



Australian  
National  
University

# Work Health and Safety Management System (WHSMS) Handbook

## Chapter 3.6 – Contractor Safety Engagement

Safety & Wellbeing

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CRICOS Provider No. 00120C

WHSMS Handbook - Chapter 3.6 – Contractor Safety Engagement

Approved by: DCPO, S&W

Version: 3.0

Release Date: 1 November 2025

Review date: 1 November 2028

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Page 1

# Contents

Purpose .....	3
Scope .....	3
Reliance on contractor expertise.....	4
Management or control of the workplace .....	4
Contractor classification.....	5
Construction contractors.....	5
Repairs and maintenance contractors.....	6
Goods and services contractors.....	6
Scientific and research (S&R) contractors .....	7
International contractors working within Australia .....	7
Contractors engaged to work for the University outside of Australia .....	8
Engaging a contractor.....	9
Hazards and/or risks in the University workplace .....	9
Verifying a contractor’s WHSMS.....	9
Executing an agreement or contract.....	10
Workplace induction .....	10
Monitoring and managing contractor safety performance .....	12
Roles and Responsibilities.....	14
Definitions.....	16
Supporting documents and links .....	19
Appendices.....	19

## Purpose

To guide the University and its responsible employees to effectively engage and manage contractors who perform work for, or on behalf of, the University so as to assure compliance with the *Work Health and Safety Act 2011* (Cth) (the [Act](#)) and *Work Health and Safety Regulations 2011* (Cth) (the [Regulations](#)).

This chapter provides guidance on the general principles of contractor engagement and safety management. The appendices to the chapter provide pragmatic guidance on engaging and managing specific contractor types.

## Scope

This chapter applies to all University employees who undertake activities to engage contractors to perform work for, and on behalf of, the University (the Work) and/or manage contractor safety performance. In practical terms, engaging and managing contractors may be expressed as follows:

- 🏷 Engaging a contractor includes activities associated with finding suitable person(s) to perform the Work. For example, the activities include, approach to market (ATM), request for quote (RFQ), issue of a purchase order (PO), execution of contracts or agreements and/or verifying evidence of a contractor's work health and safety management system (WHSMS).
- 🏷 Managing a contractor commences from the point of contract/agreement execution or issue of a PO and extends through to the completion of the Work. During this period, the University (the responsible person or other nominee) must take reasonably practicable steps to check or confirm the contractor is working safely and/or in accordance with key aspects of their WHSMS.

Contractors engaged by the University share concurrent health and safety duties for which the University must ensure compliance with the Act and Regulations<sup>1</sup>. Both the University and its contractors have a duty to consult, cooperate and coordinate, in so far as is reasonably practicable, on health and safety matters in relation to the Work. Further information on the duties of the University and its contractors is available on Comcare's website, under [Manage contractors](#).

Engaging and managing contractors requires the University to do what is reasonably practicable to eliminate or minimise the risks associated with the Work over which the University has control and influence. The more control and influence, by the University, over the Work of a contractor, the greater the steps the University must take to reasonably discharge its duties under the Act and Regulations.

### Note:

1. This chapter provides guidance on the general safety requirements to engage contractors through a procurement process but excludes any and all business requirements associated with a procurement activity. Where there is an inconsistency between business and WHS requirements, WHS requirements must be prioritised over business requirements unless the cost of WHS compliance (managing the risk) is grossly disproportionate [see s18 (e) of the Act].
2. The term *contractor* is not used in this Chapter in the context of a *worker* under the Act. While a *contractor* is deemed a University *worker* under the Act, the chapter relates to a *contractor* being a *person conducting a business or undertaking* (PCBU) (see s5 of the Act). Contractors have more than one duty under the Act, they have duties as the PCBU and also the duties of a worker (see s28 of the Act). Contractors also have duties under State/Territory WHS legislation within the State/Territory they operate.

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<sup>1</sup> A contractor must comply with their State/Territory WHS legislation and also ensure they comply with University requirements which will assure the University's compliance with the Act and Regulations.

### Reliance on contractor expertise

Both the University and its contractors share concurrent duties to ensure the workplace is free from harm to workers and others. While the University may rely on the expertise of a contractor to perform the Work, the University ought to know, based on its experience and capability of its workforce, what the regulatory requirements are for the Work to be completed. Therefore, in relying on a contractor to perform the Work, the University must consider these key factors:

- What the University ought to know about the hazards and risks associated with the Work
- Verifying a contractor has the expertise and systems to complete the Work safely
- Ensuring the contractor has management or control of the Work
- Providing appropriate instruction about hazards and risks in the University workplace
- Monitoring the safety performance of the contractor, in so far as is reasonably practicable
- Ensuring a process of incident reporting and response is timely and effective.

### Management or control of the workplace

Contractors engaged by the University should be granted management or control of the Work and/or work site. This is achieved through contractual clauses which confirm the degree or extent of management or control the contractor has over the Work or work site and the University's practical ability to direct a contractor to comply with an instruction. Comcare advise there are two (2) types of control over the Work, general control and actual control. The table below provides practical examples from the University's perspective.

Type of control	Practical description
<b>General</b>	Through contractual arrangements the University may direct or instruct a contractor to do something which assures the University's compliance with its WHS duties. For example, the University has general control of the Work to issue an instruction to cease work which poses a risk of harm to a worker(s) or others (University employees and/or students). General is relevant to non-construction and non-trade work.
<b>Actual</b>	The contractor possesses the specialist skills and knowledge to perform the Work and the work of their sub-contractors. The contractor has actual control of the Work, to ensure the Work is safe and to respond to any hazard, risk or incident in a timely and effective manner. The contractor has influence over how the Work is undertaken and control over who has access to the location or site where the Work is undertaken. Actual control is relevant to construction and trade work.

For construction work, management or control of the Work or work site extends to duties associated with being a principal contractor (PC). For construction work commissioned by the University which has a value of  $\geq$ \$250K, the Regulations deem the Work to be a construction project and a PC must be appointed. A PC has additional duties under the Regulations for construction projects (see Appendix 1 for more detail). It makes business and regulatory sense for the University to avoid being a PC for a construction project.

For construction work to the value of  $<$ \$250K, the University should ensure it clearly assigns management or control of the Work or work site to the contractor. This approach is consistent with the Act [s16 (3) of the Act] and Comcare's advice: *The legislation did not intend to impose a general obligation to supervise upon a PCBU (such as the University) who has engaged a specialist contractor. The contractors, as specialists in these activities will likely have influence over how the work is undertaken and control over who has access to the worksite* [Page 5 of [Contractor Management guidance for PCBUs \(comcare.gov.au\)](https://www.comcare.gov.au/contractor-management-guidance-for-pcbus)].

Note: The more control and influence the University has over the Work of a contractor, the greater the steps the University must take to reasonably comply with its duties under the Act and Regulations. The premise of contractor safety management is based on the requirement for the contractor to have and implement a WHSMS appropriate for the Work, for which the University is satisfied meets its obligations under the Act.

## Contractor classification

Contractors engaged by the University may be grouped under the following general types:

1. Construction (CON)
2. Repairs and maintenance (R&M)
3. Goods and services (G&S)
4. Scientific and research (S&R)
5. International contractors working within Australia
6. Contractors engaged to work for the University outside of Australia.

See information below for more detail on contractor types. Also refer to Appendices 1 to 6 for detailed information on the safety management requirements to engage, verify and manage the safety of each contractor type.

**Note:** In some situations a contractor may be engaged under more than one (1) type of category. For example:

- A contractor engaged outside of Australia to deliver goods and services in another country
- An international contractor working in Australia to instal equipment or infrastructure (may be deemed construction work).

In situations such as these examples or others, the fundamental approach should be:

- Determine the hazards and risks associated with the Work.
- Assess the controls the contractor will implement are satisfactory in either eliminating or minimising the risk of harm to a worker(s) or others, in so far as is reasonably practicable.
- Review this chapter and appendices for guidance, and request assistance from [whs@anu.edu.au](mailto:whs@anu.edu.au).

## Construction contractors

Construction work is defined by the Regulations (reg289) as: Any work carried out in connection with the construction, alteration, conversion, fitting-out, commissioning, renovation, repair, maintenance, refurbishment, demolition, decommissioning or dismantling of a structure. A structure is anything that is built or assembled, whether fixed or moveable, temporary or permanent.

Some construction work is defined as high risk work by the Regulations (reg291), which requires the University to be more vigilant in its assessment of contractor safety management systems and safety performance. Furthermore, such high risk work usually involves a request for, and issue of, a permit to work (PTW). Contractor inductions must identify the requirements for PTW.

Construction work commissioned by the University which is valued at or over \$250K is deemed to be a construction project which results in the University being a principal contractor (PC) unless the University engages another PCBU to be the PC. A PC has additional obligations under the Regulations (Part 6.4) and importantly must be authorised to have management or control of the Work.

Examples of work which may be deemed construction work (and not repairs and maintenance of a minor nature), include:

- Kitchen or amenity refit or upgrade (not replacement of a broken draw or cupboard)
- Replacement of ceiling throughout a structure (not replacement of single ceiling tiles)
- Modification to internal walls of a structure (not patching holes in walls or infill of a doorway)
- Renovating a meeting room or lecture theatre (not replacement of single chairs or rows)
- Replacing an item of plant within a structure (a building)
- Upgrading the surface of a roadway (not repairing potholes)
- Replacing sections of paths or walkways (not grinding of raised edges)
- Dismantling or demolition of a structure
- Civil earth works, including vegetation removal.

If there is uncertainty about whether or not an activity is construction work, contact [whs@anu.edu.au](mailto:whs@anu.edu.au) for clarification. Refer to Appendix 1 for more information on engaging, verifying and managing construction contractor safety.

## Repairs and maintenance contractors

Work undertaken as repairs and maintenance is described by Comcare to be: testing, maintenance or repair work of a **minor nature** carried out in connection with a structure. Examples of R&M work may include:

- Scheduled and/or preventative maintenance of a *minor nature*
- HVAC system repair or maintenance (not a system replacement)
- Landscape maintenance (does not include civil earth works)
- Specialist cleaning of internal and external structures (not general or routine cleaning delivered as a service)
- Replacement of lighting fixtures, repair/replacement of electrical fixtures, repair of appliances or equipment
- Repair of paths or walkways, for example infill of cracks or grinding off high points
- Surface and/or air sampling or testing for various substances, such as mould, asbestos, silica.

Completion of R&M work may involve these examples of major or more complex WHS risks:

- high risk work, for example, erection and use of scaffolding, elevated work platform, crane, hoist or forklift operations. If applicable there are specific licencing and safe work practices to be implemented in compliance with specific Regulations (see Schedule 3).
- the issue of a permit to work (PTW), for example, cleaning of roof gutters may involve working at height which poses a risk of a fall from one level to another (State/Territory WHS regulations may prescribe a height measurement, ie, >2 metres).
- exposure to hazardous chemicals, asbestos, silica and/or lead based materials.

If there is uncertainty about whether or not an activity is R&M work, contact [whs@anu.edu.au](mailto:whs@anu.edu.au) for clarification. Refer to Appendix 2 for more information on engaging, verifying and managing R&M contractor safety.

## Goods and services contractors

The provision of goods and services is available through a diverse range of contractors. Examples of these G&S contractor types is based on the type of good and/or service delivery, which may include:

- Labour hire engagement – the employment agency is the contractor and the labour hire employee is a worker (employee) for both the University and the employment agency (if the contractor itself has a presence or operates on campus, WHS requirements for the contractor's work will be applicable)
- Cleaning of external and internal parts or areas of a building (excluding scientific and research type contractors)
- Delivery of goods into non-facing or non-public areas of the University
- Information technology project work
- Professional services, ie, consultancies, external auditing, training delivery on and off University site
- Provision of catering where the contractor works on site at the University (not delivery of catering to a reception, shop front or meeting room)
- Event installation or set up of displays, infrastructure and/or audio/visual systems
- Design and/or manufacture of structures, equipment and/or plant (the Act and Regulations prescribe specific duties for the University and the contractor, contact [whs@anu.edu.au](mailto:whs@anu.edu.au) for advice on the University's regulatory obligations). Also see information under heading international contractors.
- Persons who deliver teaching and/or conduct research who represent or employed by a separate business entity.

Note:

1. Contractors who deliver goods to site and are unescorted past public reception or shop front areas during the delivery process must be assessed/inducted as a contractor working on site.
2. Contractors who primarily work off site and only attend the campus for limited periods, for example, project meetings, may be inducted as a visitor to the work area and do not require assessment/induction as a contractor working on site.
3. Contractors who only deliver to University receptions, shop fronts or loading docks do not need to be assessed nor inducted to the workplace unless there are specific hazards associated with the workplace (this may exclude scientific and research deliveries, see below).

### Scientific and research (S&R) contractors

Specialised contractors are engaged to provide the University with a range of goods and services applicable to the diversity of the University's teaching and research activities. These goods and services may include:

- Liquid nitrogen tank maintenance and delivery
- Hazardous waste collection and disposal, such as GMO, biosecurity, radiation and cytotoxic waste
- Radiation emergency or incident response
- Flora and fauna delivery and/or disposal
- Air filter or scrubber repair and/or maintenance
- Cleaning of high-risk work areas and/or laboratories
- Repair and/or maintenance of the University's heavy ion accelerator facility
- Technicians servicing scientific equipment
- Manufacture and/or supply of specialised equipment, apparatus and/or machinery (deemed plant under the Regulations).

Note:

- Certain kinds of plant, such as forklifts, cranes and some pressure equipment, require a licence from the WHS regulator to operate and some high-risk plant must also be registered with the WHS regulator – Comcare (see Parts 5.1, 5.2 and 5.3 of the Regulations).
- Contractors who solely deliver goods must be assessed as to the high-risk nature of the delivery and the requirement for specific safety controls to be implemented as part of the delivery process. In these cases, there may be a requirement to clearly articulate all parties' safety obligations and requirements in a contractual agreement and the University site specific safety procedures and/or induction.

### International contractors working within Australia

Australian WHS law applies to any PCBU (contractor) and its workers operating/working within Australia regardless of the PCBU's country of origin. Foreign contractors who undertake work for, and on behalf of, the University within Australia must comply with all Regulations applicable to the Work being performed. In some cases, Comcare may issue an exemption from compliance with certain Regulations on application by a PCBU. However, the exemption application process is time consuming. The PCBU is required to provide evidence (to the satisfaction of Comcare) the same level of safety or compliance will be achieved by an alternate strategy/action than direct compliance with the Regulation for which an exemption is requested. For example:

- foreign workers involved in construction work are still required to comply with the requirements of construction induction training, and other licencing requirements applicable to the Work.
- contractors who design (designer), manufacture and/or supply, then install plant at a University campus (in Australia) must comply with the applicable Regulations applicable to plant (see next heading and comments).

Consult with S&W, [whs@anu.edu.au](mailto:whs@anu.edu.au), well in advance of any international contractor engagement within Australia, to effectively plan the delivery of safe and compliant goods and services. Due to the fact the Regulations obligate a PCBU to do certain things (self-compliance), the University has a degree of flexibility to develop and implement alternate means of compliance provided the University has the evidence to support this action. The key issue with alternate means of compliance is to ensure the same level of health and safety is achieved by alternate means as would the case be by direct compliance with the Regulations.

## Contractors engaged to work for the University outside of Australia

The Regulations also apply to work the University undertakes outside of Australia, for example:

- refurbishing an outlying or remote office or campus in a foreign country
- teaching or research activities in a foreign country.

[Regulation 11A](#) identifies certain provisions that apply outside of Australia. When engaging contractors to perform work for which these provisions **may apply**, the University has a duty to ensure compliance by the contractor with the applicable provisions (regulatory requirements). The following provisions are identified by Regulation 11A:

- Work group determination, health and safety representative (HSR) elections and training (Part 2.1 of the Regulations). Engaging a contracted workforce may require an assessment of the need to ensure adequate WHS representation for the workforce.
- Issue resolution and cessation of unsafe work (Part 2.2 and 2.3 of the Regulations)
- Managing risks to health and safety (Part 3.1 of the Regulations)
- Information, training and instruction, working environment, first aid, emergency plans, personal protective equipment, remote or isolated work, hazardous atmospheres, storage of flammable or combustible substances, falling objects, and psychosocial risks (Part 3.2 of the Regulations)
- General electrical safety in workplaces and energised electrical work (Part 4.7 of the Regulations)
- Diving work (Part 4.8 of the Regulations)
- Additional duties relating to registered plant and plant designs which relates to records of plant design and the manufacture and import of plant, which are or could reasonably be expected to be used in Australia (Part 5.2 of the Regulations)
- Registration of plant designs and items of plant which are or could reasonably be expected to be used in Australia (Part 5.3 of the Regulations)
- Construction work excluding principle contractor and general construction training provisions (Part 6.1 to 6.3 of the Regulations)
- Any other provision or regulation which requires application in order to apply the provisions mentioned above.

**It is recommended the person responsible for engaging a Contractor to work for the University outside of Australia, liaise with Safety and Wellbeing, [whs@anu.edu.au](mailto:whs@anu.edu.au), about the specific WHS requirements both the University and Contractor may be required to comply with in relation to the Regulations. The Contractor must be informed prior to engagement (approach to market or request for quote, etc) what the specific WHS requirements will be in completing the Work outside of Australia. The situation becomes more complex when foreign contractors are engaged to work for the University, hence the need to consult with Safety and Wellbeing.**

## Engaging a contractor

When engaging a contractor there are five (5) basic requirements the University (as represented by a responsible person) must implement or ensure are completed:

1. Advice to a contractor about the hazards and/or risks associated with working on a University campus, site or location (workplace).
2. Verifying a contractor's WHSMS is satisfactory for the Work being undertaken (verifying the contractor has the capability and capacity to perform the Work in a safe and compliant manner).
3. Executing an agreement or contract which clearly articulates a contractor's WHS duties and the level of management or control of the workplace the contractor is granted by the University (a P/WO must identify the contractor's WHS obligations).
4. Inducting a contractor to the University workplace appropriate to the Work and presence in the workplace.
5. Managing a contractor's safety performance.

## Hazards and/or risks in the University workplace

While there is an expectation by the University its contractors will work in a safe and compliant manner, the University must demonstrate the same commitment to maintaining a safe and healthy workplace. Therefore, the University must advise its contractors about the type of hazards and/or risks in the University workplace, applicable to the area in which a contractor may work. This hazard and/or risk information must be issued to a contractor at the start or initial stages of the engagement or procurement process. The information will assist a contractor to adapt its WHSMS to manage or mitigate the hazards and/or risks in the University workplace, in addition to the hazards and/or risks associated with the Work.

## Verifying a contractor's WHSMS

Prior to executing a contract or agreement with a contractor, the University must verify the contractor has the capability and capacity to perform the Work in a safe and compliant manner. Verifying a contractor's WHSMS does not mean the University directs, instructs or otherwise controls or influences a contractor in how the Work is to be completed. Comcare provides this advice in relation to verifying contractors: *A PCBU needs to ensure that the contractor has the specified knowledge it claims to have, that they have appropriate safety systems in place and that, so far as it is possible, to test the contractor is complying with their systems (some sort of monitoring or verification process via your own contractor management system)* [Page 8 of [Contractor Management guidance for PCBUs \(comcare.gov.au\)](https://www.comcare.gov.au)].

The WHSMS information the University requires from a contractor is summarised in these criteria appropriate for the Work (aligned to the requirements in Chapter 3 of the Regulations):

- Safety management system
- WHS risk management process, including a WHS risk register
- High risk work (which may include high risk construction work for construction projects)
- Licences and qualifications of workers
- Workplace induction and WHS training
- Consultation, cooperation and coordination
- Regulatory and/or legal action taken against the contractor (PCBU) and/or its officers.

In addition to the requirements of Chapter 3 of the Regulations, a contractor who performs construction work has additional WHS duties (see Chapter 6 of the Regulations), so too does a contractor who is contracted by the University to be a principal contractor (PC) for a construction project (see Part 6.4 of the Regulations).

A PC's construction project *WHS management plan* (site specific plan) must be reviewed by the University as satisfactory prior to any work commencing on the construction project site or location (see reg309 of the Regulations). A PC may visit, inspect or tour the construction project site or location prior to work commencing in order to develop the required *WHS management plan*.

Contractors must be required to provide an appropriate standard of incident report to the University which supports the University's endeavours to eliminate or minimise the risk of harm to workers and others. Refer to WHS Management System Handbook (WHSMSHB) chapter 3.16 and 4.3 for more guidance on the information required to report and investigate WHS incidents.






A range of [appendices](#) to this chapter provide guidance on verifying the WHSMS of various contractors (including general guidance information), which are based on two (2) objective principles:

1. Fit for purpose, which means the WHSMS evidence provided by a contractor is:
  - a. suited to the Work to be completed, compliant with WHS regulations
  - b. appropriate for the size and/or complexity of the contractor's business operation. For example, a contractor certified to AS/NZS ISO 45001 and/or accreditation by the Office of Federal Safety Commissioner will have a sophisticated WHSMS whereas a sole trader contractor may simply have a series of safe work procedures or safe work method statements for the work they complete; and
2. Deemed to satisfy, which means the evidence provided by a contractor:
  - a. implies the contractor is aware of their WHS obligations as a PCBU and their WHS obligations to the University as a worker
  - b. implies compliance with applicable State/Territory WHS legislation in relation to the Work to be completed and supports the University to comply with the Act and Regulations.
  - c. provides a level of assurance to the University the contractor would work in a safe and compliant manner.

Note: the area responsible for engaging and managing a contractor must ensure appropriate records are maintained in relation to verifying the contractor's WHSMS in conjunction with applicable procurement processes.

### Executing an agreement or contract



An agreement or contract with a contractor should identify these key WHS responsibilities of the contractor in terms relevant to the Work:

-  Duty to comply with relevant WHS legislation and subordinate requirements called up by legislation (relevant legislation includes Commonwealth, State and/or Territory WHS legislation).
-  Obligation to report all WHS incidents (including near miss events) to a University representative as soon as practical, and immediately in the case of a notifiable incident. Note:
  - o Contractors and the University share concurrent duties to report notifiable incidents to the relevant WHS regulator (the University to Comcare, contractors to the WHS regulator in the State or Territory they operate).
  - o Notifiable incidents which occur outside of Australia may still be reportable to Comcare, see information under heading – [Contractors engaged to work for the University outside of Australia](#).
-  Management or control of the Work, site or location. This is an important aspect of the University's control and influence of a contractor, see information under heading – [Management or control of the workplace](#).
-  Conformance with all reasonable policy, procedure and/or direction issued by the University in relation to WHS matters.
-  Requirement to effectively manage the safety performance of subcontractors engaged to perform the Work.

### Workplace induction

Each contractor worker and sub-contractor worker must be inducted to the University workplace. This requirement is a regulatory obligation of the University to ensure workers are appropriately trained and instructed in the hazards, risks and control measures applicable to the University workplace. At the time of induction, a contractor must be reminded of their obligation to report all WHS incidents (including near miss events) to a University representative as soon as practical, and immediately in the case of a notifiable incident. The University manages contractor and sub-contractor inductions through an online process (the [University contractor induction](#)).

The type of workplace induction completed by a contractor/sub-contractor worker may depend on these factors:

-  Worker(s) is unescorted or not directly observed by a University responsible person, or
-  Worker(s) is escorted or directly observed by a University responsible person.




The following table provides guidance on the workplace induction process to be applied to various contractor types, taking into account the contractor's WHSMS has been verified by the University.

Contractor type	Induction process
<b>Construction</b>	The University contractor induction and local area induction applicable to the work site, area or location. It should not be necessary to escort this type of contractor other than during pre-start site inspections.
<b>Repairs and maintenance</b>	Unescorted – the University contractor induction and local area induction applicable to the work area.  Escorted – Local area induction as a visitor. In this case, the Work is one off, short term or very minor in nature.
<b>Goods and services</b>	Unescorted – the University contractor induction and local area induction applicable to the work area. Note – contracted workers embedded in the University workplace (ie, labour hire) must receive training and induction as would a University employee.  Escorted – Local area induction as a visitor.
<b>Scientific and research</b>	Unescorted – the University contractor induction and local area induction applicable to the work area.  Escorted – Local area induction as a visitor.
<b>Internationals working within Australia</b>	Unescorted – the University contractor induction, local area induction and instruction about specific hazards, risk and control measures associated with the Work.  Escorted – Local area induction as a visitor and instruction about specific hazards, risk and control measures associated with the Work.
<b>Engaged for work outside Australia</b>	The University must provide information on the hazards, risks and control measures applicable to the work being undertaken at the location outside of Australia (refer to Regulation 11A for more information on the applicable regulations/work and the <a href="#">information above</a> ).


















## Monitoring and managing contractor safety performance









Comcare advise Commonwealth PCBUs that relying on another business (the contracted party) to comply with their duties and obligations under relevant WHS legislation does not automatically result in compliance by a Commonwealth PCBU (the University). There is a need for the University to verify the contracted party is doing what they said they would do. This monitoring step is to ensure a contractor's WHSMS current and relevant for the Work, and they continue to work in a safe and compliant manner.

Key stages to engaging a contractor which support monitoring their safety performance include:

-  Agreement or contract execution and contractor induction – the contractor must acknowledge their understanding of, and agreement to comply with, their WHS duties and responsibilities.
-  Pre-start meeting (as applicable to the Work) – this is a practical activity to reinforce WHS duties and responsibilities of the contractor, especially for construction work or other work which involves high risk work (high risk work according to the Regulations).
-  Local area induction – an opportunity to reinforce WHS duties and responsibilities of the contractor when working in the local University area.















The following table provides guidance on how the University may practically monitor contractor safety performance.













Contractor type	Safety management strategies
<b>Construction</b>	<ul style="list-style-type: none"> <li> Reviewing the written WHS Management Plan for a construction project (site specific WHS plan)</li> <li> Pre-start and/or project meetings.</li> <li> Site inspections – either ad-hoc, periodic and/or when high risk work commences (high risk work as per the Regulations).</li> <li> Periodic audit of WHSMS and/or WHS management plan.</li> <li> Incident investigation.</li> </ul>
<b>Repairs and maintenance</b>	<ul style="list-style-type: none"> <li> Pre-start and/or project meetings.</li> <li> Site inspections or observation of the Work, where practical.</li> <li> Audit of WHSMS.</li> <li> Incident investigation.</li> </ul>
<b>Goods and services</b>	<ul style="list-style-type: none"> <li> Pre-start and/or service/contractual meetings.</li> <li> Site inspections and/or observation where practical.</li> <li> Audit of WHSMS.</li> <li> Incident investigation.</li> </ul>
<b>Scientific and research</b>	<ul style="list-style-type: none"> <li> Pre-start and/or service/contractual meetings.</li> <li> Site inspections and/or observation where practical.</li> <li> Audit of WHSMS.</li> <li> Incident investigation.</li> </ul>

Contractor type	Safety management strategies
International working within Australia	<ul style="list-style-type: none"> <li> Pre-start and/or project meetings.</li> <li> Site inspections and/or observations of the Work.</li> <li> Audit of the contractor's WHSMS specific to the Work.</li> <li> Incident investigation.</li> </ul>
Engaged for work outside Australia	<ul style="list-style-type: none"> <li> Pre-start and/or project meetings.</li> <li> Site inspections and/or observations of the Work.</li> <li> Audit of the contractor's WHSMS specific to the Work.</li> <li> Incident investigation.</li> </ul>

The response by the University (or the responsible person) to incidents and/or issues of non-compliance or non-conformance by a contractor must be timely, effective and assure the University's continuing compliance with its WHS duties. All engagement activities with a contractor, including safety performance issues, must be documented and those records retained for future reference.

The following table provides guidance on how the University may practically respond to and manage contractor safety performance involving incidents, non-compliance and/or non-conformance issue.

Safety performance issue type	Examples of safety performance issues	Response by the University
Non-compliance	<ul style="list-style-type: none"> <li> Failure to comply with a duty under applicable WHS Act.</li> <li> Failure to comply with a requirement under applicable WHS Regulations.</li> <li> Action or inaction by the contractor which results in the University failing in any of its duties under the Act and Regulations, or the University being the subject of Comcare enforcement action.</li> <li> Issued with an infringement notice or similar regulatory enforcement action by a State/Territory WHS regulator.</li> <li> Incident occurrence involving injury to, or death of, a worker.</li> <li> Failure to immediately report a notifiable incident to the University and the relevant State/Territory WHS regulator.</li> <li> Contractor workers' behaviour poses a risk of harm to themselves and/or others.</li> <li> Failure to obey or follow an instruction or direction issued by the University which involves compliance with WHS legislation.</li> </ul>	<ul style="list-style-type: none"> <li> Direct the contractor to immediately cease work completely or for a specific task/activity.</li> <li> Complete an audit of the contractor's WHSMS and issue corrective actions for completion in appropriate time frames in relation to the level of risk.</li> <li> Apply penalty clauses if detailed in an agreement or contract, or action breach/termination clauses.</li> <li> Conduct secondary or follow up inspections or audits.</li> <li> Report the contractor to a State/Territory WHS regulator.</li> <li> Direct contractor workers to be removed from site for unsafe behaviour or work practices.</li> </ul>






















Safety performance issue type	Examples of safety performance issues	Response by the University
<p><b>Non-conformance</b></p> <p>(Note, may lead to non-compliances in some cases)</p>	<ul style="list-style-type: none"> <li> Failure to conform to the contractor's WHSMS.</li> <li> Failure to conform to the WHS Management Plan for a construction project.</li> <li> Failure to report a WHS incident to the University in a timely manner or as agreed (excluding notifiable incidents).</li> <li> Contractor workers' behaviour does not align to the University's code of conduct.</li> <li> Failure to obey or follow an instruction or direction issued by the University (except non-compliance issues as mentioned above).</li> <li> Repeated violations of the University policy, such as <i>no smoking on campus</i>.</li> </ul>	<ul style="list-style-type: none"> <li> Direct the contractor to remedy or correct the issue within a reasonable time frame (based on the level of risk).</li> <li> Complete a site inspection of the Work.</li> <li> Audit the contractor's WHSMS and/or WHS management plan.</li> <li> Investigate incidents or issues.</li> <li> Issue instructions or directions to a contractor to conform to the University policy or contractual obligation(s).</li> <li> Direct contractor workers to be removed from site for code of conduct issues or repeated violations of the University policy.</li> </ul>





Further information on managing contractor safety performance is detailed in the [appendices](#) for each contractor type.

## Roles and Responsibilities

The following responsibilities are assigned to various University roles in relation to contractor engagement and safety management. Seek clarification or further information from [whs@anu.edu.au](mailto:whs@anu.edu.au).

Role	Responsibilities
<p>Officer of the University</p>	<p>Fulfil their due diligence obligations as detailed in section 27 (5) of the Act, to ensure the University (as a PCBU) complies with its duties under the Act and Regulations.</p> <p>Note: due diligence obligations are “doing” type obligations, a requirement to “exercise” and “take reasonable steps” to ensure the University is compliant with the Act and Regulations.</p>

Role	Responsibilities
<p>Director, GM or Senior Manager (delegate) with oversight of the Work for which a contractor is engaged</p>	<ul style="list-style-type: none"> <li> Ensure contractor engagement or management processes for area of responsibility are appropriately resourced to assure compliance with the University's duties under the Act and Regulations.</li> <li> Ensure the responsible person adheres to available reference and/or guidance information to implement contractor engagement/management processes.</li> <li> Provide direction and/or make decisions in response to contractor safety performance issues which assure compliance with the University's duties under the Act and Regulations.</li> <li> Initiate, monitor and/or finalise contractual clauses which compel a contractor to comply with their obligations to work in a safe and compliant manner. <b>This would require consultation with ULO.</b></li> <li> Refer specific, complex and/or regulatory issues to Safety and Wellbeing (whs@anu.edu.au), for advice and/or support.</li> </ul>
<p>Project, contract or contractor manager (a responsible person)</p>	<ul style="list-style-type: none"> <li> Engage contractors according to the University's procurement process in particular coordinating the verification of a contractor's WHSMS.</li> <li> Ensure local contractor induction processes are completed.</li> <li> Reviewing the written WHS Management Plan for a construction project (site specific WHS plan).</li> <li> Manage contractor safety performance.</li> <li> Complete regular/scheduled and unannounced site visits/inspections</li> <li> Refer contractor safety performance issues to their delegate for action.</li> <li> Request advice or support from Safety and Wellbeing for specific, complex or regulatory WHS issues.</li> </ul>
<p>WHS Officer/Manager for the area responsible for contractor engagement</p>	<ul style="list-style-type: none"> <li> Provide support to responsible persons in relation to verifying a contractor's WHSMS.</li> <li> Monitor contractor safety performance as required.</li> <li> Provide specialised advice to the delegate and responsible person about contractor safety performance issues.</li> <li> Investigate non-notifiable incidents involving a contractor, ie, Level 2/3 incidents.</li> </ul>
<p>Safety and Wellbeing</p>	<ul style="list-style-type: none"> <li> Provide specialist WHS advice in relation to practical compliance with the Act and Regulations.</li> <li> Assist with verifying a contractor's WHSMS for specific or complex issues.</li> <li> Completing random or coordinated site inspections of contractor safety performance, as requested by the responsible person.</li> <li> Investigation of notifiable incidents (Level 4/5 incidents).</li> <li> Liaison with WHS regulators (Comcare) on WHS matters.</li> </ul>

Role	Responsibilities
Manager, WHS, Safety and Wellbeing	<ul style="list-style-type: none"> <li> Provide specialised advice in relation to contractor engagement and safety management, and regulatory compliance issues.</li> <li> Review contractor WHSMS evidence where requested to do so, in particular where a contractor declares past enforcement and/or legal action.</li> <li> Lead investigations of notifiable incidents.</li> <li> Liaison with WHS regulators (Comcare) on regulatory matters.</li> </ul>
<a href="#">University Procurement and Contract Office</a>	Manage procurement and contracts for University wide goods and services.
Contractors	Comply with their contractual obligations to the University and perform the Work in a safe and compliant manner.

## Definitions

**Audit** – is a systematic and independent examination against defined criteria to determine whether health and safety requirements comply with the Act and/or Regulations, and/or conform to the contractor’s WHSMS. An audit aims to verify a contractor’s compliance and conformance in relation to WHS requirements.

**Conformance** relates to evidence which confirms a contractor’s WHSMS is being applied as intended and/or documented.

**Compliance** relates to evidence which confirms a contractor’s safety performance and/or work complies with applicable obligations under relevant State/Territory WHS legislation.

**Contract** refers to any written agreement or purchase order put in effect to engage contractors to perform the Work.

**Contractor** means any person(s) conducting a business or undertaking (PCBU), who is engaged by the University to carry out work for, and on behalf of, the University. A contractor can be an Australian PCBU or foreign entity.

**Construction project** is work that involves construction work where the cost of the construction work is \$250 000 or more (see reg292 of the Regulations).

**Construction work** means any work carried out in connection with the construction (built or assembled), alteration, conversion, fit-out, commissioning, renovation, repair, and maintenance, and refurbishment, demolition, decommissioning or dismantling of a structure (see reg289 of the Regulations). Construction work does not include:

- a. The manufacture of plant;
- b. The prefabrication of elements, other than at a place specifically established for the construction work, for use in construction work;
- c. The construction or assembly of a structure that once constructed or assembled is intended to be transported to another place;
- d. Testing, maintenance or repair work of a minor nature carried out in connection with a structure; and

- e. Mining or the exploration for or extraction of minerals.

**Deemed to satisfy** means the evidence provided by a contractor:

- ☞ implies the contractor is aware of their WHS obligations as a PCBU and their WHS obligations to the University as a worker
- ☞ implies compliance with applicable State/Territory WHS legislation in relation to the scope of work the contractor will complete for, or on behalf of, the University, and supports the University to comply with the Act and Regulations
- ☞ provides a level of assurance to the University the contractor would work in a safe and compliant manner.

**Designer** is a PCBU who designs plant, substance or structure which is used or could reasonably be expected to be used at a workplace. The designer has specific duties under the WHS Act to ensure the plant, substance or structure is designed without risks to the health and safety of persons.

**Fit for purpose** means the evidence provided by a contractor is:

- ☞ suited to and compliant with WHS regulations for the scope of work a contractor will complete for, or on behalf of, the University
- ☞ appropriate for the size and/or complexity of the contractor's business operation and/or certification to AS/NZS ISO 45001 and/or accreditation by the Office of Federal Safety Commissioner, with reference to the scope of work to be completed for, or on behalf of, the University.

**High risk work** - means any work as described in Schedule 3 of the Regulations or other State/Territory WHS regulations. This is not work associated with the University's process of determining low and high risk work areas across Colleges or Schools, which involves different risk management processes.

**High risk construction work** - means any work as described in reg291 of the Regulations or other State/Territory WHS regulations. This is not work associated with the University's process of determining low and high risk work areas across Colleges or Schools, which involves different risk management processes.

**Minor nature** is a term to describe work which is not construction work, ie, repairs and maintenance of a minor nature. This type of work generally:

- ☞ requires minimal controls to manage risks
- ☞ requires little to no pre-start preparation of the work area, and
- ☞ is small scale and often short duration (see [SWA](#)).

**Non-compliance** is an issue or situation which does not meet the requirements as prescribed in WHS legislation and/or other requirements called up by legislation.

**Non-conformance** is an issue or situation which does not meet the requirements as detailed in a PCBU's safety management system (excludes regulatory requirements, see non-compliance).





**Officer** is a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of a business or undertaking of the Commonwealth is taken to be an officer of the Commonwealth for the purposes of this Act (see s247 of the Act).

**Plant** – includes any machinery, equipment, appliance, container, implement and tool, and includes any component or anything fitted or connected to any of those things. Plant includes items as diverse as lifts, cranes, computers, machinery, conveyors, forklifts, vehicles, power tools and amusement devices.

**PCBU** – a person conducting a business or undertaking, see s5 of the Act.

**Principal Contractor (PC)** means a PCBU (original) who commissions a construction project or a PCBU engaged by the original PCBU as authorised to have management or control of the Work and to discharge the duties of the PC as per the Act and Regulations (see reg293 of the Regulations).

**Repairs and maintenance** is described by Comcare to be: testing, maintenance or repair work of a **minor nature** carried out in connection with a structure. The work can be carried out safely with minimal preparation of the work area considering these factors:

-  small scale work that doesn't impact the existing design of the building or structure
-  work that can be undertaken by workers with minimal supervision
-  work that can be completed using hand tools and/or only requires light-duty material e.g. material that can be used without mechanical aids and does not need a designated storage area, and
-  work that has minimal effect on the public, e.g. roads and footpaths are not affected.

**Responsible person** means a University employee or representative who performs a role as a project, contract or contractor manager. The responsible person would perform a role to engage, manage and/or monitor a contractor.

**Safe work method statement (SWMS)** is a document that sets out the high risk construction work activities to be carried out at a workplace, the hazards arising from these activities and the measures to be put in place to control the risks.

**Safely** is an adverb to describe how work is approached, planned and/or completed in accordance with relevant WHS legislation, codes of practice, standards and/or other industry accepted means of work which eliminates or minimises the risk of harm to workers and/or others.

**Structure** means anything that is constructed, whether fixed or moveable, temporary or permanent, see Division 3 of the Act and reg290 of the Regulations.

**Verify** means to make certain something is correct. For example, a tender evaluation or WHSMS audit would verify a contractor has a WHSMS which eliminates or minimises the risk of harm from hazards associated with the Work, in so far as is reasonably practicable.

**WHS management plan** is a site specific plan to manage work health and safety, and responding to WHS incidents. This plan must be prepared by a Principle Contractor prior to work commencing on a construction project site (see reg309 to reg313 of the Regulations).

**WHS management system (WHSMS)** is a set of policies, procedures and plans that systematically manage health and safety of work and aim to minimise the risk of injury and illness from workplace operations (Comcare).

**Work** is a holistic reference to activities, goods and/or services another PCBU undertakes/provides to the University and which occurs/provided within, on or part of a University workplace, site or location (whether within or outside of Australia).

**Worker** has the meaning of s7 of the Act. Practical examples of a worker include University employees, volunteers, apprentices, work experience students, VaHa, labour hire workers and contractors, and their workers (including subcontractors and their workers).

## Supporting documents and links

University documents	<p>Policy – Work health and safety          Procedure - Contractor safety engagement (under revision)  <a href="#">Policy – Procurement</a>  <a href="#">Procedure – Procurement</a>          Procedure – Alterations in and around University Buildings</p>
Legislation	<p><a href="#">Work Health and Safety Act 2011 (Cth)</a>  <a href="#">Work Health and Safety Regulations 2011 (Cth)</a>  <a href="#">Approved codes of practice (Commonwealth)</a></p>
Other References	<p><a href="#">Comcare – PCBUs</a>  <a href="#">Comcare – Senior managers and executives</a>  <a href="#">Comcare – Contractor management: Guidance for Commonwealth PCBUs</a>  <a href="#">Safe Work Australia – Jurisdictional WHS contacts</a>  <a href="#">Safe Work Australia – Hazar library</a></p>

## Appendices

- Appendix 1 – Engaging construction contractors.
- Appendix 2 – Engaging repairs and maintenance contractors.
- Appendix 3 – Engaging goods and services contractors
- Appendix 4 – Engaging scientific and research contractors.
- Appendix 5 – Engaging international contractors working in Australia.
- Appendix 6 – Engaging contractors performing work outside of Australia.
- Appendix 7 – Project or work site WHS inspection checklist.
- Appendix 8 – Contractor WHSMS audit site inspection checklist.
- Appendix 9 – WHSMS evidence guide for contractors.
- Appendix 10 – General guide to review contractor WHSMS.