

Section 31
Brieser
Construction
SH&E
Manual

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To familiarize all Brieser Construction Subcontractors with the companies safety rules, procedures, and guidelines for controlling job site incidents and injuries.

Subcontractor
Policy

Table of Contents

PURPOSE	3
SCOPE	3
POLICY	3
GENERAL	3
SUBCONTRACTOR RESPONSIBILITIES.....	5
General	5
Prequalification Process	6
SUMMARY OF SUBCONTRACTOR SAFETY RULES	7
Medical Facilities	7
Incident Reporting.....	7
Clothing.....	7
Personal Protective Equipment.....	7
Inspections.....	8
Violation Procedures	8
Safety Meetings.....	8
Electrical Equipment	9
Fire Protection.....	9
Housekeeping.....	9
SUBCONTRACTOR EMERGENCY ACTION PLAN.....	10
SUBCONTRACTOR SITE SECURITY.....	10
USE OF THE BRIESER CONSTRUCTION COMPANIES EQUIPMENT BY THE SUBCONTRACTOR	11

BRIESER CONSTRUCTION GENERAL CONTRACTORS		DATE:	PROCEDURE:
		8-12-13	TBD
CORPORATE SAFETY, HEALTH & ENVIRONMENTAL MANUAL		Revision:	PAGE:
		03	3
STANDARD OPERATING PROCEDURE:	Subcontractor Policy		
CROSS REFERENCE:	OSHA Directive CPL 02-00-124 Multi-Employer Citation Policy		

PURPOSE

To familiarize all Brieser Construction Subcontractors with the companies safety rules, procedures, and guidelines for controlling job site incidents and injuries.

SCOPE

This section applies to all Brieser Construction affiliates, all contractors working on a subcontract to Brieser Construction, and all affiliates utilizing subcontract labor.

POLICY

Each subcontractor will be expected to be aware of and comply with all local, state, and federal safety standards and regulations.

Each subcontractor will be furnished a non-controlled copy of the Brieser Construction Safety & Health Program and will be required to comply with those portions of the manual which deal with job site safety and health. At the conclusion of your services, a meeting will be held with our job foreman to evaluate your company's safety performance.

GENERAL

In many states, and under federal OSHA, Brieser Construction is responsible for the safety violations of its subcontractors. Under OSHA's Multi-Employer Worksite Policy more than one employer may be citable for a hazardous condition that violates an OSHA standard. Upon inspection OSHA will determine whether the employer is a creating, exposing, correcting, or controlling employer.

- a. The Creating Employer
 - i. The employer that caused a hazardous condition that violates an OSHA standard.

BRIESER CONSTRUCTION GENERAL CONTRACTORS		DATE:	PROCEDURE:
		8-12-13	TBD
CORPORATE SAFETY, HEALTH & ENVIRONMENTAL MANUAL		Revision:	PAGE:
		03	4
STANDARD OPERATING PROCEDURE:	Subcontractor Policy		
CROSS REFERENCE:	OSHA Directive CPL 02-00-124 Multi-Employer Citation Policy		

b. The Exposing Employer

- i. An employer whose own employees are exposed to the hazard.

c. The Correcting Employer

- i. An employer who is engaged in a common undertaking, on the same worksite, as the exposing employer and is responsible for correcting a hazard. This usually occurs where an employer is given the responsibility of installing and/or maintaining particular safety/health equipment or devices.

1. **Example:** Employer C, a carpentry contractor, is hired to erect and maintain guardrails throughout a large, 15-story project. Work is proceeding on all floors. C inspects all floors in the morning and again in the afternoon each day. It also inspects areas where material is delivered to the perimeter once the material vendor is finished delivering material to that area. Other subcontractors are required to report damaged/missing guardrails to the general contractor, who forwards those reports to C. C repairs damaged guardrails immediately after finding them and immediately after they are reported. On this project few instances of damaged guardrails have occurred other than where material has been delivered. Shortly after the afternoon inspection of Floor 6, workers moving equipment incidentally damage a guardrail in one area. No one tells C of the damage and C has not seen it. An OSHA inspection occurs at the beginning of the next day, prior to the morning inspection of Floor 6. None of C's own employees are exposed to the hazard, but other employees are exposed.

Analysis: Step 1: C is a correcting employer since it is responsible for erecting and maintaining fall protection equipment. **Step 2:** The steps C implemented to discover and correct damaged guardrails were reasonable in light of the amount of activity and size of the project. It exercised reasonable care in preventing and discovering violations; it is not citable for the damaged guardrail since it could not reasonably have known of the violation.

d. The Controlling Employer

BRIESER CONSTRUCTION GENERAL CONTRACTORS		DATE:	PROCEDURE:
		8-12-13	TBD
CORPORATE SAFETY, HEALTH & ENVIRONMENTAL MANUAL		Revision:	PAGE:
		03	5
STANDARD OPERATING PROCEDURE:	Subcontractor Policy		
CROSS REFERENCE:	OSHA Directive CPL 02-00-124 Multi-Employer Citation Policy		

- i. An employer who has general supervisory authority over the worksite, including the power to correct safety and health violations itself or require others to correct them. Control can be established by contract or, in the absence of explicit contractual provisions, by the exercise of control in practice.

In addition, an injury to a subcontractor's employee could potentially expose Brieser Construction to a possible civil lawsuit. Therefore, coordination between the incident prevention activities of the subcontractor and those of Brieser Construction is a must if the objective of incident frequency reduction and lowered costs are to be achieved.

Prior to the commencement of any work on a Brieser Construction project, the subcontractor will ensure that all his personnel, both supervisory and hourly, receive a safety and health orientation from either Brieser Construction superintendent or another Brieser Construction supervisor on the project.

SUBCONTRACTOR RESPONSIBILITIES

General

The subcontractor will provide to the Brieser Construction superintendent on the project, his job supervisor's telephone number so that he may be contacted after hours in case of an emergency involving the subcontractors work or his equipment.

The subcontractor will ensure that his safety program is in compliance with all of the existing safety and health requirements of local, state and federal regulatory agencies. Where applicable, this may include, but not be limited to, hazard communication training, personal protective equipment training, respiratory protection training (including respirator fit testing), required medical examination and clearance, etc.

In addition to compliance with the safety requirements of all applicable regulatory agencies, the subcontractor is also responsible for complying with the Brieser Safety and Health Program.

The subcontractor is responsible for all employees working for him and for all other persons calling on him or doing business with him while on a Brieser Construction job site. As a Subcontractor, notify the Brieser Construction Supervisor if you have any subcontractors on site.

BRIESER CONSTRUCTION GENERAL CONTRACTORS		DATE:	PROCEDURE:
		8-12-13	TBD
CORPORATE SAFETY, HEALTH & ENVIRONMENTAL MANUAL		Revision:	PAGE:
		03	6
STANDARD OPERATING PROCEDURE:	Subcontractor Policy		
CROSS REFERENCE:	OSHA Directive CPL 02-00-124 Multi-Employer Citation Policy		

Prequalification Process

Our prequalification process starts by sending out our Brieser Subcontractor Requirements package. This contains a statement written by the Director of Health & Safety outlining the requirements and expectations of the potential subcontractor. It further highlights Job Safety and Health rules that must be adhered to while under the direction of Brieser Construction. Lastly, the Sub is asked to list their OSHA recordkeeping statistics along with their Experience Modification Rate or equivalent as these numbers are used to assign one of three possible outcomes. They are:

- Not approved – Any subcontractor that has an EMR greater than 1 along with a three year average OSHA TCIR rate will not qualify.
- Approved with Supervision- This is a category that has been implemented to further gain knowledge of the subcontractor’s safety behavior. This category is used when a variance is needed for category #1 above or if the subcontractor passed the safety statistics listed in category #1 but in lacking in other areas listed on page 5 of our pre-qualification package. If the subcontractor is listed in this category, the Brieser site supervision will automatically assign a Brieser employee with greater than 1 year experience to oversee the subcontractor and observe their work practices. This Brieser employee has the authority to stop work as well as recommend the subcontractor be removed from a site.
- Approved- A full approval is given if the subcontractor displays both an EMR and OSHA TCIR below 1 and page 5 is not lacking in any category listed.

The next step in our prequalification process is to communicate with our field employees. A list is sent via email to all Brieser field supervision on a weekly basis.

Our customers are protected from our subcontractor employee and Brieser employees because we list our customer’s as additional insured. If our subcontractor employee or our employee sues our customer, our insurance company defends and pays any claim against our customer.

We protect Brieser Construction by requiring the subcontractor to list Brieser Construction and our customer as additional insured. This way if a subcontractor employee sues Brieser or our customer, the subcontractor’s insurance company has to defend and pay any claim against Brieser or our customer.

BRIESER CONSTRUCTION GENERAL CONTRACTORS		DATE:	PROCEDURE:
		8-12-13	TBD
CORPORATE SAFETY, HEALTH & ENVIRONMENTAL MANUAL		Revision:	PAGE:
		03	7
STANDARD OPERATING PROCEDURE:	Subcontractor Policy		
CROSS REFERENCE:	OSHA Directive CPL 02-00-124 Multi-Employer Citation Policy		

SUMMARY OF SUBCONTRACTOR SAFETY RULES

The following summary of some important incident prevention rules and work procedures apply to all Brieser Construction subcontractors while working on Brieser Construction projects:

Medical Facilities

Subcontractors must furnish their own first aid supplies, which are to be located in place where they are immediately available to his personnel. When requested, Brieser Construction will furnish the subcontractor with Emergency Telephone Number posters, which must be filled out and posted throughout the job site.

Incident Reporting

Promptly report all incidents and near misses to your Brieser Construction Supervision and fill out all required injury and investigation forms as requested, send a copy of all paperwork to Brieser Construction Supervision within 24 hours. An incident is: Any injury of illness to an employee, non-employee or visitor; any damage to any owned or non owned property or equipment on the site. A near miss is any incident that happened where there was no significant injury, illness or property damage but there could have been.

Clothing

The subcontractor will be expected to comply with Brieser Construction requirement for the wearing of appropriate construction-type clothing by all of his personnel. The minimum work clothing that is acceptable for all Brieser Construction or Brieser Construction subcontractor employees working on a Brieser construction site, is long pants, protective footwear meeting ASTM F2413-05, standard specification for performance requirements for foot protection - Protective Footwear, and a shirt that completely covers the workers shoulders and provides adequate protection against such hazards as concrete splash, abrasions to the skin, oil or grease spills, and slag from welding or cutting.

Personal Protective Equipment

BRIESER CONSTRUCTION GENERAL CONTRACTORS		DATE:	PROCEDURE:
		8-12-13	TBD
CORPORATE SAFETY, HEALTH & ENVIRONMENTAL MANUAL		Revision:	PAGE:
		03	8
STANDARD OPERATING PROCEDURE:	Subcontractor Policy		
CROSS REFERENCE:	OSHA Directive CPL 02-00-124 Multi-Employer Citation Policy		

Approved hard hats & safety glasses must be worn at all times when on the job site. Hearing protection must be worn in all areas of high noise levels. Safety goggles, face shields, etc., must be worn whenever the potential for eye injury exists beyond single eye/face protection and the task would warrant extra protection such as; grinding, chipping or welding. Appropriate respiratory protection equipment must be used when conditions warrant. Other suitable protective clothing must be worn when required such as; Kevlar lined gloves when using a cutting tool or leather gloves when handling heavy material or welding. All subcontractor employees working at unprotected heights must wear approved safety harness and properly attached safety lines.

Inspections

Subcontractors are required to conduct a daily safety check of each of the areas where their men are working and to report any unsatisfactory conditions to Brieser Construction superintendent. Weekly safety inspections are required on all Brieser Construction job sites and documented. Also, daily safety checks will be conducted either by The Brieser Construction superintendent or an individual whom the Brieser Construction superintendent has assigned to this responsibility. Subcontractors will be required to correct any unsatisfactory safety conditions created as a result of their operations within a reasonable period of time. If this is not done, violation procedures will apply.

Violation Procedures

When unsafe conditions or practices are observed by Brieser Construction superintendent, the subcontractor supervisor will be requested to correct them. If no action is taken within a reasonable length of time, a letter outlining the violation will be issued and submitted to the management offices of the subcontractor and Brieser Construction for appropriate action.

Safety Meetings

All of Brieser Construction craft personnel are required to participate in weekly toolbox talk safety meetings. These are short training sessions held by Brieser Construction Superintendent to comment on one or more job hazards and safe practices to follow for avoiding incidents.

BRIESER CONSTRUCTION GENERAL CONTRACTORS		DATE:	PROCEDURE:
		8-12-13	TBD
CORPORATE SAFETY, HEALTH & ENVIRONMENTAL MANUAL		Revision:	PAGE:
		03	9
STANDARD OPERATING PROCEDURE:	Subcontractor Policy		
CROSS REFERENCE:	OSHA Directive CPL 02-00-124 Multi-Employer Citation Policy		

Subcontractors are required to either participate in these meetings or to conduct similar meetings for their personnel. If separate meetings are held, they should be documented in a brief report filed with Brieser Construction superintendent.

Electrical Equipment

Subcontractors are responsible for maintenance of their extension cords. Defective extension cords must be removed from service immediately. Subcontractors are expected to use ground fault circuit interrupters (GFCI) whenever possible, and will furnish a copy of their Assured Equipment Grounding Conductor Program to Brieser Construction Superintendent. Prior to working on electrical equipment, the subcontractor must make certain that all electrical circuits in the immediate vicinity of his work are appropriately protected or that they are either locked out or tagged out of service to assure that no one will incidentally energize the circuit. While any employee is exposed to contact with parts of fixed electric equipment or circuits which have been deenergized, the circuits energizing the parts shall be locked out or tagged or both in accordance with OSHA's Subpart S Electrical standard.

Fire Protection

Gasoline and other flammable liquids must be kept in approved containers and storage requirements for quantities and types used must comply with local and federal regulations. "NO SMOKING" signs must be posted in areas where flammable liquids are stored. The Subcontractor will be expected to enforce all "NO SMOKING" areas located on the job site. The Subcontractor will be expected to furnish the appropriate number, size, and type of portable fire extinguishers required for the job and to provide the necessary training to his personnel in their use. Fire extinguishers are not to be tampered with or removed from their assigned locations.

Housekeeping

Good housekeeping practices are extremely important, and subcontractors are responsible for housekeeping conditions in their respective work areas. Refuse and scraps should not be allowed to accumulate, particularly when they interfere with workflow or create additional fire hazards. Combustible materials must be placed in appropriate metal containers and not be permitted to accumulate in the work area.

BRIESER CONSTRUCTION GENERAL CONTRACTORS		DATE:	PROCEDURE:
		8-12-13	TBD
CORPORATE SAFETY, HEALTH & ENVIRONMENTAL MANUAL		Revision:	PAGE:
		03	10
STANDARD OPERATING PROCEDURE:	Subcontractor Policy		
CROSS REFERENCE:	OSHA Directive CPL 02-00-124 Multi-Employer Citation Policy		

SUBCONTRACTOR EMERGENCY ACTION PLAN

Each subcontractor working on a Brieser Construction job site is required to have a site specific Emergency Action Plan. The minimum elements of the Emergency Action Plan, which must be in writing and physically located at the job site, must include at least the following:

- The method in which emergencies situations are announced.
- Emergency escape procedures and emergency escape route assignments.
- Procedures to be followed by employees who must remain to operate any critical equipment which has to be shut down before they can evacuate.
- A procedure to account for all employees after emergency evacuation has been completed.
- Who will provide rescue and medical duties as required?
- The method of reporting fires and other emergencies.
- Names and/or job titles, as well as telephone numbers, of persons who can be contacted for additional information about the Emergency Action Plan.

The subcontractor must insure that his Emergency Action Plan is written in accordance with the requirements OSHA Standards, 29 CFR 1926.24, entitled Fire Protection and Prevention, and 29 CFR 1926.35, entitled Employee Emergency Plans, both of which require that each employer be responsible for the development and maintenance of an effective Emergency Action Plan at the job site. Copies of the subcontractor's Emergency Action Plan must be provided to Brieser Construction job site Superintendent and also posted where the subcontractor's employees are working at the job site.

SUBCONTRACTOR SITE SECURITY

The subcontractor should take the required security measures to protect his materials, including those furnished to him by Brieser Construction, insomuch as Brieser Construction will not be responsible for any missing subcontractor materials or tools.

The subcontractor will be responsible for any loss or damage caused by him, his workmen, or his subcontractors to the work or materials, to adjacent property, and to persons.

BRIESER CONSTRUCTION GENERAL CONTRACTORS		DATE:	PROCEDURE:
		8-12-13	TBD
CORPORATE SAFETY, HEALTH & ENVIRONMENTAL MANUAL		Revision:	PAGE:
		03	11
STANDARD OPERATING PROCEDURE:	Subcontractor Policy		
CROSS REFERENCE:	OSHA Directive CPL 02-00-124 Multi-Employer Citation Policy		

USE OF THE BRIESER CONSTRUCTION COMPANIES EQUIPMENT BY THE SUBCONTRACTOR

Subcontractor's will not be authorized to use any Brieser Construction Item of Equipment, including scaffolding, ladders, fall protection harnesses, personal protective equipment, respiratory protection, etc., unless the subcontractor completes an Indemnification Agreement with The Brieser Construction Companies prior to the use of such Equipment.

A sample of an Indemnification Agreement is included within this section.

**INDEMNIFICATION AGREEMENT FOR THE USE OF THE BRIESER
CONSTRUCTION COMPANIES EQUIPMENT**

WHEREAS, The Brieser Construction Companies is using, or will cause to be used, certain items of equipment for its own use and convenience, in connection with work performed at the _____ job site, and

WHEREAS, _____, A subcontractor to The Brieser Construction Companies, desires to use such items of equipment, for performing certain work at said location;

NOW, THEREFORE, in consideration of the premises and of the undertakings of the subcontractor hereinafter stated, The Brieser Construction Companies hereby consents to said use by the subcontractor of such items of equipment as are listed below, at the convenience of The Brieser Construction Companies, subject to and on the following terms and conditions:

- a. That _____, subcontractor, agrees to indemnify and hold harmless The Brieser Construction Companies for any loss, damage and/or expense because of an injury to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation arising out of the existence, maintenance or use of such items of equipment by the subcontractor.
- b. That the subcontractor further agrees (1) to insure the liability assumed in paragraph (a) above, in a reliable and acceptable insurance company, and (2) to maintain insurance in such an insurance company, providing the subcontractor with Workmen's Compensation and Public Liability insurance on the operations of the subcontractor at the premises described above and will furnish to The Brieser Construction Companies certificates of insurance to that effect.
- c. That The Brieser Construction Companies will not and does not guarantee the safety or suitability of any of its items of equipment for the purposes of the subcontractor, nor does it agree to leave in place or to put in place any particular item of equipment at any particular time for another contractor's use. The Brieser Construction Companies makes no warranty or representation, express or implied, as to any matter whatsoever, including, without limitation, the condition of the items of equipment, its merchantability or its fitness for any particular purpose, and as The Brieser Construction Companies, the subcontractor uses the items of equipment "as is" except that The Brieser Construction Companies warrants that The Brieser Construction Companies will have, at the time of use hereunder of each item of equipment, title thereto.

In witness whereof, The Brieser Construction Companies and _____, subcontractor, have executed this instrument this ___ day of _____, (year)_____.

For Brieser Construction:

For Subcontractor:

(Signature)

(Signature)

(Title)

(Title)