



TOWN OF
HALTON HILLS
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MEMORANDUM

TO: Mayor Lawlor and Members of Council

FROM: Mike Donnelly P.Eng, PMP, Director of Engineering and Construction

DATE: May 26, 2025

MEMO NO.: TPW-2025-002

SUBJECT: Occupational Health and Safety Management System (OHSMS) program requirement for Town of Halton Hills' construction contractors

PURPOSE OF THE MEMORANDUM:

Inform Council that the Town has introduced a new Occupational Health and Safety Management System (OHSMS) requirement as an integral part of its bidding process for construction contracts. To demonstrate its commitment to health and safety, the Town mandates that vendors engaged in construction activities must have an OHSMS in place as a prerequisite for bid awards. This requirement is aligned with the contract value and follows a phased implementation schedule that began on January 1, 2025.

Report Highlights

- The Town of Halton Hills is committed to purchasing goods, services and construction from responsible vendors that supply quality services and products at competitive prices and abide by ethical standards and norms. Ensuring strict compliance with Provincial health and safety laws and regulations is a factor identified in its procurement policy.
- Making an Occupational Health and Safety Management System (OHSMS) a mandatory requirement assures the Town that a constructor is in compliance with the Occupational Health and Safety Act (OHSA) before deciding to contract for its services.
- A tool widely used across the province to verify this requirement is the Certificate of Recognition (COR™).
- COR™ is a comprehensive health and safety audit tool with an accredited certification program for the construction industry in Ontario that is granted by Infrastructure Health and Safety Association (IHSA)

- COR™ is required by many municipalities and organizations for the contractors that undertake construction projects as a due diligence tool to mitigate construction health and safety risks.
- Requiring COR™ certification for its construction contractors demonstrates a commitment to health and safety.
- The International Organization for Standardization (ISO) 45001:2018 certification from an accreditation body recognized by the International Accreditation Forum (IAF) will be accepted as an equivalent to the COR™ certification.
- There is no cost to the town.

BACKGROUND:

In a landmark case, the Supreme Court of Canada (SCC) ruled in *R. v. Greater Sudbury (City)* that a project owner, like the City of Greater Sudbury, can be held liable as an "employer" under Ontario's Occupational Health and Safety Act (OHSA) for a workplace fatality, even if a third-party contractor is the "constructor".

The case stemmed from a 2015 fatal accident where a pedestrian was struck and killed by a road grader operated by an employee of a contractor hired by the City of Greater Sudbury to repair a water main.

The SCC affirmed that the City of Greater Sudbury could be held liable as an "employer" under the OHSA for the death, despite having contracted the work with a "constructor".

This November 2023 ruling has significant implications for construction project owners in Ontario, as it broadens their potential liability under the OHSA.

The SCC also acknowledged that an owner may still be able to raise a "due diligence" defense to avoid liability, which many owners now focus on.

In September 2024, The Ontario Supreme Court of Justice ruled in favour of the City of Greater Sudbury in their "due diligence" case. This decision, which dismissed an appeal by the Crown, upheld the trial judge's finding that the City has exercised sufficient due diligence as an employer under the OHSA. Although it didn't reverse the previous ruling it did provide some guidance on items the Courts may consider in a due-diligence defense. One of the four factors the court stated as part of its ruling was "*whether an employer took steps to evaluate the constructor's ability to ensure compliance with the (OHSA) Regulation before deciding to contract for its services*".

One method of ensuring the Town's contractors on construction projects are in compliance with required regulations is by making an OHSMS program a mandatory requirement of its construction contracts. A tool widely used across the province to verify this requirement is the Certificate of Recognition (COR™).

COR™ is a comprehensive health and safety audit tool with an accredited certification program in Ontario that is granted by the Infrastructure Health and Safety Association (IHSA). IHSA is the designated body for certifying contractors in Ontario's construction industry who demonstrate their standards of health and safety management systems through a structured audit process. COR™ provides validation that a contractor has demonstrated an understanding of health and safety and has made a commitment to continuous monitoring and application of its program when engaging in construction activities.

The key value of COR™ is that not only are health and safety programs reviewed to ensure that they are comprehensive, it will also drive the need for integrating safety into the overall business and planning process for contractors conducting business on behalf of the Town of Halton Hills. This helps provide a consistent level of worker, staff and public protection, as COR™ certified firms have been shown to have lower injury incidents and accidents. It also demonstrates a higher degree of due diligence on the projects we fund and outsource.

Implementation Strategy

The evaluation of the COR™ program for the Town has been a collaborative effort between the Corporate Services, Transportation & Public Works (TPW), and Community Services (CSC) departments. Town staff believe that introducing COR™ as a new component in the Town's construction procurement process will have a positive impact on the delivery of construction projects for the Town. The Town's Insurance and Risk Management division has also endorsed the program as a valuable risk mitigation tool.

Staff completed an analysis of the potential impacts of making COR™ a mandatory requirement on construction contracts. The review covered all construction related procurements completed over a three-year period (2020-2023) in both TPW and the Parks & Open Space (Parks) division of CSE. Staff confirmed if the successful bidders (low bids) were either registered in the COR™ program or have received their COR™ certification. The findings were that over 88% of successful vendors retained by TPW were already either registered in COR™ or were already COR™ certified. Whereas only 26% of Park's vendors were. However, when the contract value was factored into the analysis, the majority of Parks' contracts were lower value contracts (below 1million) compared to those implemented in TPW. These findings were used to determine the contract value thresholds which the COR™ requirement will be required.

The Town will initiate a multi-staged implementation strategy of COR™, based upon contract value and market readiness. This approach aligns with the roll-out strategies used by other area municipalities across the Greater Toronto Area who have already made progress in adopting COR™. Other municipalities and agencies that have adopted COR™ include the Town of Milton, The Region of Peel, City of Brampton, City of Mississauga, Metrolinx, City of Toronto, City of Vaughan, Region of York, TTC and Infrastructure Ontario. The phased-in approach gives bidders the opportunity to obtain

their certification. The process from registration to certification will vary from organization to organization but typically takes between twelve to eighteen months to complete.

The proposed roll-out strategy will extend over three years. The first phase will demonstrate commitment and support to the concept and ensure the construction / contracting industry is informed and aware of the Town's commitment to COR™. Given the approved 2025 capital budget staff do not anticipate any contracts reaching the five million threshold, thus this change will not impact any procurements this year. Moving forward the multi-phased roll-out will provide sufficient time for all contractors to incorporate the needs of the program into their business plans and health and safety program. Progression through the phases will be subject to the success of each of the preceding phases.

The Town's initial roll out strategy will include three phases. In each phase, market readiness refers to the general contractors, and the degree to which each industry can meet the requirements while ensuring sufficient competition to ensure best value for the Town.

Phase	Project Criteria	COR™ Requirement (Or Equivalent)	Timeline
1	>\$5M Project Budget	COR™ certification will be a requirement for General Contractors	January 2025
2	>\$2.5M Project Budget and / or Market Readiness	COR™ certification will be a requirement for General Contractors	January 2026
3	>\$500,000 Project Budget	COR™ registration will be a requirement for General Contractors	January 2027

The Town will retain authority to accept or reject a contractor's submission of an alternate, equivalent certified Health and Safety Program to COR™ provided it meets the requirements of COR™ certification. This is necessary for the projects that fall under the Canadian Free Trade Agreement (CFTA) and the Canadian European Trade Agreement (CETA). For a certification to be considered equivalent it must be an ISO 45001:2018 certification from an accreditation body recognized by the International Accreditation Forum (IAF).

Vendors were notified of the Town's intentions to implement COR™ as a mandatory requirement of our construction contracts as per the implementation plan referenced above. The Town did receive a letter from the Ontario Road Builders' Association (ORBA) expressing their concern with limiting the OHSMS requirement to IHSA's COR 2020 certification. In their view this requirement would restrict its' members who have ISO

45001:2018 from participating in our procurements and potentially limit our vendor pool. The Town reviewed ORBA's claims through our analysis of past procurements, benchmarking with other area municipalities, as well as consulting with IHSA. Based on our review, the Town has expanded the requirement to also include ISO 45001:2018 with IAF accreditation as an equivalent of COR™ 2020 certification. These measures will continue to support an open, fair, and competitive procurement process.

Financial Impact

A key element of the phase-in strategy is ensuring market readiness for a new Occupational Health and Safety Management System (OHSMS) requirement. This will ensure sufficient competition is achieved in order to attain the best value for dollar for the Town through the procurement process.

There is no cost to the Town. The new Occupational Health and Safety Management System (OHSMS) requirement is intended to promote safety and therefore reduce risk, which is expected to positively impact the Town.

CONCLUSION:

In summary, the phased implementation of an Occupational Health and Safety Management System (OHSMS) requirement for General Contractors aligns with the Town's commitment to safety and compliance. By mandating these requirements, we aim to enhance both the quality and safety of our projects, while demonstrating our due diligence in our procurement process. This strategy will lead to significant benefits to the Town in regard to risk mitigation and improved project excellence - all at no additional cost to the Town.

Reviewed and approved by,

Bill Andrews, Commissioner of Transportation & Public Works

Laura Lancaster, Commissioner of Corporate Services

Chris Mills, Chief Administrative Officer