



2025

Consultant and Constructor Health &
Safety Guidelines for Halton Region
Construction Projects

Contents

1. Definitions and Acronyms	3
2. Purpose.....	3
3. R. v. Greater Sudbury (City).....	3
3.1 Case Summary	4
3.2 What is an Employer and What are Employer Duties	4
4. Procurement Process Updates	5
4.1 Third-Party Occupational Health and Safety Management System Certifications & Standards.....	5
4.2 OHSMS Requirements for Halton Region Construction Projects	5
5. Regional Contract Updates	6
6. Health and Safety Practices.....	7
6.1 Health and Safety Expertise and Control of Work	7
6.2 Collection of Information and Follow-up on Health and Safety Practices on Site	7
6.3 Progress Meetings	8
6.4 Procedure for Threats to Health & Safety	8
6.4.1 Procedure for Immediate Threats to Health & Safety	9
6.4.2 Procedure for Non-Immediate Threats to Health & Safety	9
6.4.3 Uncertain Threats to Health & Safety	10

1. Definitions and Acronyms

Constructor: means a person contracting with or employed directly by an Owner or an agent of an Owner to supply construction services or materials to an improvement and includes a joint venture. While Constructors may provide advice relating to their area of expertise, their primary focus is on delivering physical assets through construction.

Consultant: means a professional hired to offer expertise towards the completion of a construction project. Consultants are responsible for providing expert advice and guidance on a particular issue. Their primary goal is to help the Region improve its performance or achieve its goals. For the purpose of this document, this includes but is not limited to: Engineers, Architects, and Contract Administrators.

Owner: includes a trustee, receiver, mortgagee in possession, tenant, lessee, or occupier of any lands or premises used or to be used as a workplace, and a person who acts for or on behalf of an Owner as an agent or delegate.

Regional Vendor: means a person contracted to provide a specific service or material to the Region, such as construction, consulting services, Indigenous Monitors, and cleaning services. For greater clarity, a vendor is any person and/or entity that is in business for themselves, not an employee of the Region under the *Employment Standards Act*. The Region may end the contract for services with the Vendor but does not control and may not discipline the Vendor's employees.

Regional Employee: means a person who performs work as part of the Region's business and is employed by the Region on either permanent, part-time or temporary basis. In an employee/employer scenario, the employer maintains primary control over the employee's duties, responsibilities and discipline, and employees are entitled to benefits. Contracted Constructors are not considered employees of the Region under the *Employment Standards Act*.

2. Purpose

The intent of this document is to provide Consultants and Constructors contracted by Halton Region with training and guidance on how to approach health and safety issues encountered on a Halton Region construction project. This document specifies new obligations of Consultants and Constructors and Indigenous Monitors.

3. R. v. Greater Sudbury (City)

The R v Greater Sudbury (City) case involved the City of Greater Sudbury (City) and its employer duties under the OHSA. The case highlights the importance of workplace safety and the legal responsibilities of project Owners, particularly when they contract out work to third parties and become employers. Based on this recent Supreme Court of Canada case, the

Region must now fulfil the duties of an employer under the OHSA. To ensure the Region is meeting these obligations, Regional Employees and Regional Vendors must be trained on appropriate health and safety practices for construction projects.

3.1 Case Summary

The *R v Greater Sudbury (City)* case established that an Owner of a construction project has employer duties under the OHSA including when they contract out the work. In this case the City had contracted a Constructor to repair a watermain in Sudbury, Ontario. In September 2015, a pedestrian was struck and killed by an employee of the Constructor who was operating a road grader in reverse through an intersection near the workplace.

The Ministry of Labor charged the City as a “Constructor” and an “employer” under the OHSA, alleging that safety measures required by legislation, such as fencing and a signaler, were not in place. While the City was found not to be a Constructor, **the City was found to be an employer by the Ontario Court of Appeal as it employed workers at the workplace**, which decision was upheld by the Supreme Court. Defining municipalities as Employers is a fundamental change in the approach to how construction projects are managed. As an employer of its inspectors and the Constructor, the City had obligations under the OHSA to take reasonable steps to ensure that the measures prescribed by the OHSA were carried out by the Constructor at the Project.

The case was remitted from the Supreme Court to the Superior Court of Justice to confirm whether the City exercised appropriate due diligence required of a project Owner with ‘employer duties’ under the OHSA. A decision was released in August 2024 confirming the City had exercised appropriate due diligence. As a result of this case, the Region is taking steps to ensure it is meeting its Employer obligations under the OHSA.

The full case can be found here:

<https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/20150/index.do>

3.2 What is an Employer and What are Employer Duties

The OHSA defines an Employer as a person who employs one or more workers or contracts for the services of one or more workers (including for the services of a Constructor). An Owner does not need to have control over the workers or workplace to be considered or charged as an Employer by the Ministry of Labor, Immigration, Training and Skills Development of Ontario (“**MLITSD**”). The Region is therefore an Owner and Employer where it hires a Constructor to perform its construction projects.

Section 25(1)(c) of the OHSA requires an Employer to ensure that the measures and procedures prescribed, including particularly the health and safety requirements of the accompanying regulation, *Construction Projects*, are carried out in the workplace. The Region will not delegate these employer duties to its Consultants.

4. Procurement Process Updates

Through its procurement and contracting processes, the Region will require all bidders to meet certain minimum health and safety standards for specific projects as detailed below.

4.1 Third-Party Occupational Health and Safety Management System Certifications & Standards

The Region has chosen to use third-party certifications and standards to assess a Constructors' Occupational Health and Safety Management System ("OHSMS"). By requiring an OHSMS that has third-party certifications or standards, the Region can demonstrate that it took reasonable steps to evaluate the Constructor's ability to ensure compliance with Ontario's Occupational Health and Safety Act ("OHSA") and its regulations.

- The Ministry of Labour, Immigration, Training and Skills Development's Chief Prevention Officer ("CPO") has accredited the following OHSMS standards to date:
- ISO 45001:2018: Occupational health and safety management systems—Requirements with guidance for use
- CSA Z45001-19: Occupational health and safety management systems—Requirements with guidance for use
- IHSA COR™ 2020—IHSA Certificate of Recognition 2020-Health and Safety Management System-Standard
- Responsible Care®—RC14001:2015 - Health, Safety and Environmental Management System
- Responsible Care®—RCMS:2019 - Health, Safety and Environmental Management System

4.2 OHSMS Requirements for Halton Region Construction Projects

Starting January 2026, The Region will require Constructors to have **at least one of the CPO-accredited OHSMS listed** in the Supporting Ontario's Safe Employers Program or be a CPO-recognized employer. As the CPO accredits new standards, the Region intends to accept said new standards as valid. The Constructor must have their OHSMS implemented at the time of bidding and their accreditation will be verified by the Region. The Region will verify that a Constructor has implemented a CPO-accredited OHSMS by using the following databases when reviewing bids:

Occupational Health & Safety Management System

- ISO 45001:2018
<https://www.iafcertsearch.org/>
- IHSA COR™ 2020—IHSA Certificate of Recognition 2020
<https://ihsa-marketing-team.app.box.com/v/ihsa-cor-certified-members>

- Responsible Care®—RC14001:2015, Responsible Care®—RCMS:2019
<https://canadianchemistry.ca/responsible-care/verification-reports/>
- CSA Z45001-19
<https://www.ontario.ca/page/supporting-ontarios-safe-employers-program#>
- Chief Prevention Officer-Recognized Employer
<https://www.ontario.ca/page/supporting-ontarios-safe-employers-program#>

As OHSMS implementation requires time, the Region must permit Constructor's time after announcing the intent to require an accredited OHSMS. Therefore, the Region intends to require Constructors to have a CPO-accredited OHSMS or be a CPO-recognized employer for construction projects in a phased manner. The phase in plan is as follows:

- July 2025 Halton Region will announce it will require bidders to have a CPO-accredited OHSMS when bidding on construction projects.
- Halton Region will require CPO-accredited OHSMS for construction projects with a value:
 - Above \$25 million in January 2026
 - Above \$10 million in July 2026
 - Equal to or above \$1 million and for select projects in July 2027

5. Regional Contract Updates

The Region's construction contracts, the templates of which are commonly used across Ontario, typically delegate control of the project to the Constructor and require they complete the project in accordance with the OHSA. The Region's contracts do not delegate this control to the Consultant.

Moving forward the Region's Consultant contracts will require the following:

1. Consultants must review and follow the Health & Safety training as found here (Halton Design & Guidelines [Halton - Download Engineering Design Guides & Manuals](#). The Training can also be accessed here: [Halton - Doing Business with the Region](#).

Moving forward the Region's Constructor contracts will require the following:

1. Constructors must review and follow the Health & Safety training as found here (Halton Design & Guidelines [Halton - Download Engineering Design Guides & Manuals](#) The Training can also be accessed here: [Halton - Doing Business with the Region](#).
2. Constructors must ensure appropriate health and safety instruction and training are provided to all Contractor Personnel;

3. Constructors must provide evidence of a current CPO-Accredited OHSMS with each Proper Invoice; and
4. Constructors shall provide the Region with information and evidence regarding compliance with its obligations relating to health and safety under the Contract, including:
 - a. (i) a copy of the *Contractor's* "notice of project" identifying the *Contractor* as the "Constructor" with respect to the *Project* under the *OHSA*;
 - b. (ii) a copy of all "Form 1000s" obtained by the *Contractor* from *Contractor Personnel* as required by the *OHSA*;
 - c. (iii) a copy of all health and safety plans and programs prepared by the *Contractor* in respect of the *Place of the Work* and/or performance of the *Work*;
 - d. (iv) a list with the names of *Contractor Personnel* engaged by *Contractor* for the *Work*
 - e. (v) copies of training logs and meeting minutes relating to health and safety at the *Place of the Work* and/or in performance of the *Work*;
 - f. (vi) copies of any and all documentation filed by or submitted to any *Governmental Authority* by any *Contractor Personnel* in respect of the *Project*, the *Work* or the *Place of the Work*, including any accident or incident reports; and
 - g. (vii) any other documentation relating to the *Contractor's* health and safety obligations

6. Health and Safety Practices

6.1 Health and Safety Expertise and Control of Work

The Region hires a Constructor and delegates control over health and safety to the Constructor. The means and methods for maintaining health and safety are always the responsibility of the Constructor. The Region cannot control how the Constructor maintains health and safety on the project. As the Region does not control health and safety on the project, Regional Employees and Regional Vendors (who are not the Constructor) should not direct the Constructor on means and methods, or how and when to carry out their health and safety obligations under the law. However, Regional Employees and Consultants can identify and ask questions about work they feel is unsafe, this is discussed further below.

6.2 Collection of Information and Follow-up on Health and Safety Practices on Site

While the Region is not an expert in construction health and safety, to ensure due diligence it will Constructor, including updated versions. Project Managers shall collect the following (if applicable):

- Health and Safety Plans, Programs and Policies
- Incident reports, including corrective actions taken
- Notice of Project
- Form 1000s

- Progress Meeting Minutes
- Documentation filed by or submitted to any Governmental Authority with respect to Health and Safety
- Proof of up-to-date CPO-Accredited Occupational Health and Safety Management System accreditation. This will be added to the requirements for a Proper Invoice.

A project manager must follow up on any practices that differ from the Constructor's health and safety policies and plans, as well as any observed health and safety hazards. For example, where the Constructor says all staff will be trained on the health and safety plan, the project manager can ask for training records to demonstrate that training has been completed. If the safety plan says welding will require a pre-job safety plan, the project manager should ask for copies to confirm this plan is implemented. For clarity, the Regional Project Manager is required to inform the Constructor in a timely manner when complaints from the public pertaining to Health and Safety are reported.

While the Region does not delegate their obligations under OHSA to a Consultant or site inspector retained on Regional construction projects, a Consultant and inspector can help gather and review the documents necessary to ensure compliance.

6.3 Progress Meetings

It is standard practice to have bi-weekly (or as needed) construction progress meetings. These are typically led by a Consultant but can be led by Regional Employees or Vendors. It is important that health and safety is a topic for discussion at each of these meetings. These are great opportunities to discuss any issues that were identified and confirm the actions the Constructor proposes to resolve or mitigate said issues, as well as progress on the implementation of any resolutions or mitigation measures, in compliance with the Constructor's health and safety plan.

6.4 Procedure for Threats to Health & Safety

The following sections describe actions to take where a Consultant or Contractor witnesses or becomes aware of a situation that poses a threat to health and safety. The approaches required depend on whether the unsafe situation is an immediate danger or not. In general staff should work under the principle of;

"SEE SOMETHING, SAY SOMETHING"

Irrespective of liability or regulatory obligations the Region or Regional Employees may have, OHSA is intended to be broad public safety legislation and it is important that everyone takes steps to keep each other safe when working on construction sites.

6.4.1 Procedure for Immediate Threats to Health & Safety

For the purposes of this document, an immediate threat are dangers from which you believe death or serious physical harm could occur within a short time. Please note while not an exhaustive list, some examples of high-risk activities include the below, each of which could result in an immediate threat under the right circumstances:

- Working where there is a fall risk without wearing appropriate personal protection equipment or having proper barriers;
- Working near exposed electrical equipment or cables without appropriate work separation; and
- Working with inappropriate or insufficient traffic control.

If there's a perceived immediate danger at a construction site and it is observed by or becomes known to a Consultant or Constructor, the person should stop the work, then report the issue and the Project Manager shall document it and follow up with the Constructor as detailed in section 5.4.2 below:

1. Stop the Work

- a) If a Regional Vendor becomes aware of an immediate health or safety issue at a construction site, the person shall direct the worker in immediate danger to immediately stop their work. Consultants should not instruct Constructors on how/when to restart work.
- b) Once stopped, the Regional Vendor shall notify the Site Superintendent (or delegate) and Project Manager immediately. The Regional Vendor may remain on site until issues are appropriately escalated and the responsible person for care and control arrives.
- c) The Project Manager shall document the issue and follow up with the Constructor as detailed in section 5.4.2 Procedure for Non-Immediate Threats to Health & Safety below.

Note: If the worker refuses to stop or correct the unsafe work, the Regional Employee shall notify the Constructor's Site Superintendent (or their delegate), and if needed the MLITSD. The MLITSD can advise on steps that should be taken, including remaining on site, informing other parties, etc.

6.4.2 Procedure for Non-Immediate Threats to Health & Safety

For the purposes of this document, a 'Non-Immediate Threats' include a person, situation, or something else that poses a risk to someone or something in the future but not within a short time. If there's a non-immediate threat at a construction site and it is observed by or becomes

known to a Consultant or Constructor, the person should report the issue the Project Manager shall document it and follow up with the Constructor as detailed below:

1. Report Issue & Document

- a) Where a Regional Vendor sees or becomes aware of a health and safety threat, they shall report the issue to the Constructor's Site Superintendent (or their delegate) and Project Manager immediately.
- b) The Regional Vendor may stay on site until issues are appropriately escalated and the responsible person for care and control arrives or is aware and managing the issue.
- c) The Regional Project Manager shall document the issue using a Health & Safety Incident Report Template and include the Report in the Project file and share with the Consultant (if applicable).

2. Follow up with Constructor

- a) The Project Manager must follow up via email with the Constructor but shall not instruct the Constructor on any remedies required. The Project Manager shall request/confirm the Constructor's intended resolution and timeline. The more serious the health and safety issue, the more quickly the Region anticipates the issue to be resolved.
- b) The Project Manager must follow up on the Constructor's resolution of the issue within a reasonable time. The Project Manager shall confirm the resolution aligns with the Constructor's health and safety plans. If not resolved, the Project Manager shall escalate the issue to appropriate Constructor personnel, up to and including calling the MLITSD if the issue continues to be unresolved.

6.4.3 Uncertain Threats to Health & Safety

Where it is unclear if an issue is a threat to health or safety, a person seeing or aware of said issue must raise the issue to the Site Superintendent (or their delegate) and the Regional Project Manager.