

CONSTRUCTION SAFETY MANAGEMENT – WHO IS RESPONSIBLE FOR JOBSITE SAFETY

Under California law every employer with 1 employee or more must establish and maintain a written safety program to Cal/OSHA standards (Title 8, Section 3203). General Contractors have responsibility for Subcontractors as “employees” as well as all their individual employees. Therefore, GCs must conduct and document new-hire training (Jobsite Safety Orientation for all new workers on-site), weekly tailgate training (or cause it to be done, retaining copies of training rosters as proof), daily jobsite safety inspections (with records of hazards found and corrected), enforcement of all safety regulations (written safety violation notices), documentation of near misses with feedback to mitigate future occurrences, - in short perform all safety program management activities required the Title 8 safety codes. GCs also have the burden of ensuring that their subcontractors IIPP (Safety Program) meets California standards and is actually in use. This could and should be done via a submittal required by contract prior to the start of work. Failure to observe the above may involve GC fines as large as \$1.5 million or more and incarceration of officers or owners for as long as 3 years – the same as for subcontractor owners or officers. Next article: Recommended GC Safety Pre-Qual requirements for subcontractors.

The following material outlines the basic responsibilities for jobsite safety related to projects undertaken by a General Contractor and various sub-contractors in the construction industry. This work may involve the construction of new facilities, facility maintenance, re-build, or modification. While the basic concepts of jobsite safety apply in every case, the degree of responsibility for jobsite safety assigned to the various parties involved depends on the nature of the work being performed and the degree to which necessary knowledge and resources are or should be reasonably available to them.

Responsibility of the "Prime" or "General" Contractor for Overall Jobsite/Workplace Construction Safety

The serious nature of common construction jobsite hazards typically involved in such work, in terms of the relatively high frequency and severity of worker injuries, should dictate special efforts by top construction management to establish and conduct conspicuous, high quality safety programming for the benefit of all persons at their jobsites.

Because workplace safety is so important in regard to construction work, it is essential that initial responsibility for overall jobsite safety be clearly accepted by one party with the authority to initiate and accomplish what is required to achieve jobsite safety.

In terms of effectiveness, safe working conditions at construction jobsites are best achieved when the prime or general contractor assumes his rightful leadership role and takes primary responsibility to:

- (a) establish,

- (b) coordinate,
- (c) monitor, and
- (d) generally manage the overall *basic* safety program content and structure for all parties and persons at his jobsite.

Undefined authority among the parties involved related to jobsite safety is not a workable arrangement for such an important matter that literally effects the life and limb of each and every worker on the jobsite.

It is a logical conclusion that the prime or general contractor should assume initial and overall safety responsibility and safety program leadership at his jobsite. He has primary and overall authority and control of his jobsite. He ultimately controls access to the construction site. All persons performing work at his jobsite are either his employees or have been directly or indirectly hired or controlled by him. In addition, the prime or general contractor will, in various degrees, direct, supervise, coordinate, or monitor the progress of the work and perform various inspections to assure that the work complies with provisions of the contract and associated plans and specifications.

For these and other reasons, on a construction jobsite, the prime or general contractor possesses a singular responsibility to conduct specific jobsite safety programming. This programming should establish and provide a workplace free of recognized hazards which have the potential to cause serious injury to workers, or other individuals, at the jobsite.

When warranted by circumstances, the prime or general contractor must assign certain specific safety activities to other contractors in writing. These contractors will then *share* a corresponding responsibility for jobsite safety.

Delegation of Safety Responsibility by A "Prime" or "General" Contractor To a "Sub" Contractor

When a *prime or general* contractor engages one or more *sub*-contractors, the sub-contractor should have a verifiable, high quality safety program. When the prime or general contractor assigns certain safety management responsibilities to a sub-contractor, reasonable adherence to state-of-the-art prudent practice holds that such a sub-contractor shall be deemed to have *joint* responsibility for jobsite safety. That is, while responsibility for jobsite safety may be *shared* with a sub-contractor, the prime or general contractor retains *overall* responsibility.

To illustrate this point, consider the following comparison. When a prime or general contractor delegates construction tasks to one or more specialty sub-contractors, a reasonable and prudent prime or general contractor will continue to monitor the delegated work to ensure compliance with his directives and the project plans, specifications, and construction codes. Certainly, the party that hired the prime or general contractor reasonably expects this.

Similarly, due to the importance of jobsite safety, when a prime or general contractor assigns safety responsibility and associated performance to one or more specialty contractors, a reasonable and prudent prime contractor will continue to monitor the work assigned to ensure compliance with reasonable state-of-the-art safety practice, the Fed

OSHA and Cal/OSHA Safety Regulations, and any specific safety requirements contained in the project plans and specifications.

The prime or general contractor can never relinquish his overall leadership role and legal responsibility to ensure that a state-of-the-art safety program is established and conducted at the jobsite.

Responsibility of Sub-Contractors

If it can be timely arranged or the opportunity is offered to sub-contractors, they should actively participate in the development of the overall project safety program established during pre-job safety planning sessions conducted by the prime or general contractor, so that hazards specific to their trade are addressed. Regardless, sub-contractors have the responsibility to:

- (a) actively participate and adhere to the safety program *advanced by the prime and general contractors* (as well as their own!) presented to them during pre-job planning sessions;
- (b) establish and implement their own safety program relative to general safe work methods and specific hazards *not requiring assistance, cooperation, or coordination with others*;
- (c) utilize communication procedures *established by the prime and general contractors* to discuss safety issues as they arise; and
- (d) coordinate their activities with the prime and general contractors and other sub-contractors as such work might relate to the safety of all workers and other individuals at the jobsite.