

COVID-19 CLIENT ALERT

OFCC Executive Director Issues Letter to Contractors Detailing the Obligations of Businesses Holding OFCC Contracts During COVID-19 Pandemic

On March 28, 2020, the Ohio Facilities Construction Commission (OFCC) Executive Director Cheryl Lymon circulated a letter to contractors and design professionals detailing the obligations of businesses holding OFCC contracts during the recent COVID-19 pandemic. The letter reiterates the importance of employers complying with Ohio Department of Health Director Amy Acton, MD, MPH's March 22, 2020 Stay at Home Order. However, the most recent OFCC guidance elaborates on the ways in which contractors and design professionals must conduct themselves on job sites in order to comply with protocol for OFCC-administered state construction projects.

What does this mean?

In order to remain in compliance with the OFCC's protocol regarding safety on OFCC state project job sites, the OFCC has prescribed a number of actions that companies must take. While the protocol is ever-changing, the most recent OFCC guidance does list specific actions that companies must follow. These include:

- Designate a Workplace Coordinator (which can be a current staff member) who will be responsible for COVID-19 issues and their impact at the workplace for each of the company's OFCC projects.
- Comply with the Centers for Disease Control (CDC) [Interim Guidance for Businesses and Employer to Plan and Respond to Coronavirus-19 \(COVID-19\)](#), dated 3/21/2020 or most recent version.
- Comply with the Occupational Safety and Health Administration (OSHA) [Guidance for Preparing Workplaces for COVID-19](#), "Steps All Employers Can Take to Reduce Workers' Risk of Exposure to SARS-CoV-2," OSHA 3990-03 2020.
- Implement a protocol for testing and ensuring that employees are healthy when arriving on the job-site. This protocol includes taking temperatures of employees and asking appropriate questions concerning employee health. A log for all employees entering the job-site must be maintained and provided upon request. Any employee with a temperature of 100.4 degrees Fahrenheit or greater must be sent home and encouraged to contact his/her health provider. A separate protocol is noted below for employees determined or diagnosed as COVID-19 positive.
- Conduct all project meetings, including Progress Meetings, remotely. If an on-site meeting is mandated due to on-site circumstances, it should be in open-air environments of less than 10 individuals, with appropriate social distancing.

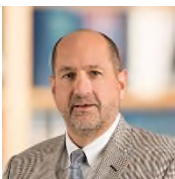
- Provide hand washing stations for all project sites that do not have running water. Individuals need to follow appropriate CDC protocols for hand washing.
- Conduct daily cleaning of project trailers and washroom facilities (temporary or permanent).
- Conduct daily cleaning of tools and equipment.
- Institute a mandatory glove policy to limit transfer and/or sharing among employees.
- Stagger start and end times to allow Projects to proceed and allow more space between workers to comply with Social Distancing requirements in the Order.
- Limit elevator or hoist limits to no more than 3 employees if Social Distancing cannot be maintained with more employees.
- Institute heightened protection procedures for employees that necessarily must work in closer contact than the Social Distancing requirements. These procedures should include personal protection equipment, including approved masks, gloves, and clothing.
- Document compliance with the safety protocols.

Contractors and design professionals currently working on an OFCC project should consider taking all of the following steps:

1. Reviewing company Policies to ensure compliance with:
 - a. the OFCC guidelines;
 - b. CDC Interim Guidelines; and
 - c. OSHA Guidelines.
2. Providing and documenting training for the Designated Workplace with respect to these guidelines.
3. Assigning a Workplace Coordinator to implement and document a protocol for testing and ensuring the health of all employees entering the job site. A Workplace Coordinator must coordinate, monitor and document compliance with the OFCC guidelines, including daily logs, checklists, and project photographs.

The failure to take such measures could lead to claims or administrative penalties.

Please do not hesitate to contact us with any questions regarding these new developments.



ROB REMINGTON
 CHAIR, CONSTRUCTION LAW
 PRACTICE GROUP
 HAHN LOESER & PARKS LLP
 200 Public Square, Suite 2800
 Cleveland, OH 44114
 rrr@hahnlaw.com | 216.274.2208



DAVID M. HOPKINS
 ASSOCIATE, CONSTRUCTION LAW
 PRACTICE GROUP
 HAHN LOESER & PARKS LLP
 200 Public Square, Suite 2800
 Cleveland, OH 44114
 dhopkins@hahnlaw.com | 216.274.2483