# Detailed Guidance on Occupational Health and Safety Management Criteria

### Mandatory evaluation criteria for occupational health and safety management

The Ministerial Directions for Public Construction Procurement in Victoria at Evaluation criteria (Direction 3.7) establish that mandatory evaluation criteria for occupational health and safety management must be used when assessing tender submissions for public construction when:

* in the case of Works, the value of the Works exceeds $500,000 (inclusive of GST); and
* in the case of Construction Services, the value of the Construction Services exceeds $200,000 (inclusive of GST).

The evaluation criteria are available Mandatory evaluation criteria for occupational health and safety management (Attachment 1 to Instruction 3.7). The criteria are also listed in parts 1 and 2 of this guide.

### About this Guide

This guide provides further guidance on the mandatory evaluation criteria for occupational health and safety management.

This guide can be used by evaluators to assess whether a supplier of Works or Construction Services has demonstrated a minimum level of commitment and capacity to effectively address the mandatory occupational health and safety management criteria.

This Guide contains the following parts:

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# The occupational health and safety (OHS) criteria for suppliers of Works - Part 1 – An explanation of the criteria

### Criterion 1: OHS Policy

The supplier of Works must have and provide a copy of an organisational-specific OHS Policy that, at the least, states:

* a clear commitment to providing for the health and safety of all employees and other workers and others who may be affected by their activities, and achieving legal compliance, through effective risk management;
* the means by which that commitment will be met (e.g. risk assessment, safe systems of work, training);
* the respective responsibilities and roles of stakeholders at all levels within and external to the organisation in ensuring safety; and
* a commitment to continuous improvement and policy review, including a date or time within which the policy will be reviewed.

The Policy is significant as both a statement of values against which the organisation can be held accountable and an indication of the key criteria and roles in OHS. It can be a demonstration of the understanding of the organisation of the importance and criteria of OHS management.

The Policy should preferably be signed by the most senior person within the organisation (eg Chairman, Managing Director, CEO, General Manager) to demonstrate commitment at the top of the organisation.

### Criterion 2: Officers’ governance of OHS

Sections 144 and 145 of the *Occupational Health and Safety Act 2004*provide for an officer of a company, partnership or association (“the organisation”) to be guilty of the same offence as that committed by the organisation, if that offence was attributable to the failure of the officer to exercise reasonable care.

The involvement of officers is considered to be a key to the proper and effective management of OHS in an organisation, by ensuring that the organisation has and applies appropriate resources and policies and procedures for OHS.

The definition of an officer in section 9 of the *Corporations Act 2001* (Clth) is adopted in the *Occupational Health and Safety Act 2004* and includes:

* directors and secretary of a company;
* partners in a partnership;
* officers in an unincorporated association;
* persons involved in making decisions that affect the whole or a substantial part of the organisation (commonly known as the Executive or Management);
* those who have the capacity to affect significantly the financial standing of the organisation;
* those on whose instructions or wishes the directors are accustomed to act; and
* a liquidator, trustee, administrator, receiver and manager.

These are the people who have the role of governing the organisation and are able to determine or affect the ability of the organisation to properly and effectively manage OHS.

Ways in which the supplier of Works may demonstrate compliance with this criterion, and reasonable care for the purposes of the *Occupational Health and Safety Act 2004* include:

* 1. evidence of advice provided to the Supplier of Works identifying who the officers are;

*Note*: if the supplier of Works is a company whose directors are the only managers of the business, then the directors may be the only officers and this step may not be needed).

* 1. details of a governance (management) structure and process that provide for:
     1. the gathering and analysis of relevant information;
     2. reports on relevant matters to be provided to the officers, in a timely fashion (e.g. regular reporting on some matters and timely reporting of incidents);
     3. advice to be provided to the officers (from sources within and external to the business); and
     4. monitoring, auditing and review of performance.
  2. confirmation that information provided to officers allows them to have the required knowledge and understanding of each of the elements of the due diligence definition (e.g. as to hazards and risks, required resources and policies).

An officer may comply with this criteria where they receive and respond to information through direct involvement by them in work activities. This is typically the case for sole proprietors, small partnerships and for “hands on” directors and managers in small businesses. Officers who are not involved directly in work activities, typically in medium to large size companies or partnerships, will need to demonstrate other means by which they receive and respond to relevant information.

### Criterion 3: OHS Advisors

Section 22(2)(b) of the *Occupational Health and Safety Act 2004* requires an supplier of Works to either (directly) employ or engage the services (externally) of a suitably qualified person [or persons] to provide advice to the supplier of Works concerning the health and safety of employees.

The objective is to ensure that the supplier of Works has available to it up to date knowledge of legal obligations and good industry practice. This is in part necessary to ensure that the supplier of Works meets the standard of ‘reasonably practicable’ required of them, and in part to enable the officers to meet their obligations for reasonable care and due diligence.

The supplier of Works will need to demonstrate that:

* the supplier of Works has expertise and knowledge available to it covering all key aspects of OHS relevant to the business and activities of the supplier of Works; and
* that the advisor(s) are suitably qualified taking into consideration the nature of the activities of the supplier of Works and on the numbers and types of advisors employed or engaged by the supplier of Works. Tertiary or post-graduate qualifications are not necessary, but may make it easier for the assessor / evaluator to be satisfied that this criterion has been met.

This criterion may be satisfied by membership of an industry association or other organisation that provides the supplier of Works with OHS advice and assistance. If the supplier of Works wishes to rely on membership of an association then the supplier of Works must clearly demonstrate understanding of how to access that association’s OHS assistance.

### Criterion 4: Consultation and issue resolution

*Introduction to Criterion 4*

Effective OHS risk management requires decisions to be made and implemented based on a proper flow of information between the supplier of Works and workers.

OHS issues must be resolved as soon as is reasonably practicable, which requires effective mechanisms for the exchange of information and consideration of various viewpoints.

The *Occupational Health and Safety Act 2004* and regulations recognise this by providing for management and employee representation in consultation and issue resolution and processes for undertaking those activities. Employees for this purpose include sub-contractors and their employees. The *Occupational Health and Safety Act 2004* will provide for representation and consultation for ‘workers’.

It is important that the management representative be sufficiently senior and competent to deal effectively with OHS issues. Otherwise, the process may be slowed down by a lack of knowledge, poor communication or perceptions of bad faith. This is recognised for example in section 73(2)(b) of the *Occupational Health and Safety Act 2004* which requires seniority and competence of the supplier of Works’ representative.

### Criterion 4a: Management representation for consultation, issue identification and response

For this criterion the supplier of Works must produce evidence that an appropriate management representative has been nominated for consultation and issue resolution, and that the person has sufficient and current knowledge or timely access to appropriate sources of knowledge to effectively undertake that role.

There are no set standards or qualifications specified for the management representative, however tertiary or post-graduate qualifications may make it easier for the assessor / evaluator to be satisfied that this criterion has been met.

The management representative should be familiar with the OHS legal obligations of the supplier of Works and the key principles for effective OHS risk management.

The management representative should be able to demonstrate a good knowledge of consultation and issue resolution obligations and procedures; or at least knowledge of the supplier of Works’ obligations relating to consultation and issue resolution and access to an appropriate internal or external advisor. The availability to the management representative of advisors referred to in *Criterion 3* above, may be relevant to the qualifications necessary for the management representative.

Currency of knowledge is important given regular changes to OHS laws and practice.

### Criterion 4b: Elected Health and Safety Representative (HSR)

This criterion recognises that the election and training of a Health and Safety Representative (HSR) may assist in consultation and issue resolution (and is common in the construction industry). Representation is ordinarily limited to employees, but the *Occupational Health and Safety Act 2004* provides for representation of the broader class of ‘workers’ by agreement, which commonly occurs in the construction industry.

The purpose of this criterion is:

* to identify whether the workers are represented by a HSR elected under Part 7 of the *Occupational Health and Safety Act 2004*; and
* whether the HSR has received training (which is usually a five day initial course with subsequent refresher and other training).

Section 43 of the *Occupational Health and Safety Act 2004* requires the employer to establish Designated Work Groups (DWGs) if requested by an employee. In establishing a DWG the *Occupational Health and Safety Act 2004* then requires at least one HSR to be elected.

The HSR is entitled to training if they require it.

Where there has been no request from workers for designated work groups or the election of a HSR, the supplier of Works may certify this to be the case. The absence of a HSR will place more significance on *Criterion 4c* and may require a higher level of detail of consultation arrangements to be provided to satisfy that criterion.

### Criterion 4c: Consultation and issue resolution procedures

This criterion is concerned with ensuring that the supplier of Works has in place a process for effectively undertaking communications relating to consultation and issue resolution.

For this criterion the supplier of Works should be able to provide either consultation and issue resolution procedures that are agreed with workers (directly or through the HSR or other representative) or demonstrate that the supplier of Works is familiar with the requirements of the *Occupational Health and Safety Act 2004* and regulations, including the default process provided in the regulations, whether or not they have needed to use them.

### Criterion 4d: Health and Safety Committee

It is recognised that an effective Health and Safety Committee can be a good means to develop OHS strategy and processes and to ensure that appropriate consultation occurs with employees.

It is not compulsory for a supplier of Works to have a committee, although it must have if requested. The absence of an effective committee may however place greater significance on *Criterion 4c*.

The provision of committee charter or constitution or similar will assist in determining the effectiveness of it and the degree to which it assists in satisfying *Criterion 4d*.

### Criterion 4e: Consulting and working with other parties

The *Occupational Health and Safety Act 2004* does not includes a specific duty on a supplier of Works to consult, cooperate and coordinate activities with others who have a duty over the same matter. A Principal Contractor (PC) is required to consult with other independent supplier of Works who it has engaged, and their employees (refer section 35 of the *Occupational Health and Safety Act 2004*.

These processes are however necessary in most situations for compliance with the duties under the *Occupational Health and Safety Act 2004*.

The supplier of Works has duties in relation to its employees under section 21 of the *Occupational Health and Safety Act 2004*. These duties may require the supplier of Works to identify risks to its employees from attendance at workplaces that are managed or controlled by others, or at which the activities of others may expose the employees of the supplier of Works to OHS risks. The supplier of Works in carrying out its activities, including attendance at workplaces, also has a duty to persons who are not employees under section 23 or 24 of the *Occupational Health and Safety Act 2004*.

Section 21(3) of the *Occupational Health and Safety Act 2004* specifies that reference to an employee includes a reference to an independent supplier of Works engaged by an employer and any employees of the independent supplier of Works. The duties of an employer extend to an independent supplier of Works engaged by the employer, and any employees of the independent supplier of Works, in relation to matter over which the employer has control.

Others involved in work in which the supplier of Works is involved may also owe duties to the supplier of Works and its employees.

To comply with these duties, the supplier of Works should ensure that it has the information necessary to enable it to understand and manage the risks arising from their involvement and that of other parties in the work and ensure that the supplier of Works works together with other parties for the effective management of OHS risks.

This means that a supplier of Works should in some circumstances consult, cooperate and coordinate activities in relation to OHS with the client, sub-contractors, labour on-hirers, the person with management or control of the workplace and suppliers of plant and substances.

The aim of this criterion is to ensure that OHS is properly and effectively catered for through each party:

* having sufficient knowledge of the activities of others that may affect OHS;
* understanding what others have in place to provide for OHS risk management;
* determining what they must do to provide for OHS risk management; and
* coordinating their activities with those of others to ensure there are no gaps in risk management.

These activities represent good practice and may be necessary to meet the standard of ‘reasonably practicable’ and comply with duties of care under the *Occupational Health and Safety Act 2004*, particularly in relation to supplier of Works safety management.

Compliance with this Criterion may be achieved by demonstrating the means by which the supplier of Works identifies other parties with whom they must consult, cooperate and coordinate activities, and the requirements to meet each of the elements noted above.

Documents showing examples of consultation with other parties and the outcomes may be sufficient to demonstrate this criterion is being met.

### Criterion 5: Currency of awareness of OHS

This criterion is clearly linked to *Criteria 3 and 4* above and reference is made to the comments in relation to those criteria.

The Checklist notes some of the means by which the supplier of Works may keep informed of changes in OHS regulations, guidelines and practice. These are not exclusive. This is a specific element of the due diligence requirement for officers.

The assessor / evaluator must be satisfied however that the supplier of Works has a consistent process by which it is regularly informed of changes relevant to its operations.

### Criterion 6: Induction and training

The provision of information, instruction and training to employees and to other workers is clearly provided for in section 21(2)(e) of the *Occupational Health and Safety Act 2004* and in the regulations.

Compliance with these obligations requires the provision of site specific induction and training that is relevant to the individual employee and as is necessary to enable them to safely perform their work tasks.

The assessor / evaluator must be satisfied through documented systems and training records that the supplier of Works has in place systems for ensuring induction and training occurs.

### Criterion 7: Hazard identification and risk control

The *Occupational Health and Safety Act 2004* requires a supplier of Works to provide and maintain for its employees and other workers, so far as is reasonably practicable, systems of work that are safe and without risks to health.

Different construction projects will require the identification of specific systems of work. The systems of work must be appropriate to meet the risks associated with the particular work being undertaken. To meet this requirement the supplier of Works will often need to have and use systems to identify, assess and control hazards and risks.

The *Occupational Health and Safety Act 2004* also imposes requirements on supplier of Works that may have the management or control of the workplace or the design of the workplace; design or manufacture or supply plant; install, erect or commission plant.

There are well known risks in the construction industry (e.g. fall from heights) for which systems of work and supporting training should be provided. Other identified construction industry risks may have accepted industry standard risk controls. However the supplier of Works must still identify hazards and provide systems and other control measures for the elimination or reduction of associated risks.

For some activities involving high risks the supplier of Works may be required to provide additional evidence of analysis of risks and availability of skills before the work can commence.

For *Criterion 7* the supplier of Works needs to demonstrate and provide documentary evidence:

* of the availability to the supplier of Works of safe systems of work and procedures;
* of the supplier of Works’s awareness of the need for such systems and progress toward the provision of same;
* of a process for the identification of hazards and the identification and application of risk controls;
* of the supplier of Works’s awareness of each of the obligations imposed on them by the *Occupational Health and Safety Act 2004* and regulations by virtue of the supplier of Works’s role and activities and has in place processes for meeting those obligations; and
* showing how the supplier of Works assesses risks and identifies risk control measures.

Documents that show a system for doing this (e.g. formats for job safety analysis, or processes for developing safe work method statements) will assist in demonstrating the supplier of Works’s compliance with this criterion.

The supplier of Works must also provide an example of how these system documents have been used.

Third party certification of the supplier of Works’s OHS management systems will be a strong indicator of satisfaction of this criterion, however, evidence may be required of such a certified system and in particular how specific legal requirements are met.

Regulations made under the *Occupational Health and Safety Act 2004* require the process of hazard identification and risk control, with specific measures relevant to the activities of the supplier of Works.

From 1 July 2008 this has included the requirement for Health and Safety Coordination Plans for higher value projects and the preparation of safe work method statements for high risk work.

Health and Safety Coordination Plans are required to be developed and maintained by Supplier of Works where they are appointed to the role of Principal supplier of Works.

(Regulations 335, 336 and 337 of the *Occupational Health and Safety Regulations* 2017.

### Criterion 8: Supplier of Works and sub-contractor safety management

For this criterion the supplier of Works must provide information as to how the supplier of Works complies with its obligations for the safety of all workers and others, including:

* independent Contractors engaged by the supplier of Works;
* employees of those independent Contractors;
* sub-contractors;
* employees of Victorian Government Departments that use the Construction Supplier Register; and
* the public and others.

The supplier of Works must also provide documentary evidence of the systems, contractual and process documents supporting the systems and evidence of their implementation (e.g. completed checklist and inspection records).

For matters over which the supplier of Works has control or would, but for an agreement to the contrary, has had control, the supplier of Works has duties and requirements under the *Occupational Health and Safety Act 2004* to “employees” which includes:

* independent contractors engaged by the sSupplier of Works;
* employees of those independent contractors; and
* sub-contractors.

The hazardous nature of construction related activities, the extensive duties and obligations imposed by the *Occupational Health and Safety Act 2004* and regulations and the complexity of activities on a construction site or project, mean that supplier of Works safety management can only be achieved through the implementation of effective and enforced systems.

The requirements of *Criterion 4e* relating to consultation, cooperation and coordination of activities with other duty holders are clearly relevant to this *Criterion 8* and evidence provided by the *supplier of Works* relating to *Criterion 4e* may also satisfy this Criterion.

### Criterion 9: Emergency response

Emergency response is a critical aspect of safety management in the construction industry, given the hazardous nature of the activities and the difficulties associated with site access etc.

Effective emergency response is a part of the supplier of Works’ obligations under the *Occupational Health and Safety Act 2004* to provide and maintain safe systems of work, adequate welfare facilities and information, instruction and training for employees and other workers.

An important aspect of the supplier of Works’ emergency response is the regular review and testing of systems and training (e.g. through emergency evacuation trials).

Adequate welfare facilities must include first aid facilities and training as is appropriate to the nature of the activities, numbers of workers and location.

The supplier of Works must provide documents to:

* verify the existence of emergency procedures;
* confirm first aid facilities and training; and
* verify the dissemination of information to employees and other workers by notices, training and testing.

### Criterion 10: Incident notification, investigation and response

The management of serious incidents is a critical aspect of safety management in the construction industry, given the hazardous nature of many construction activities, (e.g. failure of registered plant, collapse of a trench, explosion or fire, fall of an object from height).

The obligations of the Supplier of Construction Services for the safety of its workers and others necessarily require the proper investigation of incidents, identification of causes and remediation of deficiencies. Information available as a result of an incident is part of the knowledge on which an assessment will be made on what may be reasonably practicable for a supplier of Works to do.

The *Occupational Health and Safety Act 2004* imposes obligations on the supplier of Works including:

* a requirement to notify WorkSafe Victoria of serious incidents;
* a requirement to preserve an incident site following a notifiable incident until an inspector attends or otherwise directs (except where disturbance of the site is necessary for rescue or health and safety protection); and
* entitling HSRs to inspect a workplace after an incident and be involved in various processes and activities following an incident.

Under this criterion the supplier of Works will need to provide documented systems or records such as:

* a procedure or instruction requiring information to be provided to a person nominated to fulfil these obligations for the supplier of Works, familiarity with the requirements and the notification form;
* evidence of the supplier of Works’ satisfactory notification and investigation of an incident; and
* evidence of the supplier of Works’ satisfactory response to the notifiable incident, for example to prevent its recurrence.

The requirements for due diligence by an officer include ensuring processes are in place to meet the obligations to notify incidents to WorkSafe Victoria.

### Criterion 11: Enforcement activity

The level, nature and seriousness of enforcement activity and the response of the supplier of Works to it may be a significant indicator of the supplier of Works’ OHS capability and performance.

Enforcement activity may reflect non-compliance and poor safety performance by a supplier of Works. A timely and effective response by the supplier of Works to enforcement activity may demonstrate the quality of their safety systems and processes.

Demonstrated compliance with a notice, or effective response or remediation following enforcement activity may render that enforcement activity no longer relevant and may even show improvements in the supplier of Works’ systems and processes.

WorkSafe Victoria and other agencies relevant to OHS (e.g. Energy Safe Victoria) and HSRs may seek to enforce OHS related legislation and regulations through:

* directions;
* improvement notices;
* prohibition notices;
* prosecutions; and
* enforceable undertakings.

HSRs are entitled to issue provisional improvement notices which have the same effect as an improvement notice issued by an inspector (unless a review is sought by the supplier of Works).

For this criterion the supplier of Works will need to provide information (if any) in relation to enforcement activity and the supplier of Works’ response. Documents which the supplier of Works should provide include:

* associated Entry Reports, to provide a clear picture of the alleged non-compliance or risk; and
* evidence that the supplier of Works has responded appropriately to the breach or the risk which was the subject of the enforcement activity.

Certification by the supplier of Works of an absence of regulator activity of the kind indicated will be satisfactory evidence of compliance with this criterion.

### Criterion 12: Workers Compensation Insurance

Workers compensation premium rates for a supplier of Works reflect the claims performance of the supplier of Works and are related to industry average performance.

High levels of workers compensation claims may indicate poor safety performance.

The supplier of Works will need to provide details of the supplier of Works’ workers compensation insurance premium level compared to the industry rate.

*Note*: A premium rate of more than 150% of the industry rate will usually reflect an unacceptably high level of claims. Where the supplier of Works has a premium rate of more than 150% of the industry rate the supplier of Works will need to provide a satisfactory explanation for the high premium rate.

# The occupational health and safety criteria for supplier of Works - Part 2 - Guide to acceptable evidence

### Criterion 1: OHS Policy

**OHS criteria**

The supplier of Works’ organisation-specific OHS Policy.

**Guide to acceptable evidence**

Provide a copy of the organisation’s OHS Policy which:

* has been signed by the most senior person within the organisation to demonstrate commitment at the top of the organisation;
* outlines the supplier of Works’ commitment to OHS;
* allocates responsibilities;
* requires systems for managing risks from hazards associated with the work of the supplier of Works; and
* has been drafted or reviewed in the last two years.

### Criterion 2: Officers’ governance of OHS

**OHS criteria**

The identity of the officers of the supplier of Works, as defined in the *Occupational Health and Safety Act 2004* and the means by which those officers effectively govern the supplier of Works in relation to OHS.

*Note*: This does not apply to a supplier of Works who is a sole trader, but does apply to a company, partnership, alliance or association.

*For Information only*

Company officers can be personally liable.

Sections 144 and 145 of the *Occupational Health and Safety Act 2004* provide for an officer of a company, partnership or association (“the organisation”) to be guilty of the same offence as that committed by the organisation, if that offence was attributable to the failure of the officer to exercise reasonable care.

Also, the involvement of officers is considered a key to the proper and effective management of OHS in an organisation.

Officers are generally the most senior people, such as the Chief Executive, a director, partner or other senior staff who are in a position to prevent breaches of the *Occupational Health and Safety Act 2004*.

Company officers should be aware of their organisation’s health and safety obligations and how they are managed.

Officers should take reasonable care to ensure that safety responsibilities are communicated to all staff, that appropriate safety procedures are in place, and that sufficient resources are allocated to health and safety. Any officers who are proactive and take reasonable care are not likely to be affected.

**Guide to acceptable evidence**

Provide an organisation chart or other information identifying who are officers by being:

* directors and/or company secretary (for a company);
* partners (of a partnership);
* office holders (of an association);
* otherwise involved in making decisions that affect the whole or a substantial part of the business or affect the financial standing of the supplier of Works.

Provide details of:

* information provided to the officers in relation to OHS hazards, risks and compliance;
* the means by which that information is provided (e.g. reporting process, committees, responsibilities for reporting on OHS);
* steps taken by officers to determine requirements for and allocation of resources for OHS;
* steps taken by the officers to verify and respond to OHS information; and
* steps taken by the officers to verify implementation of policies and procedures for OHS compliance.

*Notes*:

* Reference should be made to how the officers receive and respond to information.
* An officer may comply with this criteria where they receive and respond to information through direct involvement by them in work activities. Officers who are not involved directly in work activities will need to demonstrate other means by which they receive and respond to relevant information.

### Criterion 3: OHS Advisors

**OHS criteria**

Curriculum Vitae of person(s) with relevant OHS qualifications engaged or employed to advise the supplier of Works on OHS matters.

**Guide to acceptable evidence**

Provide copies of Curriculum Vitae or other details of your internal adviser or external adviser or organisation.

*Note*: supplier of Works relying on their membership of an industry association that provides OHS advice / assistance should provide evidence of membership and evidence that the supplier of Works understands how to access the industry association’s OHS assistance.

### Criterion 4: Consultation and issue resolution

### *4a. Management representation for consultation, issue identification and response*

**OHS criteria**

The identity of the firm’s management OHS representative / officer and any other resources assisting the identification of OHS concerns, their consideration and response.

Details of satisfactory training / qualifications or source of assistance.

**Guide to acceptable evidence**

Provide evidence confirming the nomination of a manager or details of the process for identifying the relevant manager for a particular issue, and:

* Copies of training certificate(s) or other relevant qualification information within the last 2 years (this is the preferred evidence); or
* Evidence of acceptable refresher training or access to assistance to maintain currency of knowledge.

*Note*: In the absence of training/qualifications for the manager provide details of other resources (e.g. industry association) and means for timely communication with them.

### *4b. Elected Health & Safety Representative (HSR)*

**OHS criteria**

The identity of any employee(s) of the supplier of Construction Services, or an employee of another employer where a multi-employer work-group has been agreed under Division 2 of Part 7 of the *Occupational Health and Safety Act 2004*, elected as a Health and Safety Representative under *Occupational Health and Safety Act 2004* and details of training undertaken by them.

*or*

Certification by the supplier of Works that there has been no request for designated work groups and the election of HSRs

**Guide to acceptable evidence**

Provide details and date of HSR election; and

Copies of training certificate(s) or other relevant information.

*Note*: an explanation for an absence of HSR training or details of planned training may be acceptable.

Provide details of any process by which the supplier of Works manages the establishment of workgroups on specific projects or for specific workplaces, including any negotiations for multi-employer or multi-workplace workgroups

*or*

Provide a signed statement to confirm that there has been no request for designated work groups and the election of HSRs.

### *4c. Consultation and issue resolution procedures*

**OHS criteria**

How consultation and issue resolution are undertaken with employees and HSRs (if any) as required by the *Occupational Health and Safety Act 2004* and regulations.

**Guide to acceptable evidence**

* Provide copies of consultation and issue resolution procedures that have been agreed with employees and/or workers, directly or through the HSR or other representative. This may include arrangements for consultation through a person who workers agree will represent them, and management accepts them doing so, were HSR’s have not been elected; or
* Provide evidence that the supplier of Works is familiar with the requirements of the *Occupational Health and Safety Act 2004* and regulations, including the default process provided in the regulations, whether or not the supplier of Works has needed to use them.

*and*

* Provide evidence of how consultation is undertaken (e.g. minutes of toolbox meetings or other meetings with employees and/or HSRs).

### *4d. Health & Safety Committee*

**OHS criteria**

Details of any Health and Safety Committee (where appropriate) and the charter or constitution or rules that show how the Committee operates (meeting the requirements of Part 7 of the *Occupational Health and Safety Act 2004*)

*or*

Certification by the supplier of Works that there has been no request for the establishment of a Health & Safety Committee.

**Guide to acceptable evidence**

Provide a copy of the committee charter or constitution or similar rules.

*or*

Provide a signed statement to confirm that there has been no request for the establishment of a Health & Safety Committee.

### *4e. Consulting and working with other parties*

**OHS criteria**

The supplier of Works has duties in relation to its employees under section 21 of the *Occupational Health and Safety Act 2004*. These duties may require the supplier of Works to identify risks to its employees from attendance at workplaces that are managed or controlled by others, or at which the activities of others may expose the employees of the supplier of Works to OHS risks. The supplier of Works in carrying out its activities including attendance at workplaces, also has a duty to persons who are not employees under section 23 or 24 of the *Occupational Health and Safety Act 2004*.

Others involved in work in which the supplier of Works is involved may also owe duties to the supplier of Works and its employees.

The supplier of Works must accordingly demonstrate:

* how it consults with other parties to ensure each has necessary OHS information; and
* how it determines what is needed to work together with other parties for effective OHS risk management.

Other relevant parties may include the client, sub-contractors, other suppliers of labour, those with management or control of the workplace and suppliers of plant or substances.

**Guide to acceptable evidence**

Provide details of policies and procedures for identifying relevant parties, engaging in consultation about OHS directly affecting the supplier of Works and its employees, and determining how to work together for OHS risk management.

Documents showing examples of consultation and the outcomes may be sufficient to demonstrate this criterion is being met.

### Criterion 5: Currency of awareness of OHS

**OHS criteria**

Method(s) used to keep updated on changes to OHS legislation, regulations and guidelines and other information to maintain ongoing awareness of OHS requirements.

**Guide to acceptable evidence**

Provide:

* details of relevant memberships / subscriptions or processes for seeking information from other bodies (e.g. through WorkSafe Victoria; Master Builders Association of Victoria; Housing Industry Association of Victoria; other safety alerts/bulletins); and
* examples of information received.

### Criterion 6: Induction and training

### *6a. Processes*

**OHS criteria**

Details of processes by which the supplier of Works ensures that no person enters or works upon a construction site without induction or otherwise in compliance with requirements of regulations.

**Guide to acceptable evidence**

Provide copies of procedures for enforcing induction and supervision requirements and evidence of their implementation and enforcement.

### *6b. Records*

**OHS criteria**

Confirmation that OHS induction and necessary training of supplier of Works’ employees and sub-contractors are ensured. Induction of people other than employees of the supplier of Works to workplaces under the management or control of the supplier of Works should also be provided for.

The purpose of the induction is to ensure that the employees and others have an awareness of the workplace specific hazards and risks and measures in place to manage the risks (including emergency and evacuation measures).

The purpose of training is to enable the supplier of Works’ employees and sub-contractors to perform their work in a way that is safe and without risks to their health.

**Guide to acceptable evidence**

Provide copies of records verifying the nature and content of induction of employees and others and demonstrating that the supplier of Works has in place systems for ensuring induction and training occurs.

### Criterion 7: Hazard identification and risk control

### *7a. Hazards and risk control*

**OHS criteria**

The means by which hazards and risks associated with the activities of the supplier of Works are identified, assessed and controlled

**Guide to acceptable evidence**

Provide evidence of OHS management systems, manuals or policies/procedures (e.g. for Job Safety Analysis or risk assessment) and a completed risk assessment.

Certification of systems (e.g. Safety Map, Federal Safety Commissioner or AS4801 will assist)

### *7b. Compliance with legal requirements*

**OHS criteria**

The means for compliance with specific legal requirements.

*Note*: Health and Safety Coordination Plans are required to be developed and maintained by supplier of Works where they are appointed to the role of Principal Contractor.

(Regulations 335, 336 and 337 of the *Occupational Health and Safety Regulations* 2017)

**Guide to acceptable evidence**

Provide evidence or examples of the means for compliance with specific requirements, such as by completed Job Safety Analysis, safe work method statements and the means of coordinating safety activities on site. These are examples only and the specific compliance requirements will depend on the activities carried out by the supplier of Works.

*Note:* Job Safety Analyses are not a ‘legal requirement’. However they maybe a requirement of the supplier of Works’ Safety Management System, which has itself formed part of the supplier of Works’ Approved Assurance System.

*Note*: See also the requirements under Criterion 4e, to provide for consultation and coordination with other parties.

### Criterion 8: Contractor and sub-contractor safety management

**OHS criteria**

Procedures for managing the obligations of the supplier of Works under the *Occupational Health and Safety Act 2004* for the safety of independent contractors (sub-contractors) engaged by the supplier of Works and of the employees of sub-contractors and others.

**Guide to acceptable evidence**

Provide documentary evidence of safety systems, sub-contractor management systems, contract clauses or other documents supporting the systems and evidence of their effective implementation and enforcement (e.g. completed checklists and inspection records).

*Note*: See also the requirements under Criterion 4e, to meet the specific duty to consult, cooperate and co-provide for consultation and coordination with other parties, which applies to supplier of Works and sub-contractor management.

**Criterion 9: Emergency response**

### *9a. Procedures and first aid*

**OHS criteria**

Effective emergency response procedures including review and testing requirements, the availability of suitable first aid facilities, and employee first aid training.

**Guide to acceptable evidence**

Provide:

* a copy of emergency response procedure including their review and testing requirements;
* evidence of means by which the supplier of Works assesses first aid needs and ensures adequate first aid facilities; and
* copies of first aid training records.

### *9b. Information and testing*

**OHS criteria**

The effective dissemination of emergency response information and of testing of emergency response procedures in the past 12 months.

**Guide to acceptable evidence**

Provide

* evidence of the dissemination of emergency response information to employees by notices, training or other method; and
* evidence of emergency procedure testing (eg report on emergency evacuation exercise).

**Criterion 10: Incident notification, investigation and response**

### *10a. Internal incident notification*

**OHS criteria**

System for the notification of all incidents internally and (where relevant) to the employer with management and control of the workplace.

**Guide to acceptable evidence**

Provide copies of processes, procedures, form(s) and instructions to staff that cover internal and external incident notification.

Where available provide completed examples.

### *10b. Notification of incidents to WorkSafe Victoria*

**OHS criteria**

System for the notification of incidents to WorkSafe Victoria as required by Part 5 of the *Occupational Health and Safety Act 2004* (immediate oral notification of death, serious injury or an incident involving immediate risk to people from specified events).

**Guide to acceptable evidence**

Evidence of compliance with this criterion could include:

* documented systems to ensure compliance with the supplier of Works’ obligations under the *Occupational Health and Safety Act 2004* relating to incident notification;
* a procedure or instruction nominating the person with responsibility for fulfilling the incident notification obligations for the supplier of Works and how and when information should be provided to that person;
* evidence of the supplier of Works’ familiarity with the requirements and the notification form; and
* evidence of satisfactory notification (if notifiable incidents have occurred).

### *10c. Investigation and action taken*

**OHS criteria**

System for investigating incidents to determine causes, identify and implement appropriate action to prevent a recurrence.

**Guide to acceptable evidence**

Evidence of compliance could include:

* documented systems for incident investigation and reporting; and/or
* examples of investigations and action taken in response.

**Criteria Nos. 11 and 12**

Criteria Nos. 11 and 12 relate to the supplier of Works’ OHS Performance as indicated by:

* the level of OHS related enforcement activity;
* the supplier of Works’ response to such activity; and
* the supplier of Works’ insurance premium rate, compared with the industry.

The way a supplier of Works responds to enforcement activity and notices, including the supplier of Works’ implementation of remedial action, can be an indicator of effective and continually improving OHS systems and processes.

Workers compensation premium rates are related to industry average performance. A premium rate of more than 150% of the industry rate may reflect an unacceptably high level of claims.

**Criterion 11: Enforcement activity**

This performance criterion seeks evidence of the supplier of Works’ response to enforcement activity.

**OHS performance criteria where there has been enforcement activity**

Where there has been enforcement activity within the past 24 months or issues raised by any WorkSafe Victoria, Environment Protection Authority, Energy Safe Victoria or other relevant inspectorate and/or HSR including:

* prohibition notices;
* improvement notices;
* written directions;
* provisional improvement notices issued by a HSR;
* activities relating to an incident notified to WorkSafe Victoria under Part 5 of the *Occupational Health and Safety Act 2004*; and
* any prosecution commenced by WorkSafe Victoria or completed, within the period.

**OHS performance criteria where there has been no enforcement activity**

Where there has been no relevant inspectorate or regulatory activity, notices, or prosecutions of the kind outlined in Criterion 11 the supplier of Works should provide a signed statement to that effect.

Provide copies of relevant documents relating to the enforcement activity or issues raised including:

* WorkSafe Victoria or WorkSafe Victoria Entry Reports and notices;
* notices from other relevant bodies;
* HSR provisional improvement notices;
* summonses and particulars of charges or other documents detailing alleged offences;
* documents relating to outcome of prosecution; and
* provide documents showing the action taken by the supplier of Works to correct deficiencies identified in the notices or proceedings.

**Criterion 12: Workers Compensation insurance**

**OHS performance criteria**

Comparison of the supplier of Works’ insurance premium rate with that of the industry as a reflection of the supplier of Works’ claims history.

The supplier of Works’ current insurance premium rate not exceeding 150% of industry rate for the past 3 years.

*Not required for self‑employed person not having employees or deemed employees.*

**Guide to acceptable evidence**

Provide documentary evidence from Insurer / WorkSafe Victoria of currency of insurance, premium rate and industry classification (e.g. premium notice).

Where the premium rate exceeds 150% of the industry rate the supplier of Works will need to provide a satisfactory explanation for the high premium rate.

# The occupational health and safety criteria for supplier of Construction Services - Part 1 - An explanation of the criteria

### Supplier of Construction Services as Designers of Workplace Buildings and Structures

### Who is a designer?

Designers under section 28 of the *Occupational Health and Safety Act 2004* include persons who design buildings or structures or part of part or structure in the course of undertaking their profession, trade or business.

WorkSafe Victoria considers that designing includes:

* making preliminary sketches, plans or drawings for a building or a structure before it is constructed, commissioned and used as a workplace; and
* making specialist, expert or technical decisions for incorporation into the design that may affect the risk to health or safety of people using the building or structure as a workplace.

The duty clearly applies to professionals with expertise and/or technical skills required to design a particular building, structure or part of a building or structure.

Given that the design process for a workplace building or structure may occur at various stages of a project, as shown below, several persons may have duties under section 28:

*General project* stages *involving design*

* Pre-design; siting, feasibility study;
* Conceptual and schematic design;
* Design development;
* Construction documentation; and
* Construction, refurbishment or modification.

Designers may include:

* architects, or draftspersons who undertake the design on behalf of clients, including conducting feasibility study, producing schematic design or preparing construction documentation or tendering, depending on the contractual arrangement;
* other designers who participate in the design or make decisions during any of the project phases. These may include engineers, interior designers who design parts of the building or structure which are integral to the use of the building or structure as a workplace.

For additional reading; WorkSafe Victoria publication, *Designing Safer* Buildings *and Structures. A Guide to Section 28 of the Occupational Health and Safety Act 2004*.

### What must be provided for?

The designer must ensure that the design of the building or structure is safe for use for a purpose for which it was designed. This is specifically provided for by section 28 of the *Occupational Health and Safety Act 2004*.

A designer also has a duty under either section 23 or 24 of the *Occupational Health and Safety Act 2004* to ensure so far as is reasonably practicable that people other than their employees are not exposed to risks to their health or safety from the conduct of the undertaking (business) of the designer. Where the undertaking includes the design of buildings or other structures, this may require the designer to take account in the design risks that are reasonably foreseeable to the supplier of Construction Services at the time of the design activity, which may include risks during construction or maintenance – e.g. where the nature of the design means that it will be difficult to access high points in the structure using conventional means.

Compliance with this Criterion may include demonstrating an implemented policy requiring individuals undertaking design activity for the supplier of Construction Services to consider reasonably foreseeable risks associated with the design.

### Criterion 1a: The supplier of Construction Services’ corporate position on OHS in design and how it is disseminated

Business’s OHS position on OHS in design should be established to demonstrate the Business Management’s commitment to design safety. It will help create a culture for design safety at both corporate and project levels.

The Business’s OHS position statement should be known by employees and other workers carrying out design work and interested parties.

### Criterion 1b: The supplier of Construction Services’ commitment to addressing health and safety in design at project level

To demonstrate OHS commitment at project level, the designer should develop a project-specific health and safety brief and provide it to prospective client before accepting and starting design project. It can be developed either as an independent brief or a part of the designer’s return brief.

The health and safety brief will inform the client about the designer’s safety objectives for the project and provide a scope for the selection or development of design options during the design process later on.

It is understandable that the designer’s control over design outcomes will be subject to the client’s final decision, however the designer’s OHS brief will help create a set of agreed principles for achieving safety outcomes at the onset of a design project.

This step is also relevant to the obligations noted below at *Criterion 5e* for consultation with and coordinating activities with others for effective OHS risk management.

### Criterion 1c: The supplier of Construction Services’ systematic approach to address health and safety risks in design

Project-specific health and safety risks should be addressed in conformance with safety risk management systematic approach. This involves:

* hazard identification and analysis;
* risk management and selection or development of options to eliminate or reduce risks through design. The selection of suitable design options should be based on considerations such as: Standards solutions, industry / technical guidance and outcomes of risk assessments;
* review/evaluation of design; and
* communication to client regarding residual risks and suggested control measures (the information should be kept in a risk register).

Further information on the systematic process can be found in the WorkSafe Victoria’s publication titled *Designing Safer Buildings and Structures. A Guide to section 28 of the Occupational Health and Safety Act 2004* (page 12, 1st edition, 2005).

### Criterion 1d: The means, by which the supplier of Construction Services builds, maintains and continuously enhances OHS knowledge and capabilities from a design perspective

The supplier of Construction Services should demonstrate the capability to identify and respond to health and safety hazards and risks associated with the design project. This requires the supplier of Construction Services to have relevant knowledge and information. The baseline knowledge and information must be demonstrated through appropriate means, such as training and qualifications of relevant personnel in OHS relevant to the design function.

As design concepts evolve and construction methods change, so does knowledge of the associated hazards and risks. The supplier of Construction Services must keep OHS knowledge up to date and needs to demonstrate the means by which that is done.

This may be achieved internal personnel or through membership of an appropriate association providing services that will meet this requirement, or through the engagement of a OHS consultant to advise.

This criteria may be satisfied by evidence of each of the following:

* Relevant training of relevant design personnel, or of the qualifications of OHS advisors relating to OHS issues in design;
* That the supplier of Construction Services has ongoing access to information about the current state of knowledge of OHS hazards and risks associated with the design of plant, buildings and structures, and the means for controlling hazards and risks in design;
* The means by which that information is disseminated throughout the organisation to those involved in design activities; and
* The means by which that information is updated.

### Criterion 1e: Management review of overall OHS performance

The review should be done at regular intervals to evaluate aspects such as:

* the effectiveness of OHS performance in design projects;
* processes and systems applied during design process to address hazards and risks; and
* good design practices and lessons learned which could be used in future design projects.

### Supplier of Construction Services requirements for OHS in conducting a business

### Criterion 2: OHS Policy

The supplier of Construction Services must have and provide a copy of an organisational-specific OHS Policy that, at the least, states:

* a clear commitment to providing for the health and safety of all employees and other workers and others who may be affected by their activities, and achieving legal compliance, through effective risk management;
* the means by which that commitment will be met (e.g. risk assessment, safe systems of work, training);
* the respective responsibilities and roles of stakeholders at all levels within and external to the organisation in ensuring safety; and
* a commitment to continuous improvement and policy review, including a date or time within which the policy will be reviewed.

The Policy is significant as both a statement of values against which the organisation can be held accountable and an indication of the key criteria and roles in OHS. It can be a demonstration of the understanding of the organisation of the importance and criteria of OHS management.

The Policy should preferably be signed by the most senior person within the organisation (e.g. Chairman, Managing Director, CEO, General Manager) to demonstrate commitment at the top of the organisation.

### Criterion 3: Officers’ governance of OHS

Sections 144 and 145 of the *Occupational Health and Safety Act 2004* provide for an officer of a company, partnership or association (“the organisation”) to be guilty of the same offence as that committed by the organisation, if that offence was attributable to the failure of the officer to exercise reasonable care.

The involvement of officers is considered to be a key to the proper and effective management of OHS in an organisation, by ensuring that the organisation has and applies appropriate resources and policies and procedures for OHS.

The definition of an officer in section 9 of the *Corporations Act 2001* (Clth) is adopted in the *Occupational Health and Safety Act 2004* and includes:

* directors and secretary of a company;
* partners in a partnership;
* officers in an unincorporated association;
* persons involved in making decisions that affect the whole or a substantial part of the organisation (commonly known as the Executive or Management);
* those who have the capacity to affect significantly the financial standing of the organisation;
* those on whose instructions or wishes the directors are accustomed to act; and
* a liquidator, trustee, administrator, receiver and manager.

These are the people who have the role of governing the organisation and are able to determine or affect the ability of the organisation to properly and effectively manage OHS.

Ways in which the supplier of Construction Services may demonstrate compliance with this criterion, and reasonable care for the purposes of the *Occupational Health and Safety Act 2004* include:

* 1. evidence of advice provided to the supplier of Construction Services identifying who the officers are;

*Note*: if the supplier of Construction Services is a company whose directors are the only managers of the business, then the directors may be the only officers and this step may not be needed).

* 1. details of a governance (management) structure and process that provide for:
     1. the gathering and analysis of relevant information;
     2. reports on relevant matters to be provided to the officers, in a timely fashion (e.g. regular reporting on some matters and timely reporting of incidents);
     3. advice to be provided to the officers (from sources within and external to the business); and
     4. monitoring, auditing and review of performance.
  2. confirmation that information provided to officers allows them to have the required knowledge and understanding of each of the elements of the due diligence definition (e.g. as to hazards and risks, required resources and policies).

An officer may comply with this criteria where they receive and respond to information through direct involvement by them in work activities. This is typically the case for single director companies, small partnerships and for “hands on” directors and managers in small businesses. Officers who are not involved directly in work activities, typically in medium to large size companies or partnerships, will need to demonstrate other means by which they receive and respond to relevant information.

### Criterion 4: OHS Advisors

Section 22(2)(b) of the *Occupational Health and Safety Act 2004* requires an supplier of Construction Services to either (directly) employ or engage the services (externally) of a suitably qualified person (or persons) to provide advice to the supplier of Construction Services concerning the health and safety of employees.

The objective is to ensure that the supplier of Construction Services has available to it up to date knowledge of legal obligations and good industry practice. This is in part necessary to ensure that the supplier of Works meets the standard of ‘reasonably practicable’ required of them, and in part to enable the officers to meet their obligations for reasonable care and due diligence.

The supplier of Construction Services will need to demonstrate that:

* the supplier of Construction Services has expertise and knowledge available to it covering all key aspects of OHS relevant to the business and activities of the supplier of Construction Services; and
* that the advisor(s) are suitably qualified taking into consideration the nature of the activities of the supplier of Construction Services and on the numbers and types of advisors employed or engaged by the supplier of Construction Services. Tertiary or post-graduate qualifications are not necessary, but may make it easier for the assessor / evaluator to be satisfied that this criterion has been met.

This criterion may be satisfied by membership of an industry association or other organisation that provides the supplier of Construction Services with OHS advice and assistance. If the supplier of Construction Services wishes to rely on membership of an association then the supplier of Construction Services must clearly demonstrate understanding of how to access that association’s OHS assistance.

### Criterion 5: Consultation and issue resolution

*Introduction to Criterion 5*

Effective OHS risk management requires decisions to be made and implemented based on a proper flow of information between the Employer and employees and workers.

OHS issues must be resolved as soon as is reasonably practicable, which requires effective mechanisms for the exchange of information and consideration of various viewpoints.

The *Occupational Health and Safety Act 2004* and regulations recognise this by providing for management and employee representation in consultation and issue resolution and processes for undertaking those activities. Employees for this purpose include sub-contractors and their employees. The *Occupational Health and Safety Act 2004* will provide for representation and consultation for ‘workers’.

It is important that the management representative be sufficiently senior and competent to deal effectively with OHS issues. Otherwise, the process may be slowed down by a lack of knowledge, poor communication or perceptions of bad faith. This is recognised for example in section 73(2)(b) of the *Occupational Health and Safety Act 2004* which requires seniority and competence of the supplier of Construction Services’ representative.

### Criterion 5a: Management representation for consultation, issue identification and response

For this criterion the supplier of Construction Services must produce evidence that an appropriate management representative has been nominated for consultation and issue resolution, and that the person has sufficient and current knowledge or timely access to appropriate sources of knowledge to effectively undertake that role.

There are no set standards or qualifications specified for the management representative, however tertiary or post-graduate qualifications may make it easier for the assessor / evaluator to be satisfied that this criterion has been met.

The management representative should be familiar with the OHS legal obligations of the supplier of Construction Services and the key principles for effective OHS risk management.

The management representative should be able to demonstrate a good knowledge of consultation and issue resolution obligations and procedures; or at least knowledge of the supplier of Construction Services’ obligations relating to consultation and issue resolution and access to an appropriate internal or external advisor. The availability to the management representative of advisors referred to in *Criterion 3* above, may be relevant to the qualifications necessary for the management representative.

Currency of knowledge is important given regular changes to OHS laws and practice.

### Criterion 5b: Elected Health and Safety Representative (HSR)

This criterion recognises that the election and training of a Health and Safety Representative (HSR) may assist in consultation and issue resolution (and is common in the construction industry). Representation is ordinarily limited to employees, but the *Occupational Health and Safety Act 2004* provides for representation of the broader class of ‘workers’ by agreement, which commonly occurs in the construction industry.

The purpose of this criterion is:

* to identify whether the workers are represented by a HSR elected under Part 7 of the *Occupational Health and Safety Act 2004*; and
* whether the HSR has received training (which is usually a five day initial course with subsequent refresher and other training).

The law does not require the election of a HSR, or the training of the HSR, although the HSR is entitled to training if they require it.

Where there has been no request from workers for designated work groups or the election of a HSR, the supplier of Construction Services may certify this to be the case. The absence of a HSR will place more significance on *Criterion 5c* and may require a higher level of detail of consultation arrangements to be provided to satisfy that criterion.

### Criterion 5c: Consultation and issue resolution procedures

This criterion is concerned with ensuring that the supplier of Construction Services has in place a process for effectively undertaking communications relating to consultation and issue resolution.

For this criterion the supplier of Construction Services should be able to provide either consultation and issue resolution procedures that are agreed with workers (directly or through the HSR or other representative) or demonstrate that the supplier of Construction Services is familiar with the requirements of the *Occupational Health and Safety Act 2004* and regulations, including the default process provided in the regulations, whether or not they have needed to use them.

### Criterion 5d: Health and Safety Committee

It is recognised that an effective Health and Safety Committee can be a good means to develop OHS strategy and processes and to ensure that appropriate consultation occurs with employees.

It is not compulsory for a supplier of Construction Services to have a committee, although it must have if requested. The absence of an effective committee may however place greater significance on *Criterion 4c*.

The provision of committee charter or constitution or similar will assist in determining the effectiveness of it and the degree to which it assists in satisfying *Criterion 4d*.

### Criterion 5e: Consulting and working with other parties

The *Occupational Health and Safety Act 2004* does not include a specific duty on a supplier of Construction Services to consult, cooperate and coordinate activities with others who have a duty over the same matter.

These processes are however necessary in most situations for compliance with the duties under the *Occupational Health and Safety Act 2004*.

The supplier of Construction Services has duties in relation to its employees under section 21 of the *Occupational Health and Safety Act 2004*. These duties may require the supplier of Construction Services to identify risks to its employees from attendance at workplaces that are managed or controlled by others, or at which the activities of others may expose the employees of the supplier of Construction Services to OHS risks. The supplier of Construction Services in carrying out its activities (e.g. design), including attendance at workplaces, also has a duty to persons who are not employees under section 23 or 24 of the *Occupational Health and Safety Act 2004*.

Others involved in work in which the supplier of Construction Services is involved may also owe duties to the supplier of Construction Services and its employees.

To comply with these duties, the supplier of Construction Services should ensure that it has the information necessary to enable it to understand and manage the risks arising from their involvement and that of other parties in the work and ensure that the supplier of Construction Services works together with other parties for the effective management of OHS risks.

This means that a supplier of Construction Services should in some circumstances consult, cooperate and coordinate activities in relation to OHS with the client, sub-contractors, labour on-hirers, the person with management or control of the workplace and suppliers of plant and substances.

The aim of this criterion is to ensure that OHS is properly and effectively catered for through each party:

* having sufficient knowledge of the activities of others that may affect OHS;
* understanding what others have in place to provide for OHS risk management;
* determining what they must do to provide for OHS risk management; and
* coordinating their activities with those of others to ensure there are no gaps in risk management.

These activities represent good practice and may be necessary to meet the standard of ‘reasonably practicable’ and comply with duties of care under the *Occupational Health and Safety Act 2004*, particularly in relation to supplier of Works safety management.

Compliance with this Criterion may be achieved by demonstrating the means by which the supplier of Construction Services identifies other parties with whom they should consult and work together and the requirements to meet each of the elements noted above.

Documents showing examples of consultation with other parties and the outcomes may be sufficient to demonstrate this criterion is being met.

### Criterion 6: Currency of awareness of OHS

This criterion is clearly linked to Criteria 4 and 5 above and reference is made to the comments in relation to those criteria.

The Checklist notes some of the means by which the supplier of Construction Services may keep informed of changes in OHS regulations, guidelines and practice. These are not exclusive. This is a specific element of the due diligence requirement for officers.

The assessor / evaluator must be satisfied however that the supplier of Construction Services has a consistent process by which it is regularly informed of changes relevant to its operations.

*Knowledge and capabilities from a* design *perspective*

This will help designers:

* fulfil statutory obligations relating to design safety;
* have a good understanding of and capabilities relevant to the management of health and safety issues of the design;
* systematically approach to management of hazards and risks; and
* apply experience and capabilities to design projects.

Professional development should also be provided to designers on some aspects of the capabilities such as skills to:

* conduct workshops;
* apply various risk assessment/analysis techniques; and
* effectively communicate with others: project stakeholders, members of the design team, e.g. design supplier of Construction Services from other disciplines.

### Criterion 7: Induction and training

The provision of information, instruction and training to employees and other workers is clearly provided in section 21(2)(e) of the *Occupational Health and Safety Act 2004* and in the regulations.

Compliance with these obligations requires the provision of site specific induction and training that is relevant to the individual employee and as is necessary to enable them to safely perform their work tasks.

The assessor / evaluator must be satisfied through documented systems and training records that the supplier of Construction Services has in place systems for ensuring induction and training occurs.

### Criterion 8: Hazard identification and risk control

The *Occupational Health and Safety Act 2004* requires a supplier of Construction Services to provide and maintain for its employees and other workers, so far as is reasonably practicable, systems of work that are safe and without risks to health.

Different construction projects will require the identification of specific systems of work. The systems of work must be appropriate to meet the risks associated with the particular work being undertaken. To meet this requirement the supplier of Construction Services will often need to have and use systems to identify, assess and control hazards and risks.

The OHS Act also imposes requirements on supplier of Construction Servicess that may have the management or control of the workplace or the design of the workplace; design or manufacture or supply plant; install, erect or commission plant.

There are well known risks in the construction industry (e.g. fall from heights) for which systems of work and supporting training should be provided. Other identified construction industry risks may have accepted industry standard risk controls. However the supplier of Construction Services must still identify hazards and provide systems and other control measures for the elimination or reduction of associated risks.

*High risk* activities

For some activities involving high risks the supplier of Construction Services may be required to provide additional evidence of analysis of risks and availability of skills before the work can commence.

For Criterion 8 the supplier of Construction Services needs to demonstrate and provide documentary evidence:

* of the availability to the supplier of Construction Services of safe systems of work and procedures;
* of the supplier of Construction Services’ awareness of the need for such systems and progress toward the provision of same;
* of a process for the identification of hazards and the identification and application of risk controls;
* of the supplier of Construction Services’ awareness of each of the obligations imposed on them by the *Occupational Health and Safety Act 2004* and regulations by virtue of the supplier of Construction Services’ role and activities and has in place processes for meeting those obligations; and
* showing how the supplier of Construction Services assesses risks and identifies risk control measures.

Documents that show a system for doing this (e.g. formats for job safety analysis, or processes for developing safe work method statements) will assist in demonstrating the supplier of Construction Services’ compliance with this criterion.

The supplier of Construction Services must also provide an example of how these system documents have been used.

Third party certification of the supplier of Construction Services’ OHS management systems will be a strong indicator of satisfaction of this criterion, however, evidence may be required of such a certified system and in particular how specific legal requirements are met.

Regulations made under the *Occupational Health and Safety Act 2004* require the process of hazard identification and risk control, with specific measures relevant to the activities of the supplier of Construction Services.

From 1 July 2008 this has included the requirement for Health and Safety Coordination Plans for higher value projects and the preparation of safe work method statements for high risk work.

Health and Safety Coordination Plans are required to be developed and maintained by supplier of Construction Services where they are appointed to the role of Principal Contractor.

(Regulations 335, 336 and 337 of the *Occupational Health and Safety Regulations* 2017)

### Criterion 9: Emergency response

Emergency response is a critical aspect of safety management in the construction industry, given the hazardous nature of the activities and the difficulties associated with site access etc.

Effective emergency response is a part of the supplier of Construction Services’ obligations under the *Occupational Health and Safety Act 2004* to provide and maintain safe systems of work, adequate welfare facilities and information, instruction and training for employees and other workers.

An important aspect of the supplier of Construction Services’ emergency response is the regular review and testing of systems and training (e.g. through emergency evacuation trials).

Adequate welfare facilities must include first aid facilities and training as is appropriate to the nature of the activities, numbers of workers and location.

The supplier of Construction Services must provide documents to:

* verify the existence of emergency procedures;
* confirm first aid facilities and training; and
* verify the dissemination of information to employees and other workers by notices, training and testing.

### Criterion 10: Incident notification, investigation and response

The management of serious incidents is a critical aspect of safety management in the construction industry, given the hazardous nature of many construction activities, (e.g. failure of registered plant, collapse of a trench, explosion or fire, fall of an object from height).

The obligations of the supplier of Construction Services for the safety of its workers and others necessarily require the proper investigation of incidents, identification of causes and remediation of deficiencies. Information available as a result of an incident is part of the knowledge on which an assessment will be made on what may be reasonably practicable for a supplier of Construction Services to do.

The *Occupational Health and Safety Act 2004* imposes obligations on the supplier of Construction Services including:

* a requirement to notify WorkSafe Victoria of serious incidents;
* a requirement to preserve an incident site following a notifiable incident until an inspector attends or otherwise directs (except where disturbance of the site is necessary for rescue or health and safety protection); and
* entitling HSRs to inspect a workplace after an incident and be involved in various processes and activities following an incident.

Under this criterion the supplier of Construction Services will need to provide documented systems or records such as:

* a procedure or instruction requiring information to be provided to a person nominated to fulfil these obligations for the supplier of Construction Services, familiarity with the requirements and the notification form;
* evidence of the supplier of Construction Services’ satisfactory notification and investigation of an incident; and
* evidence of the supplier of Construction Services’ satisfactory response to the notifiable incident, for example to prevent its recurrence.

The requirements for due diligence by an officer include ensuring processes are in place to meet the obligations to notify incidents to WorkSafe Victoria.

### Criterion 11: Enforcement activity

The level, nature and seriousness of enforcement activity and the response of the supplier of Construction Services to it may be a significant indicator of the supplier of Construction Services’ OHS capability and performance.

Enforcement activity may reflect non-compliance and poor safety performance by a supplier of Construction Services. A timely and effective response by the supplier of Construction Services to enforcement activity may demonstrate the quality of their safety systems and processes.

Demonstrated compliance with a notice, or effective response or remediation following enforcement activity may render that enforcement activity no longer relevant and may even show improvements in the supplier of Construction Services’ systems and processes.

WorkSafe Victoria and other agencies relevant to OHS (e.g. Energy Safe Victoria) and HSRs may seek to enforce OHS related legislation and regulations through:

* directions;
* improvement notices;
* prohibition notices;
* prosecutions; and
* enforceable undertakings.

HSRs are entitled to issue provisional improvement notices which have the same effect as an improvement notice issued by an inspector (unless a review is sought by the supplier of Construction Services).

For this criterion the supplier of Construction Services will need to provide information (if any) in relation to enforcement activity and the supplier of Construction Services’ response. Documents which the supplier of Construction Services should provide include:

* associated Entry Reports, to provide a clear picture of the alleged non-compliance or risk; and
* evidence that the supplier of Construction Services has responded appropriately to the breach or the risk which was the subject of the enforcement activity.

Certification by the supplier of Construction Services of an absence of regulator activity of the kind indicated will be satisfactory evidence of compliance with this criterion.

### Criterion 12: Workers compensation Insurance

Workers compensation premium rates for a supplier of Construction Services reflect the claims performance of the supplier of Construction Services and are related to industry average performance.

High levels of workers compensation claims may indicate poor safety performance.

The supplier of Construction Services will need to provide details of the supplier of Construction Services’ workers compensation insurance premium level compared to the industry rate.

*Note*: A premium rate of more than 150% of the industry rate will usually reflect an unacceptably high level of claims. Where the supplier of Construction Services has a premium rate of more than 150% of the industry rate the supplier of Construction Services will need to provide a satisfactory explanation for the high premium rate.

# The occupational health and safety criteria for suppliers of Construction Services - Part 2 - Guide to acceptable evidence

The duty under section 28 of the *Occupational Health and Safety Act 2004* is intended to ensure that hazards and risks that may exist in the design of a workplace are eliminated or controlled at the design stage, so far as is reasonably practicable. It requires that those who design a building or structure ensure that it is designed, so far as is reasonably practicable, to be safe and without risk to people using it as a workplace for a purpose for which it was designed.

The duty of a designer in section 28 of the *Occupational Health and Safety Act 2004* does not specifically extend beyond safe use and does not require the building or structure to be designed to be safe for construction or maintenance.

A designer has a duty under either section 23 or 24 of the *Occupational Health and Safety Act 2004* to ensure so far as is reasonably practicable that people other than their employees are not exposed to risks to their health or safety from the conduct of the undertaking (business) of the designer. Where the undertaking includes the design of buildings or other structures, this may require the designer to take account in the design risks that are reasonably foreseeable to the Supplier of sConstruction Services at the time of the design activity, which may include risks during construction or maintenance – e.g. where the nature of the design means that it will be difficult to access high points in the structure using conventional means.

Criterion No. 1 requires compliance from supplier of Construction Servicess who perform the Duties of Designers of Buildings and Structures with respect to the following sub criterion:

* Establish corporate position on OHS in design;
* Demonstrate designer’s commitment to addressing health and safety in design at project level;
* Address health and safety risks in design applying a systematic approach;
* Build, maintain and continuously enhance OHS knowledge and capabilities from a design perspective; and
* Management review of overall OHS performance in design project.

**Criterion 1: OHS duties of suppliers being suppliers of Construction Services as designers of buildings and structures**

### *1a. The supplier of Construction Services’ corporate position on OHS in design and how it is disseminated*

**OHS duties criteria**

Establish corporate position on OHS in design

**Guide to acceptable evidence**

A copy of the supplier of Construction Services’ corporate position statement on OHS in design which:

* has been signed or endorsed by top management; and
* states the supplier of Construction Services’ overall design safety objectives and commitment to the effective performance of designers’ OHS duties.

Evidence of how the supplier of Construction Services disseminates the corporate position on OHS in design to employees and other interested parties.

### *1b. The supplier of Construction Services’ commitment to addressing health and safety in design at project level*

**OHS duties criteria**

Demonstrate designer’s commitment to addressing health and safety in design at project level.

**Guide to acceptable evidence**

A copy of standard formats/templates for a project-specific health and safety brief or the supplier of Construction Services’ approved provisions for inclusion in the designer’s return brief.

Copies should be approved at the supplier of Construction Services’ highest management level and should cover such aspects as:

* the project’s design safety objectives;
* potential health and safety issues related to the intended use of the building and structure being designed;
* a commitment to adopting a systematic approach process to addressing health and safety during design;
* OHS performance targets which will need to be agreed to by prospective client; and
* how the client and designer could work together.

### *1c. The supplier of Construction Services’ systematic approach to address health and safety risks in design*

**OHS duties criteria**

Address health and safety risks in design applying a systematic approach.

**Guide to acceptable evidence**

Evidence that the supplier of Construction Services has implemented a systematic approach to address health and safety risks in design covering:

* hazard identification and analysis;
* process to select design options;
* design review and follow-up actions;
* residual risks and suggested control measures; and
* communication of residual risks and other safety information to clients or interested parties.

### *1d. The means, by which the supplier of Construction Services builds, maintains and continuously enhances OHS knowledge and capabilities from a design perspective*

**OHS duties criteria**

Build, maintain and continuously enhance OHS knowledge and capabilities from a design perspective.

**Guide to acceptable evidence**

Evidence of relevant training of relevant design personnel, or of the qualifications of OHS advisors relating to OHS issues in design.

Evidence that the supplier of Construction Services has ongoing access to information about the current state of knowledge of OHS hazards and risks associated with the design of plant, buildings and structures, and the means for controlling hazards and risks in design.

Details of the means by which that information is disseminated throughout the organisation to those involved in design activities.

Evidence of the means by which that information is updated should be identified.

### *1e. Management review of overall OHS performance in design project*

**OHS duties criteria**

How the supplier of Construction Services ensures the effectiveness of its OHS performance in design including:

* effectiveness of processes and systems; and
* lessons learned which could be used in future design projects.

Details of any Project Review meeting (where appropriate) and records of actions / plan to be taken by the designer/supplier of Construction Services to maintain or enhance OHS performance in future design projects.

**Guide to acceptable evidence**

Records of the schedule and conduct of regular OHS performance review, their outcomes and follow-up actions.

Records should include records of design hazards and risks or issues and effective design solutions, good practices and lessons learned for future projects. Provide a copy of the meeting minutes, action plan (where appropriate)

**Criterion 2: OHS Policy**

**OHS duties criteria**

The Supplier of Construction Services’ organisation-specific OHS Policy.

**Guide to acceptable evidence**

Provide a copy of the organisation’s OHS Policy which:

* has been signed by the most senior person within the organisation to demonstrate commitment at the top of the organisation;
* outlines the supplier of Construction Services’ commitment to and responsibilities for OHS of the supplier of Construction Services’ employees and other workers;
* allocates responsibilities;
* requires systems for managing risks from hazards associated with the work of the supplier of Construction Services; and
* has been drafted or reviewed in the last 2 years.

(Note: ‘workers’ refers to persons working in the business of the supplier of Construction Services, as an employee, sub-contractors or their employees, labour-hire personnel, trainees, students gaining work experience, volunteers or otherwise).

**Criterion 3: Officers’ governance of OHS**

**OHS duties criteria**

The identity of the officers of the supplier of Construction Services, as defined in the *Occupational Health and Safety Act 2004* and the means by which those officers effectively govern the supplier of Construction Services in relation to OHS.

*Note*: This does not apply to a supplier of Construction Services who is a sole trader, but does apply to a company, partnership, alliance or association.

*For information only*

* Company officers can be personally liable.
* Sections 144 and 145 of the *Occupational Health and Safety Act 2004* provide for an officer of a company, partnership or association (“the organisation”) to be guilty of the same offence as that committed by the organisation, if that offence was attributable to the failure of the officer to exercise reasonable care.
* Also, the involvement of officers is considered a key to the proper and effective management of OHS in an organisation.
* Officers are generally the most senior people, such as the Chief Executive, a director, partner or other senior staff who are in a position to prevent breaches of the *Occupational Health and Safety Act 2004*.
* Company officers should be aware of their organisation’s health and safety obligations and how they are managed.
* Officers should take reasonable care to ensure that safety responsibilities are communicated to all staff, that appropriate safety procedures are in place, and that sufficient resources are allocated to health and safety. Any officers who are proactive and take reasonable care are not likely to be affected.

**Guide to acceptable evidence**

Provide an organisation chart or other information identifying who are officers by being:

* directors and/or company secretary (for a company);
* partners (of a partnership);
* office holders (of an association); and
* otherwise involved in making decisions that affect the whole or a substantial part of the business or affect the financial standing of the supplier of Construction Services.

Provide details of:

* information provided to the officers in relation to OHS hazards, risks and compliance;
* the means by which that information is provided (e.g. reporting process, committees, responsibilities for reporting on OHS);
* steps taken by officers to determine requirements for and allocation of resources for OHS;
* steps taken by the officers to verify and respond to OHS information; and
* steps taken by the officers to verify implementation of policies and procedures for OHS compliance.

Notes:

* Reference should be made to how the officers receive and respond to information.
* An officer may comply with this criteria where they receive and respond to information through direct involvement by them in work activities. Officers who are not involved directly in work activities will need to demonstrate other means by which they receive and respond to relevant information.

**Criterion 4: OHS Advisors**

**OHS duties criteria**

Curriculum Vitae of person(s) with relevant OHS qualifications engaged or employed to advise the supplier of Construction Services on OHS matters.

**Guide to acceptable evidence**

Provide copies of Curriculum Vitae or other details of your internal adviser or external adviser or organisation.

*Note*: supplier of Construction Services relying on their membership of an industry association that provides OHS advice/ assistance should provide evidence of membership and evidence that the supplier of Construction Services understands how to access the industry association’s OHS assistance.

**Criterion 5: Consultation and issue resolution**

### *5a. Management representation for consultation, issue identification and response*

**OHS duties criteria**

* The identity of the firm’s management OHS representative / officer and any other resources assisting the identification of OHS concerns, their consideration and response.
* Details of satisfactory training / qualifications or source of assistance.

**Guide to acceptable evidence**

Provide evidence confirming the nomination of a manager or details of the process for identifying the relevant manager for a particular issue, and:

* Copies of training certificate(s) or other relevant qualification information within the last two years (this is the preferred evidence); *or*
* Evidence of acceptable refresher training or access to assistance to maintain currency of knowledge.

*Note*: In the absence of training/qualifications for the manager provide details of other resources (e.g. industry association) and means for timely communication with them.

### *5b. Elected Health & Safety Representative (HSR)*

**OHS duties criteria**

* The identity of any employee(s) of the supplier of Construction Services, or an employee of another employer where a multi-employer work-group has been agreed under Division 2 of Part 7 of the *Occupational Health and Safety Act 2004*, elected as a Health and Safety Representative under *Occupational Health and Safety Act 2004* and details of training undertaken by them.

*or*

* Certification by the supplier of Construction Services that there has been no request for designated work groups and the election of HSRs.

**Guide to acceptable evidence**

* Provide details and date of HSR election; and
* Copies of training certificate(s) or other relevant information.
* Note: an explanation for an absence of HSR training or details of planned training may be acceptable.
* Provide details of any process by which the supplier of Construction Services manages the establishment of workgroups on specific projects or for specific workplaces, including any negotiations for multi-employer or multi-workplace workgroups.

*or*

* Provide a signed statement to confirm that there has been no request for designated work groups and the election of HSRs

### *5c. Consultation and issue resolution procedures*

**OHS duties criteria**

How consultation and issue resolution are undertaken with employees and HSRs (if any) as required by the *Occupational Health and Safety Act 2004* and regulations.

**Guide to acceptable evidence**

* Provide copies of consultation and issue resolution procedures that have been agreed with employees directly or through the HSR or other representative.

*or*

* Provide evidence that the supplier of Construction Services is familiar with the requirements of the *Occupational Health and Safety Act 2004* and regulations, including the default process provided in the regulations, whether or not the supplier of Construction Services has needed to use them; and
* Provide evidence of how consultation is undertaken (e.g. minutes of toolbox meetings or other meetings with employees and/or HSRs).

### *5d. Health & Safety Committee*

**OHS duties criteria**

* Details of any Health and Safety Committee (where appropriate) and the charter or constitution or rules that show how the Committee operates (meeting the requirements of Part 7 of the *Occupational Health and Safety Act 2004*).

*or*

* Certification by the supplier of Construction Services that there has been no request for the establishment of a Health & Safety Committee.

**Guide to acceptable evidence**

* Provide a copy of the committee charter or constitution or similar rules.

*or*

* Provide a signed statement to confirm that there has been no request for the establishment of a Health & Safety Committee.

### *5e. Consulting and working with other parties*

**OHS duties criteria**

The supplier of Construction Services has duties in relation to its employees under section 21 of the *Occupational Health and Safety Act 2004*. These duties may require the supplier of Construction Services to identify risks to its employees from attendance at workplaces that are managed or controlled by others, or at which the activities of others may expose the employees of the supplier of Construction Services to OHS risks. The supplier of Construction Services in carrying out its activities (e.g. design), including attendance at workplaces, also has a duty to persons who are not employees under section 23 or 24 of the *Occupational Health and Safety Act 2004*.

Others involved in work in which the supplier of Construction Services is involved may also owe duties to the supplier of Construction Services and its employees.

The supplier of Construction Services must accordingly demonstrate:

* how it consults with other parties to ensure each has necessary OHS information; and
* how it determines what is needed to work together with other parties for effective OHS risk management.

Other relevant parties may include the client, sub-contractors, other suppliers of labour, those with management or control of the workplace and suppliers of plant or substances.

**Guide to acceptable evidence**

Provide details of policies and procedures for identifying relevant parties, engaging in consultation about OHS directly affecting the supplier of Construction Services and its employees, and determining how to work together for OHS risk management.

Documents showing examples of consultation and the outcomes may be sufficient to demonstrate this criterion is being met.

**Criterion 6: Currency of awareness of OHS**

**OHS duties criteria**

Method(s) used to keep updated on changes to OHS legislation, regulations and guidelines and other information to maintain ongoing awareness of OHS requirements, including how the supplier of Construction Services builds, maintains and continuously enhances OHS knowledge and capabilities as they relate to designers.

**Guide to acceptable evidence**

Provide:

* details of relevant memberships/subscriptions or processes for seeking information from other bodies (e.g. through WorkSafe Victoria; Australian Institute of Architects; Consult Australia; other safety alerts/bulletins) and examples of information received; and
* evidence of professional development programs, activities or any other approach adopted by the supplier of Construction Services to ensure that the supplier of Construction Services’ OHS knowledge and capabilities relating to design are built, maintained and continuously enhanced.

**Criterion 7: Induction and Training**

**OHS duties criteria**

Confirmation that OHS induction and necessary training of supplier of Construction Services employees and sub-contractors are ensured. Induction of people other than employees of the supplier of Construction Services to workplaces under the management or control of the supplier of Construction Services should also be provided for.

The purpose of the induction is to ensure that the employees and others have an awareness of the workplace specific hazards and risks and measures in place to manage the risks (including emergency and evacuation measures).

The purpose of training is to enable the supplier of Construction Services’ employees and sub-contractors to perform their work in a way that is safe and without risks to their health.

**Guide to acceptable evidence**

Provide copies of records verifying the nature and content of induction of employees and others and demonstrating that the supplier of Construction Services has in place systems for ensuring induction and training occurs

**Criterion 8: Hazard identification and risk control**

### *8a: Hazards and risk control*

**OHS duties criteria**

The means by which hazards and risks associated with the activities of the supplier of Construction Services are identified, assessed and controlled.

**Guide to acceptable evidence**

Provide evidence of OHS management systems, manuals or policies/procedures (e.g. for Job Safety Analysis or risk assessment) and a completed risk assessment.

Certification of systems (e.g. Safety Map, Federal Safety Commissioner or AS4801 will assist)

### *8b: Process of compliance with legal requirements*

**OHS duties criteria**

The process for compliance with legal requirements for the provision of risk assessment and control of information to other parties.

*Note*:

Health and Safety Coordination Plans are required to be developed and maintained by supplier of Construction Services where they are appointed to the role of Principal Contractor.

(Regulations 335, 336 and 337 of the *Occupational Health and Safety Regulations* 2017)

**Guide to acceptable evidence**

Show means which ensure that legal requirements are being achieved.

Provide evidence or examples of the means for compliance with specific requirements, such as by completed Job Safety Analysis, safe work method statements and the means of coordinating safety activities on site. These are examples only and the specific compliance requirements will depend on the activities carried out by the supplier of Construction Services.

*Note*: See also the requirements under *Criterion 5e*, to provide for consultation and coordination with other parties.

**Criterion 9: Emergency response**

### *9a. Procedures and first aid*

**OHS duties criteria**

Effective emergency response procedures including review and testing requirements, the availability of suitable first aid facilities, and employee first aid training.

**Guide to acceptable evidence**

Provide:

* a copy of emergency response procedure including their review and testing requirements;
* evidence of means by which the supplier of Construction Services assesses first aid needs and ensures adequate first aid facilities; and
* copies of first aid training records.

### *9b. Information and testing*

**OHS duties criteria**

The effective dissemination of emergency response information and of testing of emergency response procedures in the past 12 months.

**Guide to acceptable evidence**

Provide:

* evidence of the dissemination of emergency response information to employees by notices, training or other method; and
* evidence of emergency procedure testing (e.g. report on emergency evacuation exercise).

**Criterion 10: Incident notification, investigation and response**

### *10a. Internal incident notification*

**OHS duties criteria**

System for the notification of all incidents internally and (where relevant) to the employer with management and control of the workplace.

**Guide to acceptable evidence**

Provide copies of processes, procedures, form(s) and instructions to staff that cover internal and external incident notification.

Where available provide completed examples.

### *10b. Notification of incidents to WorkSafe Victoria*

**OHS duties criteria**

System for the notification of incidents to WorkSafe Victoria as required by Part 5 of the *Occupational Health and Safety Act 2004* (immediate oral notification of death, serious injury or an incident involving immediate risk to people from specified events).

**Guide to acceptable evidence**

Evidence of compliance with this criterion could include:

* documented systems to ensure compliance with the supplier of Construction Services’ obligations under the *Occupational Health and Safety Act 2004* relating to incident notification;
* a procedure or instruction nominating the person with responsibility for fulfilling the incident notification obligations for the supplier of Construction Services and how and when information should be provided to that person;
* evidence of *the* supplier of Construction Services’ familiarity with the requirements and the notification form; and
* evidence of satisfactory *notification* (if notifiable incidents have occurred).

### *10c. Investigation and action taken*

**OHS duties criteria**

System for investigating incidents to determine causes, identify and implement appropriate action to prevent a recurrence.

**Guide to acceptable evidence**

Evidence of compliance could include:

* documented systems for incident investigation and reporting; and/or
* examples of investigations and action taken in response.

**OHS performance criteria**

Evidence of compliance could include:

* documented systems for incident investigation and reporting; and/or
* examples of investigations and action taken in response.

**Criteria Nos. 11 and 12**

Criteria Nos. 11 and 12 relate to the supplier of Construction Services’ OHS Performance as indicated by:

* the level of OHS related enforcement activity;
* the supplier of Construction Services’ response to such activity; and
* the supplier of Construction Services’ insurance premium rate, compared with the industry.

The way a supplier of Construction Services responds to enforcement activity and notices, including the supplier of Construction Services’ implementation of remedial action, can be an indicator of effective and continually improving OHS systems and processes.

Workers compensation premium rates are related to industry average performance. A premium rate of more than 150% of the industry rate may reflect an unacceptably high level of claims.

**Criterion 11: Enforcement activity**

This performance criterion seeks evidence of the supplier of Construction Services’ response to enforcement activity involving the supplier of Construction Services as a duty holder – for example, as

* an employer
* a person conducting a business or undertaking
* a designer, manufacturer, supplier installer’.

**Where there has been enforcement activity**

**OHS performance criteria**

Enforcement activity within the past 24 months or issues raised by any WorkSafe Victoria, Environment Protection Authority, Energy Safe Victoria or other relevant inspectorate and/or HSR including:

* prohibition notices;
* improvement notices;
* written directions;
* provisional improvement notices issued by a HSR;
* activities relating to an incident notified to WorkSafe Victoria under Part 5 of the *Occupational Health and Safety Act 2004*; and
* any prosecution commenced by WorkSafe Victoria or completed, within the period.

**Guide to acceptable evidence**

Provide copies of relevant documents relating to the enforcement activity or issues raised including:

* WorkSafe Victoria or WorkSafe Victoria Entry Reports and notices;
* notices from other relevant bodies;
* HSR provisional improvement notices;
* summonses and particulars of charges or other documents detailing alleged offences;
* documents relating to outcome of prosecution; and
* provide documents showing the action taken by the supplier of Construction Services to correct deficiencies identified in the notices or proceedings.

**Where there has been no enforcement activity**

**OHS performance criteria**

Enforcement activity within the past 24 months or issues raised by any WorkSafe Victoria, Environment Protection Authority, Energy Safe Victoria or other relevant inspectorate and/or HSR including:

* prohibition notices;
* improvement notices;
* written directions;
* provisional improvement notices issued by a HSR;
* activities relating to an incident notified to WorkSafe Victoria under Part 5 of the *Occupational Health and Safety Act 2004*; and
* any prosecution commenced by WorkSafe Victoria or completed, within the period.

**Guide to acceptable evidence**

Where there has been no relevant inspectorate or regulatory activity, notices, or prosecutions of the kind outlined in Criterion 11 the supplier of Construction Services should provide a signed statement to that effect.

**Criterion 12: Workers Compensation insurance**

**OHS performance criteria**

Comparison of the supplier of Construction Services’ insurance premium rate with that of the industry as a reflection of the Supplier of Construction Services’ claims history.

The supplier of Construction Services’ current insurance premium rate not exceeding 150% of industry rate for the past 3 years.

*Not required for self‑employed person not having employees or deemed employees.*

**Guide to acceptable evidence**

insurance, premium rate and industry classification (e.g. premium notice).

Where the premium rate exceeds 150% of the industry rate the supplier of Construction Services will need to provide a satisfactory explanation for the high premium rate.