

## WHS Contractor Management

### Purpose

The City of Campbelltown recognises its obligation to ensure the health and safety of Workers engaged by Council by eliminating the risks to health and safety, so far as is reasonably practicable, and

Consult, co-operate and co-ordinate activities with other PCBU (persons conducting a business or undertaking) who have a duty in relation to the same matter, so far as is reasonably practicable.

### Core Components

The core components of the organisation's Contractor Management Procedure aim to: Implement a selection process that:

- Requires potential contractors to provide core information relating to their ability to work within legislative requirements and any additional information requested by the organisation, based on the hazards associated with the task or activity to be undertaken; and
- Provides documented information relating to reasonably foreseeable site specific activities and hazards to potential contractors for consideration in their submission; and
- Documents an assessment of the information contained in the potential contractor's submission against legislative requirements and the organisation's minimum WHS expectations for the proposed work;
- Engage contractors in the hazard identification and control process;
- Require appropriate communication processes between the organisation and its contractors to be in place that demonstrate that consultation, cooperation and coordination between shared duty holders occurs, so far as is reasonably practicable;
- Require an appropriate risk based schedule to be developed and implemented by the Contract Manager/Superintendent to monitor each contractor's WHS compliance (and that there are systems in place for addressing non-compliance); and
- Maintain currency and relevance of the organisation's contractor management systems through a process of monitoring and review.

## Scope

### **This Instruction aims to:**

Ensure that the Council adopts a systematic approach to the selection, engagement, induction, monitoring and evaluation of Contractors, so that it only engages:

- Competent providers of the goods and services they are contracted to provide, and
- Contractors who are able to demonstrate their ability to work within the requirements of the WHS (Work Health and Safety) Act and Regulations, Approved Codes of Practice and relevant legislation and industry standards.
- Develop communication processes that demonstrate consultation, cooperation and coordination between shared duty holders occurs, so far as is reasonably practicable.
- This procedure deals with contracted work, which may include construction work as defined in the Work Health and Safety Regulations 2012. Users of this procedure are advised to ensure that all legal requirements for construction work are addressed.

## Definitions

Construction project	A project that involves construction work where the cost of the construction work is \$450,000 or more <i>(As defined by the WHS Regulations, Regulation 292)</i>
Construction work	<p>Any work carried out in connection with the construction, alteration, conversion, fitting-out, commissioning, renovation, repair, maintenance, refurbishment, demolition, decommissioning or dismantling of a structure <i>(As defined in the WHS Regulations, Regulation 289)</i></p> <p>But does not include the following:</p> <ul style="list-style-type: none"><li>• The manufacture of plant;</li><li>• The prefabrication of elements, other than at a place specifically established for the construction work, for use in construction work;</li><li>• The construction or assembly of a structure that once constructed or assembled is intended to be transported to another place;</li><li>• Testing, maintenance or repair work of a minor nature carried out in connection with a structure;</li><li>• Mining or the exploration for or extraction of minerals.</li></ul> <p><i>(As defined by the WHS Regulations, Regulation 2012 (289)(3))</i></p> <p>'In connection with' means related to or associated with construction. Contracts covering a project are a good guide to what activities are done in connection with construction.</p> <p>Examples may include:</p> <ul style="list-style-type: none"><li>• Work by architects or engineers in on-site offices or conducting on-site inspections, but not architects or engineers working in offices away from the construction site.</li><li>• Work by a mechanic on an excavator on-site and not in an isolated service area.</li><li>• Delivering building materials to different points on the site, but not making deliveries to a single designated delivery area.</li><li>• Excavating for a basement garage.</li><li>• Testing fire equipment on the construction site.</li><li>• Supervisors and manager moving around the site to monitor work.</li><li>• Surveying a site after construction has started, but not surveying a Greenfield site before construction has started.</li><li>• Traffic control on a construction site.</li></ul> <p><i>Source: COP: Construction Work, May 2018 (COP: Construction Work), p.6.</i></p>

Contract	<p>A contract is a written or expressed agreement between two parties to provide a product or service.</p> <p>There are essentially six elements of a contract that make it a legal and binding document. In order for a contract to be enforceable, it must contain:</p> <ul style="list-style-type: none"><li>• An offer that specifically details exactly what will be provided</li><li>• Acceptance, which is the agreement by the other party to the offer presented</li><li>• Consideration, money or something of interest being exchanged between the parties</li><li>• Capacity of the parties in terms of age and mental ability</li><li>• The intent of both parties to carry out their promise</li><li>• Legally enforceable terms and conditions, also called object of the contract</li></ul> <p>In other words, a contract is enforceable when both parties agree to something, back the promise up with money or something of value, both are in sound mind and intend to carry out their promise and what they promise to do is within the law.</p> <p>Most commonly, a contract is written and signed by the parties.</p> <p>Examples of typical Local Government contracts can include, but are not limited to:</p> <ul style="list-style-type: none"><li>• An employment contract between an organisation and its employees.</li><li>• A service contract with a contractor to undertake works or a specific role.</li><li>• A purchase agreement or purchase order for the supply of goods and services.</li><li>• A lease or tenancy agreement for premises or land.</li><li>• A license to occupy or undertake an activity on Council land/premises.</li><li>• A rental or hire agreement in relation to vehicles or equipment.</li></ul> <p>An insurance contract for any organisation owned asset or for Public Liability.</p>
Contract Manager Superintendent	<p>A person nominated by the Council and appropriately trained to manage contracts on its behalf</p>

High risk construction work	<p>Construction work that:</p> <ul style="list-style-type: none"><li>• Involves a risk of a person falling more than 3 metres; or</li><li>• Is carried out on a telecommunication tower; or</li><li>• Involves demolition of an element of a structure that is load-bearing or otherwise related to the physical integrity of the structure; or</li><li>• Involves, or is likely to involve, the disturbance of asbestos; or</li><li>• Involves structural alterations or repairs that require temporary support to prevent collapse; or</li><li>• Is carried out in or near a confined space; or</li><li>• Is carried out in or near—<ul style="list-style-type: none"><li>○ A shaft or trench with an excavated depth greater than 1.5 metres; or</li><li>○ A tunnel; or</li></ul></li><li>• Involves the use of explosives; or</li><li>• Is carried out on or near pressurised gas distribution mains or piping; or</li><li>• Is carried out on or near chemical, fuel or refrigerant lines; or</li><li>• Is carried out on or near energised electrical installations or services; or</li><li>• Is carried out in an area that may have a contaminated or flammable atmosphere; or</li><li>• Involves tilt-up or precast concrete; or</li><li>• Is carried out on, in or adjacent to a road, railway, shipping lane or other traffic corridor that is in use by traffic other than pedestrians; or</li><li>• Is carried out in an area at a workplace in which there is any movement of powered mobile plant; or</li><li>• Is carried out in an area in which there are artificial extremes of temperature; or</li><li>• Is carried out in or near water or other liquid that involves a risk of drowning; or</li><li>• Involves diving work.</li></ul> <p>(As defined by the WHS Regulations, Regulation 291)</p>
Task Risk Assessment	A document which records the risks associated with an activity and the controls to be followed to complete the activity safely.
Monitoring	Process of reviewing the activities undertaken to ensure they are being conducted safely and in accordance with documented requirements.
Person with management or control of a workplace	<p>Means a person conducting a business or undertaking to the extent that the business or undertaking involves the management or control, in whole or in part, of the workplace but does not include—</p> <ul style="list-style-type: none"><li>• the occupier of a residence, unless the residence is occupied for the purposes of, or as part of, the conduct of a business or undertaking; or</li><li>• a prescribed person.</li></ul> <p>The person with management or control of a workplace must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person.</p> <p>(As defined by the WHS Act, Section 20)</p>
Preferred Contractor Register	<p>A list of contractors who have:</p> <ul style="list-style-type: none"><li>• demonstrated their ability to work within the requirements of the WHS Act and Regulations, Approved Codes of Practice and relevant legislation and industry standards; and</li><li>• been assessed as having the necessary experience and skill to perform the contract work safely.</li></ul>

Principal Contractor	<p>The PCBU that commissions a construction project is the principal contractor, unless the person appoints another PCBU to be the principal contractor and authorises such person to have management or control of the workplace and discharge the duties of the principal contractor</p> <p><i>(As defined in the WHS Regulations, Regulation 293 and explained in the COP: Construction Work)</i></p>
Safe Work Method Statement (SWMS)	<p>A document required for high risk construction work that will:</p> <ul style="list-style-type: none"><li>• Identify the work that is high risk construction work;</li><li>• Specify hazards relating to the high risk construction work and risks to health and safety associated with those hazards;</li><li>• Describe the measures to be implemented to control the risks; and</li><li>• Describe how the control measures are to be implemented, monitored and reviewed</li></ul> <p><i>(As defined in the WHS Regulations, Regulation 299)</i></p>
WHS management plan	<p>A document which records the significant prescribed information relating to WHS for a construction project</p> <p><i>(As required and prescribed by the Work Health and Safety Regulations 2012, Chapter 6, Part 4)</i></p>
Worker	<p>A person is a worker if the person carries out work in any capacity for a PCBU, including work as—</p> <ul style="list-style-type: none"><li>• An employee; or</li><li>• A contractor or subcontractor; or</li><li>• An employee of a contractor or subcontractor; or</li><li>• An employee of a labour hire company who has been assigned to work in the person's business or undertaking; or</li><li>• An outworker; or</li><li>• An apprentice or trainee; or</li><li>• A student gaining work experience; or</li><li>• A volunteer; or</li><li>• A person of a prescribed class.</li></ul> <p><i>(As defined in the WHS Act, Section 7).</i></p>

## **Procedure**

### **1. Managing contracts**

*The General Manager has appointed persons with the responsibility to:*

- Manage contracts in line with the Councils Contract Management Instruction (i.e. Contract Coordinator) and/or
- Maintain the Preferred Contractor Register, Contract Administrator, and
- Oversee contracts in their work area (e.g. Contract Administrator).

*The Contract Coordinator/Administrator will:*

- Develop and maintain the Council Preferred Contractor Register
- Prior to engaging Contractors, review the required work with the Contract Superintendent and provide any pertinent hazard information relating to circumstances of the proposed work that the Council is aware of (such as the presence of hazardous chemicals at the worksite, difficulties in accessing the worksite, etc.) to the Contractor for consideration in their submission
- Integrate the WHS Contractor Management requirements into the Councils procurement processes for the selection and engagement of Contractors

*Make sure that contractual documentation is in place and specifies:*

- Which party is the Principal Contractor (if relevant) when construction work is being undertaken
- Which party has control of the workplace,
- The requirement to notify the Contract Coordinator/Superintendent as soon as practicable if an incident occurs whilst Contractors are undertaking contracted work, and
- The person/role responsible for the statutory reporting and management of a notifiable incident.

*When engaging Contractors, obtain the following documentation, dependent on project value and type:*

<b>Project value / type</b>	<b>Requirements</b>
High risk construction work (less than \$450,000)	SWMS
High risk construction work (\$450,000 or more – is a construction project)	SWMS + WHS management plan

## **2. Preferred Contractor Register within SkyTrust**

*Inclusion on the Preferred Contractor Register will be contingent on the Contractor providing the following information, as a minimum:*

- A Certificate of Currency for Public Liability Insurance
- Evidence of current Return to Work SA registration (if applicable)
- Identification of a person within the organisation responsible for WHS
- Copy of current relevant licences and certifications
- Statement of agreement to work within the remit of any and all appropriate WHS requirements
- Evidence of WHS policies and procedures that comply with legislative requirements and the organisation's minimum WHS standards, and
- Appropriate documentation that demonstrates that the hazards relating to the activities covered by the Contractor have been identified, assessed and controlled (Risk Assessment) and that any other specific legislative requirements are being met for the work being undertaken (e.g. SWMS for high risk construction work, confined space risk assessments, asbestos removal documentation etc.)

*Additional information that is required based on the level of risk and the task or activity to be undertaken, which may include:*

- Summary of WHS policies, procedures and instructions eg WHS Management System
- Sample(s) of Risk Assessments, Safe Operating Procedures/Safe Work Instructions relevant to the task
- Incident reporting and investigation process, including a sample of an incident report form
- Licence and training records, including an explanation of how the required licences are obtained and kept current;
- Emergency response procedures and management plans; and
- Evidence of meeting any other reasonable requirements that the organisation deems appropriate.

Once the Contractor has submitted the information (in accordance with the above) the Contract Administrator will review and assess their information to ascertain whether the Contractor meets the Council's minimum standards.

Any detail of the technical aspects of the work that need clarification, including appropriateness of the Risk Assessment, SWMS or WHS Management Plan will be reviewed and confirmed by the Risk Management Coordinator and/or the appropriate Contract Coordinator/Superintendent, where the task is within the Council's expertise.

The documentation which has been assessed will be entered into SkyTrust.  
Should additional information or clarification be required, the Contractor will be advised of such and that they cannot be added to the Preferred Contractor Register until it has been provided.



Should the Contractor not have appropriate systems or documentation in place, the Council may assist them in understanding the requirements for an appropriate WHS Management System, and refer the Contractor to further sources of assistance such as SafeWork SA or industry bodies. The Contractor will not be used unless appropriate safety documentation is in place.

### **3. Maintenance of the Preferred Contractor Register**

*The Contract Administrator will regularly review the Preferred Contractor Register to confirm that:*

- Any changes to the information provided by Contractors in accordance with the above is communicated to the Council and records are updated
- Contractors who want to remain on the Preferred Contractor Register must provide current insurance, registration and licences annually, or more frequently, as otherwise requested by the Council
- The Contractor's performance is monitored, recorded, and taken into consideration if they are to remain on the register. A Contractor whose performance consistently fails to meet the Council minimum WHS standards and does not satisfactorily address any issues will be removed

### **4. Contractor engagement**

If the Council identifies the need for a Contractor to be engaged, the Contract Coordinator / Superintendent will identify appropriate Contractors from the Preferred Contractor Register.

Wherever possible, a Contractor from the Preferred Contractor Register will be engaged in line with the Councils Procurement and Tender Guidelines.

*Prior to engaging a Contractor, the Contract Coordinator/Superintendent will:*

- Check that all insurances, registrations and licences are current;
- Determine what further information might be required to be provided to the Contractor (eg Risk Assessments, SWMS, WHS Management Plan or any other aspect, eg the tendering process)
- Determine what further information might be required in order to demonstrate the Contractor's competency for the work, which was not provided or assessed as part of the Preferred Contractor Register registration process
- Determine whether additional (non-standard) contract provisions are required when drafting the agreement between the Council and the Contractor for the works.
- Identify any shared duties and who the duty holders are and agree the communication process to be applied in relation to these.

## **5. Sub-Contractors**

Contractors who use Sub-Contractors will ensure that those Sub-Contractors have and follow safe systems equivalent to those required by the Council.

In agreeing to the use of Sub-Contractors, the Contractor will confirm e.g. via email with the Contract Coordinator/Superintendent that the Sub-Contractor has adequate processes in place for selection, induction and supervision of their Sub-Contractors.

The Contract Coordinator/Superintendent will apply the same standards to the management of Sub-Contractors as is applied to Contractors, but will also make sure that the Contractor is informed of any relevant communication and consultation provided directly to their Sub-Contractor(s) and Workers.

## **6. Use of Contractors not on the Preferred Contractor Register**

*A Contractor not on the Preferred Contractor Register may only be engaged in a situation where:*

- There is an immediate requirement for the service or an immediate risk to the work health and safety of Workers; and
- Contractors on the Preferred Contractor Register with the appropriate expertise are not available to perform the work within the time frames required, or
- There are no Contractors on the Preferred Contractor Register for the type of work, and
- Time does not permit the full completion of the approval process for the Contractor.

*In these cases, the Contract Coordinator/Superintendent may engage a Contractor not on the Preferred Contractor Register but will:*

- Confirm that the Contractor provides evidence of current insurances, registrations and relevant licences, training or experience
- Make sure the Contractor is made aware of the Council WHS expectations.

## **7. Engaging Contractors to conduct the work**

The Contract Coordinator/Administrator and/or Contract Superintendent will complete the documentation as outlined in sections set out above for all contracts.

*Selection is based on:*

- On selection of an appropriate Contractor to undertake contract work, All documentation required is to be entered onto the SkyTrust Contractor Module before the Contractor commences work with Council
- The Contract Manager /Superintendent will manage the contracted work on behalf of the organisation, including documenting all planning and communications in relation to consultation, cooperation and coordination of work activities, in accordance with WHS Instruction No 27 - Consultation, Communication and Representation.

## **8. General Induction via SkyTrust**

*At the commencement of the contract, the Contract Coordinator/Superintendent will ensure the Contractor is inducted by:*

- Communicating any requirements as specified in the contract documentation
- Communicating the Council WHS policies and procedures that may be relevant to the contract or relevant to carrying out the works
- Keep and maintain records of inductions, training, risk assessments, JSAs, SWMS and the WHS Management Plan provided to its employees, subcontractors or other workers, and provide copies of these to the organisation as required.
- Recording and communicating any known hazards pertaining to the contract
- Completion of all SkyTrust requirements.

## **9. Site Induction**

Wherever reasonably practicable, a site induction will be undertaken to confirm the Contractor and Workers are aware of any site-specific hazards identified by the Council.

If it is not reasonably practicable to undertake a site induction, the Contract Coordinator /Superintendent will require the Contractor to conduct and document a hazard identification and Risk Assessment or SWMS before work commences and take steps to check that this has been done.

Information communicated by the Council through the induction does not relieve the Contractor from any legislative and statutory obligations for WHS or any other matter.

## **10. Contractor monitoring and evaluation**

*During the course of the contract, based on the level of risk, the Council Contract Coordinator / Superintendent will:*

- Undertake a monitoring/inspections, based on the complexities and risks identified in the course of the initial Risk Assessment.

*Monitor the Contractors performance:*

- In line with the monitoring/inspection schedule
- SWMS or WHS Management Plan provided by the Contractor, or
- By using the Contractor Monitoring section of SkyTrust to monitor identified hazards, check that agreed controls are being implemented and corrective actions identified, communicated and closed out;
- Interrupt the work if the Council approved safety standards are breached or the work is not being conducted in accordance with the supplied Risk Assessment, SWMS or WHS Management Plan (where applicable);
- Verify that corrective actions identified have been effectively closed out within the designated timeframes.
- Verify that corrective actions identified have been effectively closed out within the designated timeframes

*Evaluate and document the Contractor's performance:*

- Using the Contractor section in SkyTrust
- Then forward it to the Contract Manager / Administrator for noting in the Preferred Contractor Register and entry into the Councils records management system.
- Corrective actions will be included in the SkyTrust hazard section to provide data analysis capabilities with regard to Contractor management issues and trends.

## **11. Incidents during Contractor activities**

If an injury or incident occurs during contracted work, the person/s involved should, if safe to do so, take whatever steps are necessary to control the hazard and seek first aid or emergency assistance. This may include following the control measures documented in the Council's or Contractor's Emergency Plan.

*Where the Council has control of the workplace:*

- The Incident Reporting and Investigation Work Instruction No. 2 will be adhered to, including the requirement that where a notifiable incident has occurred the site is not to be disturbed until a SafeWork SA inspector arrives or any earlier time that an inspector directs.
- The Contract Coordinator/Superintendent will contact the Risk Management Coordinator as soon as practicable after being notified of the incident, who will ascertain whether statutory reporting is required, or provide further direction and assistance; and
- If the contractual requirements specify that the Contractor is to report notifiable incidents to the regulator(s), the Contract Coordinator/ Superintendent will seek evidence from the Contractor of the confirmation of notification given by the regulator.

*Where a Principal Contractor (or other PCBU) has control of the workplace:*

- The Principal Contractor (or other PCBU) will notify the Contract Coordinator/Superintendent of the injury or incident and the immediate control measures put in place by the Principal Contractor (or other PCBU) to prevent further harm or damage as soon as reasonably practicable;
- If the injury is notifiable, the Contract Coordinator/Superintendent will seek evidence from the Contractor of the confirmation of notification given by the regulator.

*The Executive Management Team will:*

- Review hazard incident statistics, audit results, legislative changes and other information relating to the Contractor management process and direct action when required. Minutes should record outcomes of discussions and actions undertaken
- Include the WHS Contractor Management Instruction as part of the ongoing management review process and respond to findings of internal audit as relevant
- Set, monitor and review objectives, targets and performance indicators for any program related to Contractor activities as relevant.
- It is the responsibility of the General Managers/Managers to confirm that the Contractor Management System is used for work that involves engaging a Contractor.

## **12. Training**

*The organisation's training needs analysis (TNA) will identify the training needs for those persons required to:*

- Undertake a Contract Coordinator/Superintendent role
- Use or interact with the contract management process, as per their job role;
- Use or apply the organisation's procurement process;
- Manage construction work
- Manage the Preferred Contractor Register, or
- Contractors will undertake a general induction and, where reasonably practicable, a site induction.
- Undertake any other responsibilities related to contractor management.

## **13. Records**

*The following records will be maintained:*

- Preferred Contractor Register in SkyTrust
- Proof of appropriate Public Liability Insurance Cover;
- Proof of current Return To Work SA registration (if applicable);
- Identification of contractor personnel responsible for work health and safety;
- Copy of current relevant licences and certifications;
- Statement of agreement to work within the remit of appropriate WHS requirements or provision of evidence as part of the work tendering process to meet compliance with relevant legislative requirements for the work being undertaken.
- JSA(s), risk assessment(s), SWMS(s) and WHS Management Plan (where relevant) for the activities covered by the contractor;
- Training records;
- Communication, consultation, coordination and cooperation records
- Any other records relating to legislative compliance; and
- Statutory notifications.

Copies may be retained by other parties, but must be marked "copy". All original records will be managed in line with the current version of General Disposal Schedule 20 for Local Government.

## **14. Review**

The Contractor Management Instruction will be reviewed by the Executive Management Team, in consultation with workers or their representatives, every three years or more frequently if Legislation or Council needs change.

## **15. References**

- Work Health and Safety Act 2012
- Work Health and Safety Regulations 2012
- State Records Act 1997
- General Disposal Schedule 20 for Local Government
- Heavy Vehicle National Law (South Australia) Act 2013 and Regulations
- ReturnToWorkSA Work Health and Safety Standards for self-insured employers
- ReturnToWorkSA Self-insured workplace health and safety evaluation guidelines
- Code of Practice: How to Manage Work Health and Safety Risks
- Code of Practice: Work Health & Safety Consultation, Cooperation & Coordination
- Model Code of Practice: Construction Work May 2018 (for guidance only - not approved in SA)

## **16. Related documents**

- Risk Assessments, SWMS, WHS Management Plan
- Emergency Management Plan
- WHS Risk Management Instruction
- Training Register
- Preferred Contractor Register
- Procurement and Tender Guidelines
- Accident, Reporting and Investigation Instruction
- WHS Instruction No 27 - Consultation, Communication and Representation

## **17. Attachments**

- Contractor Management Procedure Appendix 1

**Chief Executive Officer**

**10 July 2018**  
**Date**

**Chairperson of the WHS Committee**

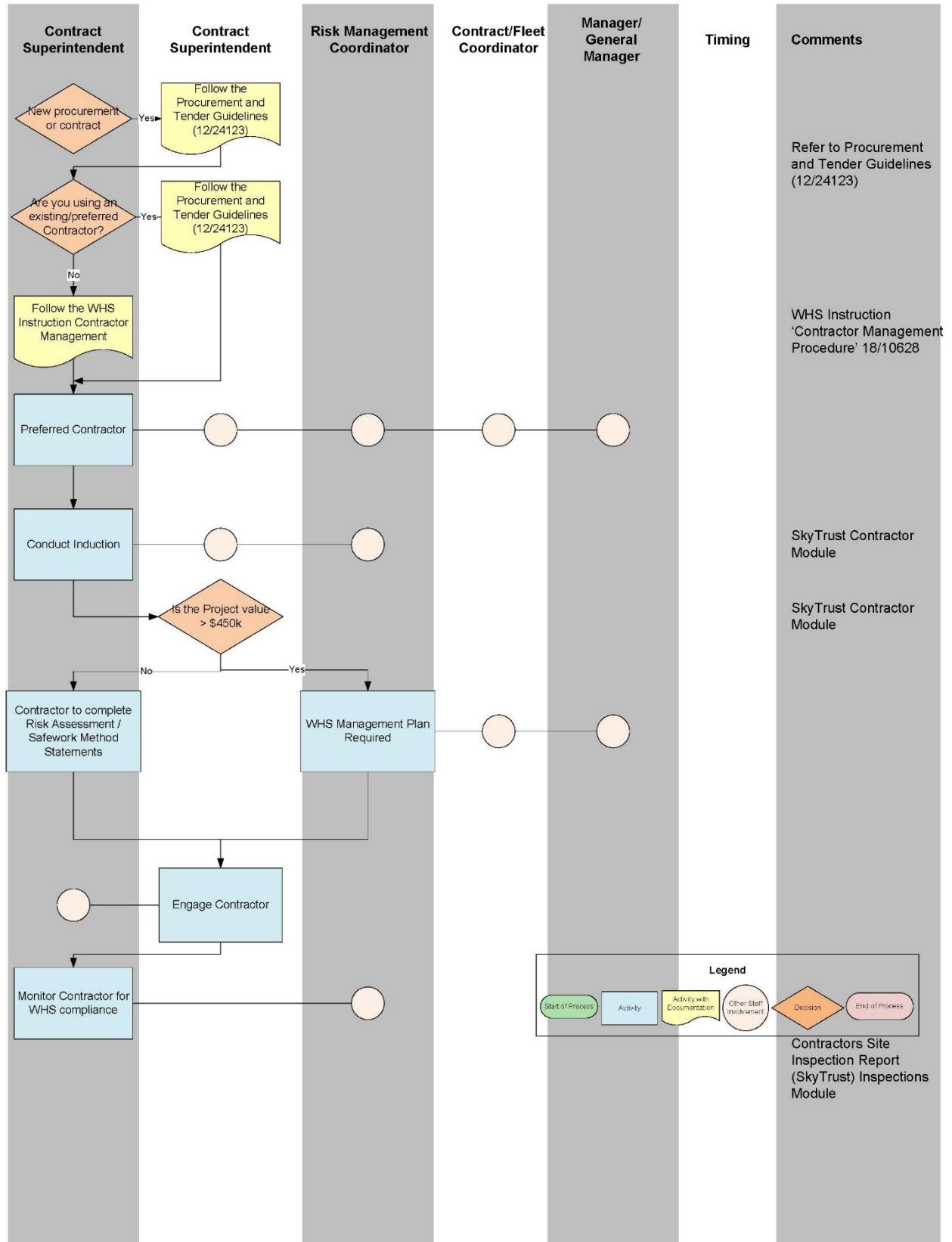
**10 July 2018**  
**Date**



Appendix 1

# Contractor Management Procedure

Approved by General Manager  
Infrastructure Services



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