



707 Effective Environmental & Safety Management of Contractors-Safe Outsourcing 101

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Faculty Biographies

Preston M. Canzius

Preston M. Canzius is a senior counsel in Chevron U.S.A. Inc.'s environmental practice group. His responsibilities include counseling his clients under the CAA, CERCLA, OSHA, RCRA, and TSCA.

Prior to joining Chevron, Mr. Canzius served as chief EHS counsel for Cingular/AT&T Wireless and senior counsel EHS and employment for AT&T Corporation. While at Cingular/AT&T Wireless and AT&T, he counseled clients in all aspects of EHS law, risk management and employment law. Mr. Canzius also was the vice president and a board member of the ACC's Washington Chapter.

Mr. Canzius received a BSChE and MSChE from the New Jersey Institute of Technology and his J.D. from Tulane Law School.

Bruce Klafter

Bruce Klafter is senior director, environmental, health, and safety (EHS) for Applied Materials, Inc. in Santa Clara, California. Mr. Klafter heads up Applied's EHS department, which is responsible for assisting business units worldwide with compliance, industrial hygiene, product safety, and various strategic initiatives. Before assuming his current role, Mr. Klafter was EHS counsel for the company.

Prior to joining Applied, Mr. Klafter was chair of the environmental group at Orrick, Herrington & Sutcliffe LLP (a top 100 U.S. law firm) in San Francisco. Mr. Klafter began his career as a deputy attorney general for the State of California.

Mr. Klafter is chair of ACC's Environmental Committee and serves as a board member of the Pacific Industrial and Business Association (PIBA).

Kurt E. Seel

Kurt E. Seel is a senior counsel for Calpine Corporation at its Folsom, California offices, where he is responsible for advising Calpine's safety health and environmental staff, Calpine's geysers geothermal business unit, and Calpine's construction and engineering personnel. His responsibilities include pre-litigation advice, managing outside litigation and transactional counsel, policy development, contract review and approval, and general legal advice.

Prior to joining Calpine, Mr. Seel worked as an assistant attorney general representing the Utah Board and Division of Oil, Gas, and Mining regarding natural resource law, including administrative hearings and litigation matters. Before representing the state of Utah he worked for eight years in the environmental law department of the northwest regional law firm of Bogle & Gates, LLC in its Portland, Oregon office. Mr. Seel also worked as a professional geologist in the environmental consulting and mining industries before he got his law degree.

Mr. Seel has a Masters degree from California Institute of Technology and a J.D. from UC Hastings College of the Law.



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Preston Canzius, Bruce Klafter and Kurt Seel

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Agenda

- Introductions
- Legal principles
- Effective management – bidding to disengagement
 - Qualification and selection
 - Contractual provisions
 - Administration and enforcement
- In-house counsel's role
- Examples
- Q & A

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General Liability Rule:

Owner is Not Liable for the
Negligence of Its
Independent Contractors.

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Definition of Independent Contractor

- California Labor Code section 3353 "Independent contractor" means any person who renders service for a specified recompense for a specified result, under the control of his principal as to the result of his work only and not as to the means by which such result is accomplished.
- Manner in which contractors are used can make this determination difficult, e.g. fully outsourced, employee supervisor, employees performing similar tasks.

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Exceptions to the General Rule and Control over safety – what's an owner to do?

- Does Owner owe any duty to assure work is performed safely (see General Rule)? If Owner exerts too much control it can be held liable for its contractor's acts.
- Independent Negligence by owner, e.g. a poorly drafted procedure.
- What constitutes control over the Independent Contractor, some legal tests:
 - Narrow Duty of Care – safety requirements must not "unreasonably increase, rather than decrease, the probability and severity of injury." (Hoechst-Celanese, 967 S.W. 2d 354)
 - Affirmatively contribute – some Ca. cases have held that a hirer must not control a contractor in such a way as to "affirmatively contribute" to an employee's injuries. (Hooker vs. CADOT, 115 Cal. Rptr. 2d 853)
- Conclusion: all requirements should be considered carefully in terms of necessity and ambiguity in terms of "control" issue.

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Other exceptions to general rule:

- Contractually taking responsibility (may be necessary if the Owner/Sponsor has special expertise and ability/need to supervise the job directly).
- OSHA multi- employer worksite – See http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=2024 Essentially OSHA's interpretation of law that "host employer" (owner) and its contractors are jointly responsible depending upon circumstances. Key factors are which party "controls" worksite, "creates" the hazards, "exposes" its employees and has responsibility to "correct" the situation. A hands-on or hands-off approach can both run a company afoul of this rule.
- Special Industries, such as Drilling contracts (involving direction, control and supervision) and Environmental Cleanup

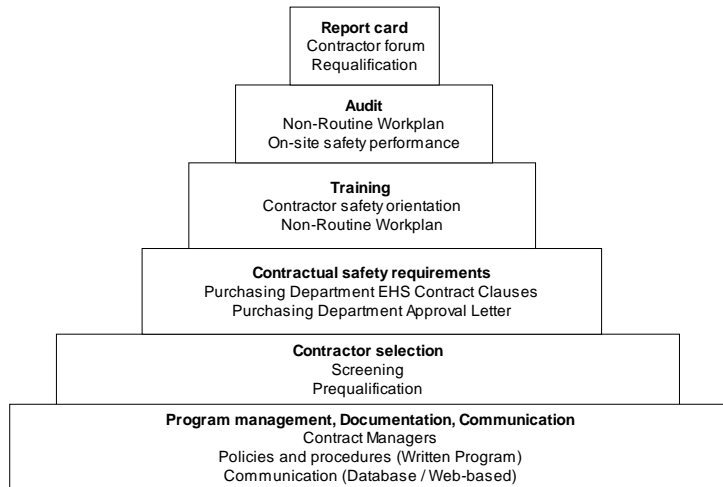


Statutory Liability exceptions: Environmental Issues

- Certain Environmental Laws impose responsibility on Owners and Operators of a facility regardless of whether the Owner/Operator uses an independent contractors:
 - Status as Owner or Operator
 - RCRA - 45 Fed. Reg. 72026 (October 30, 1980)
 - CAA - 40 CFR Part 61, US v. Sealite Corp 739 F. Supp. 464 (1990) CWA - U.S. v. East Kentucky Beverage, 24 ERC 1187, 1190 (1985); Burgess v. MV/Tamano, 564 F.2d 964, 982 (1977).
 - Non-Delegable duties – Restatement (Second) of Torts § 246
 - Landowner – Engineers/architects
 - Landowner – Engineers/architects
 - Handling hazardous materials? Dickerson, Inc. v. Holloway, 685 F. Supp 1555 (1987).



Contractor Safety Program Vision



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Contractor Safety Qualification Process

- Qualification Committee
 - Representatives from Operations, Purchasing, EHS
- Screening – determine degree of risk associated with contractor’s scope of work
- Pre-qualification
 - Compare contractor’s offsite injury rate and worker’s comp insurance rating with industry averages. Safety Performance must fall within acceptable range.
- Annual re-qualification
 - Review offsite injury rate and workers comp insurance rating; onsite performance; onsite business interruption statistics.

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Contractual Provisions – the basics

- Contractor responsibility for complying with all requirements;
- Host employer disclaims responsibility for directing daily activities;
- Contractor obliged to train its employees and to convey information from host on site-specific hazards, designate safety “champions”;
- Communication process which requires prompt notice of hazards;
- Host employer’s right to inspect and audit performance (but not obligation);
- Contractor to perform inspections and QC on its own programs;
- Penalties and incentives to encourage safe conduct at all times;
- Require all subcontractors to adhere to same set of requirements.

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Contractual Protections – Disclaimer of Joint/Vicarious Liability:

- Contractor must comply with all local state and federal laws and regulations. *If the Work triggers joint legal obligations pursuant to local, state, or federal laws and regulations on both Contractor and Owner, including environmental obligations, as between the parties Contractor is responsible for satisfying those joint obligations.* Contractor shall defend, indemnify, and hold harmless Owner from any and all claims, damages and liabilities which arise directly or indirectly from Contractor’s failures to satisfy joint legal obligations or legal requirements, Owner reserves the right, in its sole discretion, to take responsibility for any and all joint legal obligations and legal requirements, and may exercise that right at any time with written notice to Contractor of its intent to do so. If Owner exercises its option to control joint obligations, Contractor shall reimburse Owner its reasonable costs, expenses, and damages which Owner incurs as a result.

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Contractor Training

- **Environmental, Safety and Health Compliance Training and Training Records.** Contractor shall comply with all governmental laws and regulations and rules and policies of Company regarding the environment, safety and health. Contractor shall ensure that Contractor and Contractor's Agents successfully complete all environmental, safety and health training required by Company and Contractor shall maintain complete records of such training and make such records immediately available to Company and governmental regulators upon request.
- Basic principle is that Owner provides orientation and site-specific information; contractor provides all general training and use only qualified and trained personnel for the job.

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Contractual Protections – The Offsite Waste Disposal Risk:

- Contractor shall use its EPA Generator ID number for identifying and manifesting all solid and hazardous wastes generated as a result of the Work. Note: a possible exception may be where the contractor is disposing of waste generated by Owner's operations vs. its own. In that case, the contractor may utilize the Owner's ID no.
- [ID no. used by state and federal agencies to identify potentially responsible parties for cleaning up landfills]

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Contractual Protections – The Unknown Subsurface Contamination Problem:

- Contractor shall immediately report to Owner any discovered or suspected subsurface contamination and take actions to protect all workers at the site from possible exposure until Owner and Contractor further evaluate the possible health and environmental risks.
- Or "The party that first uncovers actual or suspected contamination [including subsurface] shall (1) immediately notify the other and (2) take steps to avoid exacerbating the contamination."

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Administration and Enforcement

- Owner must have someone responsible for administering and enforcing the contractor selection and monitoring policy.
- Example: The Facility Manager is assigned responsibility but the manager is assisted by the facility Safety, Health & Environmental manager and by a facility employee who acts as that contractor's "sponsor". Selection can also be made jointly by Facilities and by Purchasing.
- Contractor should designate someone for all communications (official and informal). Sometimes referred to as "Safety champion".
- Work plans should be required for all non-routine work. Contractor assesses all hazards associated with scope of work and identifies mitigations in advance, e.g. personal protective equipment. Owner should be careful not to "approve" the work plan if it lacks expertise to do so, i.e. contractor is not relieved of ultimate responsibility.
- Work plan should be posted at work area.

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Monitoring Your Contractor

- OSHA Multi-employer Worksite guidance permits observation/inspection of work, but does not require it. Observation of violations does not shift liability to owner, but it is obviously good practice to notify Contractor of problems.
- Do not direct contractor's employees except in the event of imminent hazard
 - What constitutes an imminent hazard (fact specific)?
 - Communicate through established channels
- Contract should reserve right to conduct an audit of contractor, i.e. a formal audit, perhaps by a third-party. Contract can specify who pays the cost. SH&E or Owner may conduct Audit.

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Incident Reporting/Investigation

- Contractor should be contractually obligated to report all onsite safety incidents/violations immediately.
- Contractor should conduct its own root cause investigation and share findings with Owner/Sponsor.
- Owner should insist that Contractor develop and implement a corrective action plan.
- Contractor must cooperate with Owner's investigation as well, e.g. make employees available for interviews.
- **IMPORTANT:** Parties should specify who will make any reports/notices to government agencies. Owner usually reserves that right.
- Contractor Notice of Safety Violation (Sample Form)

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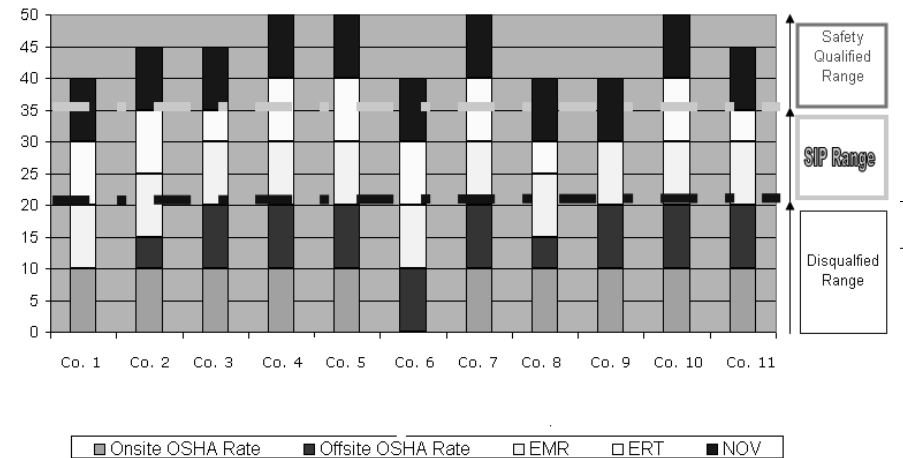


Disciplining Your Contractor

- Contractual Remedies should be spelled out
- Liquidated damages for certain types of events, e.g. ones that interrupt business
- Discipline may include a range of remedies
 - Requesting certain Contractor employees not return
 - Can you do it?
 - No payment while out of compliance condition
 - Probationary status
 - Dismissal from Site



Safety Metrics Rankings
Largest CAS Contractors (from left to right)





Incentive Programs

- Recognition of best performing contractors, e.g. right to advertise that fact
- Financial Rewards for Contractors, e.g. an extra payment based upon zero incidents through course of project. Note: if the amount is too large, it might encourage non-reporting. A more complete incentive could include \$\$ for prompt reporting of incidents and/or performance as reviewed by random inspections.
- Rewards/recognition for individual contractor employees can also be used to motivate good performance.
- The contractor may contribute by providing incentives to its individual employees, i.e. the cost does not have to be borne entirely by the Owner.

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Recordkeeping

- Important to keep track of key records as this is a multi-party arrangement with numerous regulatory aspects.
- All Notices of Violation with explanations of corrective action.
- Copies of workplans for non-routine work.
- Contractor Incident Forms
- Monthly Safety Reports from Contractor
- End of Job Appraisal by Owner's SH&E personnel
- Consider disseminating some sort of "Lessons Learned". Q: How risky is it?

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In-house counsel's role

- Develop/review/approve standard contract terms.
- Work with Purchasing on special terms and conditions.
- Review significant incidents and participate in internal investigations.
- Review/prepare notifications to agencies (generally in non-emergency context unless you're available 24/7!)
- Consult with Purchasing/Operations on disciplinary issues.

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Summary - The Elements of An Effective Safety Program at a Multi-Employer Site

1. **Qualification process that examines prospective contractors' safety records and expertise.**
2. **Bidding and selection process that incorporates safety criteria.**
3. **Maintenance of a "qualified" contractor database, i.e. institutional memory so that unsafe contractors are not used in future.**
4. **Utilization of contracts that clearly set safety expectations.**
5. **Effective communication of host employer's policies, procedures and site-specific hazards via training, guidebooks, signs, etc.**
6. **Review of the contractor's initial scope of work and major phases through local EHS, Facilities and or a project manager.**

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Elements of Safety Program (cont'd)

7. **Monitor contractor's on-the-job performance through inspections, telephone discussions, review of contractor's notes, safety plans, job hazard analyses, etc. Note: document review is intended not as an "approval", but as means of ascertaining that contractor is diligent.**
8. **Implement a process for reporting all unsafe conditions, prompt root cause analysis, immediate correction of hazards and notice to other affected employers.**
9. **Periodically audit contractor's training records.**
10. **Develop a recognition program to reward superior performance.**
11. **Regular review of program performance, policies and procedures.**
12. **Build collaborative program with contractors where communication is stressed and with mutual goal of continuous improvement of safety.**

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Contractor Safety Awareness Quiz

Contractor Name: _____ Date: _____
 Company: _____ Bldg. #: _____
 Purpose of Visit: _____

Instructions: Circle the correct answer. You may use the SCLA Facilities Contractor EHS Reference Manual as a reference guide to answer these questions. All questions must be answered correctly before receiving a temporary contractor access badge.

- 1) To report an emergency in Santa Clara/Sunnyvale, I should:
 - a. Dial 911
 - b. Dial 33333
 - c. Dial 411
- 2) I will not bring which of the following onto Company property:
 - a. Illegal drugs or alcohol
 - b. Unauthorized chemicals
 - c. Weapons
 - d. All of the above
- 3) If I hear a pulsing or steady alarm or warning announcement, I will:
 - a. Leave the building and go to my next appointment
 - b. Continue my work where I am
 - c. Leave the building and wait with my supervisor
 - d. Leave the building and work in my vehicle
- 4) To learn about the hazards specific to my work environment, I should:
 - a. Not worry and just get my work done
 - b. Ask the Security Guard
 - c. Require that the person signing me in provide specific Hazard Awareness information
- 5) At Company, I should never:
 - a. Block, move or hide fire equipment and safety equipment
 - b. Interrupt fire detection and/or fire suppression (sprinkler) systems without prior permission
 - c. Block aisles
 - d. Pour any substance into a storm drain
 - e. All of the above
- 6) To dispose of hazardous wastes, I will:
 - a. Pour them down any sink
 - b. Contact the Company Environmental Engineer for storage and disposal instructions
 - c. Pour them into the sanitary sewer or the acid waste neutralization system
 - d. Pour them into the landscaping
- 7) I can park my vehicle:
 - a. In reserved VIP spaces
 - b. In red curbed fire lane areas
 - c. In handicapped areas or on the grass
 - d. In general employee parking spaces

Contractor Safety Awareness Quiz

Contractor Name: _____ Date: _____

- 8) Before I work in a clean room, I should:
 - a. Remove my shoes and jacket
 - b. Enter the clean room through the emergency doors
 - c. Walk in and ask for help
 - d. Receive special clean room instructions on gowning protocols and work procedures

- 9) I can bring chemicals onto Company property:
 - a. Anytime
 - b. Only when authorized by completing the Chemical Authorization form and obtaining approval
 - c. Through the main lobbies only

I have received a copy of the Facilities Contractor EHS Reference Manual. I understand I should keep the manual with me at all times for reference as needed. I must visibly wear my temporary Contractor badge at all times while on company property. Failure to follow local, state and federal regulations and/or failure to follow Company's EHS requirements can result in removal from site and ultimately termination of access privileges.

Completed By: _____ Pass: Y N Security: _____
(Signature)

Project Work Plan, Checklist & Coordination Sheet for Project Managers, Contractors & Subcontractors

Introduction

Company policy requires a Work Plan and Checklist completed before commencing all on-site, work activities by contractors and subcontractors unless written procedures have been established for the task to be performed, and have been previously approved by Company. The Work Plan and Checklist are used to document this planning activity. Following these requirements minimizes the risk of injury/illness and unnecessary business interruptions. The Work Plan and Checklist are intended to aid in the coordination/planning of the activities of project subcontractors and does not provide a comprehensive outline for project management at Company.

A Work Plan and Checklist are to cover a maximum of **two weeks worth of activity**. If it is anticipated that the work is likely to extend for longer periods then two weeks, then a separate Work Plan and checklist, for each phase of the project (i.e., one for each phase of activity), shall be prepared. Information must be as complete and routed for signatures via the Project Manager (PM). Project Manager will provide a coordination sheet to all Contractors performing tasks on this project and to COMPANY Contactor EHS.

Signatures from COMPANY facilities and EHS must be obtained before work begins and Building Alerts are approved. Copies must be maintained by the PM and be posted at the work site. A completed, signed copy must also be provided to Company' Site EHS. Following completion and review of the Work Plan the contractor is responsible to inform the work team of the content of this plan.

NOTE: The review and approval from Facilities and EHS is only for the purpose of ascertaining that all Work Plan elements have been completed by the Contractor and does not constitute a substantive plan review. The review process is not intended to relieve the Contractor of responsibility for the contents of the Work Plan and its implementation. Contractors are responsible for full compliance with the Work Plan and with all applicable Company policies and with all applicable laws and regulations.

Scope of projects requiring a Work Plan:

This procedure applies to all Facilities/Operations projects conducted in or around Company SCLA. (It is not intended to preclude other elements as may be required in other Company Policies). Such activities may include, but are not limited to:

<ul style="list-style-type: none"> • Tool or other equipment installations/removals • Modification to facilities services (cooling water, power, exhaust, etc.) • Modification to fire suppression systems • Remodeling or renovation of any area • Confined space entry • Demolition work • Any activity which involves work at unprotected elevated locations (not safely accessible from ladders, permanent platforms or without guardrails) • Decontamination work • Scaffold erection and dismantling • Painting or other odor-causing activity, indoors or out 	<ul style="list-style-type: none"> • Vibration/Noise/Dust/Odor-causing activity, indoors or out • Excavations, trenching, or core drilling (any depth) • Any activity requiring structural support from roofing members (purlins/gluelams), including roof-mounted equip.) • Crane lifts • Any activity which requires rigging or other movement of large equipment • Contaminated duct cutting • Concrete pours • Routing of cables, conduits, or piping • Industrial Hygiene sampling • Photo shoots
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Pre-Task Work Plan Development Steps:

- Step 1** Project Manager will provide Contractor with Scope of Work and assist by identifying any other forms that may need to be submitted: (Building Alerts, Confined Space Permits, temporary Chemical Authorization, Hot Work Permits, Gas Life Safety Impairment forms). Attach or reference these in Work Plan. Consult Site Safety, Site Maintenance Personnel, or Tool Manager as necessary
- Step 2** Project Manager and Contractor Work Plan Author discuss potential hazards corresponding to each task. Record potential hazards on the Task Plan and steps to eliminate hazards.
- Step 3** Complete the Work Plan and Checklist. Identify steps to be performed to complete the work in sequential order on the Task Plan. Identify, plan, and list measures to be followed to prevent, or eliminate hazards and unnecessary business interruption this work might cause. Record these measures on the Task Plan.
- Step 4** Return pages 2 through 5 of Work Plan and Checklist to Project Manager for their review and approval by EHS and Facilities. **Work shall not begin until all required forms and approvals have been obtained.**
- Step 5** Contractor Foreman shall review Work Plan and Checklist with work crews and document via a sign-in sheet that all hazards have been addressed. Ensure the Task Plan and Checklist are **posted** at the work site.
- Step 6** Project Manager to communicate to Facilities and EHS when work is complete. Project Manager returns all posted Task Plans to EHS.

Project Information (To be completed by Project Manager)

Project Name:		Project Location: (Bldg/Bay/Pad/Pole#)			
Description of work being performed by specific trade:					
Project Duration		Building Alert Required? Yes <input type="checkbox"/> No <input type="checkbox"/>		Building Alert # NA <input type="checkbox"/>	
From: (Note: Dates should not exceed two weeks)		To: (Note: Dates should not exceed two weeks)		FSR # or CAR #: NA <input type="checkbox"/>	
		If Yes, Approval <input type="checkbox"/> Informational Only <input type="checkbox"/>			
Contact Information	Contractor Work Plan Author or foreman (specify if not foreman)	Project Manager (PM)	Company Facilities Contract Manager*	Company Building Environmental* (If checking yes to boxes: 1, 4, 5, 10, 16, 24-27, 30)	Company Contractor Safety/EHS* (Last signature)
Print name					
Company					
Phone					
Cell					
Nextel					
Signature					
Date					

* **NOTE: The review and approval from Facilities and EHS is only for the purpose of ascertaining that all Work Plan elements have been completed by the Contractor and does not constitute a substantive plan review. The review process is not intended to relieve the Contractor of responsibility for the contents of the Work Plan and its implementation. Contractors are responsible for full compliance with the Work Plan and with all applicable Company policies and with all applicable laws and regulations.**

Section 1: Task Plan Checklist (To be completed by Contractor's Work Plan Author)

	Description on Task Plan?	Attach-ment?	Yes	No	Note: Items 1-10: Additional forms will need to be completed or approvals obtained prior to the Task Plan being approved.
1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will workers be bringing hazardous materials (including glues, cleaners, paints, oils, etc.) to the work area? If yes, foreman must have an MSDS for each material at the location of work and furnish a copy to the PM and EHS prior to beginning work for review and approval.
2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will workers be using open flame or other sources of fire ignition (brazing, welding, torch cutting)? Will workers be using a powder-actuated tool? Or could workers' activity produce sparks? If any statement above was answered, "yes", then foreman must complete and sign "Hot Work" permit before working.
3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will workers be entering a Confined Space (tank, trench, air handler, manhole, or vault)? If yes, task plan must meet the requirements of Company' Confined Space Management Program. Attach applicable documents. All workers must have appropriate training.
4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will workers perform decontamination activities or remove equipment/materials that may be contaminated? If yes, consult Company' Equipment Decommissioning, Decontamination, Declaration (3D form: (CORPEHS008.02.01) according to the equipment's disposition.
5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Could task possibly interrupt fire or gas life safety systems (i.e., testing flow switches, altering sprinkler systems, moving leak detection, tapping into exhaust ducts, etc.)? If yes, foreman must contact Gas Life Safety or Fire Life Safety.
6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will task involve rigging or other material handling equipment (i.e., crane lift, forklift, pallet jack, etc.)? Provide equipment operation certifications as required.
7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will task produce vibration or noise ? (GLSS may need to be notified).
8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will task produce dust (sheetrock, grinding, etc.)? (FLSS may need to be notified).
9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does task involve installing, removing or modifying gas or liquid lines and/or needing access to gas or systems? If yes, follow the Process Gas and Liquid Delivery Line Installation Checklist (PGLDLIC) process.
10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will workers be cutting, removing, or disturbing floor tile, pipe insulation, roofing material , or other material containing asbestos or lead ? Contact EHS to coordinate sampling and remediation as required.
11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will task involve an overhead crane lift ? If yes, attach pick plan and operator certificates.

Section 1: Task Plan Checklist, Continued

	Description on Task Plan?	Yes	No	
12	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do all workers have appropriate safety training for the tasks they will perform (i.e., forklift, asbestos/lead worker, decontamination, confined space, crane operator, LOTO, ladders, hazardous materials, etc.)? Be prepared to provide copies of records if requested by EHS.

13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have all workers on site been briefed on the evacuation routes and procedures for the worksite? (A building map is available from the project PM.)																		
14	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Were workers briefed of the location of phones, eyewash/showers, and fire extinguishers ?																		
15	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Do all workers know the location of the Material Safety Data Sheets (MSDS) ? MSDS binders are located in the building lobby or ask site EHS.																		
16	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will there be work on systems with Hazardous Energy (actual or potential): chemical, thermal, hydraulic, pneumatic, electrical, mechanical, kinetic, gravity, etc.? If yes, workers must practice proper hazardous energy control (i.e., Lock-Out Tag Out , double block and bleed, block out, etc.). Contractors must obtain appropriate LOTO tags, devices and PPE.																		
17	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will workers encounter or use hazardous materials in the work area? If yes, specify below. <table border="0" style="width: 100%;"> <tr> <td><input type="checkbox"/> Corrosives</td> <td><input type="checkbox"/> Flammable/combustibles</td> </tr> <tr> <td><input type="checkbox"/> Oxidizers</td> <td><input type="checkbox"/> Inert or nonflammable gases</td> </tr> <tr> <td><input type="checkbox"/> Poisons</td> <td><input type="checkbox"/> Cryogenics</td> </tr> <tr> <td colspan="2"><input type="checkbox"/> Other (Describe)</td> </tr> </table>	<input type="checkbox"/> Corrosives	<input type="checkbox"/> Flammable/combustibles	<input type="checkbox"/> Oxidizers	<input type="checkbox"/> Inert or nonflammable gases	<input type="checkbox"/> Poisons	<input type="checkbox"/> Cryogenics	<input type="checkbox"/> Other (Describe)											
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18	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Could this task produce odors ? If yes, address odor control in the task plan.																		
19	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will workers be removing or disturbing fiberglass material? If yes, specify PPE and particle containment as applicable.																		
20	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will tasks require Personal Protective Equipment (PPE) ? If yes, specify below. NOTE: The contractor/vendor must supply appropriate PPE. <table border="0" style="width: 100%;"> <tr> <td><input type="checkbox"/> Safety glasses/goggles</td> <td><input type="checkbox"/> Steel toed safety shoes</td> </tr> <tr> <td><input type="checkbox"/> Face shield</td> <td><input type="checkbox"/> Chemical boots</td> </tr> <tr> <td><input type="checkbox"/> Nitrile gloves</td> <td><input type="checkbox"/> Sturdy work boots</td> </tr> <tr> <td><input type="checkbox"/> Acid gloves</td> <td><input type="checkbox"/> Hard hat</td> </tr> <tr> <td><input type="checkbox"/> Neoprene gloves</td> <td><input type="checkbox"/> Welding helmet</td> </tr> <tr> <td><input type="checkbox"/> Work gloves</td> <td><input type="checkbox"/> Fall protection PPE</td> </tr> <tr> <td><input type="checkbox"/> Electrical PPE</td> <td><input type="checkbox"/> Chemically-resistant suit</td> </tr> <tr> <td><input type="checkbox"/> Hearing protection</td> <td><input type="checkbox"/> Respiratory Protection</td> </tr> <tr> <td colspan="2"><input type="checkbox"/> Other (Describe)</td> </tr> </table>	<input type="checkbox"/> Safety glasses/goggles	<input type="checkbox"/> Steel toed safety shoes	<input type="checkbox"/> Face shield	<input type="checkbox"/> Chemical boots	<input type="checkbox"/> Nitrile gloves	<input type="checkbox"/> Sturdy work boots	<input type="checkbox"/> Acid gloves	<input type="checkbox"/> Hard hat	<input type="checkbox"/> Neoprene gloves	<input type="checkbox"/> Welding helmet	<input type="checkbox"/> Work gloves	<input type="checkbox"/> Fall protection PPE	<input type="checkbox"/> Electrical PPE	<input type="checkbox"/> Chemically-resistant suit	<input type="checkbox"/> Hearing protection	<input type="checkbox"/> Respiratory Protection	<input type="checkbox"/> Other (Describe)	
<input type="checkbox"/> Safety glasses/goggles	<input type="checkbox"/> Steel toed safety shoes																					
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<input type="checkbox"/> Work gloves	<input type="checkbox"/> Fall protection PPE																					
<input type="checkbox"/> Electrical PPE	<input type="checkbox"/> Chemically-resistant suit																					
<input type="checkbox"/> Hearing protection	<input type="checkbox"/> Respiratory Protection																					
<input type="checkbox"/> Other (Describe)																						
21	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will task require removing raised floor tiles ? If yes, appropriate barricading methods and work practices must be employed. (e.g., open floor tiles must not be left unattended).																		
22	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Could task activities result in hazards to those above, below, or around the work area? If yes, appropriate barricading methods to keep non-essential personnel away from your work zone must be employed.																		
23	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will work be conducted at elevated locations (i.e., using a ladder, scaffold, scissor lift) or will workers be working within 6 ft. of roof edges																		
24	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are all workers aware that no material (including water) may be released to the Storm Drain or left where it may impact the storm drain at a later time? Refer to Storm Drain Map.																		
25	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Could this task result in leaks or spills of liquids (fire water, oils, DI water, chemicals, etc.)? If yes, provide appropriate and adequate spill containment.																		
26	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Could work result in Hazardous Waste being generated? Coordinate waste removal and transportation with EHS and/or Company on-site hazardous waste vendor.																		
27	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will your task impact the operation or effectiveness of a pollution prevention system (scrubber, wasteH ₂ O treatment system, etc.)? If yes, indicate system(s) on the Task Plan.																		
28	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will trash or debris be generated? If yes, describe how it will be collected, transported, labeled, and stored on the task plan.																		
29	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are you aware of others who may be working in or need access to the same work area and may be affected by your work?																		
30	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Will soil or ground water be disposed of during excavation? Notify bldg./campus Environmental representative for further instructions and requirements.																		
31	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other:																		

Section 2: Work Plan

Contractor Foreman/Work Plan Author: Write as detailed as possible a description of the task, the potential hazard, and action or equipment that will be used to eliminate or control the hazard.

NOTE: The review and approval from Facilities and EHS is only for the purpose of ascertaining that all Work Plan elements have been completed by the Contractor and does not constitute a substantive plan review. The review process is not intended to relieve the Contractor of responsibility for the contents of the Work Plan and its implementation. Contractors are responsible for full compliance with the Work Plan and with all applicable Company policies and with all applicable laws and regulation

Steps to Take to Complete Work	Hazards	Required Actions to Eliminate or Control the Hazard
1. Task Plan Checklist and Task Plan reviewed by crew working on project and posted at job site.	EHS or Mr. Clean stopping by and not finding completed task plan.	Review with workers and post at job site.
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10. Final Step: Worksite inspected, floor tiles in place, barricading and work/task plans taken down, trash removed, life safety points re-enabled, etc.		

I, **Contractor Foreman (Sign):** _____ have reviewed the Work Plan Checklist with the crew performing the tasks on **(Date):** _____ prior to starting the work. Information covered included but was not limited to: daily work plan, hazards in the area and their controls, required PPE to perform tasks, and other relevant information specific to this project.

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1.0 Purpose and Scope

The purpose of this guideline and appendices is to outline a generic protocol for the selection and monitoring of Medium- and High-Risk contractors, and to outline the processes and procedures that should be followed to help achieve the ultimate goal of an injury free workplace at all Company sites.

This guideline, in conjunction with the appendices titled *Contractor Pre-Qualification Safety Questionnaire*, *Contractor Executive Management Acknowledgment Letter*, *Contractor Job Safety Audit*, and the *Contractor Safety Performance Appraisal*, shall be utilized for the development of business unit and site procedures as necessary to assure the appropriate evaluation of contractors prior to and after hiring them to conduct work at a Company plant, project or site.

The scope of this guideline is to incorporate and focus attention on Contractors and Subcontractors that are Company-designated as Affected by this guideline. Site management will evaluate contractors and their subcontractors with the assistance of Company Safety and Health staff as needed prior to performing work at Company. Safety qualification criteria will be periodically reviewed to assure that such criteria incorporate current regulatory requirements, industry best practices and Company guidelines and standards as they apply to contractor safety management.

This guideline outlines current minimum requirements. Site Managers at their discretion may impose any additional site-specific requirements. Variance from this guideline that represents innovation and results in increased safety is encouraged. The Site Manager that is obtaining the contractor's services will have ultimate responsibility to assure that the contractor has been appropriately evaluated prior to commencing work, and to monitor the continued safe work performance of the contractor.

2.0 Definitions

- 2.1 **Affected Contractor:** Non-Company personnel who enter a Company plant, project or site to conduct work in the Medium- to High-Risk contractor category.
- 2.2 **Low-Risk Contractor:** Contractors performing non-process related work or routine work that does not involve high-hazard potential. Low-Risk Contractors are exempt from this guideline. Low-risk contractors are those who will not work on or near any processes or process-related equipment or construction areas. If their work does require them to enter the process or construction area, they will be under the direct supervision of a plant, project or site employee at all times. Examples of low-risk contractors are telephone repair personnel, air-conditioning mechanics, copier repair, and truck drivers (not including fuel or chemical delivery). The Site Manager is responsible for making the decision to

exempt a contractor as a Low-Risk Contractor after considering the stated criteria within this guideline. If there is any question as to whether a contractor is or is not a Low-Risk Contractor, the Site Manager shall contact Company Safety and Health staff to assist in the determination.

- 2.3 **Medium- to High-Risk Contractor:** A contractor that works in plant, project, or site operating or construction areas, and/or engages in potentially high-hazard activities (e.g., construction, confined space entry, elevated work, under Lockout Tagout, etc.). Medium- to High-Risk contractors may work in general plant, project or site operational or construction areas without the constant presence of a Company employee. The Site Manager or his/her designee will evaluate all Medium- to High-Risk Contractors before they perform work at the site. Company Safety and Health staff will provide assistance, using the process criteria described in this guideline or superior methods.
- 2.4 **Site Manager:** Company plant, project or site manager that has ultimate responsibility for the site where contracting work is being performed.
- 2.5 **Company Safety and Health Staff:** The site, regional or corporate safety and health manager/specialist who is assigned to assist the Company site that will utilize the contractor. Company Safety and Health Staff are responsible for supporting the evaluation, monitoring and performance appraisal of all Affected Contractors with an Experience Modification Rate (EMR) greater than 1.0. Among other duties specified in this guideline, Company Safety and Health Staff will:
- Evaluate the Contractor Pre-qualification Safety Questionnaire. This evaluation may include:
 - Checking OSHA's web site (www.osha.gov) for previous OSHA citations;
 - Checking listed references for previous performance;
 - Assist Site Managers in determining the requirements for the submittal of a written safety plan, when required, and reviewing the plan;
 - Assist Site Managers in determining the amount of oversight and auditing that should be conducted;
 - Participate in Contractor accident investigations and Company investigations of Contractor accidents, as needed;
 - Ensure that the appropriate Site personnel are adequately trained to:
 - Evaluate pre-qualification documents according to the criteria in this standard and to know the circumstances where they must contact Company Safety and Health;
 - Conduct on-site audits of Affected Contractors while they are performing their work; and
 - Complete the Contractor Performance Appraisal for Affected Contractors.

- 2.6 **Company Sponsor:** A trained plant, project or site employee who is designated by the Site Manager to monitor an Affected Contractor's activities while working for Company. The sponsor may delegate functions to other plant, site, or project personnel according to site written procedures. The Company Sponsor will act as liaison between contractor representatives and Company personnel as needed to assist Affected Contractors while they are at the Company location.
- 2.7 **Contractor Representative:** The on-site individual that is identified by the Affected Contractor to have the ultimate responsibility and decision-making authority for the contractor while working at a Company plant, project or site. Designation of a Contractor Representative with overall authority is required for all Affected Contractors. This designation will be in writing so that information is documented and can be circulated to appropriate Company personnel.

This individual shall ensure that all Contractor personnel adhere to safe work practices and site safety rules. In the event of multiple shifts, the Contractor Representative shall identify a primary contact for each shift. The shift contact and/or designated Contractor Representative shall be on site at all times that the contractor's personnel are on-site.

- 2.8 **Experience Modification Rate (EMR):** This is a ratio of a company's frequency and severity of injuries vs. an average estimated amount of loss for that industry, based on Workers' Compensation information. This information must be provided in writing on the contractor's insurance carrier's letterhead. Affected Contractors with an EMR greater than 1.0 shall be referred to Company Safety and Health staff for further evaluation. This evaluation shall include the development of a safety plan by the Affected Contractor. Work will not begin until after approval of the plan by the Company officer in charge of awarding the contract.
- 3.0 **Contractor Safety Pre-Qualification**
- 3.1 The pre-qualification safety questionnaire (Reference Appendix A) is designed to obtain current and historical safety information and performance data from all Affected Contractors prior to execution of a contract that allows them to work for Company. The Site Manager or his/her designee, and Company Safety and Health are responsible for the evaluation of the pre-qualification questionnaires, as outlined in this procedure. All sites will file completed questionnaires on site in accordance with Company records retention policies and will enter them into Company's contractor safety database.
- 3.2 The Company plant, project or site will notify Company Contracts of the need to initiate a Continuing Services Agreement (CSA) and/or to execute a contract for the work to be performed by an Affected Contractor. Company Contracts will submit a Company Contractor Safety Pre-Qualification Questionnaire to

the Affected Contractor, attached as an exhibit to the unexecuted contract or CSA. Company Contracts will forward the completed questionnaire to the Site Manager for review and approval prior to executing the CSA or contract. The Company officer in charge of awarding the contract is responsible for assuring that this process is followed.

- 3.3 The Site Manager or his/her designee will evaluate all Medium- to High-Risk Contractors before they perform work at the site. Company Safety and Health staff will provide assistance, using the process described in this procedure, or equivalent or superior methods.
- 3.4 All Affected Contractors shall be pre-qualified before or as part of the process of executing a Company contract or CSA. The Contractor Pre-Qualification Safety Questionnaire shall be submitted, reviewed and approved by the Site Manager as a part of the process of entering into a contract with the Affected Contractor. The completed Questionnaire must be filed or otherwise available on-site and entered into Company's contractor safety database. This documentation should be updated annually or whenever the Company Sponsor initiates a new CSA. Before work begins, Company Safety and Health shall evaluate Affected Contractors with an EMR greater than 1.0.
- 4.0 **Subcontractors**
- 4.1 All subcontractors that meet the definition of an Affected Contractor shall be required to comply with the same requirements as the Affected Contractor who subcontracts with them.
- 4.2 It shall be the responsibility of the primary contractor to obtain and evaluate required information from the retained subcontractor.
- 4.3 The Company Sponsor and/or Site Manager have the right to reject any subcontractor that does not meet qualification criteria.
- 5.0 **Sole Proprietors and Small Businesses**
- 5.1 Affected Contractors that are Sole Proprietors (self-employed practitioners) and Small Businesses (less than 10 employees) may be exempt from regulatory requirements for record keeping and written safety programs. Therefore they may not be able to provide the standard information. In these cases, they shall be individually evaluated and approved by the Site Manager or his/her designee and shall be reviewed based on job hazards.
- 5.2 Affected Sole Proprietors and Small Businesses shall submit a written safety plan or procedure for the work to be performed at the Company plant, project, or site. The Affected Contractor must provide all appropriate certifications associated with any applicable training required for the job. The Site Manager

or his/her designee is responsible for review of the contractor safety plan and shall be assisted by Company Safety and Health as needed.

6.0 Contractor Pre-Job Communication and Training Requirements

- 6.1 As part of any bid package, the Site Manager or his/her designee shall clearly define the job scope and provide written information to the Affected Contractor about potential hazards, site-specific hazards and required mitigation steps (including personal protective equipment) that may exceed regulatory standards.
- 6.2 Prior to commencing work at a Company site, Contractors must receive applicable information as listed in the table within Subsection 6.6 of this Section. This information will be provided by the Company Sponsor or his/her designee to the Contractor in writing (e.g. Safety Handbooks, etc.) or during on-site orientation. The contractor will submit appropriate documentation of proper completion of training (e.g. sign-up sheets, training matrix signed by the owner or an officer of the contract company or designee, etc.) to the Company Sponsor prior to any individual contractor employee commencing work on-site. In addition, the Affected Contractor must provide all appropriate certifications associated with any applicable training required for the job.
- 6.3 Prior to commencing work, the Affected Contractor shall submit a task analysis/hazard evaluation to their Company Sponsor that delineates potential hazards associated with the work to be performed, and measures that will be used to mitigate the hazards and protect all personnel on site.
- 6.4 Whenever the job scope or site conditions change in a significant manner, the above-required information will be modified, resubmitted and reviewed/approved, by the Company Sponsor and the Affected Contractor.
- 6.5 As an element of executing a CSA or contract with an Affected Contractor, a letter equivalent to the Contractor Executive Management Acknowledgment Letter, attached as Appendix C, will be sent to the President of the contracting company. Receipt of an equivalent returned letter, signed by the President/CEO of the contractor organization, is required before work can begin. A copy is to be filed in the contractor's file on site.

6.6 Minimum Required Contractor Communication and Training will include:

Contractor Communication and Training Requirements
<i>Company Site Procedures/Information</i>
Site Emergency Notification and Response Procedures
Site Personal Protective Equipment Requirements

Site Safety Orientation (<i>See Appendix B for sample checklist</i>)
Identification of Company Sponsor
Site Incident/Injury Reporting Procedure
Site Fire Protection and Housekeeping Requirements
Multi-employer Site Hazard Communication
Material Safety Data Sheets (MSDS's) specific to Tasks *
Site Fall Protection Requirements *
Site Work Permit Systems and Procedures
Site Contractor Lockout Tagout Procedure *
Site Confined Space Procedure *
Electrical Safety *
Overview of Site Processes **
Type and Nature of Hazards Associated with Processes **
Identification of Fire, Release and Exposure Hazards in Processes **

* Required only if the contractor will engage in these activities. The communication provided by the site will be site-specific procedures. The Contractor is responsible for providing all Regulatory/OSHA-required training to the Contractors employees.

** Communication will be specific to the processes that will have direct effect on the Contractor.

Training and communication shall be provided in a form and language understandable to contractor employees; the contractor shall provide translators as needed.

7.0 Contractor Job Safety Audit

- 7.1 An audit form (Reference Sample Form provided as Appendix D) will be used as a tool to evaluate the safety performance of all Affected Contractors while working on a Company site. Company Safety and Health or specifically trained site personnel will be responsible for conducting and completing these audits for each Affected Contractor at least once during the task duration or more frequently as considered appropriate (based on safety performance) by either the Company Sponsor and/or Company Health and Safety staff. Completed audits shall be filed on site and may be entered into Company's contractor safety database in accordance with Company site records retention policies.

NOTE: All workplace verbal direction and feedback by Company personnel will be provided *only* to Contractor Supervisors or other such Management Representatives of the Contractors Organization. Company site personnel will not and should *never* be involved in personally directing or otherwise managing Contractor employees.

8.0 Incident Reporting

- 8.1 All Contractor incidents, near misses, property damage, and injuries must be reported to the Company Sponsor. An incident/accident report must be submitted to the Company Sponsor by the Contractor Representative before the end of the shift, or before the contractor leaves the site, whichever occurs first. The Company Sponsor may require additional follow-up, depending upon the potential severity of the incident.
- 8.2 For Contractor incidents that resulted or could have resulted in a fatality, serious injury, and/or excessive property damage, an investigation is required to be conducted by the Contractor. The investigation will be initiated immediately after the incident is reported and completed in a timely manner. Company may elect to conduct a parallel investigation, and/or name appropriate personnel to participate on the Contractor's investigation team. Company may at any time suspend work activities. For incidents that have or are likely to result in contractor permanent disability or fatality, Company may also conduct its own accident investigation, in parallel to the contractors' investigation.
- 8.3 All Company sites will document hours worked by all contractors and all contractor incidents/accidents on a monthly basis. This information shall be sent to Company Corporate Safety at the beginning of the following month.

9.0 Imminent Hazards

- 9.1 All Company site personnel are responsible for stopping Contractor activities if they believe that an imminent hazard is present. Examples of imminent hazard situations may include, but are not limited to, the following:
- Working without adequate fall protection;
 - Working in improperly protected excavations;
 - Exposure to potential electrocution hazards or other potential energy sources (steam, compressed gas, etc.) without adequate protection through lockout tagout, personal protective equipment (PPE), or both;
 - Operation of vehicles or heavy machinery in an unsafe manner; and
 - Violations of any Company hazardous work permit requirements.

10.0 Safety Equipment

- 10.1 Each Contractor organization is responsible for providing all necessary safety equipment and devices for their own employees and for the consistent enforcement of their use.

11.0 Contractor Notice of Safety Violation

- 11.1 To assist in assuring that all Contractors performing work at Company sites follow recognized industry safe work practices, the following safety notification

procedure will be used at Company sites to address and correct Contractor safety practice deficiencies:

- **Notice of Safety Violation:** If a significant contractor safety deficiency is observed, the Company Sponsor, Site Manager, or Company Safety and Health Staff will issue a *Contractor Notice of Safety Violation* to the Contractor Representative. The Contractor Representative will ensure that correction of all safety deficient items begin immediately. After the Notice of Safety Violation form has been completed, the Contractor Representative will return the signed form to the Site Manager. The completed Notice(s) of Safety Violation and associated documentation will be maintained on site and a copy sent to Company Safety and Health Staff or his/her designee. A copy of the Contractor Notice of Safety Violation form is attached in Appendix F of this standard.
- Verbal warnings may be given to the Contractor Representative by any Company employee to report any individual contractor employees that are out of compliance with policies or procedures intended to enhance workplace safety. (An example may be noting an individual contractor employee observed to be not wearing safety glasses on site).

- 11.2 **Subsequent Notices of Safety Violation:** If a Contractor is observed to be committing an additional safety violation(s), the safety violation(s) will be documented by issuing another Contractor Notice of Safety Violation form. The Contractor's Corporate Safety Manager or equivalent must immediately provide a written action plan that details how the Contractor will manage its safety practices in the future to ensure that future safety violations do not occur.

NOTE: The Company Site Manager has the discretion and authority to stop work and/or remove any contractor for any/all safety violations without prior notice.

12.0 Contractor Safety Performance Appraisal

In a timely manner after contract completion, the Company Sponsor or his/her designee will complete a Company Contractor Safety Performance Appraisal (Reference Appendix E) documenting overall safety performance of the contractor for each project. Completed appraisals shall be filed on site and shall be entered into Company's contractor safety database in accordance with Company site records retention policies.

Appendix A

Contractor Pre-Qualification Safety Questionnaire

CONTRACTOR COMPANY INFORMATION				
Full Company Name:		SIC		
Telephone:		Fax:		
Street Address:		Mailing Address:		
How many years has your organization been in business under your present firm name? And what are prior names of your business?				
Parent Company Name:				
Street Address:		Mailing Address:		
SAFETY PERFORMANCE HISTORY				
Last Three Years of Safety History	200_	200_	200_	
Employee Hours Worked				
* Experience Modification Rate (EMR)				
** Fatalities				
** Lost Time Accidents				
** Total OSHA Recordable Accidents				
Lost Time Accident Rate				
Total OSHA Recordable Accident Rate				
Number of OSHA Citations				
* This Rate must be supplied from your Insurance Carrier.				
** This DATA must be supplied from your OSHA 200/300 logs.				
Incident rates are based on the equation: total number of incidents x 200,000 / total hours worked				
SAFETY MANAGEMENT QUESTIONS				
Does your company have one or more full-time safety professionals?		YES	NO	
Does your company have one or more full-time industrial hygienists?		YES	NO	
Does your company conduct field safety inspections of work and equipment?		YES	NO	
How often?		Are they documented?	YES	NO
Does your company hold "Toolbox" Safety Meetings for your employees?		YES	NO	
How often?		Are they documented?	YES	NO

Appendix A

Contractor Pre-Qualification Safety Questionnaire

Is safety a weighted factor in performance evaluation of personnel?	YES	NO
Does your company have a safety incentive program(s)?	YES	NO
Does your company have a disciplinary process for safety infractions?	YES	NO
Does your company conduct written job safety analysis /hazard evaluations prior to work?	YES	NO

Appendix A

Contractor Pre-Qualification Safety Questionnaire

SAFETY PROGRAM AND TRAINING ELEMENTS			
<i>Indicate below which safety policies and programs your company has, if they are written, and if documented training is conducted. By checking the training column, you are certifying that training is OSHA-compliant and current. Please note that Company may request a copy of some or all of this information before work commences.</i>			
Subject / Program	Policy / Program		Training
	Written	Non-written	
Safety Policy / Mission Statement			
New Employee Safety Orientation			
Accident Prevention Plan (Illness & Injury Prevention in CA)			
Code of Safe Practices / Safety Rules			
Accident Investigation & Reporting			
Confined Space Entry			
Driving / Fleet Safety (DOT)			
Drug and Alcohol			
Emergency Response / Evacuation Plans			
Electrical De-energization (lockout tagout)			
Equipment Inspection			
Fall Protection / Arrest			
Fire Prevention & Control			
First Aid / CPR			
Forklift Operation			
Hazard Communication			
Hearing Conservation			
Hydrogen Sulfide Safety			
Medical Services Program			
Mobil Equipment (cranes, lifts, etc.)			
Personal Protective Equipment (PPE)			
Respiratory Protection			
Scaffolding			
Trenching & Excavation			
Welding / Hot Work			
<i>List below or attach additional sheet listing any other relevant safety programs / training:</i>			

Appendix A

Contractor Pre-Qualification Safety Questionnaire
To be signed by an Officer of the Company or designee

THE UNDERSIGNED CERTIFIES THAT, TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, FORMED AFTER REASONABLE INQUIRY, THE INFORMATION SUBMITTED IS TRUE, ACCURATE, AND COMPLETE.				
Full Name (printed)			Date	Signature
Title :			Phone Number:	

Appendix B

Contractor Site Safety Orientation Checklist (Sample Form)

Facility/Location: _____

Contractor/Company Name: _____

Contractor Employee Name, print:	Job Title:
Contractor Representative:	Phone Number:

The contract employee's signature at the bottom of this sheet acknowledges that all of the applicable safety/environmental information was presented and understood on the date indicated.

CHECK EACH ITEM WHEN COMPLETED	
<p>EMERGENCY/EVACUATION PROCEDURES</p> <ul style="list-style-type: none"> ☞ Emergency Notification ☞ Type of Alarm/Signal to Evacuate ☞ Evacuation Map and Paths ☞ Post-Evacuation Assembly Area <p>REPORTING</p> <ul style="list-style-type: none"> ☞ Incident Reporting and Investigation Requirements ☞ How to Report Unsafe/Unhealthy Conditions and Practices <p>MISCELLANEOUS</p> <ul style="list-style-type: none"> ☞ Designated Smoking and Eating Areas ☞ Location(s) of Restrooms and Wash Areas ☞ Site Security Procedures ☞ Site Disciplinary Procedure for Safety Infraction <p>HAZARDOUS MATERIALS/WASTE PROCEDURES</p> <ul style="list-style-type: none"> ☞ Proper Labeling of Containers ☞ Labeling, Storage, and Segregation of Containers ☞ Disposal ☞ Emergency Spill Notification Procedure 	<p>HAZARD COMMUNICATION</p> <ul style="list-style-type: none"> ☞ Chemical Inventory, Discuss Site Chemicals ☞ MSDS Location ☞ Notification to Others in Area of Hazards (Multi-Employer) <p>PERSONAL PROTECTIVE EQUIPMENT (PPE)</p> <ul style="list-style-type: none"> ☞ Proper Work Clothing & Attire ☞ Location of Eyewash and Emergency Showers ☞ Eye Protection ☞ Foot Protection ☞ Hearing Protection ☞ Respiratory Protection ☞ Head Protection ☞ Chemical Protective Clothing <p>SPECIFIC SAFETY INFORMATION</p> <ul style="list-style-type: none"> ☞ Electrical Safety ☞ Job Hazard Analysis ☞ Site Required Permits ☞ Lockout Tagout ☞ Confined Space Program ☞ Safe Operation of Vehicles/Forklift Use ☞ Hoisting, Rigging and Cranes ☞ Hand and Power Tool Safety ☞ Fall Protection

Appendix B

Company Site Safety orientation Sample Checklist

<p>PROCESS INFORMATION</p> <ul style="list-style-type: none"> ☞ Overview of Site Processes ☞ Fire, Release and Exposure Hazards in Processes ☞ Hazardous / Restricted Areas 	<ul style="list-style-type: none"> ☞ Hot Work/Fire Protection ☞ Scaffold/Ladder Safety
<p>Contract Employee Signature: _____ Date: _____</p>	
<p>Discussion Leader Signature: _____ Date: _____</p>	

Appendix C

Contractor Executive Management Acknowledgment Letter

(Sample Form to be completed by the President or CEO of all Affected Contractors and submitted with the CSA package)

Dear _____ (Company Contract Representative):

I understand that Company Corporation holds its employees and Contractors to the highest standards of workplace and public safety. I understand that Company believes that every person working on a Company site has the right to work in the safest work environment that can be provided.

I agree that I will do everything within my authority and influence to support and assure that my company employees (and any subcontractors retained by my company to work on a Company site) work diligently towards providing a safe and healthy workplace for themselves and others that work near them. Specifically, I agree that all on-site representatives of my company will fully implement all appropriate components of any safety management system implemented by Company for the project site. I agree that this commitment is a binding part of my company's work agreement with Company.

As a minimum, I will assure that all on-site representatives of my company will comply with all applicable safety and health regulations, wear all required personal protective equipment, assure 100% conformance with critical procedures and controls such as those for fall protection, confined space entry, trenching, and lockout tagout, and otherwise strive to provide a safe and healthy workforce within a safe and clean workplace. My company will implement our own comprehensive programs and procedures designed to keep all persons in a multi-employer workplace safe from hazards created or recognized by our representatives and/or our job scope. We will submit Hazard Evaluations / Task Analyses to Company for any activity that involves potential hazards that could result in serious illnesses or injuries. We will communicate any previously unrecognized hazards to Company when we determine that they exist, and we will work with Company to mitigate any site or job-specific hazards on an on-going basis.

Signed: _____ (President or CEO, Contractor Organization)

Date: _____

Appendix D

CONTRACTOR JOB SAFETY AUDIT (Sample Form)

Please utilize the contractor safety audit form below in a pass/fail type rating system. If there are any safety concerns, deal directly with the Contractor Representative in accordance with plant, project or site policy. Do not direct contractor employees except in the event of imminent hazard. In the case of an imminent hazard, stop the contractor employee from working, and then communicate directly to the contractor supervisor or representative.

Contractor being observed: _____ Date/Time: _____

Task performing: _____

Site: _____

PERMITS / PROCEDURES

SAFE WORK PERMIT	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Following permit requirements?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Lockout/Tagout (LOTO)	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Following procedure requirements?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
CONFINED SPACE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Following permit requirements?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
HOT WORK	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Following permit requirements?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
EXCAVATION	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Following permit requirements?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A

OTHER _____

COMMENTS _____

PERSONAL PROTECTIVE EQUIPMENT (PPE)

HEAD PROTECTION	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
EYE/FACE PROTECTION	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
HEARING PROTECTION	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
HAND PROTECTION	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
FOOT PROTECTION	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
RESPIRATORY PROTECTION	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
ELECTRICAL PROTECTION	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
CHEMICAL PROTECTION	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A

Appendix B

Company Site Safety orientation Sample Checklist

COMMENTS _____

Appendix D

Contractor Job Safety Audit- Page 2

HOUSEKEEPING

DEBRIS PICKED UP	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
AISLE WAYS CLEAR	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
AREA BARRICADED	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
SLIP/TRIP/FALL HAZARDS CLEAR	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
MATERIAL STAGING / STORAGE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A

COMMENTS _____

EQUIPMENT/TOOLS/INDUSTRIAL TRUCKS

LADDERS	<input type="checkbox"/> SAT	<input type="checkbox"/> UNSAT	<input type="checkbox"/> N/A
SCAFFOLDS	<input type="checkbox"/> SAT	<input type="checkbox"/> UNSAT	<input type="checkbox"/> N/A
ELECTRIC TOOLS & CORDS	<input type="checkbox"/> SAT	<input type="checkbox"/> UNSAT	<input type="checkbox"/> N/A
FALL PROTECTION	<input type="checkbox"/> SAT	<input type="checkbox"/> UNSAT	<input type="checkbox"/> N/A
RIGGING AND SLINGS	<input type="checkbox"/> SAT	<input type="checkbox"/> UNSAT	<input type="checkbox"/> N/A
MATERIAL HANDLING	<input type="checkbox"/> SAT	<input type="checkbox"/> UNSAT	<input type="checkbox"/> N/A
HAND TOOLS	<input type="checkbox"/> SAT	<input type="checkbox"/> UNSAT	<input type="checkbox"/> N/A
CRANES AND LIFTS	<input type="checkbox"/> SAT	<input type="checkbox"/> UNSAT	<input type="checkbox"/> N/A
FORKLIFTS	<input type="checkbox"/> SAT	<input type="checkbox"/> UNSAT	<input type="checkbox"/> N/A

COMMENTS _____

HAZCOM

MSDS's ON SITE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
CONTAINERS LABELED	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
PROPER STORAGE	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
PROPER DISPOSAL	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
PROPER HANDLING	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A

COMMENTS _____

OTHER OBSERVATIONS/COMMENTS

Appendix B
Company Site Safety orientation Sample Checklist

Add additional sheets as needed

Completed By:
 Signature _____ Date: _____

Appendix E

CONTRACTOR SAFETY PERFORMANCE APPRAISAL

This appraisal must be completed by the Company SH&E manager/specialist or trained site personnel in a timely manner after contract completion.

Facility/Site Location: _____ Date: _____
 Contractor Company Name: _____
 Contractor Address: _____
 Contractor Representative: _____ Phone Number: _____
 Scope of work: _____

List incidents, injuries, near misses, etc.: _____

No. OSHA Recordable Cases: _____ No. OSHA Lost Time Cases: _____

For each of the following safety performance evaluation categories chose the one behavior that most closely describes the behavior of this contractor and provide any additional relevant comments.

HOUSEKEEPING

- Inadequate even after repeated requests.
- Cleaned after requests.
- Cleaned routinely & caused no safety problems.
- Item above plus thorough cleaning & caused no operational problems.
- Item above plus continuously cleaned and caused no complaints.

COMMENTS _____

WORKER AWARENESS AND ATTITUDE

- Workers often seemed unconcerned with safety or safety violations ignored.
- Individuals usually worked safely, but weren't proactive on safety.
- Workers immediately addressed safety violations and were proactive on safety.
- Item above plus some workers actively prevented problems.
- All workers actively prevented problems and workforce disciplined itself.

COMMENTS _____

Appendix E

Contractor Safety Performance Appraisal – Page 2

SAFETY MEETINGS

- No meetings held or irrelevant topics covered.
- Relevant meetings held irregularly.
- Relevant Meetings held every week & recorded topics and attendees.
- Item above plus invited Owner's Representative to each meeting.
- Item above plus workers actively participated in meetings.

COMMENTS _____

TOOLS AND EQUIPMENT

- Lacked proper tools, or tools in unsafe condition.
- Occasionally used improper tools, or tools in questionable condition.
- Had the necessary equipment in good operating condition to match the task.
- Item above plus usually provided the optimum tool/equipment for the job.
- Item above plus always provided the optimum tool/equipment for the job.

COMMENTS _____

SUPERVISION INPUT AND COMMUNICATIONS

- Supervision was not apparent, or spent minimal effort on safety.
- Supervision did not allocate adequate resources to solve safety problems.
- Supervision enforced safety requirements without Company reminders.
- Item above plus encouraged safe behavior.
- Item above plus oriented, demonstrated safety planning, was continuously involved, proactive, & highly visible.

COMMENTS _____

CONTRACTORS JOBSITE SAFETY REPRESENTATIVE

- Identified but not involved.
- Reactive, or intervened irregularly, or was involved occasionally.
- Proactive, intervened regularly, and participated in safety meetings.
- Item above plus continuously involved, highly knowledgeable and visible.
- Item above plus proactive regarding entire jobsite safety by making suggestions to the Owner's Representative.

COMMENTS _____

OTHER OBSERVATIONS/COMMENTS

Appendix E

Contractor Safety Performance Appraisal – Page 2

Add additional sheets as needed

Completed By:

Signature _____ Date: _____

Appendix F

CONTRACTOR NOTICE OF SAFETY VIOLATION

Site: _____ **Date:** _____

Issued by: _____
(Company) _____

Contractor: _____

Contractor Representative: _____

Your Company has been found to be in violation of one or more Federal, State, or Company safety requirements, as specified below. The violations must be corrected immediately, and this documentation returned to Company.

Violation(s):

Corrective Action(s) & date completed:

The signature below of the Contractor Representative certifies that all of the above-listed items have been corrected as indicated.

Signature: _____ **Date:** _____

Received by Company:

Signature: _____ **Date:** _____

SAMPLE SAFETY TERMS AND CONDITIONS FOR A MULTI-EMPLOYER WORKPLACE

22. LAWS, REGULATIONS AND COMPANY RULES
 CONTRACTOR agrees to obtain, make and file all permits, licenses and other governmental approvals, filings and consents required for performance of the Services and to comply with all federal, state and local laws, regulations, rules and ordinances. CONTRACTOR agrees to comply in all material respects with all applicable federal, state and local laws, regulations, rules and ordinances, including but not limited to any and all of the same relating to (1) labor and employment matters (including but not limited to laws relating to equal employment opportunities, affirmative action, certification of non-segregated facilities, employment opportunities for handicapped individuals, subcontracting with small business concerns, subcontracting with minority business enterprises), (2) environmental matters, (3) health and safety matters and (4) security matters.

29. HEALTH AND SAFETY PROGRAMS
 CONTRACTOR shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all OWNER site programs. CONTRACTOR shall complete a Contractor Pre-Qualification Safety Questionnaire, attached to this Agreement as Appendix A ("Safety Questionnaire").

29.1 CONTRACTOR will be responsible for preparing or acquiring job hazard assessments as necessary to safely perform its Services of each of the Project(s) and provide a copy to OWNER upon request.

29.2 CONTRACTOR will be responsible for providing all of its employees Health and Safety Training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Services and provide copies of the certified training records upon request by OWNER. CONTRACTOR shall be responsible for proper maintenance and/or disposal of its personal protective equipment and material handling equipment.

29.3 CONTRACTOR is responsible for ensuring that its lower-tier subcontractors are aware of and will

comply with the requirements set forth herein.

- 29.4 OWNER, or their representatives, may periodically monitor the safety performance of the CONTRACTOR. CONTRACTOR and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from OWNER to CONTRACTOR under this Agreement at any time when, or for any Services performed when, CONTRACTOR is not in full compliance with this Section 29.
- 29.5 CONTRACTOR shall immediately report any injuries to the OWNER site safety representative. Additionally, the CONTRACTOR shall investigate and submit to the OWNER site safety representative copies of all written accident reports, and coordinate with OWNER if further investigation is requested.
- 29.6 CONTRACTOR shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to its Scope of Services. CONTRACTOR shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the OWNER site safety representative upon request.
- 29.7 CONTRACTOR shall develop a plan to properly handle and dispose of all hazardous wastes it generates within the Scope of Services.

CONTRACTOR shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Project.

OSHA RESPONSE TEMPLATE

[INSERT DATE]

[INSERT VIA-FACSIMILE AND/OR
VIA OVERNIGHT MAIL, ETC.]
[INSERT NAME OF INSPECTOR OR AREA DIRECTOR]
[INSERT TITLE]
U.S. Department of Labour
Occupational Safety and Health Administration
[INSERT Address]

Re: [INSERT "COMPLAINT LETTER" NUMBER OR DATE and building address]

Dear Mr. [Insert Last Name]:

This letter is ___'s response to the above-referenced letter. Your letter specifically alleged that "[insert allegations]".

As requested, ___ posted a copy of this complaint letter as well as this response on a bulletin board that is readily accessible for review by all employees [insert which floor(s).] [f a Union location, add the following.] In addition, ___ provided a copy of both to the local representative of CWA Local [insert number].

___ is committed to providing a safe and healthful work environment for its employees. [Insert Response to allegations here].

[USE THE FOLLOWING LANGUAGE IF YOU ARE PROVIDING ___ CONFIDENTIAL INFORMATION TO OSHA].

___ requests that OSHA handle the information provided below as Confidential Business Information (CBI) consistent with 40 CFR Part 2, Subpart B. Because of the sensitive and competitive nature of the information, ___ requests that OSHA afford the information CBI treatment indefinitely. If OSHA believes that some or all of the information should be released to the public, ___ asks that it be notified in advance to explain in more detail why the information should be maintained as CBI.

[USE THE FOLLOWING LANGUAGE IF YOU (1) BELIEVE WE DON'T HAVE ALL OF THE INFORMATION OSHA REQUESTED, (2) LACK CONFIDENCE IN THE INFORMATION OR (3) WISH TO BOLSTER YOUR RESPONSE]

Although ___ has searched the records it considered likely to contain information relating to the above allegation(s), and similarly has interviewed those employees and vendors it considered likely to provide such information, ___ cannot categorically affirm that it has not inadvertently overlooked some piece of information that the OSHA might consider

responsive to the request. Accordingly, __ reserves the right to modify or supplement this response at such time as new relevant information or documents become available.

[CLOSING PARAGRAPH BELOW]

I trust that the information provided above is helpful in concluding your investigation of this matter. Should you have any further questions regarding the steps __ has undertaken, please contact [insert EH&S Contact], [with title], on [insert phone number].

Sincerely yours,

[insert Real Estate manager's name][especially if you are not personally at the location]

Attachment [if you need to attach anything to the letter]

cc: [insert Real Estate manager's boss or whomever s/he indicates]
[insert EH&S Contact] [ensures that the letter went out]

Remote Locations And the Three-Minute Rule Summary

29 CFR 1910.151 provides:

- (a) The employer shall ensure the ready availability of medical personnel for advice and consultation of plant health.
- (b) In the absence of an infirmary, clinic, or hospital in near proximity to the work place that is used for treatment of all injured employees, a person or persons shall be adequately trained to render first aid. First aid supplies approved by the consulting physician shall be readily available.
- (c) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.

We are only concerned with 29 CFR §§ 1910.151(a) and (b). The first case to address this issue stated that “[i]n serious accidents causing severe bleeding or breath stoppage first aid, to be effective, must be administered within 3 minutes.” Brennan v. OSHRC and Santa Fe Transport Company, 505 F.2d 869,872 (10th Cir. 1974). The Court stated further that “[a]ny specific delineation [of the regulation] would present a myriad of complications. A workplace can be either an urban or a rural area. Geographical distance differs from travel distance. Travel tie depends on traffic and weather. The injury rate is related to the size of the work force and the nature of the work done. No forecast can be made of the incidence of injuries which require immediate aid.”

The OSHRC has adopted the Brennan decision, except in one recent instance, without analyzing whether or not the incident that gave rise to the citation (1) involved a serious accident; (2) involved a serious accident causing severe bleeding, or (3) involved a serious accident causing breath stoppage. I discuss those cases below.

In Secretary of Labor v. Love Box Company, 76 OSAHRC 45 (1976), the Commission adopted the Brennan decision. The Commission concluded that since a hospital was nine minutes away from the facility in question, it was not in “near proximity” and the company had not fulfilled the requirements of the standard.

In Secretary of Labor v. Consolidated Rail Corp., 1980 OSHD (CCH) P 24, 193, 1979 WL 28951 (OSHRC), the Commission again adopted the Brennan decision. The Commission concluded that since a hospital was six or seven miles away from the facility in question, it was not in “near proximity” and the company had not fulfilled the requirements of the standard.

In the only case to go against the Brennan precedent, Secretary of Labor v. Southern Scrap Materials Co., Inc., OSHRC Docket No. 94-3393 (Nov 1997), the Commission held that “[a] hospital with an emergency room..within 2.7 miles of the [facility in question] . . . is in “close proximity” and satisfies the requirements of the standard. The Commission further stated that “the standard is silent as to the employer’s responsibility to transport injured workers to [a] clinic or hospital.” More importantly, however, the

Commission implied that an employer need only contact the emergency facility within 3 minutes. The employer need not endure that the hospital responded within 3 minutes. The hospital did not respond within 3 minutes in this case. Rather, it took 20 minutes to respond. The Commission stated that “[t]he twenty-minute wait for transportation by the hospital was not shown to be caused by the [employer’s] refusal to contact hospital.”

Recommendation: Teach FA/CPR to field Personnel and establish MERTs at remote occupied locations.

Contractor EHS Qualification Program
SCLAEHS046.14

Rev. 001 DRAFT

TBD

Contractor EHS Qualification Program

1. Purpose and Scope

- 1.1 The purpose of this procedure is to ensure EHS criteria is considered when contractors are selected for work and when contracts are renewed.

- 1.2 This procedure requires that contractors operate in a manner that protects both Company employees and non-Company employees. It requires that Contractors support and assist Company EHS programs.
- 1.3 This procedure provides Business Groups with EHS qualification requirements for Contractors. It establishes the process for evaluating contractors and objectively analyzing safety performance data prior to bid submittal. It also establishes periodic review of Contractors' ongoing EHS performance.
- 1.4 This procedure applies to SCLA Facilities operations. It covers Contractors and Sub-contractors. Unless otherwise indicated in this document, Prime Contractors are responsible for sub-contractor compliance with the requirements in this document.
- 1.5 EHS requirements apply to all Contractors regardless of type. With SCLA EHS Operations concurrence, different requirements may be established on the basis of exposure and risk for the various levels of Contractors (e.g., Copier Repair Persons, Janitorial and Security Service Contractors, Construction Contractors, Maintenance Contractors, Apps Lab and Manufacturing Contractors, and Consultants, etc.) but the requirements must be documented for each level.

2. References

Corporate EHS Contractor Safety Program, CORPEHS003

Global Finance Manual –Records Retention Policy North America 4.81

Contractor EHS Program, SCLAEHS046.12

3. Acronyms & Definitions

Alternate Process - The documented process whereby contractors are screened to determine the risk posed by their activities. They may be exempted from further review if their activities pose low hazard or pose mild hazard but low exposure to the hazards due to the low hours of work.

AVL - Approved Vender List - The list of vendors that have been approved for work at Company in the role as Prime Contractors. All Prime Contractors must also be on the Contractor EHS Qualified List.

Business Group Director - The highest-ranking individual with the overall management responsibility for a given Business Group (Subsidiary or other location); the actual title of the individual may vary.

Business Group - Refers to Company buildings/operations, that as a result of geographical continuity or a defined business relationship, require standardized business processes including EHS processes. This includes Subsidiaries, Manufacturing locations, Applications labs, and others.

Cal-OSHA California Occupational Safety and Health Administration - The California agency chartered with protecting the safety and health of persons in California workplaces.

Contractor Manager – An Company employee that manages a contract, whether the contract is for Sustaining Services or for Construction Projects. This person addresses issues such as scope, schedule, budget and resources for successful execution of the project.

Contractor EHS Qualification Committee - The committee that reviews the analysis of Contractor EHS qualification data. Core committee membership shall include one representative from Purchasing, Facilities Construction, Application Laboratory and EHS. Additional committee participation may be required from organizations not normally participating, but that have interim interests. Voting members of the committee shall be Company employees.

Contractor EHS qualified List - The list of vendors that have been reviewed for their EHS performance and approved for work at Company as Sub-contractors.

Contractor - An independent (non-Company employee) worker or outside firm hired to perform a specific work task for an agreed upon compensation and period of time. Included are lower tier sub-contractors and their employees.

EMR - Experience Modification Rate - The EMR is an insurance industry standard mechanism for adjusting a business firm's worker compensation premiums to reflect past employee injury claims.

Facilities - The business group charged with constructing, operating, and maintaining business facilities in SCLA.

OEM – Original Equipment Manufacturer

PM - Project Manager - The PM is 1) an Company representative and is the primary contact for contractors working on a project or O&M work. 2) has overall responsibility for the project or operations & maintenance services activities, 3) manages and coordinates all the activities associated with a project or operations & maintenance services, and 4) may be an Company employee or a contractor.

Prime Contractor - An independent outside firm hired to perform a specific work task for an agreed upon compensation and period of time. Prime Contractors have a direct contractual relationship with Company.

Purchasing - The Group that is authorized to make commercial commitments on behalf of Company and who provides contracts, contractor selection and contractor administration for the Business Group (Subsidiary or other location); the actual title of the individual may vary.

SIC - Standard Industrial Classification - A US Department of Labor ordering system of like industries and businesses for the purpose of collecting and analyzing business data, including OSHA injury and illness statistics.

SIP - Safety Improvement Plan - A process that requires contractors that do not meet the Company EHS qualification criteria to develop a program that directs their safety & EHS performance.

Sub-Contractor - An independent (non-Company employee) worker or outside firm hired by a Prime Contractor to perform a specific work task for an agreed upon compensation and period of time. Sub-contractors are hired by Prime Contractors and do not have a direct contractual relationship with Company.

4. Responsibilities

4.1 SCLA EHS Operations

SCLA EHS Operations is responsible for the maintenance of this standard, for the development of procedures, work instructions, forms and identification of work committees

that may be required to manage and implement Contractor EHS qualification in a comprehensive and consistent manner.

4.2 Contractor

Prime contractors are responsible for the selection and performance of their sub-contractors across all areas, including EHS

4.3 SCLA Facilities

4.3.1 Assist in the development and maintenance of applicable EHS qualification criteria for the selection and retention of Contractors working at Company sites.

4.3.2 Participates in the periodic evaluation of Contractor EHS performance.

4.3.3 Provide Project/Contract managers that have overall responsibility for the project or operations & maintenance activities

4.4 SCLA Purchasing

4.4.1 Assists EHS in the development and maintenance of applicable EHS qualification criteria (in addition to other commercial criteria) and for the selection and retention of Contractors working at Company sites.

4.4.2 Qualifies Contractors that comply with the overall Materials Organization Contractor selection criteria.

4.4.3 Participates in the periodic evaluation of Contractor EHS performance.

4.4.4 Communicates with Contractor regarding their status towards EHS Qualification.

4.4.5 Processes purchase requisitions to place contractors on the Approved Vender List.

4.4.6 Screens purchase requisitions to determine if the contractor is on the EHS qualified list. If the contractor is not on the EHS qualified list, then the Contractor will not be considered for the Approved Vender List.

4.5 Building EHS

4.5.1 Serve as the subject matter experts in technical matters involving EHS issues.

4.5.2 Assist in the development of EHS qualification and performance criteria for Contractors working at SCLA sites,

4.5.3 Participate in the periodic evaluation of Contractor EHS performance, conduct worksite assessments, and

4.5.4 Develop data for program metrics as needed.

5. Procedure Requirements

5.1 All contractors including sub-contractors working at SCLA locations are subject to EHS Qualification requirements of this program.

5.2 The EHS Qualification Process is composed of 2 elements: Prequalification and Re-qualification.

5.2.1 The Prequalification element is generally undergone prior to the contractor commencing work at Company. This element consists of a review of the contractors' company's recent overall EHS performance.

5.2.2 The Re-qualification element is required annually by contractors and consists of a review of the contractor company's overall EHS performance with a focus on their experience at Company.

- Contractors that are not currently working at Company, but have worked on site within the prior 3 years, are subject to the requirements of the Re-qualification Element.

5.3 EHS Prequalification Requirement

5.3.1 All Contractors, including Sub-contractors, working at SCLA locations shall undergo the EHS qualification process prior to commencing work. The Prequalification portion of the process is not required for work that poses low risk to site safety and the environment.

5.3.2 EHS Prequalification is always needed for high hazard, including but not limited to:

- construction
- hazardous waste or decontamination work
- electrical systems
- transportation

5.3.3 EHS Prequalification is not needed for low hazard, including but not limited to:

- clerical, engineering support, computer support, technical consultants, deliveries, office equipment repair, medical and fitness services, general office work and other similar services

5.3.4 EHS Prequalification is needed if the hours to be worked at Company exceeds 2000/yr and the work involves:

- lab and facility equipment installation & service, lab and facility OEM vender service, maintenance, transportation, chemical handling, etc.

5.3.5 EHS Prequalification is not needed if the hours to be worked at Company is less than 2000/yr even though the work involves:

- lab and facility equipment installation & service, lab and facility OEM vender service, maintenance, transportation, chemical handling, etc.

5.4 EHS Re-qualification Requirement

All contractors shall undergo the EHS re-qualification portion of the process annually.

5.5 Contractor EHS Qualification Criteria

5.5.1 Contractors shall have a California Experience Modification Rate (EMR) of 1.00 or lower. For self-insured organizations comparable historical data shall be requested and evaluated.

- 5.5.2 Contractors shall have a Total Recordable Frequency Rate of not more than 150% of the average for the Bureau of Labor Statistics latest year for the appropriate SIC.
 - 5.5.3 Contractor shall have Lost Time Accident rates of not more than 150% of the average for the Bureau of Labor Statistics latest year for the appropriate SIC.
 - When appropriate or relevant qualification criteria data is not available; e.g., in the case of a large conglomerate contractor providing services from a small segment of its business mix, special efforts may be required to develop relevant data points for the safety qualification rating of the Contractor.
 - 5.5.4 The EHS Qualification Committee may use trending data and extenuating circumstances in the evaluation or contractor qualification.
- 5.6 Critical and Urgent Alternative**
- 5.6.1 In cases where there is a critical and urgent need for a service provider, and there is not time to Pre-qualify a contractor, the following option is available to Contract Managers:
 - 5.6.2 Coordinate and discuss safety issues that may be encountered during the project.
 - 5.6.3 The Contractor employees must attend the on-site safety orientation or must be escorted at all times. If an escort is needed, the Contractor Manager will designate someone who is aware of potential EH&S issues to escort the Contractor employee(s).
 - 5.6.4 The Contractor must submit all pre-qualifying information to SCLA EHS Operations within one week of service.

5.7 Contractor EHS Qualification Process

The following link opens a process flow chart that illustrates the sequence of steps associated with the EHS Qualification Process. The table provides a description of each box in the flow chart.



Box	Description	Responsibility
1	<p>Request To Purchasing A request is made by a business group or by a Prime Contractor to purchasing to engage the services of a contractor.</p> <p>Safety Prequalified</p>	Business Group or Contractor
	Purchasing checks if the contractor is on the Safety Prequalified list.	Purchasing

Box	Description	Responsibility
	<ul style="list-style-type: none"> • No - If the contractor is not on the Safety Prequalified list, the process routes to Box 2. • Yes - If the contractor is on the Safety Prequalified list, Purchasing determines if the contractor is a prime or a Sub-contractor. <p>Prime/ Sub-contractor</p> <ul style="list-style-type: none"> • Sub-Contractor - If the contractor is a Sub-contractor, the process routes to Box 11. • Prime Contractor- If the contractor is a prime, the process routes to Box 8. 	
2	<p>Screening The contractor request is screened to determine if the contractor is subject to EHS Prequalification requirements.</p> <ul style="list-style-type: none"> • EHS Prequalification is always needed for construction, hazardous waste or decontamination work, electrical systems, chemical handling, etc. • EHS Prequalification is not needed for clerical, engineering support, computer support, technical consultants, office equipment repair, medical and fitness services, general office work and other similar services • EHS Prequalification is needed if the hours to be worked at Company exceeds 2000/yr and the work involves lab and facility equipment installation & service, lab and facility OEM vender service, maintenance, transportation, chemical handling, etc. • EHS Prequalification is not needed if the hours to be worked at Company is less than 2000/yr and the work involves lab and facility equipment installation & service, lab and facility OEM vender service, maintenance, etc. <p>If the prequalification requirements apply, Purchasing notifies SCLA EHS to send the Prequalification application to the requesting Contractor. SCLA EHS forwards the Prequalification application to prospective contractor with instructions for completing.</p> <p>If the prequalification requirements do not apply, the process routes to Box 7 and Purchasing notifies the contractor. In some instances, Purchasing will require EHS input. In these cases, the screening form is routed to SCLA EHS (Box 5) who will review the screening form with the EHS Qualification Committee.</p>	<p>Purchasing</p> <p>Purchasing SCLA EHS</p>
3	Prequalification Form	

Box	Description	Responsibility
	The Contractor completes the Prequalification Form and provides the data necessary to objectively evaluate the Contractor's EHS programs and performance against Applied's chosen criteria and returns the form to SCLA EHS Operations.	Contractor
4	<p>Review for Completeness</p> <p>SCLA EHS Operations evaluates the form for completeness and returns it to the contractor for completion, if necessary.</p> <p>When the form is complete, the contractor's on site EHS history, if applicable, is summarized and included in the contractor's file. Onsite EHS history includes:</p> <ul style="list-style-type: none"> • Company emergency response incidents, accidents (injuries/illnesses) and near miss events • Regulatory issues including Notice of Violations (NOV), Notice of Correction (NOC), or permit issues • Internal EHS audit and/or inspection findings • Other relevant onsite history <p>This package of information is presented to the SCLA Contractor EHS Qualification Committee.</p>	SCLA EHS
5	<p>Evaluation</p> <p>The SCLA Contractor EHS Qualification Committee evaluates the Contractor's safety qualifications in accordance with the criteria described in the Section titled "Contractor Safety Qualification Criteria." Contractors are determined to be either "EHS Qualified", or "Not EHS Qualified".</p> <ul style="list-style-type: none"> • Purchasing and the contractor requestor are notified of the committee's determination. 	Contr. EHS Qual. Committee
6	<p>Purchasing Review of Contractor Status</p> <p>Contractor:</p> <ul style="list-style-type: none"> • is/is "Not EHS Qualified" for work at Company • is not subject to Prequalification requirements • is qualified subject to SIP requirements <p>Is Contractor EHS qualified or exempt from the Alternate Process?</p> <ul style="list-style-type: none"> • No - If the contractor is neither EHS pre-qualified nor exempt from the EHS Prequalification process, the contractor is notified that it is 	Purchasing

Box	Description	Responsibility
	<p>"Not EHS Qualified".</p> <ul style="list-style-type: none"> • Yes - If the contractor is EHS pre-qualified or exempt from the EHS Prequalification process, then Purchasing determines if the contractor is a prime or a sub-contractor. <p>Is Contractor a Prime or Sub-Contractor?</p> <ul style="list-style-type: none"> • Sub-Contractor - If the contractor is a sub, then EHS is notified to place the contractor on the Safety Pre-qualified/ Alternate Process list. • Prime Contractor - If contractor is a prime, then purchasing begins processing the contractor for the AVL. 	
7	<p>EHS Qualified</p> <p>SCLA EHS Operations updates list of Contractors that are</p> <ul style="list-style-type: none"> • EHS Qualified for work at Company • Not Subject to Prequalification requirements • Qualified Subject To SIP requirements 	SCLA EHS
8	<p>Contractor for AVL</p> <p>If there are no mitigating circumstances, Purchasing will add the contractor to the AVL. There are a variety of business reasons that a contractor may not be added to the AVL.</p> <p>If purchasing has reason to prevent the contractor from working at Company, SCLA EHS is requested to remove the contractor from the EHS qualified list.</p>	Purchasing
9	<p>AVL</p> <p>Purchasing updates list of Contractors that are Approved Venders. These are Contractors that are EHS qualified and are approved for work as a prime contractor at Company.</p>	Purchasing
10	<p>Removal from EHS Qualification List</p> <p>Upon direction from Purchasing, EHS removes the contractor from the EHS Qualification List</p>	SCLA EHS
11	<p>Contractor Notification</p> <p>Purchasing notifies the Business Group, Prime (Contractor), Sub-</p>	Purchasing

Box	Description	Responsibility
	<p>contractor, if applicable, and SCLA EHS, that the contractor:</p> <ul style="list-style-type: none"> is/ is "Not EHS Qualified" for work at Company is/is Not Subject to Prequalification requirements is Qualified Subject To SIP requirements <p>In cases where a contractor is found to be "Not EHS Qualified" and the contractor is currently doing work at Applied, the Contract will be terminated at a point and in a manner consistent with the terms and conditions of the base contract, Purchasing policy, and at the convenience of Company.</p>	
12	<p>Re-qualification Form SCLA EHS sends the Annual Re-qualification Form to the contractor with instructions for completing</p>	SCLA EHS
13	The contractor completes the form and returns to SCLA EHS Operations.	Contractor
14	<p>SIP Request When a contractor is found to be "Not EHS Qualified" and the business need is compelling, a Business Group or Prime Contractor may consider requesting a SIP. A SIP should be requested only after all other avenues have been exhausted. Cases of such business need may include the following:</p> <ul style="list-style-type: none"> There is lack of other commercial competition The EMR exceeds one, but contractor has shown continual yearly improvement during the last three years of the evaluation period Competing firms have worse absolute, or worse trending, safety data. Another compelling business case justification exists. <p>This justification must be reviewed and ratified by the Business Group Director. If the Business Group Director elects not to pursue a SIP, Purchasing is requested to send a "Not EHS Qualified" Notification to the Contractor.</p>	Business Group Director
15	<p>SIP Requirements The SIP shall be tailored to fit any unique requirements of the specific contract, and focus solely upon performance on Company' sites. Contractor, Contractor Requestor and EHS will meet to review the SIP requirements. Elements of the SIP should be designed so that successful implementation will demonstrate EHS improvement. All SIP's shall include the following:</p> <ul style="list-style-type: none"> Contractor must develop a site specific work plan for their work. This plan must describe each function (step) of the operation and the safety measures required for the function. 	Contractor Contractor Requestor EHS

Box	Description	Responsibility
	<ul style="list-style-type: none"> Contractor must assign an EHS person to manage the contractor's Applied EHS until it is determined that the SIP's intermediate and final goals are met Contractor must conduct a daily 5 to 10 minute safety meeting to reinforce its safety commitment. All training and safety meetings are to be documented and available for Applied Material's review Contractor will immediately notify Company of all near misses and accidents on Applied's property. The Prime Contractor, if applicable, in conjunction with the contractor and Company Safety will conduct a root cause analysis and take appropriate corrective actions Specific achievable intermediate and final goals shall be identified that lead to the required results Some goals shall be numerical and shall include the following: <ul style="list-style-type: none"> Company emergency response incidents, accidents (injuries/illnesses) and near miss events Regulatory issues including Notice of Violations (NOV), Notice of Correction (NOC), or permit issues Internal EHS audit or inspection findings Interruption to Business Operations <p>An explicit statement of the Consequences of Plan Failure</p> <p>Prime Contractors are responsible for the performance of their sub-contractor EHS performance.</p>	
16	<p>SIP Development The SIP is drafted and sent to SCLA EHS Operations. It is in turn submitted to the Contractor Safety Qualification Committee.</p> <ul style="list-style-type: none"> If the contractor fails to develop a SIP, the contractor shall be considered "Not EHS Qualified" and Purchasing shall remove the contractor from the Bidders List <ul style="list-style-type: none"> If contractor is currently doing work at Applied, the Contract will be terminated at a point and in a manner consistent with the terms and conditions of the base contract, Purchasing policy, and at the convenience of Company. 	Contractor
17	<p>SIP Evaluation The SIP is evaluated by the EHS Qualification Committee to determine if it includes the required elements and if it meets any unique requirements of the applicable contract. SIP Approval Upon the Committee's approval, Purchasing shall be notified to incorporate the SIP into the appropriate Contract(s).</p> <ul style="list-style-type: none"> The Contractor is solely responsible for the implementation and management of the Plan, including any additional or unplanned costs 	Contr. EHS Qual. Committee SCLA EHS Ops

Box	Description	Responsibility
	<p>incurred by the Contractor firm.</p> <p>SIP Not Approved</p> <p>If the contractor fails to develop an acceptable SIP, the contractor shall be considered "Not EHS Qualified" and purchasing shall remove the contractor from the Bidders List.</p> <p>In cases where a contractor is found to be "Not EHS Qualified" and the contractor is currently doing work at Applied, the Contract will be terminated at a point and in a manner consistent with the terms and conditions of the base contract, Purchasing policy, and at the convenience of Company.</p>	Purchasing

Record	Owner	Maintenance	Retention Period
Submitted EHS Pre-qualification and EHS Re-qualification Forms	SCLA EHS	SCLA EHS	1 Year
Performance Data	SCLA EHS Operations	SCLA EHS	1 Year
Letters of Reprimand	SCLA EHS Operations	SCLA EHS	1 Year
Service Appreciation	SCLA EHS Operations	SCLA EHS	1 Year

5.8 SIP Failure

5.8.1 Should the contractor fail to achieve the intermediate or final goals of the SIP, the contractor should be found to be "Not EHS Qualified". Contractors must undergo EHS re-qualification annually.

5.8.2 In such cases the Contract will be terminated at a point and in a manner consistent with the terms and conditions of the base contract, Purchasing policy, and at the convenience of Company.

5.9 Annual EHS Re-qualification

5.9.1 The Safety Qualification is valid for one year and subject to an annual re-qualification. More frequent reviews will be conducted as needed.

5.9.2 Company reserves the right to disqualify a contractor at any time for poor EHS performance.

5.9.3 Offsite as well as onsite EHS performance will be reviewed. EHS on site performance will be weighed more heavily than off sight performance.

5.9.4 Onsite Performance Considerations include:

- Company emergency response incidents, accidents (injuries/illnesses) and near miss events.
- Regulatory issues including Notice of Violations (NOV), Notice of Correction (NOC), or permit issues.
- Internal EHS audit or inspection findings.
- Interruption to Business.
- Demonstration of continuous EHS improvement.

6. Records

Records generated to support the this program's requirements shall be retained per the Records Retention & Maintenance Policy, CORPEHS039. Where Company, regulatory or customer requirements differ from retention periods set forth in the Records Retention & Maintenance Policy, the requirements with the longest retention periods shall take precedence.

(SAMPLE)