

# PROCUREMENT AND CONTROL OF CONTRACTORS

## Introduction

Definition – For the purposes of this document, a contractor is both a contracting company and those individuals who are employed by such companies, and sub-contractors and their employees who are not the duty holder's employees on or in relation to premises or plant which he owns or controls."

A duty holder should have arrangements in place to show they exercise adequate control over contractors. Such contractors (and where appropriate sub-contractors), may be working on the duty holder's behalf or on their undertaking, and the arrangements in place should ensure neither contractors nor the work they do will adversely affect the safety of the site. They must be able to show how they provide a fully integrated system for controlling contractors, including how contractors are procured, used and managed. They should also show the reasonably practicable steps taken by them to ensure the health and safety of those who may be affected by (their) contractor's activities.

The term contracting covers a wide range of activities but this document principally covers those involved in waste collection on behalf of the duty holder. However, it may be appropriate to include contractors who undertake:

- Construction work which is subject to the requirements of the Construction (Design and Management) Regulations 1994<sup>1</sup>;
- Maintenance work;
- Vehicle maintenance undertaken in depots by contract staff;
- Work by support contractors such as minor maintenance / repair, security, and cleaning;
- Work by specialist contractors including electrical, scaffolding etc. with which the duty holder may be less familiar but can be high risk;
- Labour only contractors.

The principles of controlling contractors are similar in all cases, although the extent and nature of the evidence provided and sought in each case may vary according to the type of work that the contractor is undertaking. This section has been broadly based on the model outlined in HSE's 'Successful Health and Safety Management' (HS(G)65)<sup>2</sup> and covers: Policy, Organising, Planning and Implementing, Measurement, Audit and Review. However, there is no requirement on duty holders to use the HS(G)65 model themselves.

The management of contractors covers all stages from procurement through standard setting to monitoring and review of the actual work. Some of the key steps in managing contractors take place before any work is actually done. The work itself has a product lifecycle, which needs to be understood, and you will need to show how you have considered the lifecycle. The duty holder therefore needs to have and be able to demonstrate that they have:

- a clear understanding of what work their contractors will undertake;
- identified the hazards and evaluated the risks that are related to that work;
- identified ways of eliminating, reducing and controlling those risks, and not merely passing them onto others;
- set standards which specify the conditions that the contractor must work to, including competence standards; and
- a management system in place to ensure agreed performance is achieved, with action to remedy matters if standards are not being met.

The duty holder should encompass the procurement phase (contract specification, tendering etc.), the contract delivery phase (the actual work such as collection, sorting, vehicle maintenance etc.), and the overall management of contractor activities by the duty holder (technical audit, monitoring etc.) They have been linked together to emphasise this integration., but the elements of say procurement, standard setting or contractor monitoring may appear in different parts of any documentation covering the arrangements in place.

It is also important to ensure that you consider both the performance standards contractors operate to, and the standards of management applied to and by contractors. In some circumstances the duty holder needs to make changes to their operations to accommodate contractors, and this should be reflected.

**Note** Although contractors are themselves duty holders, in this document the term “duty holder” refers to the organisation taking on the contractor.

The document also describes the arrangements, which the duty holder should have in place to show they exercise adequate control over the procurement of plant, materials and services. They should show how they provide a fully integrated system for controlling procurement.

## Assessment criteria

### Policy

**The duty holder should describe its overall policy on the use and management of contractors and suppliers.**

To demonstrate that the duty holder has a clear understanding of what the risks and differences are in using contractors and contract labour, as opposed to their own staff. They should explain when they will use contractors and how they will be used and managed. The outline of appropriate control measures relevant to managing contractors, based on a clear understanding of the risks should be shown.

### Examples of Evidence

- The duty holder will explain what the general policy is on the use of contractors, covering why, when, where, and in what circumstances, contractors may be, or are to be used. This may include an outline of any special health and safety policy with regard to contractors.

- The policy on the selection methods used to ensure competent contractors are procured.
- An outline of how any arrangements differ for contractors as opposed for directly employed staff.
- An outline of the approach to management of the performance of contractors, both with respect to their working methods and the quality of their work as far as safety and health may be affected.
- A commitment to provide all appropriate guidance and information to contractors.

**The duty holder should be able to describe its system for ensuring that health and safety is taken into account when procuring plant, materials and services.**

### **Examples of Evidence**

Formal control mechanisms such as procedures should be in place to achieve the following: -

- all relevant health and safety aspects, including technical standards and human factors issues, relating to use of equipment, PPE, maintenance, etc are considered at the design stage and are incorporated into design specifications;
- all relevant health and safety requirements are assessed when plant etc is being selected for purchase;
- there are adequate checks of plant used by contractors;
- information on hazards, risks and precautions required for the safe use of plant and materials is made available to the work site;
- safety critical equipment and materials are purchased to an approved specification from an approved supplier; and
- monitoring is carried out to ensure the above requirements are implemented in practice.

**The duty holder should be able to describe the system for ensuring that spares, components, services and tools will be fit for purpose.**

The purchaser of these goods should have an appropriate quality management system for defining what is required and ensuring that what is delivered will meet this requirement. For particularly important safety-critical items, this can mean that manufacturers should not make design changes without advising the purchaser, so that the effect of the change can be suitably assessed. The purchaser will also need to control the storage of the purchased items to ensure their fitness for use at the time and point of use.

### **Examples of Evidence**

Arrangements and procedures for the supply of plant, equipment and spares to include, for example:

- clear specifications for all spares, components and tools, categorized by the safety significance of the application in which they are used;

- identification of approved suppliers and products and the criteria to be applied for accepting their products (including, where appropriate, reference to the means by which suppliers may gain and will retain approval);
- procedures for receiving, inspecting and testing, where appropriate, all items before accepting them for use and for quarantining and withholding those that have not been cleared for use;
- requirements that spares, components and tools for use on safety critical / safety-related plant and equipment that have been produced to a revised specification or standard (even if the manufacturer declares them identical or improved) are reassessed regarding their worthiness to fulfil their safety function;
- systems to ensure that the shelf-life and storage conditions of spares, components and tools are controlled to meet their subsequent operational life; and
- systems for re-inspecting and authorizing the issue of controlled spares, components and tools before they are actually used.

## Organising

### Control

**The duty holder should be able to describe its arrangements for the identification of hazards and assessment of risks likely to arise from contractors activities, and the arrangements for ensuring that the control measures are adequately implemented.**

This should include:

- a statement of the assessment process undertaken, the methods of any calculation used and any assumptions made;
- a statement of the significant findings of the risk assessment , including the measures in place and any further measures which the duty holder intends to take to comply with the relevant statutory positions; and
- particulars of the arrangements the duty holder has made for the effective planning, organisation, control, monitoring and review of all measures identified above.

The duty holder will be in the best position to assess the risks arising from their own operations, including the work to be contracted out, and the control measures needed, but this will then need to be shared with contractors, so joint and compatible controls can be developed. The risks and risk controls, which the contractor proposes to put in place, will need to be assessed.

The duty holder may need to make short term modification to their own controls to accommodate work being done by the contractor, so the contractor's controls need to be clearly understood. The results of the risk assessment process needs to be shared with and developed by contractors.

### Examples of Evidence

Arrangements for:

- identifying the main hazards associated with the work;
- ensuring that suitable and sufficient risk assessments have been undertaken for each of the hazards identified;
- ensuring that the risk assessment identifies what control measures are required, and how these may change as relationships develop;
- providing systems to link duty holder and contractor risk assessments, and any changes in operation needed by either party in the light of specific tasks and risks;
- monitoring compliance with the control measures identified in the risk assessment;
- the periodic review of the risk assessments (or means of indicating when an early review is needed);
- the procedures to ensure that the necessary information is passed to contractors and other persons affected by the contractors activities. This could include, for example, the location of specific route hazards to drivers and operators; and
- procedures to eliminate or reduce risk not merely transfer it to contractors.

**The Duty Holder should explain the arrangements they have for controlling contractors working on premises or plant that he owns or controls.**

The standard of control to the risks arising from the work of contractors, their employees and sub-contractors should be equal to those applied to the duty holder's own employees and directly managed activities. This cannot be an add-on extra; it must be an integral part of the management system.

### **Examples of Evidence**

The system for managing contractors and how this fits with the other parts of the duty holder's management system should address how the duty holder ensures:

- that contractors are aware of the health and safety risks and are competent in the systems for controlling them;
- monitoring performance and carrying out audits and review;
- how the duty holder has ensured that levels of supervision are appropriate;
- a clear means of measuring performance is an essential part of an effective control of contractors health and safety management system – "What gets measured gets done"
- liaison meetings with contractors;
- systematic direct observation of work and behaviour of contractors with procedures, rules and standards; and
- objectives and safety plans include contractors.

**The duty holder should be able to demonstrate that all necessary responsibilities for the selection and management of contractors have been allocated, and that sufficient competent resources are available to implement the arrangements.**

All duty holder staff with responsibilities for the selection and management of contractors, must have the knowledge, skills and experience, and have appropriate procedures and support in place, if the duty holder is going to be able to procure and manage competent contractors.

#### **Examples of Evidence**

- Definition and allocation of responsibilities at appropriate levels within the duty holder's management structure covering the policy, organisation, planning, measurement, audit and review of selection and management of contractors.
- Job descriptions for those who have responsibility for the management of contractors, fully describing their roles. Indication of resources needed to deliver these roles and responsibilities.
- Information about the competencies that are required of post holders, in order to deliver the responsibilities for each stage of contractor management, and how this is assessed and verified.
- The arrangements in place to ensure that post holders are carrying out the duties that have been assigned to them.

**The duty holder should describe the arrangements for setting and maintaining appropriate performance standards which will be applied to and are applied by contractors.**

It will be important that these are clearly set out if the contractor is to know what performance standards and controls are expected, so that they can put arrangements in place to meet these controls.

#### **Examples of Evidence**

- A system to assess the standards and control measures using staff competent in assessing contractor controls. The duty holder needs to assess the contractor's proposed control measures to ensure compatibility with their own risk control systems.
- An indication that performance standards cover both technical and procedural matters, and an indication of the content of these standards.
- Standard setting procedures and documents showing that they relate to the risk assessments that have been carried out, and how they are benchmarked across the industry.
- Arrangements to ensure standards are applied to and by contractors.

## **Procurement of Contractors**

**The duty holder should describe their arrangements for the procurement of contractors who are competent, and the arrangements to ensure that this competence is maintained.**

Ensuring the procurement arrangements are effective will assist in obtaining competent contractors. Competent contractors will minimise the risk that their work introduces to the system.

### **Examples of Evidence**

- The duty holder must show how they exercise control over the contract by specifying the terms and conditions, relating to health and safety, and ensuring that contractor selection is undertaken using appropriate methods by proven competent staff against clear competence standards.
- Arrangements should exist for:
  - Identifying the safety and technical competencies needed; and
  - Checking the safety and technical competencies of bidding contractors;
- The approach within contracts for the procurement and use of sub-contractors should be outlined.
- Prioritisation of safety performance among the factors being considered when awarding the contract.
- The “buying in” of expertise for certain categories of project, where levels of expertise are beyond the competency of those employed by the duty holder. How standards will be applied to these ‘contractors’ also needs to be clear.

## **Communication**

**The duty holder should describe its system for ensuring that an effective exchange of information about risks relevant to, or arising from contractors work, is in place.**

They must ensure that all employees and others are aware of the risks associated with work that contractors are undertaking, how that will affect their health and safety, and the steps that they will need to take.

### **Examples of Evidence**

- Communications systems are in place to ensure that all employees and others, are aware of the current status and implications for health and safety of contractors’ operations. Including arrangements for:
  - communicating with others e.g. other contractors on site;
  - providing communication routes which allow concerns from all sources to be directed to the appropriate people within the duty holder and contractor organisations; and
  - the establishment of effective communication routes prior to the start of the work.
- There should also be a route for employees and others to feed back concerns to, or request information from, management about contractor’s activities. Employees and others are encouraged to feedback to management any activities they have concerns over.
- Methods for ensuring information is a two way process including regular project meetings, daily briefings, e.g. tool box talks, information updates etc.
- An outline of special procedures covering emergencies.

## Co-operation

**The duty holder should describe its arrangements for co-ordinating and co-operating with, and securing the co-operation of, other organisations who may be affected by contractors working for the duty holder.**

### Examples of Evidence

- Effective planning to show how risks have been identified, and how the duty holder has made liaison arrangements to co-ordinate activities, such that the interfaces between tasks are properly taken into account, especially where risk controls need more than one party to fulfil part of the control function.

## Planning and Implementing

**The duty holder should be able to describe its arrangements for the receipt and evaluation of risk assessments, method statements and health and safety plans from contractors.**

A systematic approach will allow clarity in the planning process for both parties and permit the allocation of sufficient resources, including finance, expertise and time, thus avoiding corners being cut as the contract proceeds.

### Examples of Evidence

- The arrangements for ensuring that all contractor methods and safety documents are properly assessed prior to authorising the commencement of work, including:
  - planning the work, taking account of hazards and assessing the risks;
  - advising the contractor of known significant hazards and risk related to the contract;
  - review of contractor method statements and health and safety plans as may be appropriate; and
  - arrangements for liaison with other contractors

**The duty holder should be able to describe how they plans their operations to ensure that risks arising from the work of contractors are properly managed.**

The duty holder should be aware at all times who is at work in the areas they control. The contractor needs to be made aware of what other activities are being undertaken which may affect their work, and how they may affect others through what they are doing.

### Examples of Evidence

- Arrangements for:
  - ensuring effective control of access by contractors to work areas are established;

- effective liaison between all contractors working in ways which might impact on each other, and for making changes in methods as a consequence;
- ensuring that signing in and signing out procedures are established and safety induction given to those who are going to work on the contractor's site;
- ensuring that adequate assessment and monitoring activities are undertaken to ensure competence (and where appropriate fitness) of contractor staff;
- establishing procedures for dealing with emergencies whilst work is being undertaken; ensuring that there is no increased risk to the public;
- ensuring there is adequate monitoring of contractors when they start on site; and
- communicating site roles and safety hazard information.

## Monitoring

**The duty holder should be able to describe an effective monitoring strategy of the health and safety performance of contractors.**

Monitoring is essential to ensure that agreed control systems, method statements, systems of work etc. are being followed, and helps to show the commitment of all parties.

Monitoring will provide feedback to the duty holder, as well as the contractor, on performance, and how remedial actions will be put into place

### Examples of Evidence

- A proactive monitoring strategy is in place, which is proportionate to the risks associated with the work being undertaken and the type of contract. The strategy should include technical monitoring of the quality of contractor work where this may have an impact on health and safety.
- Reactive monitoring systems as a result of incidents and reported events are clearly explained.
- Those undertaking the monitoring have arrangements in place to ensure they are familiar with the proposed method of work, the risks and the risk control systems.
- Explanation of the type and scale of actions that will be taken as a result of monitoring activities, and how they will be put in place.

## Audit

**The duty holder should be able to describe the process adopted by them to audit the management and performance of contractors.**

It is important that the duty holder audits both their own system for the management of contractors and the contractor's own management systems, including actual performance of contractors. This may need different procedures. The lessons from

such fundamental system checks need to be fed into the review process. This assists in deciding if any necessary changes to the system need to be made.

### **Examples of Evidence**

- The audit processes cover both the contractor procurement and management process and contractor performance. Technical audit procedures should be explained.
- Clear explanation of how topics are selected and managed through the audit process; clarity on the proportionality of audit in relation to risk.
- Contractor involvement in the duty holder's audit process, and how the contractors own audit procedures will be discussed with the duty holder.
- Arrangements to ensure that the results of audits are disseminated both to the duty holder and to the contractor.
- A system for recording the lessons learned from the audit, and ensuring the recommendations are closed out.

## **Review**

**The duty holder should be able to describe their review process, utilising information obtained from performance measurement and audit of contractors.**

It is necessary, if the management system is to improve, to review the performance of the system, in the light of the operation of all aspects of the contract. It is important that changes should not be made without careful consideration. It is also important to be sure which aspects of the system may need changing, after consideration of underlying factors, and not merely by reacting to overt failures or successes.

### **Examples of Evidence**

- The review covers the whole of the contractor management process, from decision to use contractors to review at the end of the contract.
- Nature of contractor involvement in the review process is explained.
- Arrangements exist to ensure that the outcome of the contract review is disseminated throughout the duty holder's and the contractor's organisations.
- A system exists for recording the lessons learned from the contract review, and actions are close out.
- A demonstration is provided of how these lessons are fed back into each stage from procurement through technical and performance standard setting, to management of the actual work.