ie for sites, activities, manual handling, hazardous substances and purchasing.

*If yes, provide details.*

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## TOOL 2

Yes      No

- 4.2 Does the company create written procedures and work method statements for tasks and activities?

*If yes, provide details.*

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### 5. Training

- 5.1 Describe how health and safety training needs are determined in your company.

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- 5.2 Describe how health and safety training is conducted in your company.

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- 5.3 Is health and safety training provided for specific work activities?

*If yes, provide details.*

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- 5.4 Is a record maintained of all training and induction programs undertaken for employees in your company?

*If yes, provide examples of safety training records.*

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## TOOL 2

- |   | Yes                      | No                       |
|---|--------------------------|--------------------------|
| 5.5 Is training conducted so as to meet cleaner's different language needs?<br><i>Comments.</i> | <input type="checkbox"/> | <input type="checkbox"/> |

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### 6. Records and record management

- |  |                          |                          |
|--|--------------------------|--------------------------|
| 6.1 Does the company have a system of records management?<br><i>If yes, provide details.</i> | <input type="checkbox"/> | <input type="checkbox"/> |
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### 7. Corrective Action

- |  |                          |                          |
|--|--------------------------|--------------------------|
| 7.1 Is there a procedure by which employees can report hazards at a workplace?<br><i>If yes, provide a copy of the procedures.</i> | <input type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|

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- |  |                          |                          |
|--|--------------------------|--------------------------|
| 7.2 Is there a documented incident investigation procedure?<br><i>If yes, provide a copy of a standard incident report form.</i> | <input type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|

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- |   |                          |                          |
|---|--------------------------|--------------------------|
| 7.3 Does the company have a hazard reporting and investigation system?<br><i>If yes, provide details.</i> | <input type="checkbox"/> | <input type="checkbox"/> |
|---|--------------------------|--------------------------|

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## TOOL 2

Yes      No

- 7.4 Is there a system for recording and analysing health and safety performance statistics? If yes, how often are statistics reviewed?  
*If yes, provide details.*

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- 7.5 Are results of inspections, hazard and incident reports used to eliminate or control the hazard or risk?  
*If yes, provide details.*

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- 7.6 Are results of inspections, and hazard and incident reports and health and safety performance statistics used to improve systems?  
*If yes, provide details.*

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### 8 Workers Compensation and Injury Management

- 8.1 Does the company hold a current Workers Compensation policy?

- 8.2 Does the company have a system for checking the Workers Compensation arrangements for subcontractors?

*If yes, provide details.*

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- 8.3 Does the company have and display an approved summary poster of the Workers Compensation Legislation? (ie *Watching Out for You* from 31.12.02)

## TOOL 2

Yes No

- 8.4 Does the company have procedures for injury notification?  
*If Yes, provide details.*

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- 8.5 Does the company have a Return-To-Work Program that is consistent with insurers injury management program?

- 8.6 Does the company utilise a Register of Injuries book?  
*Comments.*

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### 9. Company References

- 9.1 Please provide the following information for the three (3) most recent contracts completed by the company:

	Contract 1	Contract 2	Contract 3
Contract description			
Client			
Contact			
Phone no			
Number of lost time injuries			
Number of person days on contract			
Total days lost due to injury			

## RISK MANAGEMENT

### Overview

Risk Management is the process of discovering, assessing and then either eliminating or controlling risks. Risk Management is a mandatory requirement under the OHS Regulation.

The property owner and manager not only undertakes risk assessments of their premises, access, egress, but they also ensure that the cleaning contractor is undertaking such risk assessments in relation to the work their cleaners undertake.

This section contains the following information:

- Identify hazards
- Risk assessment
- Eliminating and controlling hazards
- Blank risk assessment form
- Sample risk assessment form

### Identify Hazards

Hazard Identification is a requirement of the NSW *Occupational Health and Safety Regulation 2001*.

A **controller** of premises must identify any foreseeable hazard arising from the premises that has the potential to harm the health or safety of any person accessing, using or leaving from the premises.

In particular the controller must identify hazards arising from:

- the layout and condition of the premises
- the physical working environment including potential for people slipping, tripping or falling and objects and structures falling on people.

The controller must ensure hazards are identified during the design of the premises and BEFORE the premises are provided as a place of work.

[*OHS Regulation 2001*, Clause 34]

An **employer** has further obligations, in that in addition to the above requirements of the workplace controller, they must identify hazards arising from such matters as work practices, shift work arrangements, plant, hazardous substances and manual handling.

## TOOL 3

A systematic approach should be used to find all potential hazards. How this is done will vary from property to property and contractor to contractor. Some common ways of developing an observation system for hazard identification are:

**Activities** breaking the contract down into activities. For example, vacuuming, mopping, polishing, waste disposal. Activities can then be further broken down into tasks, for example, mopping can consist of mop and bucket collection, transport, mopping, mop clean up and storage.

**Locations** the contract can be broken down into various locations. For example, in a hotel, locations might consist of kitchens, accommodation, common areas, restaurants, gardens and back dock area. Activities and tasks are then identified for each of these areas.

In addition to these methods, the following should be taken into consideration:

**Consultation** workers experienced in the task should be part of hazard identification.

**Records** for example, accident and incident reports, inspection reports and previous risk assessments can assist in identifying hazards.

### **Property Owner/Property Manager Property Specific Risk Assessment**

The property owner/manager should provide the cleaning contractor with a property specific hazard identification/risk assessment.

## **Risk Assessment**

Risk assessment involves deciding how **likely** it is that an accident will happen and how **severe** the impact of the accident could be. Some hazards may cause frequent accidents which only result in minor bumps or scratches, while other hazards may be less likely to cause accidents, but the result could be major injuries or a fatality. (Source: WorkCover NSW *HazPak – A Practical Guide to Risk Management*)

When assessing risks, the factors that may be contributing to the risk should also be identified. This could include the layout and condition of the work premises, the capability/skill/experience and age of people ordinarily undertaking the work, the systems of work being used.

During Risk Assessment, hazards can be classified as Category 1, 2, 3, 4, 5 and 6, and from this a priority is set for addressing the hazards.

Category 1, 2 or 3 It is suggested that these hazards require a Work Method Statement and should be treated with priority. For further information see **Tool 4**.

Category 4, 5 and 6 It is suggested that these hazards should be eliminated or controlled as far as possible but they will not be recorded on a Work Method Statement.

## Hazard Rating Matrix

	<i>HOW LIKELY IS IT TO BE THAT BAD?</i>			
<i>How likely is it to hurt someone?</i>	<b>++ Very likely: could happen at any time</b>	<b>+ Likely: could happen some time</b>	<b>- Unlikely: could happen, but very rarely</b>	<b>- Very unlikely: could happen but probably never will</b>
<b>Kill or cause permanent disability or ill health</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>3</b>
<b>Long term illness or serious injury</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>Medical attention and several days off work</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>First aid needed</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>

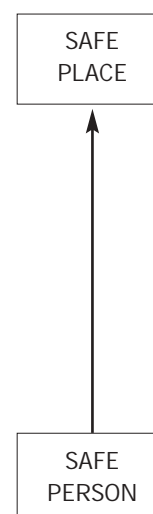
### Eliminating and controlling hazards

A controller and employer must eliminate risks arising from the premises. An employer must take into account those factors identified as contributing to the risk and any specific risk control measures required by the OHS Regulation (eg. Manual handling, hazardous substances).

Only where it is not reasonably practicable to eliminate the risk, then control measures should be taken.

Controlling risks means to minimise the risk to the lowest level reasonably practical. According to the OHS Regulation, Clause 5, the order below is to be followed. Examples are given below.

- Substitution**                      Use something less hazardous. For example, water based chemicals rather than a solvent based one.
- Isolation**                              Use barriers to shield or isolate the hazard, for example, guards on machines, enclosures for noisy machinery.
- Engineering Controls**              Design and install equipment to counteract the hazard, for example, a mechanical bin lifting device to empty bins into industrial waste bins.
- Administrative Controls**              Arrange work to reduce the time people are around the hazard. Training, instruction and information.
- Personal Protective Equipment**      Have people wear protective equipment and clothing while near the hazard. For example, wearing sharp resistant gloves when working with sharps.



## TOOL 3

### **Risk assessment forms**

On the following pages is a Risk Assessment form. This is a blank form that can be used to document the risk identification, assessment and control process. Through means of risk ranking, the form also allows the user to indicate if a Work Method Statement is required.

**RISK ASSESSMENT FORM**

To be submitted prior to contract commencement

Contractor		
Contract		
Contractor's representative		
Telephone	Email	Fax
Signature		Date
Contract Manager		
Contract No		
Telephone	Email	Fax
Signature		Date

Specific task/ activity	Potential hazards/consequences	Class of risk	Work Method Statement required Yes/No	Control measures

## TOOL 3

### RISK ASSESSMENT FORM – SAMPLE (CONTRACT CLEANERS)

To be submitted prior to contract commencement

<b>Contractor</b> Reliable Cleaning Co. Pty Ltd	<b>Contract Manager</b>
<b>Contract</b> Hotel De Comfort	Great Property Management.
<b>Representative</b> Ms. D. Pendable	<b>Representative</b> Mr. B. Black
	<b>Contract No</b> ABC 12345
<b>Telephone</b> 123 4567	<b>Telephone</b> 9876 5431
<b>Fax</b> 98 76543	<b>Fax</b> 9876 4321
<b>Email</b> d.pendable@reliable.com.aun	<b>Email</b>
<b>Signature</b> _____	<b>Signature</b> _____
<b>Date</b> _____	<b>Date</b> _____

Specific task/ activity	Potential hazards/consequences	Class of risk	Work Method Statement required	Control measures
<i>Ground Floor</i>				
<b>Mopping of kitchen and foyers</b>	<p><b>Strain/Sprain</b></p> <ul style="list-style-type: none"> <li>- moving cartons, boxes, furniture etc out of the way</li> <li>- frequent bending and twisting.</li> <li>- transporting and emptying full (metal) bucket</li> </ul> <p><b>Slips and falls</b></p> <ul style="list-style-type: none"> <li>- oily work floors</li> <li>- untidy work areas</li> <li>- cluttered aisles or passageways</li> <li>- steep or slippery steps and stairs</li> <li>- poorly lit work areas and walk ways</li> </ul> <p><b>Ergonomic hazards</b></p> <ul style="list-style-type: none"> <li>- poor work posture eg twisting, if mopping equipment not suitable for cleaner</li> <li>- repetitive motions</li> </ul>	3	Yes	See Work Method Statement

## TOOL 3

Specific task/ activity	Potential hazards/consequences	Class of risk	Safe Work Method Statement required	Control measures
	<p><b>Contact with chemicals</b></p> <ul style="list-style-type: none"> <li>- incorrect handling procedures</li> <li>- lack of information</li> <li>- not wearing appropriate PPE</li> <li>- incorrect storage</li> <li>- elevated exposures levels.</li> </ul>			
<p><b>Polishing foyer floors</b></p>	<p><b>Strain/sprains</b></p> <ul style="list-style-type: none"> <li>- moving, planter boxes, furniture etc out of the way</li> <li>- frequent bending and twisting</li> <li>- transporting polisher to foyer</li> </ul> <p><b>Slips and falls</b></p> <ul style="list-style-type: none"> <li>- oily or slippery work floors</li> <li>- untidy work areas</li> <li>- steep or slippery steps and stairs</li> <li>- poorly lit work areas</li> </ul> <p><b>Ergonomic hazards</b></p> <ul style="list-style-type: none"> <li>- poor work posture eg twisting</li> <li>- repetitive motions</li> </ul> <p><b>Contact with chemicals</b></p> <ul style="list-style-type: none"> <li>- incorrect handling procedures</li> <li>- lack of information</li> <li>- not wearing appropriate PPE</li> <li>- incorrect storage</li> <li>- elevated exposures levels</li> </ul> <p><b>Contact with electricity</b></p> <ul style="list-style-type: none"> <li>- faulty electrical leads or plant</li> <li>- no earth leakage detectors</li> <li>- electric leads on ground may be a tripping hazard.</li> </ul>	3	Yes	See Work Method Statement

## TOOL 3

Specific task/ activity	Potential hazards/consequences	Class of risk	Work Method Statement required	Control measures
<p><i>Vacuuming of restaurant and offices</i></p>	<p><b>Strain/sprain</b></p> <ul style="list-style-type: none"> <li>- moving planter boxes, furniture etc. out of the way</li> <li>- frequent bending and twisting</li> <li>- transporting vacuum cleaner</li> <li>- degree of difficulty placing cleaner on back (if back-pack)</li> </ul> <p><b>Slips and falls</b></p> <ul style="list-style-type: none"> <li>- untidy work areas</li> <li>- steep or slippery steps and stairs</li> <li>- poorly lit work areas</li> </ul> <p><b>Ergonomic hazards</b></p> <ul style="list-style-type: none"> <li>- poor work posture eg twisting, bending – repetitive motions</li> </ul> <p><b>Contact with electricity</b></p> <ul style="list-style-type: none"> <li>- faulty electrical leads or plant</li> <li>- no earth leakage detectors</li> <li>- electric leads on ground may be a tripping hazard.</li> </ul>	4	No	<p><b>Manual handling</b></p> <ul style="list-style-type: none"> <li>- training of employees</li> <li>- job rotation</li> <li>- equipment designed to encourage minimum bending</li> </ul> <p><b>Slips and falls</b></p> <ul style="list-style-type: none"> <li>- access routes must be kept clear of materials and obstructions</li> <li>- surfaces used for access to be kept dry and in good condition</li> <li>- adequate lighting to be provided at all times</li> </ul> <p><b>Ergonomic hazards</b></p> <ul style="list-style-type: none"> <li>- job rotation</li> <li>- modify task requirements to reduce bending</li> </ul> <p><b>Contact with chemicals</b></p> <ul style="list-style-type: none"> <li>- if hazardous substance, risk assessment is done in consultation with employees</li> <li>- train all cleaners in MSDS requirements</li> <li>- PPE provided and maintained when appropriate</li> <li>- substances stored and labelled correctly</li> <li>- first aid kit contains necessary items.</li> </ul>

## TOOL 3

Specific task/ activity	Potential hazards/consequences	Class of risk	Work Method Statement required	Control measures
<p><b>Dusting and wiping benches</b></p>	<p><b>Strains/sprains</b></p> <ul style="list-style-type: none"> <li>- frequent bending and twisting</li> </ul> <p><b>Slips and falls</b></p> <ul style="list-style-type: none"> <li>- oily or slippery work floors</li> <li>- untidy work areas</li> <li>- steep or slippery steps and stairs</li> <li>- poorly lit work areas</li> </ul> <p><b>Ergonomic hazards</b></p> <ul style="list-style-type: none"> <li>- poor work posture eg. bending</li> <li>- repetitive motions</li> </ul> <p><b>Contact with chemicals</b></p> <ul style="list-style-type: none"> <li>- incorrect handling procedures</li> <li>- lack of information</li> <li>- not wearing appropriate PPE</li> <li>- incorrect storage</li> <li>- elevated exposures levels.</li> </ul>	5	No	<p><b>Manual handling</b></p> <ul style="list-style-type: none"> <li>- training of employees</li> <li>- job rotation</li> <li>- equipment designed to encourage minimum bending</li> </ul> <p><b>Slips and falls</b></p> <ul style="list-style-type: none"> <li>- access routes must be kept clear of materials and obstructions</li> <li>- surfaces used for access to be kept dry and in good condition</li> <li>- cleaners to wear appropriate shoes with good grip</li> <li>- adequate lighting to be provided at all times</li> </ul> <p><b>Ergonomic hazards</b></p> <ul style="list-style-type: none"> <li>- job rotation</li> <li>- modify task requirement to reduce bending</li> <li>- provide efficient cleaning product to reduce repetition</li> </ul> <p><b>Contact with chemicals</b></p> <ul style="list-style-type: none"> <li>- if hazardous substance, risk assessment is done in consultation with employees</li> <li>- train all cleaners in MSDS requirements</li> <li>- PPE provided and maintained when appropriate</li> <li>- substances stored and labelled correctly</li> <li>- first aid kit contains necessary items.</li> </ul>

## TOOL 3

Specific task/ activity	Potential hazards/consequences	Class of risk	Work Method Statement required	Control measures
<p><b>Rubbish collection and disposal</b></p>	<p><b>Strain/sprain</b></p> <ul style="list-style-type: none"> <li>- lifting bins off floor</li> <li>- lifting garbage above shoulder height to empty into dumpsters</li> <li>- potential overloading of bins</li> <li>- lifting of dumpster lids</li> </ul> <p><b>Slips and falls</b></p> <ul style="list-style-type: none"> <li>- access routes obstructed by materials.</li> <li>- slippery or uneven surfaces</li> <li>- poor visibility due to poor lighting</li> <li>- fall from edge of dock while emptying bins into dumpster</li> </ul> <p><b>Ergonomic hazards</b></p> <ul style="list-style-type: none"> <li>- poor work posture</li> </ul> <p><b>Biological hazards</b></p> <ul style="list-style-type: none"> <li>- needle stick injury – potential exposure to HIV or hepatitis</li> </ul> <p><b>Traffic hazards</b></p> <ul style="list-style-type: none"> <li>- cleaner may be hit by vehicle in dock area while walking to dumpster.</li> </ul>	3	Yes	See Work Method Statement (see Tool 5 sample).

## PROPERTY MANAGER'S – SAMPLE RISK ASSESSMENT IN RESPONSE TO A WORKPLACE CONTROLLER'S DUTIES

To be submitted prior to contract commencement

<b>Property Manager</b> Star Property Management Pty Ltd			
<b>Property</b> Hotel De Lunar, 123 Galaxy Road, Columbia			
<b>Management Representative</b> Mr. Mercury			
<b>Employee Representative</b> Ms V. Hubble			
<b>Telephone</b> 123 4567			
<b>Fax</b> 98 76543			
<b>Email</b> m.mercury@reliable.com.zz			
<b>Signature</b> Mike Mercury		<b>Date</b> 1.01.03	
Specific location/ or activity	Examples of potential hazards/consequences	Class of risk	Examples of Control measures
<i>Ground Floor</i>			
<p><b>Foyer and entrance</b></p> <p><i>Note: this risk assessment suggests examples of potential hazards and examples of control measures for a fictitious workplace.</i></p> <p><i>The risk assessment is meant as a guide only for a workplace controller, and is mainly limited to premises, access and egress.</i></p> <p><i>An employer's risk assessment would span to include work tasks and activities.</i></p>	<p><b>Working from heights</b></p> <ul style="list-style-type: none"> <li>- potential for fall from height when persons accessing, maintaining or cleaning floor to ceiling windows</li> <li>- potential for death or serious disability.</li> </ul>	1	<p><b>Working from heights</b></p> <ul style="list-style-type: none"> <li>- where windows are designed to be cleaned from the outside, anchorage points for fall arrest devices are provided on each windows</li> <li>- only appropriately trained and qualified contractors to perform cleaning on high glass windows</li> <li>- Work Method Statement to be submitted prior to any person working from height.</li> </ul>
	<p><b>Fall prevention</b></p> <ul style="list-style-type: none"> <li>- carpet may wear and trip hazards may result</li> </ul> <p><b>Stairs and Steps</b></p> <ul style="list-style-type: none"> <li>- non-slip treads may become loose</li> <li>- balustrades may become loose</li> <li>- carpet on stairs may wear and trip hazards may result</li> <li>- concrete treads on steps may crack and create trip hazard</li> <li>- steps may be slippery in wet weather.</li> </ul>	2	<p><b>Fall prevention</b></p> <ul style="list-style-type: none"> <li>- carpet will be regularly inspected, cleaned and maintained</li> <li>- any changes or modifications to floor coverings or surfaces should minimise possibility of slips, trips and falls</li> <li>- stairways will be regularly inspected and maintained</li> <li>- a procedure has been developed for management of wet floors from rain or liquid spillages.</li> </ul>

## TOOL 3

Specific location/ or activity	Examples of potential hazards/consequences	Class of risk	Examples of Control measures
	<p><b>Electricity</b></p> <ul style="list-style-type: none"> <li>- unauthorised persons may enter switch room, potential for contact with live electrical components</li> <li>- electrical wiring may be faulty leading to potential for electric shock</li> <li>- worker may use faulty electrical equipment leading to electric shock</li> <li>- child may access power point and place metal item into socket.</li> </ul> <p><b>Lighting</b></p> <ul style="list-style-type: none"> <li>- slip, trip or fall hazard may be created through insufficient lighting or faulty lighting. Potential for serious injury or several days off work.</li> </ul> <p><b>Air Quality</b></p> <ul style="list-style-type: none"> <li>- workers undertaking physical work activities could sustain heat stress if air temperature and flow is insufficient</li> <li>- air quality from air conditioning could become contaminated leading to illness (eg legionnaires disease).</li> </ul>	<p>2</p> <p>3</p> <p>4</p>	<p><b>Electricity</b></p> <ul style="list-style-type: none"> <li>- switch room to be securely locked at all times</li> <li>- permit system to be followed for entry into switch room</li> <li>- electrical work only to be conducted by qualified persons</li> <li>- electrical work to be in compliance with the <u>Electrical Safety (Electrical Installations) Regulation 1998</u></li> <li>- housekeeping ensures that metal items and other foreign objects are not left lying around</li> <li>- children must not be left unsupervised.</li> </ul> <p><b>Lighting</b></p> <ul style="list-style-type: none"> <li>- lighting is of a sufficient level to allow persons to move safely within the place of work</li> <li>- lighting must be regularly inspected and maintained</li> <li>- lighting levels meet requirement of AS1680.1990</li> <li>- lighting should be considered for all works areas, stairs and steps, access, egress and emergency exit.</li> </ul> <p><b>Air Quality</b></p> <ul style="list-style-type: none"> <li>- air conditioning or other mechanical ventilation to be supplied for all persons at the workplace, particularly those persons carrying out physically demanding work</li> <li>- air conditioning to be properly maintained according to AS.NZS3666.2-1995</li> <li>- air conditioning meets requirements of AS1668.2.2002 'Mechanical Ventilation For Acceptable Indoor Air Quality.'</li> </ul>

## TOOL 3

Specific location/ or activity	Examples of potential hazards/consequences	Class of risk	Examples of Control measures
	<p><b>Hazardous Materials</b> <b>Paint</b></p> <ul style="list-style-type: none"> <li>- paint is pre-1970 and probably contains lead</li> <li>- paint may peel and create danger to young children</li> <li>- paint dust may be a hazard during painting preparations.</li> </ul> <p><b>Asbestos</b></p> <ul style="list-style-type: none"> <li>- switchboards have been upgraded and no traces of asbestos can now be found in components.</li> </ul> <p><b>PCBs</b></p> <ul style="list-style-type: none"> <li>- all fluorescent lights have been inspected and upgraded so that PCB capacitors have been removed.</li> </ul> <p><b>Biological</b></p> <ul style="list-style-type: none"> <li>- carpet may harbour mites or hazardous moulds creating health problems.</li> </ul> <p><b>After hours security</b></p> <ul style="list-style-type: none"> <li>- hotel may be a target for hold-ups</li> <li>- workers may be at risk of attack walking to and from hotel.</li> </ul>	<p>4</p> <p>3</p> <p>4</p> <p>3</p>	<p><b>Hazardous Materials</b> <b>Paint</b></p> <ul style="list-style-type: none"> <li>- condition of paint on walls to be regularly inspected by competent person</li> <li>- Work Method Statement to be obtained from accredited painting contractors prior to commencement of work</li> <li>- hotel occupants to be sufficiently informed about and protected from hazards associated with lead paint.</li> </ul> <p><b>Biological</b></p> <ul style="list-style-type: none"> <li>- carpet will be regularly inspected, cleaned and maintained.</li> </ul> <p><b>After hours security</b></p> <ul style="list-style-type: none"> <li>- front doors must be locked after 7pm</li> <li>- all workers must access hotel from back door</li> <li>- workers employed to work after 7pm should be provided with secure parking</li> <li>- all persons provided with keys need to complete a key control permit and follow the related terms and conditions</li> <li>- for further information on security see Security Audit Report which details surveillance, cash handling, access control and layout.</li> </ul> <p><b>General Note</b></p> <p>All hazards must be immediately reported to the Property Manager If hazard cannot be resolved immediately, persons must not be placed at risk.</p>

## TOOL 4

### WORK METHOD STATEMENT

#### Overview

Work Method Statements are a means for the cleaning contractor to demonstrate how a risk identified during risk assessment (that cannot be eliminated) will be managed.

The Work Method Statement will outline a safe method of work for a specific job. It will identify safety risks and describe specific control measures. This tool contains:

- When to use Work Method Statements
- Why use Work Method Statements?
- What should be included in a Work Method Statement?
- Further guidance.

#### When to use Work Method Statements

Work Method Statements (which are sometimes called Safe Work Method Statements, Safe Operating Procedures or Job Safety Analysis) should be prepared for work activities where hazards cannot be eliminated. It is suggested that Work Method Statements are used for higher risk hazards with a risk ranking of 1, 2 or 3: see **Tool 3** for further information (eg working near traffic, working with sharps, working at heights).

#### Why use Work Method Statements?

Work Method Statements, fulfil a number of purposes. They:

- outline a safe method of work for a specific job
- provide an induction document that workers must read and understand before starting a job
- help meet legal responsibilities for such requirements as hazard identification, risk assessment and risk control
- help effectively coordinate the work, the materials needed, the time required and the people involved to achieve a safe and efficient outcome
- can be used as a Tool in quality assurance.

When developing and using Work Method Statements you should:

- prepare in consultation with those people who will be doing the job
- clearly display the organisation's name and registered address
- signed by a senior management representative of the organisation and dated.

### **What should be included in a Work Method Statement?**

- a description of the work to be undertaken
- step by step sequence in doing the work
- potential hazards associated with the work and with each of its steps
- safety controls that will be used to minimise these hazards
- all precautions to be taken to protect health and safety
- names and qualifications of those who will supervise the work and inspect and approve work methods, protective methods, plant and equipment.

### **Further guidance**

For further guidance a copy of a sample Work Method Statement is included over the page. For further information refer to WorkCover NSW's *Guidelines for Writing Work Method Statements in Plain English 1998*, Catalogue No 231, available by calling WorkCover's Publications Hotline on 1300 799 003.

## TOOL 4

<b>WORK METHOD STATEMENT</b>  <b>Contractor</b> <b>Reliable Cleaning Co. Pty Ltd</b>		<b>I approve of the use of this Work Method Statement</b>  Name Ms. D. Pendable Position Manager Signature D. Pendable Date 01.01.2002	
Description of Activity Waste Removal		Area Hotel	
Critical Steps in this Activity	Potential Hazards	Safety Controls	
<i>Rubbish collected from waste paper bins in hotel rooms into trolley.</i>	<ul style="list-style-type: none"> <li>- infectious diseases from sharps</li> <li>- strain/sprain injury from lifting bins off floor.</li> </ul>	<ul style="list-style-type: none"> <li>• ensure staff are trained in manual handling techniques, sharps collection and disposal and safe work procedures</li> <li>• write up or reproduce and make available safe work procedures for the collection and disposal of sharps</li> <li>• provide appropriate PPE</li> <li>• provide mechanical lifting assistance as required.</li> </ul>	
<i>Rubbish collected via wheelie bins from kitchen.</i>	<ul style="list-style-type: none"> <li>- sprain/strain from wheelie bin being overloaded and too heavy.</li> </ul>	<ul style="list-style-type: none"> <li>• ensure staff are trained in manual handling</li> <li>• ensure staff are aware not to overfill bins</li> <li>• all bins must be 100 litre or smaller</li> <li>• ensure mechanical lifting is provided.</li> </ul>	
<i>Rubbish collected from outside bins in garden areas into trolley.</i>	<ul style="list-style-type: none"> <li>- slip trip or fall/strain or sprain from uneven paths or steps.</li> </ul>	<ul style="list-style-type: none"> <li>• all paths to be repaired</li> <li>• bin to have plastic liners inside</li> <li>• ensure trolleys are suitable for the task</li> <li>• ensure staff are trained in manual handling.</li> </ul>	
<i>Rubbish collected from bins in public areas, eg toilets.</i>	<ul style="list-style-type: none"> <li>- infectious diseases from sharps</li> <li>- strain/sprain injury from lifting bins off floor.</li> </ul>	<ul style="list-style-type: none"> <li>• ensure staff are trained in manual handling, sharps collection and disposal and appropriate safe work procedures</li> <li>• write up or reproduce and make available safe work procedures for the collection and disposal of sharps.</li> </ul>	

## TOOL 4

Critical Steps in this Activity	Potential Hazards	Safety Controls	
<p><i>Rubbish transferred from trolleys into industrial waste bins.</i></p>	<ul style="list-style-type: none"> <li>- <i>strain/ sprain from opening heavy lid of industrial waste bin</i></li> <li><i>Fall from edge of dock</i></li> <li>- <i>potential for slip/trip or fall if bin is overloaded and persons try to compact by jumping on rubbish.</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>ensure staff are trained in manual handling</i></li> <li>• <i>utilise mechanical lifting wherever possible</i></li> <li>• <i>ensure lid manufactured of lightest material possible</i></li> <li>• <i>ensure that edge of dock has a non-slip surface</i></li> <li>• <i>make arrangements to ensure that dock is kept as dry as possible</i></li> <li>• <i>if possible, exchange bin for mechanical compactor bin with all safety compliances fitted</i></li> <li>• <i>instruct staff that under no circumstances are they to get into the bin</i></li> <li>• <i>build steps to reduce lifting lid above shoulder height.</i></li> </ul>	
<b>Training Required to complete Activity</b>		<b>Codes of Practice, Legislation, Standards which apply to this activity</b>	
<p>(List training required, eg First Aid, manual handling, polisher, laboratory)</p> <ul style="list-style-type: none"> <li>• <i>manual handling</i></li> <li>• <i>sharps collection and disposal</i></li> <li>• <i>safe work practices for the collection and disposal of sharps</i></li> <li>• <i>safe work practices general.</i></li> </ul>		<ul style="list-style-type: none"> <li>• <i>OHS Act 2000</i></li> <li>• <i>OHS Regulation 2001</i></li> <li>• <i>National Standard for Manual Handling</i></li> <li>• <i>National Code of Practice for Manual Handling</i></li> <li>• <i>Code of Practice for Health Care Workers and other people at risk of the transmission of HIV and other blood-borne pathogens in the workplace</i></li> <li>• <i>Code of Practice for Risk Assessment 2001</i></li> </ul>	
<b>List equipment / personal protective equipment required for this activity</b>	<b>List equipment maintenance checks required for this activity</b>	<b>Engineering certificates / permits / approvals required for this activity</b>	
<ul style="list-style-type: none"> <li>• <i>sharps container, tongs, heavy duty gloves</i></li> <li>• <i>suitable outdoor rubbish trolley</i></li> <li>• <i>suitable indoor waste paper trolley</i></li> <li>• <i>mechanical lifting device.</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>checks on trolleys</i></li> <li>• <i>checks on mechanical lifting device if utilised.</i></li> </ul>	<p><i>nil</i></p>	
<b>Read and signed by all employees on site</b>	Name	Date	
	Name	Date	
	Name	Date	
	Name	Date	

## TOOL 5

# CONTRACTOR OHS MONTHLY REPORT

### Overview

The OHS Monthly Report is a tool to facilitate meaningful communication between the property owner, property manager and cleaning contractor. The Monthly Report creates documentary evidence of the flow of information between these four stakeholders.

The sample Contractor OHS Monthly Report is made of three sections:

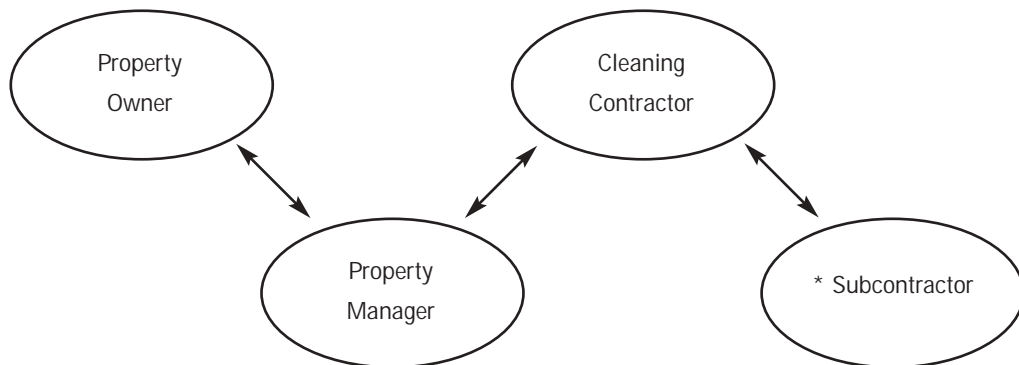
**Section 1** containing most of the information, is completed by the Cleaning Contractor

**Section 2** completed by the Property Manager, and

**Section 3** completed by the Property Owner.

### Diagram of information flow.

(\*eg carpet cleaning, window cleaning)



## CONTRACTOR OHS MONTHLY REPORT

SECTION 1 – COMPLETED BY CLEANING CONTRACTOR					
Contract Name			Month		
Contract Number			Prepared by		
Contractor			Date		
Are subcontractors engaged in this work Yes/No					
Subcontractor Names (legal identity)					
PERFORMANCE INDICATORS					
			This month	Total	Monthly Average (over last 12 months)
Number of lost time injuries					
Working days lost due to injury					
Number of first aid treatments					
Number of hazard inspections conducted					
STATUS OF INJURED PERSONNEL AND PROPERTY DAMAGE					
Name/Item	Injury/damage	Date of Incident	Days lost for injured person		Forecast Return-to-work for injured person
			This month	Total for year	
OUTCOMES OF OHS AUDITS / INSPECTIONS					
Comments / Outcomes					
Next audit or inspection is planned for (date)					

## TOOL 5

<b>WORKCOVER ACTIVITIES/INSPECTIONS</b>			
(Visits to the site, notices serviced, fines imposed etc)			
<b>OHS CORRECTIVE ACTIONS</b>			
List all Corrective Actions for this month	Status. Work is:		Comments
	Complete	Outstanding	
<b>COMMENTS ON POSITIVE OHS PERFORMANCE</b>			
Contractor representative			
(eg. Workplace inspection held, OHS training)			
<b>UNRESOLVED HEALTH AND SAFETY ISSUES</b>			
Detail			

## TOOL 5

<b>SECTION 2 – COMPLETED BY PROPERTY MANAGER</b>
Date of review of Section 1
Comments (feedback to Cleaning Contractor)
Is further action or are further documents required to be submitted by Cleaning Contractor? Specify (eg request for accident investigation reports)
Recommendations for Property Owner
Name/Position  Signature
<b>SECTION 3 – COMPLETED BY PROPERTY OWNER</b>
Date of review of Section 1 and 2
Comments (feedback to Property Manager)
Is further action or are further documents required to be submitted by Property Manager? Specify (eg request for accident investigation reports)
Recommendations to Property Manager
Name/Position  Signature

## TOOL 6

### GENERAL HEALTH AND SAFETY CHECKLIST

#### Overview

The workplace is never static and there can be the potential for deviations from work routines. For this reason it is necessary to monitor the workplace, to gather information about potential hazards and to have processes in place to act on the information gathered. Regular planned hazard inspections of work areas can assist monitoring and supervising work areas and contractors.

Inspections should be conducted jointly by management and employee/contractor representatives and should seek input from the personnel required to undertake the tasks being inspected.

Inspection reports should be forwarded to senior management and should contain recommendations for implementation of corrective actions.

<i>This checklist is included as a guide only and may be modified to suit specific contract requirements</i>		
Contact Name		
Contract Description		
Contractor		
Worksite Location	Date	Time
Persons completing inspection		
Cleaners were present at time of inspection	Yes/No	
Indicate in the following manner		
<input checked="" type="checkbox"/> Acceptable	<input checked="" type="checkbox"/> Not Acceptable	<input type="checkbox"/> N/A Not Applicable
<b>1. Health and Safety Systems</b>		
1.1	OHS policy displayed	
1.2	Accident/hazard reporting book readily available	
1.3	Induction records	
1.4	Training records	
1.5	Return-to-Work policy available	
1.6	Previous workplace inspection records available	
1.7	Risk Assessment for this contract available	
1.8	Work Method Statements available where appropriate	
1.9	Protective clothing and equipment records	
1.10	Chemical Register containing current MSDS available	

## TOOL 6

1.11	Health and safety systems manual	
1.12	Employee OHS representatives appointed	
1.13	Return-to-Work Coordinator and safety representative appointed	
1.14	Emergency procedures	
<b>2. Housekeeping and Lighting</b>		
2.1	Work areas free from rubbish and obstructions	
2.2	Free from slip/trip hazards	
2.3	Floor openings covered	
2.4	Stock/material stored safely	
Aisles		
2.5	Unobstructed and clearly defined	
2.6	Adequate lighting at all times cleaners are working	
2.7	Vision at corners	
2.8	Wide enough	
Lighting		
2.9	Lighting is adequate to allow cleaners to work safely	
2.10	Lighting facilitates safe entry and exits to place of work	
2.10	No flickering or inoperable lights	
2.11	Emergency lighting system	
2.12	Lighting available at all times (summer and winter) that cleaners are on site	
Storage		
2.13	Sufficient space for storing and moving stock	
2.14	Material stored in racks/bins	
2.15	Shelves free of rubbish	
2.16	Floors around stacks and racks clear	
2.17	Heavier items stored low	
2.18	No danger of falling objects	
2.19	Safe means of accessing high shelves	

## TOOL 6

<b>3. Manual Handling</b>		
3.3	Manual handling risk assessment has been undertaken (for such activities as vacuuming, mopping, polishing)	
3.4	Manual handling controls implemented	
3.2	Work Method Statements available (where appropriate)	
3.1	Mechanical aids provided, used and in good working order (eg bin lifters, trolleys)	
<b>4. Workplace Ergonomics</b>		
4.1	Ergonomic factors considered in work layout and task design	
4.2	Use of excessive force and repetitive movements minimised	
4.3	Appropriate training provided	
<b>5. Electrical and Equipment</b>		
5.1	No broken plugs, sockets, switches	
5.2	No frayed or defective leads	
5.3	Equipment and leads inspected and tagged as per AS3760 (commercial cleaning extension leads and double insulated equipment tagged every 12 months)	
5.4	No cable-trip hazards	
5.5	Lock-out procedures/danger tags in place for faulty equipment	
5.6	Earth leakage systems used	
5.7	Plant and equipment in good condition	
5.8	Daily safety inspection procedures/checklists available	
5.9	Fault reporting/rectification system used	
5.10	Warning lights operational on mobile plant	
5.11	Satisfactory operating practices	
5.12	Fire extinguishers available	
5.13	Work Method Statement of lifting or carrying equipment displayed	
<b>6. Prevention of Falls</b>		
6.1	All floor penetrations covered or barricaded	
6.3	Safe work procedure in place for working from heights	
	Stable and securely fenced work platforms are provided where cleaner can fall more than 2 metres (if not, then fencing, handrails or other physical barriers or other physical restraints are provided)	

## TOOL 6

Stairs, steps and landings		
6.4	No worn or broken steps	
6.5	Handrails in good repair	
6.6	Clear of obstructions	
6.7	Adequate lighting	
6.8	Emergency lighting	
6.9	Non-slip treatments/treads in good condition	
6.10	Kick plates where required	
6.11	Clear of debris and spills	
6.12	Used correctly	
Ladders		
6.13	Ladders in good condition	
6.15	Correct angle to structure 1:4	
6.16	Extended 1.0 metre above top landing	
6.17	Straight or extension ladders securely fixed at top	
6.18	Metal ladders not used near live exposed electrical equipment	
7. Hazardous Substances		
7.1	Stored appropriately	
7.2	Containers labelled correctly	
7.3	Chemical Register readily available	
7.4	Chemical Register contains current Material Safety Data Sheets	
7.5	Chemical Register has Risk Assessment notations	
7.6	Adequate ventilation/exhaust systems if in a poorly ventilated area	
7.7	Protective clothing/equipment available/used	
7.8	Personal hygiene – dermatitis control	
7.9	Waste disposal procedures	
7.10	Appropriate emergency/first aid equipment – shower, eye bath, extinguishers available	
8. Personal Protection Equipment (PPE)		
8.1	Employees provided with PPE as a last alternative to other safety control measures	
8.2	PPE worn by employees	
8.3	PPE in good condition	
8.4	Sun-cream and sunglasses provided for outdoor work	

## TOOL 6

<b>12. Amenities and First Aid</b>		
12.1	Adequate First Aid facilities available at all times for all sites	
12.2	Stocks meet requirements as per Section 20(5) of the OHS Regulation	
12.3	First aiders names displayed in a prominent location	
12.4	First aiders location and phone numbers displayed	
12.5	First aiders qualifications are up to date	
12.6	First aid records maintained	
12.7	Toilets and washrooms available for cleaning staff	
12.8	Drinking water available for cleaning staff	
12.9	Lockers clean	
<b>13. Fire Control</b>		
13.1	Extinguishers in place	
13.2	Fire fighting equipment serviced/tagged	
13.3	Appropriate signing of extinguishers	
13.4	Extinguishers appropriate to hazard	
13.5	Emergency exit signage	
13.6	Personnel trained in use of fire fighting equipment	
<b>14. Waste Disposal</b>		
14.1	Risk Assessment documentation is available for waste disposal	
14.2	Bins are not overloaded	
14.3	Trolleys are available	
14.4	Pathways for wheelie bins and trolleys are clear and free from obstructions	
14.5	Dumpster bin is in an appropriate location	
14.6	Lid on dumpster bin is easy to open	
14.7	Appropriate PPE is worn and maintained	
14.8	Mechanical bin-lifter devices are used whenever possible	
<b>15. Isolated workers</b>		
15.1	Communications strategy for isolated workers is in place in case of emergencies	
15.2	Regular contact and supervision of isolated workers	

### FOR FURTHER INFORMATION AND ASSISTANCE

#### Organisations

##### *WorkCover NSW*

WorkCover NSW works with industry, the workforce, and insurers to promote a culture of safety through public awareness programs, education and other community activities and to improve the performance of the workplace safety, injury management, and workers compensation systems.

Ph: **13 10 50**

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

##### *Building Service Contractors Association of Australia*

BSCAA is an employer organisation, whose purpose is to foster and encourage the growth and development of the contract cleaning and building services industry. BSCAA provides information and advice to members on a range of employment and industrial issues.

Ph: (02) 9437 4411

[www.bscaa.asn.au](http://www.bscaa.asn.au)

##### *Liquor Hospitality and Miscellaneous Workers Union – NSW Branch*

The LHMU represents more than 150,000 workers in the hospitality, tourism, manufacturing, property services, health and community service sector.

Ph: (02) 8204 7204 or free call for country members 1800 805 027

[www.lhmu.org.au](http://www.lhmu.org.au)

##### *Property Council of Australia*

PCA represents the interests of the commercial property industry. Members range from property owners (property trusts, investment banks, superannuation companies) through to all those who support them.

Ph: (02) 9252 3111

[www.propertyoz.com.au](http://www.propertyoz.com.au)

#### **Occupational health and safety consultants**

Fee for service OHS consultants can be found in the yellow pages under occupational health and safety.

[www.yellowpages.com.au](http://www.yellowpages.com.au)

#### **Workers compensation insurers**

Your workers compensation insurer can assist you with workers compensation and injury management enquires. To find a list of workers compensation insurers see [www.yellowpages.com.au](http://www.yellowpages.com.au) or

[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) (go to workers compensation, then insurer, then list of licensed insurers).

# APPENDIX 1

## Publications

### Consultation

*OHS Consultation – Code of Practice*, WorkCover NSW. Catalogue No 311. This Code of Practice discusses when to consult, deciding on appropriate arrangements, workgroups, committees, representatives, training and the facilitation of the OHS consultation process. 76pp.

*What managers can do – occupational health and safety and the multilingual workforce*, WorkCover NSW. Catalogue No 203. Helpful points for managers needing to communicate with workers from non-English speaking backgrounds. 6pp.

### Injury and Claim Management

*Guidelines for employers return-to-work program*, WorkCover NSW. Catalogue No 506. Details on how to develop workplace rehabilitation program by WorkCover NSW including rehabilitation commitments and procedures for category 1 employers. Guidelines for industry rehabilitation coordinators are also contained. 21pp.

*Watching Out for You: poster* WorkCover NSW. Catalogue No 22.1. The display of this poster is compulsory for all NSW workplaces. Summarises worker and employer obligations under Workers Compensation legislation. A3 poster

*Workers Compensation for Contractors and Sub-Contractors*, WorkCover NSW. Catalogue No 507. Who needs a workers compensation policy? Who is a worker for workers compensation? 6pp.

*Injured worker: what do you do next?* WorkCover NSW. Catalogue No 961. A simple guide to employer obligations when a worker is injured. 3 panel DL Brochure.

*Medical practitioners and rehabilitation providers*, WorkCover NSW. Catalogue No 532. Explains how doctors and rehabilitation providers can work together to assist injured workers to return to work. 2 panel DL brochure.

*Injury Management Consultant: Information for Workers*, WorkCover NSW. Catalogue No 541. 3 panel DL Brochure.

*Nominated Treating Doctor: Information for Workers* WorkCover NSW. Catalogue No 543. 3 panel DL Brochure.

*Premium Discount Scheme*. A Guide to the Premium Discount Scheme including information on discounts, benchmarks and audits, plus an example of how the Premium Discount Scheme works. Available on internet only. [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) (refer to Publications).

*Premium Discount Scheme*, WorkCover NSW. Catalogue No 37. 2pp.

*How to organise suitable duties in the cleaning industry*, WorkCover NSW. Catalogue No. 517. 2pp.

## OHS Legislation

*Summary of the OHS Act 2000*, WorkCover NSW. Catalogue No 100.1. Plain English guide to the Occupational Health and Safety Act. 4pp.

*Summary of the OHS Regulation 2001*, WorkCover NSW. Catalogue No 106. 32pp.

## OHS Management Systems

*Workplace Safety Kit – Guide*, WorkCover NSW. Catalogue No 40. Guidelines for small to medium size businesses. Seven step approach to developing OHS Management Systems. 38pp.

*OHS&R Management Systems Guidelines*, 3rd ed. NSW Government Construction Policy Steering Committee. NSW Department of Public Works and Services 1998, [www.dpws.nsw.gov.au](http://www.dpws.nsw.gov.au) or Ph: 9372 8877.

*Guidelines for Auditing Project OHS&R management plans*, NSW Government Construction Policy Steering Committee. NSW Department of Public Works and Services 1998, [www.dpws.nsw.gov.au](http://www.dpws.nsw.gov.au) or Ph: 9372 8877.

**Safety MAP**, Victorian WorkCover Authority. An audit tool designed to assist organisations of all sizes and functions improve their management of health and safety.

**AS/NZS 4804:1997 OH&S management systems – General Guidelines on principles, systems and supporting techniques**, Standards Australia. [www.standards.com.au](http://www.standards.com.au) or Ph: 1300 654 646.

*Small Business Safety Starter Kit*, WorkCover NSW. Catalogue No 50. This kit has been designed to assist small employers, ie those with 20 or less employees, to comply with new OHS legislation in NSW. The kit provides advice on where to start and how to incorporate safety management into business operations. Kit.

## Risk Management

*Risk Assessment – Code of Practice*, WorkCover NSW. Catalogue No 963. 2001. The purpose of this Code of Practice is to provide practical guidance to assist employers to meet their risk assessment obligations under the *Occupational Health and Safety Regulation 2001*. 8pp.

*Risk Management at Work – Guide*, WorkCover NSW. Catalogue No 425. 2001. Explains three steps of risk management, who should be involved in risk management and six steps in setting up an OHS management system. 24pp.

*HazPak – Making your workplace safer*, WorkCover NSW. A practical guide to basic risk management. 16pp.

*Guidelines for Writing Work Method Statements in Plain English*, WorkCover NSW. Catalogue No 231. Guidelines for writing procedures for a safe method of work, particularly for the building and construction industry. 36pp.

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### First Aid

*First Aid in the Workplace: Guide*, WorkCover NSW. Catalogue No 121. Step-by-step guide to setting up a first aid program. 8pp.

*First Aid in the Workplace: An Example for Small-to-Medium Business*, WorkCover NSW. Catalogue No 155. A list of common hazards and the injuries and illnesses that might result, a sample first aid plan, a planning checklist to assist businesses fine tune first aid plans. 57pp.

*Approved First Aid Courses in New South Wales*, WorkCover NSW. Catalogue No 200. Updated regularly, list of persons who are accredited by WorkCover to give first aid and occupational first aid training. 6pp.

### Hazardous Substances

*Managing Chemical Hazards in the Workplace: Advice for Managers and Supervisors*, WorkCover NSW. Catalogue No 454. Introduction to the Hazardous Substances Regulation. Outlines how workers can be protected from the harmful effects of hazardous substances and suggests ways to manage the health hazards involved. 12pp.

*Reading Labels and Material Safety Data Sheets*, WorkCover NSW. Catalogue No 400. How to read and understand labels and MSDS on hazardous substances and act on the safety information they contain. 14pp.

*Code of Practice for the Labeling of Workplace Substances*, WorkCover NSW. Catalogue No 152. Provides guidelines on the labeling of all substances used at work. 80pp.

*Code of Practice for the Control of Workplace Hazardous Substances*, WorkCover NSW. Catalogue No 153. Details the information provisions (labels, MSDS, etc) and assessment and control provisions which form part of the requirements concerned with the control of workplace hazardous substances. 57pp.

### Manual Handling

*National Standard for Manual Handling and Code of Practice for Manual Handling*, National Occupational Health and Safety Commission. Available from AusInfo Ph: 132 447 or [www.nohsc.gov.au](http://www.nohsc.gov.au).

*National Code of Practice for Prevention of Occupational Overuse Syndrome [NOHSC: 2013 (1994)]*, National Occupational Health and Safety Commission. Available from AusInfo Ph: 132 447 or [www.nohsc.gov.au](http://www.nohsc.gov.au)

## APPENDIX 1

*Manual Handling for Cleaners*, WorkCover NSW. Catalogue No 713. Information and training manual for cleaners, especially those working in schools and Institutes of TAFE. Prepared by the Liquor, Hospitality and Miscellaneous Workers Union under a grant from WorkCover. 82pp.

*Health and Safety for Cleaners: Selecting the Right Mopping Equipment*, WorkCover NSW. Catalogue No 751. 8pp.

### Skin Cancer and outdoor workers

*Skin Cancer and Outdoor Workers: A Guide for Employers*, WorkCover NSW. Catalogue No 116. Outlines an employer's duty of care towards outdoor workers and ways to protect workers from the harmful effects of the sun. 6pp.

*Skin Cancer and Outdoor Workers: A Guide for Workers*, WorkCover NSW. Catalogue No 117. Outlines employees' obligations and gives a brief description of the different types of skin cancer and how best to protect themselves from the harmful effects of the sun. 6pp.

### Ladders and Stairs

*Portable Ladders*, WorkCover NSW. Catalogue No 4503. 3pp. Available on internet only.  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

*AS 1657-1992 Fixed platforms, walkways, stairways and ladders* – Design, construction and installation, Standards Australia. [www.standards.com.au](http://www.standards.com.au) or Ph: 1 300 654 646.

### Needlestick injuries

*Code of Practice for Health Care Workers and Other People at Risk of the Transmission of HIV and other Blood-Borne Pathogens in the Workplace*, WorkCover NSW [NOHSC:2010 (1993)]. Provides a step-by-step guide to identifying when the risk of transmission exists in the workplace, and, if a risk is identified, to assessing and controlling that risk. 52pp. [www.nohsc.gov.au](http://www.nohsc.gov.au).

# APPENDIX 1

## Other publications

*Your Guide to Workplace Health and Safety*, WorkCover NSW. Catalogue No 909. A simple introduction to occupational health and safety at work: common hazards, suggestions for safer manual handling, safety signs and an overview of the functions of OHS committees. Also available in Arabic, Croatian, Greek, Italian, Maltese, Serbian, Spanish, Tagalog and Vietnamese. 32pp.

*Due Diligence at Work Checklist for Action on Workplace Health and Safety for Company Directors and Managers*, WorkCover NSW. Catalogue No 126. This guide is action-oriented and provides a series of helpful checklists to help employers to determine whether they are adequately protecting the health, safety and welfare of their employees. 47pp.

*Violence in the Workplace: Fact Sheet*, WorkCover NSW. Catalogue No 68. Includes a list of common hazards and the injuries and violence risks that may result and a sample of risk control strategies. 8pp.

*Code of Practice: Workplace Amenities*, WorkCover NSW. Catalogue No 318. This code sets out and explains the requirements for amenities such as toilets, dining areas, and drinking water in the workplace. 28pp.

*AS/NZS 3670-2001 In-service safety inspection and testing of electrical equipment*, Standards Australia. This standard specifies procedures for the safety inspecting and testing of electrical equipment and leads. Standards Australia. [www.standards.com.au](http://www.standards.com.au) or Ph: 1300 654 646.

# NSW OCCUPATIONAL HEALTH AND SAFETY REGULATION 2001

While not restricting the limit of applicable clauses, it is suggested that the following list of pertinent sections of the NSW *OHS Regulation 2001* should be referred to:

### **Chapter 2 – Places of work – risk management and other matters**

- Clause 8 – Responsibilities held by more than one responsible person
- Clause 9 – Employer to identify hazards
- Clause 10 – Employer to assess risks
- Clause 11 – Employer to eliminate or control risks
- Clause 12 – Employer to review risk assessments and control measures
- Clause 13 – Employer to provide instruction, training and information
- Clause 14 – Employer to provide supervision
- Clause 15 – Provision by an employer of personal protective equipment
- Clause 16 – Employer to obtain information
- Clause 17 – Employer to provide for emergencies
- Clause 18 – Employer to provide amenities
- Clause 19 – Maintenance of amenities and accommodation
- Clause 20 – Employer to provide first aid facilities and personnel

### **Chapter 3 – Consultation**

- Clause 22 – Setting up consultation arrangements
- Clause 23 – Workgroups represented by OHS committees or OHS representatives
- Clause 24 – Minimum requirements for OHS committees
- Clause 25 – Minimum requirements for election of OHS representatives
- Clause 26 – Other agreed arrangements
- Clause 31 – Training to be undertaken by members of OHS committees and OHS representatives

### **Chapter 4 – Work premises and working environment**

- Clause 34 – Controller of premises to identify hazards
- Clause 35 – Controller of premises to assess risks
- Clause 36 – Controller of premises to eliminate or control risks
- Clause 37 – Controller of premises to review risk assessments and control measures
- Clause 38 – Controller of premises to provide information

### **Chapter 12 – Notifying incidents/accidents**

- Part 12.1 Notification of accidents and other matters.
- Part 12.2 Prescription of additional non-disturbance occurrences.

## APPENDIX 2

### CODES OF PRACTICE

An approved industry code of practice is a practical guide to achieving the standard of health, safety and welfare required by the Occupational Health and Safety Act and Regulations for a particular area of work. An approved industry code of practice should be followed unless there is an alternative course of action which achieves the same or a better standard of health and safety in the workplace.

Codes of Practice are available from WorkCover NSW.

The following codes are called up under the NSW *Occupational Health and Safety Regulation 2001*.

- Noise Management and Protection of Hearing at Work – Code of Practice 2001
- Health Care Workers and Other People at Risk of the Transmission of HIV and other Blood-Borne Pathogens in the Workplace – Code of Practice
- Hot and Cold Environments – Code of Practice
- OHS Consultation – Code of Practice
- Risk Assessment – Code of Practice
- Technical guidance – Code of Practice
- Workplace Amenities – Code of Practice.

# WORKERS COMPENSATION FOR CONTRACTORS AND SUB-CONTRACTORS

### **Who needs a workers compensation policy?**

Anybody who operates a business and employs workers or engages contractors, must obtain a workers compensation insurance policy.

All employers have a legal liability to pay compensation to workers who are injured in the course of their work, and employers are required by law to hold a workers compensation insurance policy from a licensed WorkCover insurer to cover that potential liability.

### **Who is a 'worker' for workers compensation insurance purposes?**

The *Workers Compensation Act 1987* defines a worker to be any person who works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied is oral or in writing.

For the purposes of workers compensation, a group of people may be 'deemed workers' and are also entitled to workers compensation benefits if injured, and the person or company who engages their services is obliged to provide workers compensation insurance just as they would for a direct employee.

These deemed workers include outworkers, salespersons, some contractors, some rural contractors, some timber-getters, jockeys, taxi-drivers, and ministers of religion.

A business that engages contractors who are deemed to be workers is considered to be 'an employer' even if the business has no direct employees. For information about the special provisions applying to other situations, contact the WorkCover Authority (see contact details at the end of this guide).

It is not necessary to conclusively determine whether a person is an 'employee' or a 'contractor'. In borderline cases, the person, even if a contractor, would be deemed to be a worker for workers compensation purposes, under the provisions of the law.

The law does not solely use a person's tax status to determine whether he or she is a worker, deemed worker or contractor.

## APPENDIX 3

### How do you distinguish between an employee and a contractor?

There are several factors which distinguish an employee from a contractor:

#### A contractor is more likely to

- be engaged to carry out a particular task, using his or her own skill and judgment
- employ others, delegate or sub-let work to another
- be paid on the basis of a job quotation
- supply his or her own tools and materials
- carry on an independent business in his or her own name or under a business name
- be subject to PPS tax arrangements.

#### An employee is more likely to

- be subject to direction from the employer as to the work to be performed and the time and manner in which it is performed
- be required to actually carry out the work
- be paid on a time basis
- have tools and materials supplied by the employer
- work exclusively for a single employer
- be subject to PAYE tax arrangements.

#### When is a contractor deemed to be a worker?

The contractor is deemed to be a worker employed by the person or company who made the contract with the contractor when:

- the value of the work exceeds \$10
- the contractor does not employ workers
- the contractor does not sub-let part or all of the contracted work
- the work is not part of a business or trade regularly carried out by the contractor in his/her own name or under a business name.

In this situation, the owner of the business or principal of the business who engages the contractor, has a similar level of control over the contractor as that over a direct employee. The owner or business principal has a duty of care to the contractor and should have workers compensation insurance.

If in doubt, contact WorkCover on **13 10 50** for further advice.

## APPENDIX 3

### A contractor is not a worker if

- the contract for the work is made between the principal and the contractor's limited liability company or properly constituted partnership
- the contractor employs any workers in relation to the contract, or the contractor sub-lets all or part of the contracted work
- the contractor is a tradesperson conducting a business in a recognised trade, and the nature of contracted work is in that trade
- the contractor, who may be a sole trader, is shown carrying out an independent business in his or her own name or under a business name.

### Some important points to note

- Where a contractor enters a permanent or ongoing arrangement with a single principal, the contractor is no longer considered to be 'regularly carrying on a business or trade in his or her own name', and is considered a worker of the principal.
- If a contractor or tradesperson contracts to perform work which is outside his normal trade or business, then he or she is deemed to be a worker. For example, if a person whose normal business/trade is a bricklayer contracts to move some furniture, that person would be deemed to be a worker, as the work is not part of his normal business or trade.
- If a contractor employs workers and does not have workers compensation insurance, the law allows injured workers to claim directly against a principal. A principal who engages a contractor who employs workers should always check that the contractor has workers compensation insurance.
- Where a contractor operates through a limited liability company, the contractor is considered to be a worker of his or her own company. The contractor's company must obtain a workers compensation policy to cover the contractor, even if the company employs no other workers.
- When a workers compensation claim is lodged by a contractor, the status of the claimant as a worker is a question that may ultimately be decided by the Compensation Court. To be safe, all principals who engage contractors should obtain a workers compensation insurance policy.

## **APPENDIX 3**

### **What should be declared as 'wages' for contractors who are 'deemed' workers?**

If a principal hires contractors who are deemed to be workers, the total contract payments made to the contractors must be declared as wages on wage declaration forms submitted to the WorkCover insurer.

The total amount paid will be reduced by the insurer to allow for costs incurred by the contractor in performing the contract.

WorkCover has developed standard percentages which represent the amount of the total contract payment that will be considered wages. If a dispute exists between the employer and the insurer as to the appropriate percentage, then the employer may refer the matter to WorkCover for a determination.

### **How do these arrangements apply to owner-builders?**

Workers compensation arrangements apply to owner-builders, as they do to any other person who engages workers or contractors. Contractors engaged by an owner-builder may be deemed to be workers. All owner-builders who engage contractors should obtain a standard workers compensation policy to ensure they are fully covered.

### **Why is a policy required if there are no workers?**

Any person or company which operates a business and engages contractors should obtain and maintain a workers compensation policy. Even if the business does not have employees, and the contractors engaged appear not to be deemed workers, the business still has a potential workers compensation liability. A contractor or a contractor's worker, may be found by the court to be a worker, and the employer of the contractor would be liable to pay compensation.

A workers compensation policy operates to cover all workers and deemed workers whom the employer engages. It is not necessary to arrange separate cover for contractors.

### **What records must be kept?**

Records must be kept of all payments to workers and to contractors. These records include wages cash books, accounts and any other record of a payment to a worker or deemed worker. The records must be kept in a legible form which can be made available to auditors sent by insurers to verify wages declarations.

Employers are also required to maintain records of the contractor's trade or calling of all workers or deemed workers engaged by them.

Where contractors are engaged who are not deemed workers, records should be kept to substantiate this. For example, contract payments made in that company or partnership name, tenders or invoices on the contractor's business letterhead, or the contractor's business card.

## APPENDIX 3

### Do insurers have a right to audit wages records?

Yes. Insurers are required by the WorkCover Authority to conduct regular audits of employers' records to ensure that amounts declared as wages are correct. All relevant documents must be made available.

Insurers are also entitled to access employers' records to verify that a contractor is, or is not, a deemed worker.

### What are the penalties for uninsured employers?

Employers who do not maintain a current workers compensation insurance policy may:

- be fined a maximum of \$22,000, and face six months imprisonment
- have to pay twice the amount of premium that was owed for the period the employer was uninsured
- be liable to pay for all the costs associated with any claim for workers compensation which occurs during the period the employer was uninsured.

If WorkCover finds that an employer has provided an insurer with false or misleading information which results in less than the correct amount of premium being assessed, WorkCover may recover twice the amount of avoided premium from the employer.

For further information, contact the WorkCover Information Centre: **13 10 50**

(Toll free from Sydney and local call state wide)

Note: There are other provisions of the *Workplace Injury Management and Workers Compensation Act 1998* applying to deemed workers in particular occupation groups and industries. If your situation is unusual or unique, then you should consult with your WorkCover insurer or the WorkCover Authority.

Catalogue No. **1221** Ordering Hotline **1300 799 003**



**WorkCover NSW** 92-100 Donnison Street Gosford NSW 2250  
Locked Bag 2906 Lisarow NSW 2252 WorkCover Assistance Service **13 10 50**  
Website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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