


<h1>Project Navigator</h1>				Guideline			
TITLE CONTRACTOR AS CONSTRUCTOR ON CONSTRUCTION PROJECT				VALE # NAV-GP-0414		PAGE 1/8	
				DM # 1279045		REV. 2	
Effective Date:	Oct.1/'17	Revisit Date:	Oct.1/'20	Prepared By:	M. Isaac	Approved By:	T.Hirschfeld

1.0 PURPOSE

This guideline is a reference for the roles, responsibilities and duties for all parties involved when a contractor is the Constructor on a registered Construction Project.

2.0 REFERENCE DOCUMENTATION

The following documents were used in the development of this document or are related to it. The most recent revision shall be used.

Link	MOL Constructor Guideline
Link	Occupational Health and Safety Act (OHSA)
	Vale - Contractor SHE Management Program
NAV-GP-0307	Duties of the Constructor's Supervisor Guideline

3.0 APPLICATION

This guideline is mandatory for all ERM Project contracts where the Contracting Party will be the Constructor.

3.1 EXEMPTIONS

A Contracting Party cannot be designated "Constructor" for projects "below the collar" in an underground mine.

4.0 CONTEXT

Vale is the Constructor, unless authorization from the Vale Legal Department is given to designate the Constructor role to the Contracting Party.

Reasons for designating the Contracting Party as the Constructor may include a desire to transfer liability to the Contracting Party and/or cost efficiency.

The Constructor designation is important to ensure application of health and safety legislation and Vale policies and procedures. The Constructor has the accountability for health and safety matters on the project; the Constructor therefore must have control of the project site.

It is important that Vale personnel understand the differences in how to execute their role when the contractor is the Constructor. One of the most important differences is that the Contracting Party will provide both the Employer's Supervisor AND the

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Constructor's Supervisor. The Vale Supervisor of Service role therefore changes dramatically.

If Vale interferes unduly in the Constructors execution of the work, Vale may unwittingly become the Constructor – without properly performing all the duties of the Constructor.

5.0 DESIGNATION OF CONTRACTOR AS THE CONSTRUCTOR

5.1 CRITERIA

Consider the following items prior to consulting with Vale Legal Department:

- Legislative Criteria:
 - This must be a CONSTRUCTION PROJECT as defined by O. Reg. 213/91 s.6 (filing of Notice of Project)
- Project Criteria:
 - It must be possible to separate the Project from other work (time / space)
 - The Constructor must be able to control hazards within the project site (ability to manage operational processes, etc...)
 - The Constructor must be able to control access and egress to the immediate worksite(s)

5.2 VALE LEGAL APPROVAL


Obtain written authorization from the Vale Legal Department to designate a Contractor as Constructor, prior to preparing the Scope of Work.

5.3 SCOPE OF WORK PACKAGE

Clearly state that the Contracting Party is the Constructor in the Scope of Work Package (in the Contract Specific Requirements document).

ERM Project team to supply the Constructor with a list that identifies any designated substances and other hazards as per OHSA s.30.

In the Scope of Work package specify procedures for issuing of permits normally issued by Vale (work permit, burning permit, confined space permit, etc...)

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5.4 CHANGING THE DESIGNATION OF CONSTRUCTOR DURING EXECUTION

A change in the designation of Constructor may occur during project execution for various reasons. Notify Vale Legal and Procurement (via a CCO) and a new Notice of Project must be submitted to the MOL.

5.5 THINGS TO AVOID


To maintain the Contracting Party as Constructor, Vale Representatives must **avoid**:

- Vale project managers or coordinators having day-to-day involvement in the running of the project, other than auditing for compliance
- Barring immediate safety concerns the Owner is to avoid directing Constructor supervisor and/or employees
- Directing the work
- Directing changes to the schedule, methodology, etc...
- Directing the Constructors incident investigation
- Hiring more than one contractor on work related to a single Notice of Project.

As per section 4 of O.Reg. 213/91, “the owner of a project may request a Director at the Ministry of Labour to designate part of a project for the purposes of the Act and the regulation. Each designated project would have its own separate Constructor. The Director, in considering such a request, would look at the possibility for separating the construction activities being undertaken, either in space or in time.” - MOL Constructor Guideline

5.4.1 EXCEPTION

Environmental Spill Clean-up: As the owner of some materials handled by Contractors, Vale and the Contractor are jointly liable under the Environmental Protection Act for cleanup of any spills of these materials caused by the contractor. Vale must ensure spills are properly cleaned up. The Contact Person must have knowledge of the requirements of any applicable site-specific Spill Prevention and Contingency Plans.

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6.0 DUTIES

6.1 OWNER DUTIES, RESPONSIBILITIES AND ACCOUNTABILITIES

PRE-QUALIFICATION AND HIRING PROCESSES:


- Provide list of designated substances (Contract Specific Requirements)
- Make enquiries if any record of conviction under OHS/A for Constructor or Constructor's supervisors and follow up with Vale Legal and Procurement Departments, as appropriate.
- Where the Constructor has been designated because of specialized expertise related to the work, ensure that the Constructor has an appropriate training program, and site specific policies / procedures for employees and subcontractors.
- Review the Constructors policies for discipline or termination of employees and/or sub-contractors for not complying with OHS/A and its Regulations, or rules or policies of the owner or Constructor, and follow up with Vale Legal and Procurement Departments, as appropriate.

DURING CONSTRUCTION:

- Assign a Project Team member or third party to oversee the quality control of the project (without assuming role as the Constructor)
- Provide reasonable means for the Constructor to isolate and maintain control of the project work site(s).
- Implement a procedure to obtain permission from the Constructor for the Owner to access the project site. Include provisions for escort and project orientation, as required.

6.2 OWNER SUPERVISOR DUTIES, RESPONSIBILITIES AND ACCOUNTABILITIES


- Owner Supervisor will audit Constructor compliance to the contract specific safety plan. The Vale Representative's observations will be presented to the Constructor for consideration.
- Owner Supervisor will audit fieldwork to the contract specific QA/QC plan
- Owner Supervisor to monitor compliance to the contract schedule, and as required reach agreement with the Constructor on any required schedule changes

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- Barring immediate safety concerns the Owner Supervisor is to avoid directing Constructor supervisor and/or employees.
- Due Diligence is maintained by:
 - Ensuring compliance with the contract documents
 - Keeping detailed field notes, identifying time lines while on the project site(s), and identifying persons interacted with
 - Having on-going safety interactions with Constructor’s representatives
 - Keeping detailed Constructor meeting notes identifying who is at the meeting and any safety, health or environmental issues arising from the meeting

6.3 CONSTRUCTOR DUTIES, RESPONSIBILITIES AND ACCOUNTABILITIES

- The Constructor must follow all Vale SPIs, Policies, Procedures as referenced within the contract documents.
- OHSA Section 23(1); the Constructor shall ensure, on a project undertaken by the Constructor that,
 - a) The measures and procedures prescribed in the Act and the regulations are carried out on the project;
 - b) Every employer and every worker performing work on the project complies with the Act and the regulations; and,
 - c) The health and safety of workers on the project is protected
- Notice of Project
 - (2) Where so prescribed, a Constructor shall, before commencing any work on a project, give to a Director notice in writing of the project containing such information as may be prescribed. R.S.O 1990, c. O.1, s. 23
- Constructor must clearly delineate and restrict access to the project site(s)
- O.Reg 213/91 Construction Projects Section 14
 - (1) A Constructor shall appoint a supervisor for every project at which five (5) or more workers will work at the same time


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This duty of the Constructor to provide a supervisor applies whether or not the Constructor employs any workers on the project site. It precludes an absentee Constructor from not complying with the OHS and regulation.

- Incident Investigation
 - Constructor to complete the investigation independently
 - ERM Rep and Constructor to complete the Toolkit cooperatively (as the toolkit falls under Vale’s reporting requirements)

6.4 CONSTRUCTOR’S SUPERVISOR DUTIES, RESPONSIBILITIES & ACCOUNTABILITIES

- As per O.Reg 231/91 section 14
 - (2) The supervisor shall supervise the work at all times either personally or by having an assistant, who is a competent person, do so personally
 - (3) A supervisor or a competent person appointed by the supervisor shall inspect all machinery and equipment, including fire extinguishing equipment, magazines, electrical installations, communication systems, sanitation and medical facilities, buildings and other structures, temporary supports and means of access and egress at the project to ensure that they do not endanger any worker
 - (4) An inspection shall be made at least once a week or more frequently as the supervisor determines is necessary in order to ensure that the machinery and equipment referred to in subsection (3) do not endanger any worker
 - (5) A competent person shall perform tests and observations necessary for the detection of hazardous conditions on a project
- As per Ontario MOL
 - The Constructor’s Supervisor has overall responsibility for operations at the site and gives directions to the employers of the various trades on the work to be done


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6.5 EMPLOYER (INCLUDING SUB-CONTRACTORS) DUTIES, RESPONSIBILITIES AND ACCOUNTABILITIES

- As per O.Reg 213/91 section 15
 - (1)An employer of five or more workers on a project shall appoint a supervisor for the workers
 - (2) The supervisor shall supervise the work at all times either personally or by having an assistant, who is a competent person, do so personally
- As per Ontario MOL
 - At the level of the work crew, the Employer’s Supervisor assigns tasks based on the directions of the Constructor’s Supervisor, but they (the Employer’s Supervisor), would still be considered supervisors for the purpose of the OHSa because they organize the crew’s work, monitor how the work is performed and ensure workers follow prescribed procedures and carry out tasks safely.

7.0 DEFINITIONS (FOR THE PURPOSES OF THIS DOCUMENT)

- OWNER: Vale
- CONSTRUCTOR: Contractor
- SUPERVISOR: OHSa definition is a person who has charge of a workplace or authority over a worker
- OWNER’S SUPERVISOR: Vale Supervisor of Services

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8.0 APPENDICES

Appendix A: Revision and Transition Notes

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Revision notes describe: what was changed, why it was changed, and the plan to implement the change, including whether changes are retroactive)

Revision Control Information

Rev #	Date	Nature of Change	Page inserted, replaced, revised or cancelled	Approved by document owner
1	Oct 1/17	Development	New development for Navigator	T.Hirschfeld
1a	Oct 12/17	Minor	Added "Duties of the Constructor's Supervisor Guideline" to reference section.	
2	May 8/18	Minor	Aligned terminology from PMO to ERM	