

Guidance on Contractor Obligations

Consultation Draft 0.12

Prepared by Rail Safety Regulators Panel

June 2008

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INTRODUCTION

1. Purpose

The purpose of the Guidance on Contractor Obligations is to provide rail transport operators and contractors with guidance on:

- the general duties of a rail transport operator and a contractor
- identifying who may be accredited to undertake certain railway operations
- the alignment of the Safety Management Systems (SMS) of the rail transport operator and contractor and
- good practice in contract management.

The Guidance is based on the provisions of the national model Rail Safety Bill 2006 and the national model regulations. Local variations may be made to these provisions when the national model Rail Safety Bill and regulations are translated into rail safety legislation specific to jurisdictions.

The Guidance on Contractor Obligations is intended to be read in conjunction with rail safety legislation. Please refer to the applicable rail safety legislation specific to each jurisdiction where accreditation is sought and/or granted.

The Guidance refers to and complements the following guidelines that relate to contractor management:

- *National Guideline - Preparation of a Rail Safety Management System;*
- *National Guideline for the meaning of duty to ensure safety so far as is reasonably practicable; and*
- *National Guideline - Accreditation of Rail Transport Operators.*

The Guidance does not cover obligations under occupational health and safety legislation.

2. Interpretation

Definitions provided by rail safety legislation apply within this guidance.

Use of the word ‘consider’ or ‘may’ indicates an option however rail transport operators and contractors are free to follow a different course of action provided that it complies with the legislation. Use of the word ‘should’ indicates a recommendation of the Rail Safety Regulators Panel; however rail transport operators and contractors are free to follow a different course of action provided that it complies with the legislation.

Use of words such as “must” or “mandatory” indicate that legal requirements exist which must be complied with. References to relevant provisions of the national model Rail Safety Bill 2006 (RSB) or the national model regulations (NMR) are included in the Guidance where legal requirements exist.

Where terms are not defined within legislation the Macquarie Dictionary definition applies.

This Guidance is intended to be a guide only. It is not intended to replace the legislation, or to limit or expand the scope of the legislation. In the event of an inconsistency between this Guidance and the legislation, the legislation will prevail. It is recommended that you obtain your own, independent legal advice about the legislation.

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PART A: GENERAL DUTIES

1. General duties of rail transport operators and contractors

Rail transport operators have a general duty to ensure, so far as is reasonably practicable, the safety of their railway operations (RSB ss28). The general duty of rail transport operators extends to their contractors (RSB s28A). The general duty requires rail transport operators to, so far as is reasonably practicable:

- have safe systems for their railway operations;
- ensure their rail safety workers are:
 - of sufficient good health and fitness to work safely,
 - competent to undertake relevant rail safety work,
 - not carrying out rail safety work or on duty while more than the relevant concentration of alcohol is present in their blood or while impaired by a drug, and
 - comply with the operator's fatigue management program;
- provide adequate facilities for the safety of people at railway premises they control or manage;
- provide rail safety workers with the information, instruction, training and supervision necessary to enable them to do their work safely; and
- provide information to other persons on the railway premises so that those persons can be safe.

If a rail transport operator is a rail infrastructure manager, that is a person with effective management and control of rail infrastructure, the general duty also includes the obligation to, so far as is reasonably practicable,:

- ensure that any design, construction, commissioning, use, installation, modification, maintenance, repair, cleaning or decommissioning of rail infrastructure is carried out in a way that ensures the safety of railway operations;
- establish systems and procedures for scheduling, control and monitoring of railway operations, to ensure the safety of the railway operations.

If a rail transport operator is a rolling stock operator, that is a person with effective management and control of the operation or movement of rolling stock the general duty also includes the obligation to, so far as is reasonably practicable,:

- provide or maintain safe rolling stock;
- ensure that design, construction, commissioning, use, modification, maintenance, repairs, cleaning or decommissioning of rolling stock is carried out in a way that ensures safety;

- comply with the rail infrastructure manager's rules and procedures for scheduling, control and monitoring of rolling stock;
- have equipment, procedures and systems to minimise risks to the safety of the railway operations; and
- have arrangements to ensure safety in connection with the use, operation and maintenance of rolling stock

Designers, manufacturers and suppliers also have general safety duties (RSB s29). In addition, there are general duties that apply to rail safety workers (RSB s70).

The meaning of "rail transport operator" and "railway operations" is discussed in Part B of this Guidance.

2. The Meaning of "So Far As Is Reasonably Practicable"

The term "so far as is reasonably practicable" (SFAIRP) is explained in detail in the *National Guideline for the meaning of duty to ensure safety so far as is reasonably practicable*.

In brief, SFAIRP means that the likelihood and consequences of a risk must be weighed against the availability, effectiveness and cost of measures to eliminate or reduce the risk.

3. Specific duties of rail transport operators and contractors

In addition to the general duty, the legislation imposes specific duties on rail transport operators and contractors in relation to contract management.

Rail transport operators are required to be accredited or exempt from accreditation (RSB s31). Guidance on this specific duty can be found in part B of this Guidance.

Contractors have a specific duty to comply with the safety management system of the rail transport operator to the extent that it applies to the railway operations carried out by the contractor (RSB s71). Guidance on this specific duty can be found in part C of this Guidance.

Rail transport operators have a specific duty to have a safety management system which includes systems and procedures in relation to contract management (RSB s57(1)(b) and NMR Schedule 1 item O). Guidance on this specific duty can be found in part D of this Guidance.

4. Prohibition on "contracting out"

A contract may include a term known as an 'exclusion clause'. There are three main types of exclusion clauses:

- clauses which operate to exclude a person's rights and obligations which that person would otherwise possess under the legislation;
- clauses which operate to limit (or restrict) the rights and obligations which that person would otherwise possess under the legislation; and
- clauses which operate to modify (or qualify) the rights and obligations which that person would otherwise possess under the legislation.

The practice of excluding, limiting or modifying a legal right or obligation by way of contract is generally referred to as 'contracting out'.

The legislation imposes a prohibition on contracting out and the use of exclusion clauses in regards to the provisions of the legislation (RSB s161). Therefore, any person (including a rail transport operator) who possesses a right or obligation under the legislation cannot 'contract out' those rights or obligations.

The key result of this prohibition is that persons subject to the requirements of the legislation remain bound to those exact requirements. This is the case irrespective of any express or implied contractual provision which provides otherwise. Accordingly, rail transport operators, and others with duties under the legislation, cannot use exclusion clauses as a defence to any contravention of the legislation.

For example, a rail transport operator may wish to include and then rely on a term in a contract restricting the operator's duty to establish a safety management system for railway operations which the other party to the contract will carry out on the operator's behalf. In this case the prohibition on contracting out would render that particular term void and ineffectual.

Rail transport operators consequently remain responsible for the safety of their railway operations and their other obligations under the legislation. These responsibilities (and their inherent risks) cannot be limited or transferred to other parties by contractual terms, either express or implied.

It is important to note that the prohibition will operate in all cases. That is, there can be no conditions or exceptions. Accordingly, a person may not be able to argue that a contractual exclusion of, or limitation on, a provision of the legislation was fair and reasonable, or otherwise acceptable, in the circumstances.

PART B: IDENTIFYING WHO MAY BE ACCREDITED FOR RAILWAY OPERATIONS

1. Meaning of “rail transport operator”

A rail transport operator is a person who is a rail infrastructure manager or a rolling stock operator, or both.

A rail infrastructure manager means a person with effective management and control of the rail infrastructure of a railway (RSB s4). A rolling stock operator means a person with effective management and control of the operation or movement of rolling stock (RSB s4).

The meaning of “effective management and control” is considered further in section 3.2 of this part of the Guidance.

A “person” can mean any legal entity, for example, an individual or a body corporate. A body corporate is any body that has been incorporated and includes a private company, a public company, an incorporated association and a body deemed by statute to be a body corporate.

2. Accreditation requirements for railway operations

The purpose of accreditation is to attest that the rail transport operator has demonstrated the competence and capacity to manage risks to safety associated with its railway operations (RSB s30).

The legislation requires railway operations to be carried on by or on behalf of a rail transport operator who is accredited or exempt from accreditation (s31 RSB). Note: the legislation specifically exempts the rail infrastructure managers of private sidings from accreditation (RSB s56).

Railway operations means:

- the construction of a railway, railway tracks and associated track structures or rolling stock;
- the management, commissioning, maintenance, repair, modification, installation, operation or decommissioning of rail infrastructure;
- the commissioning, maintenance, repair, modification, or decommissioning of rolling stock;
- the operation or movement (or causing the operation or movement) by any means, of rolling stock on a railway (including for the purposes of construction or restoration of rail infrastructure);
- the movement, or causing the movement, of rolling stock for the purposes of operating a railway service (RSB s4).

A person who carries out railway operations without being accredited or exempt from accreditation, or who is not carrying out railway operations on behalf of another person who is accredited or exempt from accreditation, may face severe penalties.

To avoid breaching the legislative requirements relating to accreditation, a principal and contractor should actively consider which party is the rail transport operator in relation to the relevant railway operations, and will therefore need to be accredited or exempt from accreditation, before entering into a contract.

Further guidance on accreditation, including applications for accreditation and applications for variation to accreditation, may be found in the *National Guideline - Accreditation of Rail Transport Operators*.

3. Meeting the accreditation requirements

In considering accreditation requirements, the following matters need to be taken into account:

- the scope of railway operations which will need to be undertaken to carry out the contract;
- which party is carrying out, causing or permitting to be carried out those railway operations;
- in relation to those railway operations, which party has “effective management and control” of the rail infrastructure or rolling stock; and
- whether any parties to the contract are already accredited or exempt in relation to those railway operations.

3.1 Scope of railway operations

In planning to engage contractors to carry out railway operations the principal should identify the scope of railway operations to be carried out under the contract ie the type of railway operations to be carried out and the geographic location where they are to be carried out.

The legislation sets out the purposes for which accreditation may be granted (RSB s32).

If the rail transport operator for the specific railway operations is already accredited or exempt from accreditation, their existing notice of accreditation or exemption should be reviewed to determine whether the railway operations to be carried out fit within this accreditation or exemption.

The principal and contractor should also consider the need for accreditation for ancillary railway operations, for example the movement of track maintenance vehicles to, from and around a site for the purpose of carrying out rail infrastructure maintenance.

3.2 Determining who has “effective management and control”

In planning to engage contractors to carry out railway operations a principal should identify whether the principal or the contractor would be considered to be the rail

transport operator in relation to the specific railway operations. The key question here is: which party has the “effective management and control”?

Which party has the “effective management and control” is a question of fact, to be considered on a case by case basis. However, the following are indicators of “effective management and control”:

In the case of rail infrastructure:

- the owner or lessee is likely to have effective management and control unless functions such as construction, maintenance and operations have been contracted out;
- if all functions such as construction, maintenance and operations have been contracted out to a single party, that party is likely to have effective management and control;
- if functions such as construction, maintenance and operations are contracted out to more than one party then the contractor exercising the operations functions or the owner may have effective management and control.

In the case of rolling stock:

- the owner, lessee or custodian is likely to have effective management and control unless functions such as construction, maintenance and operations are contracted out;
- if functions such as construction, maintenance and operations are contracted out, then matters such as under whose safety management system or access agreement rolling stock operations are to be undertaken should be considered.

4. Case Studies

Example 1 – Bravo contracts with Alpha & Charlie

Alpha is an accredited rail infrastructure manager who contracts Bravo to carry out rail infrastructure works for four weeks on their behalf on their network.

Over the 4 weeks Bravo will use track maintenance vehicles to undertake maintenance on one track and re-sleeper the adjacent track. Most of Bravo’s rolling stock used in the operation will travel by rail to the site.

During this time Bravo is also contracted by Charlie to carry out maintenance and repair works on weekends on Charlie’s private siding which is connected to Alpha’s network. Bravo will be running some track maintenance vehicles between the Alpha site and Charlie’s private siding on Friday and Sunday evenings.

Issues to consider:

- Who should be accredited for the movement of Bravo’s rolling stock around the Alpha site and on Charlie’s private siding?
- Who will be accredited for the movement of Bravo’s rolling stock from the Alpha site to Charlie’s private siding and back again?

Example 2 – Delta and Foxtrot

Foxtrot has been contracted by Delta to construct new rolling stock. The prototype rolling stock is constructed but needs to be tested on Golf's network.

Issue to consider:

- Who should be accredited for the testing of rolling stock built by Foxtrot on behalf of Delta on the Golf network?

5. Evidence regulators might expect to see in relation to identifying who is to be accredited for railway operations

Rail safety regulators will expect to see evidence that the accredited person for railway operations under and ancillary to a contract has been identified. Regulators will expect the following to be included in the contract documentation:

- a list of railway operations to be carried out under the contract and any ancillary railway operations;
- identification of under whose accreditation the railway operations will be carried out, signed by the principal and contractor;
- if works are carried out under the contractor's accreditation, evidence that the principal has obtained a copy of the contractor's notice of accreditation and has reviewed it;
- if works are carried out under the principal's accreditation, evidence that the contractor has obtained a copy of the principal's notice of accreditation and has reviewed it; and
- processes for the review of accreditation requirements if the railway operations to be carried out under the contract or ancillary to the contract change during the course of the contract.

The legislation obliges a rail transport operator to have a current notice of accreditation or exemption from accreditation available for inspection (RSB s46).

PART C: ALIGNMENT OF RAIL TRANSPORT OPERATOR AND CONTRACTOR SAFETY MANAGEMENT SYSTEMS

1. Requirement to comply with rail transport operator's safety management system

The legislation requires a contractor carrying out railway operations for a rail transport operator to comply with the operator's safety management system (SMS) to the extent that it applies to the contractor's railway operations (RSB s71). There are a number of methods which would allow contractors to comply with this obligation. It does not necessarily require a contractor to adopt the rail transport operator's SMS.

Options for complying with the obligation include:

1. The rail transport operator sets safety and operational outcomes, and the contractor is required to demonstrate that it has systems to meet these outcomes through the tendering or contracting process (ie the rail transport operator incorporates the contractor's systems into its own SMS);
2. The accredited operator sets out the systems by which a contractor must carry out the railway operations (ie the contractor adopts the rail transport operator's SMS to the extent that it applies to the contractor's railway operations)

A rail transport operator, before establishing or reviewing or varying its SMS, is obliged to consult, so far as is reasonably practicable, with:

- any person likely to be affected by the SMS, or its review or variation, their health and safety representatives and the unions which represent them;
- any other rail transport operator with whom there is an interface; and
- the public, as appropriate (RSB s57(2)).

Note: The consultation requirements of the Rail Safety Bill may be subject to local variation.

The rail transport operator and contractor should agree the SMS arrangements through the contract formation process and these arrangements should be specified in the contract documentation.

1.1 How a contractor's systems may be incorporated into the rail transport operator's SMS

The following steps should be taken to incorporate a contractor's systems into the rail transport operator's SMS:

1. Rail transport operator sets safety and operational outcomes.
2. Rail transport operator develops list of railway operations to be undertaken under contract.

3. Rail transport operator reviews contractor's systems against railway operations, safety and operational outcomes and against its own SMS to identify any inconsistencies or issues.
4. Contractor amends systems to meet railway operations, safety and operational outcomes and address inconsistencies if necessary.
5. Rail transport operator amends SMS if necessary to address any inconsistencies
6. Rail transport operator references contractor's systems in its own SMS.
7. Contract documentation is drafted to reflect the SMS arrangements.

1.2 How the rail transport operator's SMS may be applied to a contractor

The following steps should be taken to apply a rail transport operator's SMS to a contractor:

1. Rail transport operator develops list of railway operations to be undertaken under contract.
2. Rail transport operator reviews its SMS to identify and assess the parts of the SMS relevant to the railway operations to be undertaken under the contract.
3. Rail transport operator amends its SMS if necessary.
4. Contractor reviews relevant parts of the rail transport operator's SMS to identify any issues.
5. Rail transport operator amends SMS if necessary.
6. Contract documentation is drafted to reflect the SMS arrangements.

2. Evidence the regulator might expect to see in relation to the requirement to comply with the rail transport operator's safety management system

The SMS itself must comply with the requirements set out in the legislation (s 57 RSB). Elements of an SMS are listed at Appendix A, however it is noted that the SMS requirements may vary between jurisdictions due to local variations. An SMS is required to cover elements that are relevant to the railway operations for which the rail transport operator is accredited, and the level of detail in the SMS must reflect the scope, nature and risks to safety of the railway operations (NMR cl 9). The *National Guideline -Preparation of a Rail Safety Management System* provides detailed guidance on the SMS requirements.

Rail Safety Regulators will expect to see a compliant SMS with a level of detail that is appropriate to the scope, nature and risks to safety of the railway operations and the need to comply with general duties (NMR cl 9).

In addition, rail transport operators and contractors will need to be able to provide evidence that they have considered and agreed the SMS arrangements that are to apply to railway operations to be undertaken under the contract.

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PART D: GOOD PRACTICE IN CONTRACT MANAGEMENT

1. Requirement to have systems and procedures for contract management

A rail transport operator must, if relevant to the railway operations for which it is accredited, have systems and procedures:

- for the review of tender documents and contracts to ensure that safety requirements under the rail transport operator's SMS are adequately defined and documented;
- to ensure that the terms of any tender documents or contracts do not lead to unsafe work or an activity that may affect the safety of railway operations;
- for the selection and control of contractors and to ensure the monitoring and performance of contractors, including conducting or commissioning audits of the contractor's performance in relation to the safety aspects of the contract;
- to ensure that safety duties are being met under contracts, and procedures for the taking of remedial action where necessary; and
- to ensure that goods and services provided to the railway operations meet the standards and specifications required for the safety of the railway operations (NMR Schedule 1 item O).

These requirements are discussed in the *National Guideline – Preparation of a Rail Safety Management System*.

2. How to achieve good practice in contract management

Good practice in contract management is achieved by knowledge of legislative requirements, sound planning, co-operation and communication between the rail transport operator and the contractor. It requires safety and compliance considerations at all stages of the contracting process from pre-tendering to contract evaluations.

The checklist at Appendix B is a guide to the safety considerations in contracting for the use of both rail transport operators and contractors. The checklist supplements the guidance on contractor management which is provided in Section 2.18 of the *National Guideline – Preparation of a Rail Safety Management System*.

Some other helpful documents and guidance on contractor management include:

- Australian Standard AS4292.1 – 2006 Railway Safety Management
- Australian Safety and Compensation Council *Guidance on OHS in Government Procurement 2006*
- Contractor Management System, Civil Contractors' Federation of Australia
- Health and Safety Executive UK, *Use of Contractors: a joint responsibility*
- Roads and Traffic Authority of NSW *Contractor Health & Safety Information Pack*
- WorkCover Authority of NSW *Subby Pack*

APPENDIX A: SAFETY MANAGEMENT SYSTEM ELEMENTS

- Safety policy
- Governance and internal control arrangements
- Management responsibilities, accountabilities and authorities
- Regulatory compliance
- Document control arrangements and information management
- Review of the safety management system
- Safety performance measures
- Safety audit arrangements
- Corrective action
- Management of change
- Consultation
- Internal communication
- Risk management
- Human factors
- Procurement and contract management
- General engineering and operational systems safety requirements
- Process control
- Asset management
- Safety Interface coordination
- Management of notifiable occurrences
- Rail safety worker competence
- Security management
- Emergency management

- Fatigue
- Drugs and alcohol
- Health and fitness
- Resource availability

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APPENDIX B: CHECKLIST FOR GOOD PRACTICE IN CONTRACT MANAGEMENT¹

CONTRACT STAGE	RAIL SAFETY CONSIDERATIONS	CONSIDERATION/ACTION
Procurement stage		
Planning :		
<ul style="list-style-type: none"> • Identify railway operations to be undertaken under contract • Identify elements relevant to the railway operations: supply, design, verification, construction, manufacture, install, erect, repair, modification, operation, decommissioning • Risk management 	<ul style="list-style-type: none"> • Identify the railway operations to be carried out under the contract. • Identified which party to the contract will be the rail transport operator for those railway operations. • Ensure there are formal links between the safety and contract functions. • Review your SMS against the railway operations to be undertaken. For example: <ul style="list-style-type: none"> • undertake contract specific risk assessments relevant to each contract stage; • identify contract risk controls, including rail safety worker competence, and document who will be responsible for applying and managing these controls; and • consult with persons likely to be affected by the review of the SMS, their health and safety representatives and the unions which represent them; rail transport operators with whom you have interfaces; the public (if appropriate). • Check that relevant SMS safety and design, supply, 	<p>Yes No Not applicable</p> <p>Action:</p>

¹ This design concept and some content of this checklist has been drawn from ASCC *Guidance on OHS in Government Procurement* 2006

CONTRACT STAGE

RAIL SAFETY CONSIDERATIONS

CONSIDERATION/ACTION

Approaching the market:

- Select method of procurement of goods or services
- Prepare tender and contract documentation
- Prepare evaluation plan

manufacture, verification, construction, modification, operation, repair, maintenance, and/or decommissioning requirements are included in the contract documentation

- Consider the contract safety requirements in relation to sub-contracting.
- Consider the contract requirements, such as record keeping and reporting, in relation to monitoring safety.
- Identify the safety representatives for all stages of contract management and document their roles and responsibilities.
- Consider what tender documentation relating to safety you might require from prospective contractors.
- Ensure tender safety requirements are appropriate to the railway operations and to the type of procurement – simple, panel contract, pre-qualification scheme, involved and/or complex contracts.
- Ensure tender documents specify safety and operational outcomes.
- Look at different safety requirements for services tenders versus design / supply / manufacture tenders.
- Check for adequate control of contract compliance and reporting requirements.
- Include specific safety management requirements in contract.
- Consider guidance for evaluating safety criteria.
- Consider weighting safety criteria, and whether there is a

Yes
No
Not applicable

Action:

CONTRACT STAGE

RAIL SAFETY CONSIDERATIONS

CONSIDERATION/ACTION

Evaluation of submissions

- Supplier selection
- Feedback

“no go” evaluation decision if safety requirements are not met.

- Consider penalties on contractors for failing to meet safety criteria.

- Check that submissions address the safety criteria.
- Identify and obtain any further particulars needed from tenderers regarding safety.
- Check skills and qualifications of contractor management and safety staff, including previous clients’ safety references for project and safety managers.
- Check contractor incident history.
- Check contractor procedures for sub contractor selection.
- Seek demonstrated evidence of contractor’s SMS implementation.
- Apply weighting for safety criteria.
- Give feedback on safety content to unsuccessful tenderers.

Yes
No
Not applicable

Action:

Contract award stage

Contract negotiation

- Establish shared understanding of safety risks and issues.
- Discuss, consult on and agree SMS content.
- Develop and finalise SMS documentation.
- Schedule contract safety co-ordination and communications, pre-job meetings, safety inspection

Yes
No
Not applicable

Action:

CONTRACT STAGE

RAIL SAFETY CONSIDERATIONS

CONSIDERATION/ACTION

and test/hold points, KPI monitoring.

- Agree and establish program for education, instruction, supervision and training in new or contract specific aspects of SMS.
- Discuss and agree specifications for design, supply, manufacture, verification, construction, modification, operation, repair, maintenance, decommissioning.
- Agree non compliance procedures.
- Agree on contract risk assessment, register and controls, including rail safety worker competence. Identify persons responsible for these controls and document their responsibilities.
- Establish clear and formal process for variations and management of change including sub-contracting.
- Agree performance reporting and incident notification requirements.

Responsibilities and accountabilities

Identify who from the rail transport operator and the contractor is responsible for:

- Supervision of safety aspects of contract
- SMS compliance
- Safety assurance
- Safety representation at project management meetings
- Managing reporting content and format for project management meetings
- Negotiations/Disputes discussions
- Variations

Yes

No

Not applicable

Action:

CONTRACT STAGE	RAIL SAFETY CONSIDERATIONS	CONSIDERATION/ACTION
Variations & Management of change	<ul style="list-style-type: none"> • Approvals – develop a register of approved signatures • Management of change • Communications • Induction • Training • Hazard and risk management • Safety occurrence investigation and reporting <ul style="list-style-type: none"> • Ensure compliance with variation procedure and approvals, including management of change. • Ensure use of register of approved persons and signatures for variations and management of change. • Identify, communicate and action variations and management of change impacts – such as interface agreements, programs for fatigue management and drug and alcohol management, plans for emergency management. • Communicate variations that affect staff, contractors and others. 	<p>Yes No Not applicable</p> <p>Action:</p>
Communications	<ul style="list-style-type: none"> • Make arrangements or prepare communications plan about contract arrangements to staff contractors and others 	<p>Yes No Not applicable</p> <p>Action:</p>

CONTRACT STAGE

Contract management stage

Induction

RAIL SAFETY CONSIDERATIONS

- Staff, contractors, sub-contractor and others.
- Progressive for contract stage, site and works.
- Check all contractor and sub-contractor staff meet the required competencies, health assessments, and other relevant requirements.

CONSIDERATION/ACTION

Yes
No
Not applicable

Action:

Monitoring

- Dependent on nature of works, risks, length of contract, number of sites and sub contractors, consultation and reporting requirements

- Undertake monitoring as agreed, ensuring schedule is met and site visits occur.
- Document findings from inspections, compliance audits and investigations and provide copies to relevant parties.
- Monitor SMS generally, including specific monitoring such as:
 - managing sub contractors.
 - implementation of programs, plans and competencies
 - safety and design management and procedures
 - notification of occurrences and incident investigations
 - risk register
 - management of non compliance

Yes
No
Not applicable

Action:

CONTRACT STAGE

RAIL SAFETY CONSIDERATIONS

CONSIDERATION/ACTION

Auditing

- Undertake auditing as agreed, both desk top and site based.

Yes
No
Not applicable

Action:

Supervision

- Dependent on nature of operations, number of sub contractor, levels of protection under network rules

- Check supervision occurs as required in contract, especially where protection and/or possessions are in place.
- Ensure approvals and permits are properly established and managed in compliance with supervision requirements and network rules.

Yes
No
Not applicable

Action:

Communications

- Ensure continued communications with staff on contract issues affecting safety.

Yes
No
Not applicable

Action:

Contract evaluation stage

Safety compliance

- Identify compliance/non compliance.
- How was non compliance managed? Was non-compliance reported in a timely manner?
- What lessons were learned? How can these lessons improve future tendering and contract management?
- Review occurrences and notifications.

Yes
No
Not applicable

Action:

CONTRACT STAGE

Risk assessment

- What unanticipated issues emerged?
- Lessons learned for the future procurement?

RAIL SAFETY CONSIDERATIONS

- Review SMS risk register against project/contract risks, issues, and notifications of occurrences.
- Add newly assessed risks and controls to contract risk register.
- Add contract management specific risks that affect safety to the risk register.

CONSIDERATION/ACTION

Yes

No

Not applicable

Action:

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