

# Active Certification Policy for Contracts managed by Major Projects Canberra

**This Fact Sheet provides guidance to Construction Contractors and other Delivery Partners on how MPC implements the ACP for eligible Construction Contracts.**

## Overview

The Active Certification Policy (ACP) commenced in 2013. On 1 July 2016, an update of the ACP was released following a review. The ACP provides a process to conduct point-in-time auditing of a Prequalified Contractor's WHS management system at various stages of a construction project.

This Fact Sheet provides guidance to Construction Contractors and other Delivery Partners on how MPC implements the ACP for eligible Construction Contracts.

The ACP should be read in conjunction with this Fact Sheet and be understood by all persons who are responsible with meeting the objectives of the ACP. This Fact Sheet does not duplicate content from the ACP.

The ACP encourages an environment that, as far as is reasonably practical attempts to consistently improve WHS on construction projects. Active Certification promotes WHS at an organisational level by reducing the precursors to issues onsite and aligns to the Safe Work Australia (SWA) Australian Work Health & Safety Strategy 2012-2022.

Active Certification Auditors assess the principal contractor's WHS implementation and compliance with their site-specific safety management system, its policies, procedures, and workplace instructions.

## Types of Audits

There are two types of Audit conducted under the ACP:

- First Initial Audit occurs at the commencement of a contract before the initiation of the Cyclical Audit cycle;
- Cyclical Audit occurs every thirteen weeks at the Territory's discretion

The ACP includes provisions for a Follow-Up Audit and Close Out Audit as part of the First Initial Audit approach. MPC does not utilise these provisions and transitions from a First Initial Audit to the Cyclical Audit.

### First Initial Audit

The First Initial Audit is the first audit undertaken for a contract. The First Initial Audit can result in non-conformances, however does not result in any Points being allocated (ACP Clause 3.6). There are three types of First Initial Audits conducted by MPC as empowered by ACP Clause 4.15:

- Preconstruction audit: The Preconstruction audit is a desktop audit and is the review of the contractor's safety management systems and site-based management plan (SMP). The Preconstruction audit occurs prior to the commencement of any site works.
- Start-up audit: The start-up audit occurs during the first 1-5 weeks of construction activities commencing on site.



- First Cyclical Audit: In the event that neither a Preconstruction or Start-up audit occurs, the first cyclical audit is considered to be the first initial audit.

## Cyclical Audit

There are 2 types of cyclical audits:

- Consolidated Audit: which occurs when a Contractor has control of multiple sites at the same time and there have been no non-conformances identified over two consecutive Audits at any one of those sites. A consolidated audit may focus on a specific WHS matter across all referable sites, or will nominate one site to Audit and attribute the results of that Audit across all referable sites (ACP Clause 4.7). Any new eligible contract will be the subject of at least one site specific audit prior to consideration as part of a Consolidated Audit. Any site which has been the subject of a non-conformance will not be eligible for inclusion in a Consolidated Audit (ACP Clause 4.8).
- Site Specific Audit: An audit conducted on a specific site for an eligible contract.

## Structure of Active Certification Audits

Each audit undertaken under the Policy comprises the following structure:

- Audit Planning, including:
  - Agenda setting
  - Developing the assessment form to be used during the audit (ACP Clause 6.6)
  - Sourcing audit material from the Contractor (ACP Clause 6.7)
- Opening Meeting (ACP Clause 6.5)
- Desktop and/or Site Audit conducted (ACP Clause 6.6)
- Close-out meeting (ACP Clause 6.8)
- Interim Audit Report (ACP Clause 6.12) including the Close Out Schedule for any non-conformances (ACP Clause 6.9) is provided.
- Contractor response to non-conformances (ACP Clause 6.9)
- Contractor response to observations (MPC requirement)
- Final Audit Report (ACP Clause 6.17)

Note: An Auditor may ask to sight copies of records or other materials at any time during the Audit process outlined above (ACP Clause 6.7).

## Reasons for Waiving an Audit

The justification for waiving an audit is set out in the ACP clause 4.4, 4.5 and 4.6. Audits can be waived for the following reasons:

- If the Contractor completed work on site ahead of the proposed date for practical completion, has handed over the site or has otherwise vacated the site. (ACP Clause 4.4)
- Where a Contractor has been the subject of a recent audit on another Territory site and that Audit has not given rise to a finding of any non-conformance. (ACP Clause 4.5)
- Where a Contractor has been the subject of two consecutive Cyclical Audits of the same contract which have not given rise to a finding of any non-conformance. (ACP Clause 4.6)
- Where the audit is to be conducted as a Consolidated Audit (ACP Clause 4.7 and 4.8)

In addition to the ACP waive provisions, following a risk assessment, the Superintendent of Works may waive an audit where:

- The construction works are within 4 weeks of completion.
- Construction work has ceased, been delayed or placed on hold (noting that under ACP Clause 4.2 audits can be conducted 'at any time during which Construction Work is being performed as part of the Construction Project' and under ACP Clause 4.3 the timing of an audit should have regard for the period during which there is physical construction activity on site).

In addition, under ACP clause 4.9 an audit can be postponed for up to 4 weeks where a non-conformance on a site controlled by the same contractor has been identified, to enable the contractor to respond to the non-conformance. Administratively, the postponement of an audit follows the same process as the waiving of an audit.

## Observations

An auditor may identify in the Interim Audit Report observations on areas of improvement the Contractor may wish to consider (ACP Clause 6.8). The Superintendent of Works review of the Interim Audit Report may result in an observation being upgraded to non-conformance (in which case the non-conformance and points process is triggered).

MPC requires the Contractor is to consider any observations and acknowledge and report on any actions taken in response to the observations identified.

## Non-conformances and Points Allocation

Upon identification of a major non-conformance (refer ACP Section 3.3.1 which defines the levels of non-conformances), the Auditor will immediately verbally notify the Superintendent of Works (ACP Clause 6.10).

For all non-conformances the Auditor provides Superintendent of Works, Contractor and Authorised Person with the Interim Audit Report outlining the findings of the audit highlighting any non-conformances (ACP Clause 6.12) and the Close Out Schedule (ACP Clause 6.9).



The Superintendent of Works reviews the non-conformances identified in the Interim Audit Report and the Close Out Schedule. The Superintendent of Works may upgrade or downgrade the level of non-conformance, including reducing the non-conformance to an Observation (ACP Clause 6.13).

Points are allocated for non-conformances in accordance with ACP. The Superintendent of Works is the authorised representative of MPC who may allocate points. Points are awarded in accordance with:

- Clause 8.1 for Initial Points
- Clause 8.3 for Final Points where the Contractor has rectified the non-conformance to the satisfaction of the Superintendent of Works and remain for a period of two years (ACP Clause 8.8)
- Clause 8.4 for Final Points where the Contractor has not rectified the non-conformance to the satisfaction of the Superintendent of Works and remain for a period of two years (ACP Clause 8.8)
- Final Points allocated to a Contractor are considered at the time the Contractor seek to renew, upgrade or apply for prequalification status under any Prequalification Scheme (ACP Clause 8.8).

The Contractor is provided with the opportunity to rectify the non-conformance in accordance with the timeframes outlined in ACP Clause 6.14.

## Appeals

ACP Clause 10 outlines the appeals process for Contractors who are dissatisfied with a decision made under the implementation of the ACP. Appeals should be directed, in writing to the ACT Government Chief Engineer.

## Further Information

If you require further information on how MPC implements the ACP, please contact:

Superintendent of Works	0401 069 621
Assistant SOW	0401 198 824

Email: [mpcwhsactivecertification@act.gov.au](mailto:mpcwhsactivecertification@act.gov.au)