

**SECTION 7:**  
**CONTRACTOR SAFETY**

**7.0 CONTRACTOR SAFETY**

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**Legal Requirements**

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Public Law 91-596; 29 CFR, part 1910; 29 CFR, part 1926; Federal Acquisition Regulations (FAR) Clause 52.236-13; 36 CFR 4.1; 41 CFR 101-20.002-1; the Construction Safety Act of 1969, as amended; the Service Contract Act of 1965, as amended; the Davis-Bacon Act, 48 CFR, parts 1-53; the Contract Work Hours and Safety Standards Act (40 USC 333); the Public Buildings Act of 1959, as amended (40 USC 606; see also Public Law 100-678, 1988) and DM 485.24.3.

**Program Objectives**

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Any legitimate contractor conducting business in the United States today must provide his or her employees with a safe and healthful working environment, as guaranteed by the OSHA Act of 1970. Regardless of where this work is performed, even on Federal facilities such as NPS parks, the appropriate federal or state OSHA agency having geographical jurisdiction can, and should, inspect and cite businesses for violations.

Businesses do not leave safety and health responsibilities “at the door” when they accept contract work from NPS. In fact, other federal laws and procurement regulations have placed additional health and safety responsibilities not only on businesses who accept Government funds, but also on NPS to ensure that these contractors are meeting the health and safety codes.

Federal and state OSHA officials can assess civil fines and criminal penalties against NPS contractors who violate health and safety regulations. The type of enforcement action taken will depend upon the gravity of the violation. NPS management can assess contractual penalties against NPS contractors who violate health and safety regulations. These penalties can range from stop-work orders to disbarment of the contractor from any future federal contracting.

Park Safety Officers cannot take a direct enforcement action against an NPS contractor for safety and health violations. The park safety officer should call violations to the attention of either the contracting officer or the contracting officer’s technical representative (COTR) on the project. It is the responsibility of the contracting officer or the COTR to ensure that the contractor comes into compliance.

Failure on the part of the contractor to come into compliance with health and safety codes on the NPS project site is a breach of contract and must be treated

accordingly. Failure of the contracting officer, COTR, the park superintendent and the park safety officer to seek compliance and take the necessary actions to achieve resolution constitutes a violation of federal law, departmental regulations and NPS policy.

*Concessionaire Safety.* Enforcement of health and safety codes by NPS officials occurs through a contractual relationship. Poor performance by the concessionaire will generate an unsatisfactory rating, which can result in such serious consequences as immediate contract termination and/or non-renewal. Enforcement of health and safety codes by the appropriate federal or state Department of Labor having jurisdiction, regardless of NPS jurisdiction, can result in monetary fines and criminal charges being levied against concessions managers and/or their companies who disregard employee health and safety. Bringing concession-operated structures into compliance with safety and health codes can be a very complex matter, which often revolves around ownership, possessory interest and contract-negotiated repair and maintenance schedule issues. However, this should never deter NPS employees, supervisors or managers from reporting and correcting unsafe or unhealthful conditions whenever they are discovered. By doing so, the necessary corrective actions can be programmed for eventual completion.

### **Program Responsibilities**

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To be considered in full compliance with the requirements of this chapter, the following steps must be completed and documented for all contracting activity.

1. When considering any type of contracting work within the park or operating unit, the NPS employee proposing the project should consult with a qualified safety manager with practical knowledge of OSHA construction standards (29 CFR 1926) and related rules governing work-site safety. During this initial meeting, they should discuss any special safety requirements, above and beyond the existing federal or state safety and health codes, that must be written into the contract specifications as part of the bidding process (a special condition). The safety officer should review the appropriate safety and health clauses from the FAR. Further, the work unit's requirements for the preparation, submission and on-site implementation/coordination of the contractor's own documented safety plan should be detailed clearly in the proposed statement of work.
2. The contracting officer and the COTR should secure the surname of a qualified safety professional on all proposed statements of work and bidding packages before advertisement, signifying that all appropriate safety and health clauses and special conditions are contained in the bidding package.
3. The qualified safety professional should be asked to evaluate all contractor-documented safety plans submitted as part of any proposal for completeness and competency. The contracting officer and the COTR should consider the previous safety record of all responsive bidders in the award of the contract itself.

4. The appropriate qualified safety professional should participate in any pre-award conferences or meetings held with prospective contractors to answer any questions they may have concerning health and safety-code compliance on the job site.
5. After the contract is awarded, but before any contract work should begin, a meeting should be held between the contracting officer, the COTR, the qualified safety professional and the contractor. The safety officer should orient the contractor to the work unit's own documented safety plan and discuss the work unit's expectations for contractor safety and health. On-site coordination and inspection matters will be addressed. The contractor should present his own documented safety plan. Minutes of this meeting should be kept and placed in the appropriate safety officer's files. Copies should be sent to all parties.
6. The COTR, or the on-site representative of the government, should perform periodic informal safety and health inspections of the worksite, at least daily. Formal inspections involving both representatives of the contractor, as well as the qualified safety professional should be conducted according to the schedule agreed to initially. Sufficient unannounced formal inspections should be conducted to determine compliance.
7. When hazards or violations are identified, the contractor should be provided by the contracting officer with a written listing of the violation, a proposed abatement and a date for correction. It should be the responsibility of the COTR and the contracting officer to ensure compliance is achieved. The qualified safety professional should provide technical assistance to all parties at any time. Written copies of all hazards identified and abated should be kept as part of the project file on site and be available at reasonable times for inspection.
8. In the case of an imminent danger, the park safety officer will inform the affected employees and official in charge of the workplace of the danger. The official in charge of the workplace, or a person empowered to act for that official, will undertake immediate abatement and the withdrawal of employees who are not necessary for abatement of the dangerous conditions. The park safety officer will immediately notify the contracting officer or COTR of the imminent danger and propose an abatement plan. The contracting officer and the COTR should undertake the necessary discussions with the contractor to correct the situation.
9. The qualified safety professional should discuss the contractor's safety record with the work-site manager (park Superintendent) at the quarterly status meeting.

10. Prior to final acceptance of any contractor work/product, the safety officer should certify that the facility, structure, grounds, etc., are fit for occupancy and meet all health and safety codes.

11. The qualified safety professional should be provided with copies of manufacturer's specifications, warranties and operating instructions for all safety systems installed as part of the project. Such documentation must be provided before final payment is authorized by the contracting officer.

## **Program Responsibilities**

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Initiating Employee - any employee proposing work to be performed by a contracting entity must ensure proper communication and involvement of the appropriate safety officer, safety engineer or safety manager early in the developmental stages of the statement of work.

### Contracting Officer must

1. Secure appropriate safety officer's surname on all bid packages prior to announcement, certifying all safety clauses (FAR, as well as special conditions), have been included.
2. Seek participation of safety officer in pre-award meetings or briefings.
3. Consider safety officer's rating of all responsive bidders' documented safety plans in the award of contract.
4. Meet with COTR, safety officer and contractor to discuss work-site safety before authorizing work to begin.
5. Transmit notices of unsafe or unhealthful conditions to contractor and ensure that corrective action is taken within established timeframe.
6. Check to see all manufacturers' specifications, operations manuals or other safety data has been provided to safety officer before certifying final payment.
7. Receive certification of occupancy from safety officer before releasing contractor and facility for use.

Contracting Officer's Technical Representative must

1. Secure involvement of appropriate safety officer in early stages of project design.
2. Secure safety officer's surname on all pre-bid packages.
3. Meet with contracting officer, safety officer and contractor to review safety plans and communication.
4. Informally inspect work site daily, calling to the attention of the contracting officer all unsafe or unhealthful conditions present.
5. Assist contracting officer in ensuring corrective action is undertaken to rectify safety problems within timeframe established.
6. Accompany safety officer on formal inspections, both announced and unannounced.
7. provide safety officer with copies of all technical data for any safety systems installed.

Park Superintendent/Unit Manager must

1. Review contractor's safety record at least quarterly with safety officer.
2. Ensure contracting safety program is conducted in accordance with this chapter.

Safety Officer, Safety Engineer and Safety Manager must

1. Provide technical assistance to contracting officer, the contracting officer's technical representative and project author in administration and enforcement of appropriate safety and health codes.
2. Surname all bidding packages to certify compliance with safety and health codes.
3. Review all contractor-documented safety plans for completeness and competency.
4. Orient contractor to worksite's documented safety plan before work begins.
5. Conduct periodic formal inspections of the worksite, both announced and unannounced.

Contractor must

1. Provide a safe and healthful workplace for all employees while on NPS site.
2. Provide a level of public safety commensurate with exposure at NPS worksite.
3. Comply in rectifying all unsafe or unhealthful conditions called to his attention by the contracting officer.
4. Allow for informal and formal, announced and unannounced safety inspections by the COTR and the appropriate safety officer at the worksite.
5. Submit an acceptable documented safety plan before beginning work.