

## Client Services Policy Manual

Policy Number: **PR-13**  
Subject: **PRIME Audit for Construction Employers**  
Chapter: **PRIME**

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### Background Introduction

Construction employers are those employers primarily engaged in construction (as defined in Policy RE-19 “Construction Industry”).

The PRIME Program enables eligible construction employers to qualify for financial refunds based on their compliance with certain health and safety and return to work practices. The Employer Payroll Statement, which is required to be completed and returned to WorkplaceNL by February 28<sup>th</sup> of each year, will be used by construction employers to report their status on each practice incentive criteria that applies to them, in accordance with either Policy PR-08 “PRIME Practice Incentive for Provincially Regulated Construction Employers” or PR-09 “PRIME Practice Incentive for Federally Regulated Construction Employers”. Those construction employers who report that they meet all the practice incentive criteria under the applicable policy will receive the 5% practice refund and will qualify for any experience refunds only after the Employer Payroll Statement has been processed by WorkplaceNL and verified against WorkplaceNL’s database. Meeting the PRIME practice incentive criteria does not mean that a construction employer has met his or her legislative requirements under the *Occupational Health and Safety Act and Regulations* for provincially regulated employers, or the *Canada Labour Code Part II* for federally regulated employers.

### Policy Statement

This policy applies only to employers who are considered construction employers. WorkplaceNL will utilize the Certificate of Recognition (COR) audits from the Newfoundland and Labrador Construction Safety Association (NLCSA) and information contained in WorkplaceNL’s database to validate the responses to the practice incentive questions on the Employer Payroll Statement. COR audits are conducted as part of the NLCSA’s COR program and the costs are paid to the NLCSA by the employer. Additional audits may be required and paid for by WorkplaceNL. Any NLCSA audit results that are used to determine whether a construction employer qualifies for a PRIME refund will be approved by WorkplaceNL.

The onus is on the construction employer to demonstrate compliance with the PRIME criteria during the COR audit process. To be able to demonstrate this compliance, employers must retain their documentation associated with the PRIME criteria for a period of seven years (including the current year). Where an employer’s

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responses to the practice incentive criteria cannot be validated, the recommendation to rescind PRIME refunds may affect qualifying for the current year PRIME practice refund and will affect any prior years impacted.

### General

WorkplaceNL may also conduct a financial audit on construction employers which may result in adjustments to an employer account in accordance with Policy PR-03 “PRIME Adjustments”. Such adjustments can result in changes to the experience incentive range and possibly the refunds and charges that have been previously applied to the employer’s account.

### PRIME Audit Process for Construction Employers

WorkplaceNL and the NLCSA will enter into a Memorandum of Agreement which establishes the general obligations and standards of both parties for the purpose of PRIME audits for construction employers.

For all construction employers, the results from COR audits conducted as part of the NLCSA’s COR program will be reported to WorkplaceNL within five days of completion. Where the construction employer does not pass the COR audit, it may affect qualifying for the current year practice refund and will affect any prior years impacted.

Where WorkplaceNL disagrees with or requires clarification regarding a COR audit, WorkplaceNL shall seek clarification from the NLCSA within five days. If the NLCSA is not able to provide information to WorkplaceNL to validate the employer’s responses, WorkplaceNL will notify the employer in writing of the specific criteria that has not been met. If, after two weeks from the date the employer is notified that the COR audit results cannot be validated, and the employer has not been able to provide information to WorkplaceNL to validate the response(s), it may affect qualifying for the current year practice refund and will affect any prior years impacted.

### Final Decision

The final decision of whether to accept the COR audit as valid for the purpose of PRIME rests with WorkplaceNL.

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### Employer Co-operation in the PRIME Audit Process

For construction employers, COR audits conducted by the NLCSA will uphold the principles of co-operation as outlined below.

Employer co-operation in the COR audit process will ensure construction employers achieve the maximum benefit from PRIME refunds and receive valuable direction on areas where health and safety and return to work practices can be improved.

Employers will be required to designate a contact person who will be responsible for working with the NLCSA representative for the purpose of COR audits.

The NLCSA will provide every reasonable opportunity to facilitate a construction employer's co-operation in the COR audit process, including, but not limited to:

- i. giving the employer a minimum of one week advance notice of the COR audit;
- ii. giving consideration to an employer's availability of resources and/or their productivity demands;
- iii. advising the employer in advance of the documentation that will be necessary to complete the COR audit;
- iv. providing feedback to the employer while conducting the audit and at the time that the audit results are known;
- v. ensuring the employer has an opportunity to provide current and relevant information that may impact the outcome of the COR audit;
- vi. explaining the audit results to the employer before the written final audit report is released, and
- vii. ensuring any other issues have been considered to allow full co-operation in the COR audit.

Where the NLCSA attempts to conduct a COR audit and the employer is not co-operating in the audit process, the employer will be notified in writing that PRIME refunds may be rescinded. If, after

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two weeks from the date the employer is notified, the employer has not co-operated in the COR audit, as applicable, the refund will be disallowed for the current year and rescinded for any prior years impacted.

### Exceptional Circumstances

In cases where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice. Such a decision will be considered for that specific case only and will not be precedent setting. When considering exceptional circumstances under this policy, WorkplaceNL will also consider the health and safety of the workers of the employer.

### Implementation

The occupational health and safety and return to work requirements under the PRIME Program will be implemented over a three year period. COR audits will be based on the requirements for a specific construction employer according to whether they are federally or provincially regulated and the practice year in which they fall (refer to Policy PR-08 “PRIME Practice Incentive for Provincially Regulated Construction Employers” or PR-09 “PRIME Practice Incentive for Federally Regulated Construction Employers” for specific requirements during this three year period). As the practice incentive requirements are changed to meet continuous improvement for Practice Year 4 and beyond, the PRIME audit will be adjusted accordingly.

**Reference:** *Workplace Health, Safety and Compensation Act (the Act), Section 17 and 96*

### Amendment History

<i>Original Effective Date</i>	2006 01 01
<i>Revision #1</i>	2010 02 01