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When General Contractors Require Fall Protection Around Trenches

Guidance to Keep Fall Protection Requirements out of Contracts with General Contractors (GC)

Increasingly, general contractors require utility and excavation subcontractors to use fall protection around trenches more than 6-ft. deep because OSHA's fall protection standard, 29 CFR 1926.500 - Subpart M, requires employers to provide fall protection to all workers exposed to falls of 6 ft. or greater

Utility contractors have a duty to comply with the required fall protection standards in the Code of Federal Regulations 1926. However, in 2002, OSHA issued an interpretation, "Clarification Concerning Fall Protection and Vertical Walled Trenches with Depth of 6 Feet or Greater and Use of Controlled Access Zones." In this interpretation, OSHA clearly states, **"unless the trench you are describing is obscured from view, there is no requirement for fall protection to be provided." (Read OSHA's full interpretation here or included with these materials.)**

Fall protection fatalities have risen steadily over the last seven years and remain the leading cause of work-related fatalities in construction; however, compliance issues or injuries related to falls around trenches rarely occur. Regardless, both residential and non-residential contractors are erring on the side of caution and including fall protection requirements in contracts where workers will be working along trenches 6-ft. deep or greater.

What's a Contractor to Do?

Read the Contract Carefully

Contracts between GCs and subcontractor once contained general contract language regarding OSHA compliance, EEOC requirements, in addition to traditional specifications—with no mention of specific OSHA standards. Recently, however, general contractors have been including requirements for specific standards in the contract language—and contracts that require fall protection systems for workers around trenches are on the rise.

GCs are changing contract language. Usually when a GC intends to require a subcontractor to use fall protection the common language in the GC's contract would be written something like this:
"Whenever a person at the "project site" is in a position where the fall potential is 6' or greater to a lower level, such person shall be protected by a fall protection system."

Contractors should review and make changes to language that requires your company to use fall protection along trenches, as OSHA's interpretation is clear and does not require fall protection along the edge of the trench that is visible [1926.501(B)(7)(i)]. If you, the subcontractor, signs this contract without removing the fall protection requirement, the GC may interpret the contract language as mandatory compliance, despite OSHA's interpretation to the contrary.

You should also review the "indemnification" language to ensure your company is not liable for the GC's required use of fall protection systems.

Discuss the FP Hazards Around Trenches With GC

If you are given a contract that requires fall protection around trenches, request a meeting with the GC and identify and explain the hazards of workers using fall protection around trenches (as described below). Also provide the GC with a copy of the 1-page document, "Why Utility Contractors Don't Use Fall Protection Around Trenches," included with these materials.

Railings / Guardrails:

Equipment operators who are lifting and lowering pipe and other materials into the trench often must lift these materials higher than normally necessary to avoid hitting the guardrails and/or railings. This could result in the boom being too close or hitting overhead powerlines, creating an electrocution hazard for the equipment operator and workers. Guardrails also pose a hazard to workers who could get caught between the railing and the material or excavator bucket.

Moving and relocating a fall protection system along the trench as the project moves along increases the possibility of a worker falling in the trench as they help to move and set up the fall protection system. Note many of these workers would not normally be near the edge of the trench if the guardrails/railing were not required. Therefore, the process of setting up fall protective systems creates a greater hazard when workers install them along the edge of a trench.

Fall Protection Arrest Systems (PFAS):

- Horizontal lifeline systems (HLS) use a flexible line that runs parallel to the edge of a trench connected to anchorages, or single tie-off points. While these systems may appear to give workers a wide range of mobility and the ability to safely travel between the anchor points, they do not and are rarely used by utility contractors.
- If a worker falls off the edge of the trench while using a PFAS, the fall arrest system will cause the victim to slam against the wall of the shield, shoring, or the cross braces. Subpart M for PFAS requires an uninterrupted fall area when using an HLS or PFAS.
- Tie-off blocks require a professional engineer to design a rebar-reinforced concrete block weighing roughly 7,000 lbs. When used for a flex line that runs along the trench, the blocks add 14,000 lbs. to the sidewall of the trench causing an excavation surcharge, or extra load, which could cause a cave in.
- Single tie offs restrict the movement of workers, as well as create entanglement problems, limiting the workers' ability to complete the assigned task(s).
- An accidental strike of an underground utility can expose workers to flammable gas, as well as other unknown hazards and risks. Should an emergency occur, workers must be able to immediately evacuate the area unhampered by a PFAS attached to an anchorage point(s).

Conclusion

Fall protection around a working trench creates several recognized safety hazards likely to cause serious physical harm and creates a greater danger to employees. OSHA recognized these hazards when writing Subpart M and specifically included 1926.501(b)(7)(i), an exception for fall protection along the trench if the trench is visible.

OSHA exceptions should not be taken lightly and are explicitly put in place for instances such as these.