



Improving conditions for New Zealand workers – health and safety

Government procurement has the potential to improve conditions for workers by protecting them from unfair and unsafe behaviour. It does this by choosing suppliers who are:

- working to improve health and safety outcomes, and
- meeting their obligations under the Health and Safety at Work Act 2015 (HSWA).

This means suppliers who are using good health and safety practices and achieving good health and safety outcomes, can't be undercut by those who aren't.

WorkSafe New Zealand, New Zealand's primary work health and safety regulator, has published a special guide to help explain health and safety obligations under HSWA:

[Introduction to the Health and Safety at Work Act 2015](#)

Health and safety requirements

Unless specifically excluded, every person conducting a business or undertaking (PCBU) in New Zealand must meet their obligations under the HSWA, its supporting regulations, and any codes of practice that apply to their industry.

Suppliers, sub-contractors and government agencies are all PCBUs.

When we talk about meeting health and safety requirements, we mean that suppliers and their sub-contractors are meeting their obligations under the HSWA. These include:

Health and safety requirements – primary duty of care

To meet their obligations under HSWA, PCBUs have a primary duty of care, to ensure, as far as is reasonably practicable, the health and safety of:

- everyone who works for, at or with their organisation, such as employees, contractors and consultants
- everyone whose work they influence or direct, such as suppliers or sub-contractors, and
- no other person is put at risk from their work, such as the general public, customers, visitors and children.

Health and safety requirements – workplaces

PCBUs must, so far as is reasonably practicable, ensure that:

- its workplaces are free from health and safety risks
- its structures and equipment are safe
- it has safe work systems
- it uses, handles and stores its work equipment safely

- its workers have access to facilities they need to ensure their wellbeing in the workplace
- it gives its workers and any others who may be affected by its work the necessary information, training or supervision to protect them from risks to their health and safety, and
- it prevents injury or illness by monitoring worker health and workplace conditions.

Health and safety requirements - supply chains

When PCBUs work together as part of a supply chain, for example a government agency, a supplier and a sub-contractor, they are required by law to consult, cooperate and coordinate their activities with each other to make sure they meet health and safety requirements. When this happens, it's called overlapping duties.

It's important to manage overlapping duties properly so that all of health and safety risks from the supply chain's work can be identified and managed by the party that is best placed to do so.

For more information, see:

[Worksafe's quick guide - Overlapping duties \(PDF 173KB\)](#)

Health and safety requirements in contracts

It doesn't matter what industry they're in, all PCBUs are required by law to meet health and safety requirements. PCBUs can't contract out of them, and they can't offer or receive indemnities for fines for failing to meet them.

Health and safety requirements in designated contract areas

Because workers in the forestry and construction industries have a higher risk of being harmed at work, the government has designated them as a priority area for lifting health and safety performance. For this reason, Rule 19 of the Government Procurement Rules requires that:

- suppliers of these contracts ensure and demonstrate that they, and their domestic supply chain, comply with all relevant health and safety requirements, and
- the agencies that engage them require that they do so.

This means that forestry and construction suppliers who engage sub-contractors will need to:

- carry out due diligence to ensure that the sub-contracting businesses is meeting health and safety requirements, and
- show that they are meeting health and safety requirements themselves.

For more information, see:

- [Rule 19: Improving conditions for New Zealand workers](#)
- [Designated contract areas](#)

Definition of domestic supply chain

Domestic supply chain has a specific meaning in the Rules. It refers to suppliers and the sub-contractors they use to help them deliver services within the geographic boundaries of New Zealand.

Plan

When planning your procurement, you should start by thinking about whether there is a heightened risk of the suppliers in the market you are procuring from not meeting health and safety requirements.

Suppliers, including supply chains, in markets with one or more of the following characteristics may be at a higher risk of non-compliance with health and safety requirements:

- sectors that have a high incidence of workplace injuries
- industries that use a lot of migrant, young or older workers, and
- industries that use unskilled, temporary and/or seasonal labour.

Think about the best way to ensure health and safety compliance in your procurement. This could include using mandatory conditions, tender questions and contractual clauses.

Make sure the approach you decide to take is appropriate for the size of the contract and the kinds of suppliers that might bid for it. For example, if the suppliers are likely to be small businesses, they may not have the capacity or capability to carry out comprehensive audits, but may be able to show their compliance in other ways.

Because suppliers are required by law to comply with health and safety requirements, they should not view health and safety compliance as an additional cost. But you may need to consider whether additional costs need to be factored in for any monitoring and reporting you may require.

Health and safety must be applied to all contracts by law. But contracts in high-risk and designated contract areas, such as forestry and construction, need more focussed support to lift their performance. WorkSafe, New Zealand's primary workplace health and safety regulator, has some helpful information about these:

- [Forestry safety](#)
- [Health and safety in construction.](#)

Source

It's important to engage with the market early, to make sure potential suppliers are aware of the importance of health and safety and your expectation they meet health and safety requirements. This transparency will help prepare suppliers to respond to the tender.

It is important to explicitly state all health and safety requirements in your tender. The requirements should be appropriate for the size and nature of your procurement. Consider including requiring suppliers to detail:

- the suppliers that make up their domestic supply chain
- their processes for auditing compliance with health and safety requirements
- the nature of their health and safety reporting and monitoring
- the consequences of not meeting health and safety requirements at their business, and
- their process for managing how health and safety requirements will continue to be met when key sub-contractors change.

Supplier Code of Conduct

Suppliers are expected to comply with the Supplier Code of Conduct. You can ask suppliers to do this as part of your tender process, or separately, if they already have a contract with your agency.

Suppliers are expected to make their subcontractors aware of the Code too. The Code works together with existing codes of conduct and more specific health and safety requirements.

For more information, see:

[Supplier code of conduct](#)

What to include in an RFx

As well as asking suppliers and their sub-contractors to comply with the Supplier Code of Conduct, consider including some questions in your tender documents. You'll find some 'Examples of questions to include in an RFx' at the end of this document.

Contract terms and conditions

The requirement for suppliers, and their supply chains, to meet health and safety requirements should be built into the contract. Contracts should also:

- require suppliers to report any failure to comply with their obligations under the Health and Safety at Work Act 2015, including any that result in investigation by WorkSafe
- consider remediation pathways that can be put in place
- detail the assurance process your agency intends to use over the life of the contract, and
- explain how your agency will work with the supplier to ensure ongoing compliance.

Manage

Your agency should identify which of their existing contracts are in designated contract areas, that is, construction or forestry, and any other contracts where there may be a heightened risk of injury or illness.

Supplier relationship management

The level of supplier relationship management you'll need to do will depend on the risk level of the contract overall.

When government contracts with suppliers to deliver higher-risk contracts, the relationship with the supplier needs stronger management. This means:

- more frequent engagement
- more due diligence activities, and
- more information sharing between you.

This can help:

- mitigate and manage risks and issues as they arise
- identify changes to the supply chain, such as new sub-contractors, and
- make sure any non-compliance with health and safety requirements is raised immediately.

Suppliers engaged in smaller, lower-risk contracts don't need the same level of management. For these suppliers, an annual due diligence exercise to confirm they continue to comply with health and safety requirements may be enough.

Due diligence

The purpose of due diligence is to give your agency assurance that suppliers and their supply chains continue to comply with health and safety requirements. The assurance activities your agency carries out will depend on the contract's level of risk, and how much information the supplier provides about their compliance during the sourcing phase of your procurement.

For a lower-risk contract, your agency could require suppliers to submit a yearly health and safety check declaring that they continue to comply with health and safety requirements. For higher-risk contracts, you'll need to ask for evidence of their compliance – you may be able to use some of the 'Examples of questions to include in an RFX' at the end of this document to help you do this.

Post-contract or post-delivery evaluations can be very useful because they give all parties the opportunity to identify what worked well and what didn't. These evaluations support improvements in processes and compliance, as well helping to ensure mistakes and problems are not repeated.

Examples of questions to include in an RFX

When deciding which questions to ask, make sure you think about the size of your procurement and the kinds of suppliers who will be responding to it. You won't need to use every example, every time – it's OK to include only the questions and requirements that are relevant to your procurement.

Mandatory requirements

Health and safety – mandatory requirements				
Does your company agree to comply with the Supplier Code of Conduct and make your sub-contractors aware of it?	Yes		No	
Is your company complying with health and safety requirements, including:				
Does your company provide health and safety training to all of its employees?	Yes		No	
Does your company record all health and safety events and near misses?	Yes		No	
Does your company instruct your employees to report their health and safety concerns?	Yes		No	
Does your company provide your employees with the health and safety equipment they need to do their jobs safely?	Yes		No	
Do your employees understand their health and safety responsibilities?	Yes		No	
Do you provide health and safety training that is accessible to all of your employees, taking into account their language proficiency and literacy?	Yes		No	

Supplier due diligence

Consider using the following questions for due diligence or assurance with new and existing suppliers.

Suppliers must tell you if they, their sub-contractors or franchisees have been found to have breached the Health and Safety at Work Act 2015. If they have, they must provide details of the actions they took to resolve the issues that resulted in the breach.

Health and safety - due diligence				
Do you have policies in place detailing your commitment to health and safety? If yes, provide an overview of the policies.	Yes		No	
Do you provide your employees information about their health and safety responsibilities, and the procedures for ensuring they meet them? If yes, provide details.	Yes		No	
Do you communicate your health and safety policies and requirements with your sub-contractors and franchisees?	Yes		No	
Has WorkSafe ever found you or one of your sub-contractors or franchisees to be in breach of the Health and Safety at Work Act 2015 or its regulations, and/or issued any one of you with a notice or direction? If yes, provide details	Yes		No	

Health and safety - due diligence				
Have any of your workers or those engaged by your sub-contractors or franchisees suffered from serious harm or illness as a result of their work (a notifiable event) in the last 5 years? If yes, provide details.	Yes		No	
Are you or any of the employers within your supply chain currently under investigation by WorkSafe? If yes, provide details.	Yes		No	

Sub-contracting arrangements

When government agencies, suppliers and sub-contractors work together as part of a supply chain, they are required by law to consult, cooperate and coordinate their activities with each other to make sure they meet health and safety requirements. They can't contract out of them, and they can't offer or receive indemnities for fines for failing to meet them.

Your agency will need to work together with suppliers and their sub-contractors to make sure all of health and safety risks from the supply chain's work are identified and managed by the party that is best placed to do so. Include information in your tender documents about how you plan to do this.

Health and safety – sub-contracting arrangements				
Will you be using any sub-contractors, independent contractors and/or franchisees? If yes: <ul style="list-style-type: none"> Explain what work each of them will do. Explain the risk sharing arrangements you have agreed between you to manage health and safety risks. 	Yes		No	

Monitoring and reporting

Your agency can use these questions for assurance that suppliers have systems and processes in place to monitor their own and their supply chain's compliance with the Health and Safety at Work Act 2015 for the duration of the contract.

Your agency can also ask suppliers to monitor and report on specific high-risk areas, for example, by carrying out spot checks.

Health and safety – monitoring and reporting				
What steps do you have in place to monitor your own and your sub-contractors and franchisees' health and safety compliance, for example, internal or third-party audits, certifications, industry memberships and so on?				
Do you require sub-contractors to provide reporting to you about their health and safety compliance?	Yes		No	
Does your company have a person whose role it is to actively work with and monitor health and safety issues, including for suppliers and sub-contractors?	Yes		No	