

Code of Practice – Security Industry Sham Subcontracting

Preventing the exploitation of security industry workers

Higher standards, better wages, more secure jobs and safer workplaces.

Overview

The security industry is littered with dodgy subcontracting arrangements which exploit workers, drive down wages, conditions, and job security. These arrangements undermine the safety of our workplaces, public places, transport services, health and hospital facilities and vital national infrastructure.

Employers and governments, as purchasers of security services, have a key role to play in ensuring that their subcontracts don't facilitate or encourage a race to the bottom on wages, service standards, job security and safety for security industry workers and the general public.

Unlicensed, unvetted, untrained and underpaid workers are being placed in trusted environments, and often being exploited as a consequence of employers and governments not taking sufficient steps to ensure compliance with minimum standards.

This *Code of Practice – Security Industry Sham Subcontracting*, is a code for the prevention of exploitation of security industry workers.

The Code of Practice aims to deliver higher standards, better wages, more secure jobs and safer workplaces in the security industry, and therefore improved community safety.

Accountability and transparency in subcontracting arrangements will improve outcomes for workers, businesses, governments and communities.

Introduction

The (signatory) is a provider of security services in Australia.

The United Workers Union (UWU) has members which include those who work in the security industry.

Both the signatory and the UWU (collectively “the parties”) share a common interest in ensuring that workers in the security Industry are provided with entitlements in compliance with the Security Services Industry Award 2020 (Award), any other applicable industrial instrument, and the Fair Work Act 2009 (Cth).

The parties seek to further this shared commitment to National Industry Standards.

Subcontracting minimum standards

The signatory will take all reasonable steps to ensure that all subcontractors engaged by the signatory, as at the date of this signed code of practice, and on an ongoing basis, are paying their employees:

- a. the minimum pay and allowances, penalties and loadings contained in the Award, or;
- b. the minimum pay and allowances, penalties and loadings contained in the an applicable, and current Enterprise Agreement, for work performed in the jurisdiction covered by those employees of the signatory.

Payment of award/agreement compliant commercial fees to subcontractors

To avoid doubt, the signatory will ensure that it has in place arrangements with its subcontractors to effect it paying commercial fees to the subcontractor based directly on Award rates of pay (or the rates of the applicable and current Enterprise Agreement where work performed would be covered by that Agreement for an employee of the signatory) (and not an expired agreement or other industrial instrument with rates of pay lower than the Award), and require its subcontractors to pass onto its employees these Award or applicable and current Enterprise Agreement rates of pay.

Direct employment by subcontractors: Prevention of dodgy sub-contracting sub-contracts

The signatory will take all reasonable steps to ensure that, by the date of this signed code of practice, and on an ongoing basis, subcontractors of the signatory, do not engage persons as individual contractors, but rather that subcontractors of the signatory, only engage persons as employees.

Same job, same pay for subcontractors

The signatory agrees to include a clause in any enterprise agreement entered into, or those replacing existing agreements, that commits to subcontractor personnel being paid the relevant Enterprise Agreement rates of pay for work performed which, if performed by a signatory's employee, would be covered by the Agreement.

Audit and compliance of subcontracting arrangements

The signatory agrees to use its best endeavours to implement the audit and ongoing compliance process described in this code of practice in respect of signatory's engagement of subcontractors, including working with the United Workers Union.

The purpose of the audit and compliance process is to ensure that subcontractors meet the requirements set out below.

The signatory commits to implementing the audit and compliance process contained in this document.

Transparency and Accountability: Compliance Process

Audit - current contractors

The signatory will provide to the UWU with a list of all current subcontractors, including:

- a. The name of the company/legal entity and ABN;
- b. Master licencing details, security and labour hire (if any);
- c. Management contact details; and
- d. A list of sites where each subcontractor is being used

Worker engagement briefings

The Union may conduct a subcontractor briefing to educate subcontractors on the new compliance requirements. The signatory will communicate to the subcontractors that they are to attend the briefing.

The signatory will develop and implement an internal subcontractor compliance framework, which also conducts regular audits of subcontractors, and which requires urgent remediation actions associated with any issues that do not meet the appropriate standards.

Independent Audit Requirement

Appointment

The signatory will as a matter of urgency, and by an agreed date with the UWU, appoint a certified independent payroll audit company (nominated in conjunction with the UWU).

Annual Independent Audit

The signatory thereafter annually, will conduct a certified independent audit of a sample of subcontractors engaged by the signatory.

Payment for independent audit

The signatory agrees to pay appropriate annual fees, to cover the cost of the annual independent auditor. The independent auditor is nominated in conjunction with the UWU.

Worker engagement

The signatory will take all reasonable steps to facilitate United Workers Union Officials (UWU officials') conducting worker engagement to verify the payroll audit of subcontractors via a range of methods which may include but not limited to, face to face meetings with the employees of subcontractors, online briefings, phone interviews and site visits.

Open and honest engagement by subcontractors

The signatory will take reasonable steps to ensure subcontractors are open and honest during the worker engagement.

The signatory will take reasonable steps to facilitate that subcontractors release employees to participate in worker engagement no more than once annually, as described in this clause.

The UWU will reasonably endeavour to conduct these worker engagement discussions during meal breaks, and where not reasonably practicable, may hold these discussions at another time with the agreement of the signatory, which will not be unreasonably withheld.

Engagement of new subcontractors and audit and worker engagement meetings

Prior to engaging new subcontractors The signatory will make enquiries with the UWU to see if the subcontractor has outstanding industrial issues relating to pay compliance or subcontracting integrity, or is a party to any Zombie enterprise agreement (that being an enterprise agreement past its nominal expiry date).

Open exchange of information on subcontracting compliance issues

The UWU will from time to time in its discretion provide the signatory with information / evidence about subcontractors in the industry which are of concern to it including in relation to matters of pay compliance or integrity.

Where the Union provides such information to the signatory, the signatory commits to not engaging that subcontractor, if not already engaged, where it considers that there are concerns about the subcontractor's integrity.

Same job, same pay – part 2

Where subcontractors have an agreement which enables them to employ employees on terms and conditions less than those contained in the Award (as varied from time to time), The signatory commits to paying the subcontractor rates for services to enable it to pay its personnel in line with the Award (or the rates of the relevant Enterprise Agreement where work performed would be covered by that Agreement by a The signatory's employee), and requiring the subcontractor to pay its personnel in line with the Award.

New subcontractors

In respect of new subcontractors, at the UWU's request from time to time (no more frequently than quarterly) The signatory will provide to the UWU the following: The name of the company/legal entity and ABN; Master licencing details, security and labour hire (if any);

- a. The name of the company/legal entity and the ABN;
- b. Master licencing details, security and labour hire (if any)
- c. Management contact details; and
- d. A list of sites where each sub contractor is being used.

Introduction meeting with subcontractor

The signatory will facilitate an introduction meeting between the subcontractor, and the UWU at the UWU's request. At the meeting the expectations of the subcontractor and their interaction with the UWU will be agreed upon.

The signatory will ensure that any new subcontractor is required a meet with the UWU as a condition of their engagement by the signatory, so far as is lawful.

The signatory will ensure that any new subcontractor agrees to the independent audit requirement process outlined in this document, and the worker engagement process, so far as is lawful, as follows:

- a. **Participating in payroll audits** conducted by the independent party appointed by The signatory and the UWU, as per the cost arrangements outlined in this document, no more than once annually.
- b. **The facilitation of United Workers Union officials** ('UWU Officials') conducting worker engagement (to the extent lawful including taking into account issues of privacy, consent and freedom of association) to verify the payroll audit via a range of methods which may include but not limited to, face to face meetings with the employees of subcontractors, online briefings, phone interviews and site visits. Where:
 - i. **The subcontractor will release employees** to participate in worker engagement. The UWU will reasonably endeavour to conduct these worker engagement discussions during meal breaks, and where not reasonably practicable, may hold these discussions at another time with the agreement of The signatory which will not be

unreasonably withheld.

- ii. **The subcontractor will be open and honest** with the UWU regarding the engagement of employees during the worker engagement

UWU conduct and compliance

In the carrying out of any functions under this Code of Practice, the UWU and its officials agree:

- a. to conduct themselves in a professional, courteous and lawful manner; and
- b. to carry out functions directly related to, and for the purposes of, this code of practice.

Compliance check meeting

The signatory will facilitate the UWU attending the workplace and meeting with all The signatory's employees, provided such place for meeting and date and time are agreed with The signatory in advance, to take place once per year.

The UWU will reasonably endeavour to conduct these worker engagement discussions during meal breaks, and where not reasonably practicable, may hold these discussions at another time with the agreement of The signatory which will not be unreasonably withheld.

- a. These meetings will be for the purpose of ensuring compliance with the Award, the Fair Work Act 2009 (Cth) and/or the relevant enterprise agreement
- b. Meetings will be arranged at a local level.
- c. At the Union's request (no more than each quarter), The signatory will provide the Union with a list of employees who have consented to have their details disclosed including their current site location.
- d. The Union would give 30 days' advance notice of this request to enable The signatory to obtain consent and collate the relevant list.

Non-compliance with minimum requirements

Where It is determined that a subcontractor is not complying with a term of the Award, the Fair Work Act 2009 (Cth) and/or the relevant enterprise agreement ('non-compliance'), the following steps will apply:

- a. The signatory and the Union will meet to discuss how the noncompliance will be rectified.
- b. The parties will use their best endeavours to reach an agreed position regarding how non-compliance will be rectified to have rectified.

In situations where the subcontractor appears engaged in intentional non-compliance and has not remedied the non-compliances after being notified by The signatory and being given 30 days to remedy, their services will be terminated by The signatory within 30 days or other timeframe as operationally manageable by The

signatory (or required by law or contract), taking into account customer needs, service disruption impacts or other circumstances outside of The signatory's control.

The signatory will provide subcontractors with 30 days to rectify any non-deliberate acts of non-compliance (or such other timeframe as may be contractually required for pre-existing subcontractors at the date of this Code being executed).

Where a subcontractor fails to rectify non-compliance within 30 days (or such other time frame as may be reasonably provided by The signatory).

The signatory will cease using the subcontractor within 30 days (unless otherwise agreed between Union and The signatory or unless otherwise contemplated by this Code as reasonably necessary in the circumstances).

The Union agrees to not prosecute or involve The signatory where it has taken reasonable steps to see the rectification of any non-compliances by the subcontractor.

Eradicating sham contracting

The parties to this Code of Practice have embarked on a journey to improve the security industry for all involved by joining forces to eradicate sham contracting and ensure that subcontractors comply with their legal obligations under the Fair Work Act 2009 (ct).

The parties are also committed to ensuring that employees of subcontractors engaged at The signatory receive industry minimum terms and conditions as provided by the Award (as a minimum).

The parties will issue a joint statement to all employees of The signatory (and anyone else agreed between the parties) regarding their commitment to eliminate sham contracting, and any other matters agreed between the parties.

Such draft joint statement about this "Code of Practice" will be provided to the Union by The signatory in due course.

Communicating the commitment to government and other stakeholders

The UWU will at its discretion, write to State and Federal governments informing them of the agreement to the Code of Practice by The signatory and UWU, in agreed terms.

Wilson Security Pty Ltd

Nick Frangoulis

Chief Executive Officer

Date 19 June 2023

United Workers Union (UWU) representative

Date