



# **Assessment Tasks**

## **Candidate Guide**

**BSBSMB401A Establish legal and risk  
management requirements**

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## Assessment Information

The assessment activities associated with the unit of competency **BSBSMB401A Establish legal and risk management requirements** are listed below:

<b>Assessment 1: Written</b>	<ul style="list-style-type: none"><li>▪ Written answers to questions</li></ul>
<b>Assessment 2: Project</b>	<ul style="list-style-type: none"><li>▪ Written responses to tasks</li></ul>
<b>Assessment 3: Project</b>	<ul style="list-style-type: none"><li>▪ Written responses to tasks</li></ul>

This guide contains all of the assessment tasks required for completion of unit of competency **BSBSMB401A Establish legal and risk management requirements**.

Prior to commencing the assessments your assessor will explain each task to you. You will be given the opportunity to ask questions and to seek clarification on any of the tasks, and your assessor will remain available to support you through the assessment process.

Your assessor is also available to discuss Recognition of Prior Learning and whether this applies to your circumstances.

## Terms and conditions

### Submitting your evidence portfolio

You are recommended to seek the advice of your assessor when putting together your evidence portfolio in order to confirm that you have provided sufficient evidence of competency.

You should note that your evidence portfolio must be retained by the Registered Training Organisation for audit purposes and will not be returned to you. If you wish to keep any evidence, you should make a copy prior to submission for assessment. You are advised to make sure you clearly label each answer and task and complete all sections of each assessment.

If possible, you should also submit copies of any workplace documents that may be relevant to this unit of competency. In this case you will need to gain approval to provide the copies from your employer.

### Ownership and plagiarism

You are advised by accepting these terms and conditions you have declared the evidence that you submit is your own work or the result of your own research. By signing the declaration below you acknowledge your assessment is your own and contains no material written by another person except where due reference is made. Note that if you quote any source in your evidence, you must provide a reference to the source in order to ensure that you do not breach Copyright legislation. You need to be aware that a false declaration may lead to the withdrawal of a qualification.

### Re-submission of your evidence portfolio

If your evidence meets the requirements of the unit of competency you will be assessed as Competent (**C**) in this unit. If your evidence does not meet the requirements of the unit of competency you will be assessed as Not Yet Competent (**NYC**). If you are assessed NYC, it is important to discuss your re-submission with your assessor as you will be given one opportunity only to revise and re-submit your evidence portfolio.

#### Declaration by Candidate

I confirm that the evidence that I have presented is my own work and/or the result of my own research. It contains no material written by another person except where I have stated the source. I am aware that a false declaration may lead to withdrawal of a qualification.

CANDIDATE NAME (PLEASE PRINT)

CANDIDATE SIGNATURE

DATE

## BSBSMB401A Establish legal and risk management requirements of small business

### Elements

#### 1. Identify and Implement business legal requirements

*Performance Criteria (PC):*

- 1.1 Identify and research possible options for the business legal structure using appropriate sources
- 1.2 Determine legislation and regulatory requirements affecting the operations of the business under its chosen structure
- 1.3 Develop and implement procedures to ensure full compliance with relevant legislation and regulatory requirements

#### 2. Comply with legislation, codes and regulatory requirements

*Performance Criteria (PC):*

- 2.1 Establish systems to ensure the legal rights and responsibilities of the business are identified and the business is adequately protected, specifically in relation to occupational health and safety (OHS), business registration and environmental requirements
- 2.2 Identify taxation principles and requirements relative to the business and follow procedures to ensure compliance
- 2.3 Identify and carefully maintain legal documents and maintain and update relevant records to ensure their ongoing security and accessibility
- 2.4 Monitor the provision of products and services of the business to protect legal rights and to comply with legal responsibilities
- 2.5 Conduct investigations to identify areas of non-compliance with legal and regulatory requirements and take corrective action where necessary

#### 3. Negotiate and arrange contracts

*Performance Criteria (PC):*

- 3.1 Seek legal advice on contractual rights and obligations, if required, to clarify business liabilities
- 3.2 Investigate and assess potential products/services to determine procurement rights and to ensure protection of business interests where applicable
- 3.3 Negotiate and secure contractual procurement rights for goods and services including contracts with relevant people, as required, in accordance with the business plan
- 3.4 Identify insurance requirements and acquire adequate cover
- 3.5 Identify options for leasing/ownership of business premises and complete contractual arrangements in accordance with the business plan

### Required Skills

- RS 1. communication, reporting, record keeping and consultation skills to operate the business
- RS 2. literacy skills to interpret legal requirements, to develop policies and procedures and to analyse compliance information
- RS 3. research skills to investigate legal structures, and taxation and insurance requirements
- RS 4. time management skills to prioritise tasks and to meet key dates.
- RS 5. communication, reporting, record keeping and consultation skills to operate the business

### Required Knowledge

- RK 1. business registration and licensing requirements
- RK 2. commonwealth, state/territory and local government legislative requirements relating to business operation, especially in regard to OHS and environmental issues, equal employment opportunity, industrial relations, anti-discrimination, taxation
- RK 3. creation and termination of relevant legal contracts
- RK 4. cultural differences and legal implications
- RK 5. duty of care imposed by Law of Torts
- RK 6. legal rights and obligations of alternative ownership structures
- RK 7. record keeping to meet minimum legal and taxation requirements
- RK 8. relevant consumer legislation
- RK 9. relevant industry codes of practice
- RK 10. relevant insurance requirements and products

### Critical aspects of evidence

*Evidence of the following is essential:*

- CAE1. implementation of a systematic approach to identifying, managing and meeting legal and business requirements within culturally appropriate contexts
- CAE2. interpreting compliance data and formulating appropriate action
- CAE3. knowledge of relevant legislation

### Employability Skills

*Industry and enterprise requirements for the qualification:*

- ES 1. Communication
  - conducting research to collect and analyse information in a range of reports
  - consulting with others to develop a range of plans and reports
  - liaising with stakeholders and promoting participative workplace arrangements
  - negotiating solutions to new and emerging issues
- ES 2. Teamwork
  - contributing to the development of other team members
  - providing feedback on team performance to colleagues and managers
- ES 3. Problem solving
  - applying risk management processes to business operations
  - assessing financial viability of new opportunities and matching organisational capability with market needs
- ES 4. Initiative and enterprise
  - encouraging creative and innovative workplace solutions
  - identifying new and emerging opportunities for the business and developing strategies to capitalise on them
  - managing, fostering and facilitating change
- ES 5. Planning and organising
  - developing systems that are flexible and responsive to changing circumstances
  - planning for contingencies and performance of staff and systems
- ES 6. Self management
  - dealing with contingencies
  - managing own time and priorities
  - taking responsibility as required by work role and ensuring all organisational policies and procedures are adhered to
- ES 7. Learning
  - assisting others to acquire new knowledge and skills to improve team and individual performance
- ES 8. Technology
  - using electronic communication devices and processes such as internet, intranet, email to produce written correspondence and reports
  - using technology to assist the management of information and to assist the planning process

**If at any stage of the assessments, you believe that the safety of anyone is in jeopardy, you should abort the assessment session.**

## Assessment 1: Written Test

Candidate name:

### Instructions to Candidate

You are required to answer the following questions to confirm your knowledge in relation to unit **BSBSMB401A Establish legal and risk management requirements**.

You may refer to your training materials and other research while completing the answers.

Write your answers in the spaces below using a blue or black pen. Alternatively type a document and provide a printed copy. If you re-type the document, repeat each question in the document and type your answer under the question.

Questions and Candidate's answers		Satisfactory (✓)
Question 1.	Name two factors that need to be considered when identifying the type of licenses, permits or registrations that a business would require.	
Question 2.	There are a number of Commonwealth, State and local government legislative requirements that are required to be part of normal business operations. Name three legislative requirements that will affect how a business operates.	
Question 3.	Under the Occupational Health and Safety Act 2000, an employer is responsible for their workers and any other person who may be present at their workplace. Name two types of people who may be on the business premises that are also covered by the organisation's OHS procedures.	

Questions and Candidate's answers		Satisfactory (✓)
Question 4. There are OHS responsibilities and procedures that must be followed by the employer and employee in all workplaces. Below are five of these responsibilities. Write the role of <b>employer</b> or <b>employee</b> against the responsibility.		
Employer/Employee	Responsibility	
	Make arrangements to ensure the safe use, cleaning, and maintenance of workplace equipment	
	Provide information, instruction, training and supervision to reduce or eliminate hazard exposure	
	Take reasonable care to protect their own as well as the health and safety of others	
	Safety gear needed to perform workplace tasks is provided	
	Comply with all instructions and training on health and safety issues	
Question 5. Under some situations a business that disposes of waste may need to apply for a license or permit. Name the Queensland legislative Act that regulates disposal of waste that may contaminate the environment.		
Question 6. A 48 year old man lodged a complaint that he had been discriminated against because of his age at work. He said that his supervisor had made comments about needing to get his eyes checked and that he should go on the pension. This situation is in breach of workplace legislation. What is the name of the Queensland Act?		
Question 7. Name two groups that are protected against unlawful employment discrimination under the equal employment opportunity (EEO) legislation?		



Questions and Candidate's answers	Satisfactory (✓)
<p>Question 8. In 2009 the industrial relations legislation was superseded by Commonwealth legislation. Name the current Commonwealth Act that sets out the rights and obligations of employers and employees, as well as:</p> <ul style="list-style-type: none"> <li>• Rates of pay</li> <li>• Leave entitlements (including public holidays)</li> <li>• Termination and resignation from work</li> <li>• Discrimination</li> <li>• Taxation and superannuation</li> <li>• Employment records.</li> </ul>	
<p>Question 9. In order for a legal contract to be created, there are certain factual elements that are needed. Name four of these elements.</p>	
<p>Question 10. Name the most common way a contract is completed or fulfilled.</p>	
<p>Question 11. It is important that managers and supervisors encourage cultural diversity in their teams. Name one Act and explain the purpose of the legislation (not EEO legislation) that ensures businesses respect cultural differences and diversity in the workplace.</p>	
<p>Question 12. Under the Law of Torts, there is a duty of care. What does duty of care mean?</p>	

Questions and Candidate's answers				Satisfactory (✓)
Question 13. The main three business structures are sole trader, partnership and company. Tick the box in the table below to identify the legal rights and obligations of each structure.				
Legal rights and obligations	✓ Sole Trader	✓ Partnership	✓ Company	
The owner has full control				
Two or more co-owners participate in a business				
Owner takes all profits and is responsible for all debts				
Needs to be registered under Corporations Law				
A business name may need to be registered if you use a name that is not your real name				
A written agreement is required				
Each person is responsible for the debts of the business				
Is a separate legal entity to owners				
Liabilities limited to share capital				
Question 14. How many years do you legally need to retain business records?				

Questions and Candidate's answers	Satisfactory (✓)
<p>Question 15. Business records required to be retained to meet taxation and legal (legislative) requirements include:</p> <ul style="list-style-type: none"> <li>• Sales and expense invoices</li> <li>• Sales and expense receipts</li> <li>• Cash register tapes</li> <li>• Credit card statements</li> <li>• Bank deposit books and cheque butts</li> <li>• Bank account statements.</li> </ul> <p>Name two reasons why the above evidence of business transactions needs to be retained.</p>	
<p>Question 16. A sole trader is taxed as an individual and adds the income or deducts any losses from the business to their personal tax return. A partnership has its own tax file number (TFN) and their tax return is assessed by the ATO before each partner is able to add their share of the profit (or loss) to their personal income tax.</p> <p>Explain how a company is taxed and who receives the business profits?</p>	
<p>Question 17. What is the annual turnover amount for a business that needs to register for the goods and service tax (GST)?</p>	
<p>Question 18. Applying for an Australian Business Number (ABN) is not compulsory. However, if you are required to register for GST, you will need to apply for an ABN as well.</p> <p>Name two reasons why a business should apply for an ABN.</p>	

Questions and Candidate's answers	Satisfactory (✓)
<p>Question 19. If a business provides a tax invoice over \$1000 to a customer, there are specific items that must be shown. Name five of the items on a valid tax invoice.</p>	
<p>Question 20. A business uses a business activity statement (BAS) to report their PAYG withheld amounts, along with other business tax entitlements and obligations, including GST, PAYG instalments and FBT. What type of taxes do the letters PAYG and FBT stand for?</p>	
<p>Question 21. Some large Queensland-based businesses pay payroll tax. Explain when payroll tax would be payable.</p>	
<p>Question 22. The superannuation guarantee requires a business to:</p> <ul style="list-style-type: none"> <li>• Pay super for eligible employees</li> <li>• Contribute to the correct super funds, and</li> <li>• Pay contributions by the cut off date each quarter.</li> </ul> <p>What is the percentage of superannuation that is payable?</p>	

Questions and Candidate's answers	Satisfactory (✓)
<p>Question 23. In Australia fair trading laws protect individuals, businesses and customers from unfair trading practices. These laws, together with industry codes of practice, help to ensure that businesses operate fairly and competitively and that all customers are adequately informed and protected.</p> <p>What are the names of the Commonwealth Act and Queensland Act that protect consumers?</p>	
<p>Question 24. Industry codes of practice give practical guidance and advice on how to comply with OHS and Fair Trading legislation. What legal word is used to describe when the industry codes of practice are not followed?</p>	
<p>Question 25. Select 4 business insurances from the following and describe the protection they provide:</p> <ul style="list-style-type: none"> <li>• Public and products liability insurance</li> <li>• Professional indemnity insurance</li> <li>• Material damage insurance</li> <li>• Business interruption insurance</li> <li>• Business money insurance</li> <li>• Workers compensation</li> </ul>	
<b>Total Questions</b>	<b>25</b>
<b>Result</b>	

Assessment 1 Checklist			
Candidate name			Student Number
Unit	BSBSMB401A Establish legal and risk management requirements		
Assessor name			
<b>Candidate Assessment Declaration</b> (tick the relevant box)			
The purpose and outcomes of the assessment have been explained to me		Yes	No
I have received information about the unit of competency		Yes	No
I understand the type of evidence to be collected		Yes	No
The appeals system has been explained to me		Yes	No
I have informed my assessor of any special needs that may need to be considered during the assessment		Yes	No
Candidate signature		Date	
<b>Assessor comments</b> (tick the relevant box)			
RPL / accelerated progression required		Yes	No
Language / Literacy / Numeracy support required		Yes	No
Any other special needs (describe in the space below)		Yes	No
Assessor signature		Date	
<b>Result of assessment - Assessment 1: Written Test</b>			
Attempt No 1: S <input type="checkbox"/> NYS <input type="checkbox"/>		Attempt No 2: S <input type="checkbox"/> NYS <input type="checkbox"/>	
		Attempt No 3: S <input type="checkbox"/> NYS <input type="checkbox"/>	
The candidate's overall performance was		Satisfactory <input type="checkbox"/> Not Yet Satisfactory <input type="checkbox"/>	
Feedback to candidate on overall performance			
Assessor signature		Date	
I intend to lodge an appeal on the above decision		Yes	No
Candidate signature		Date	

## Assessment 2: Project

Candidate name:

### Instructions to Candidate

This activity is related to the unit of competency **BSBSMB401A Establish legal and risk management requirements**. In particular, you will be required to demonstrate your skills and knowledge in relation to this unit of competency.

You may refer to your training materials and other research if required. The activity may be completed in the workplace or a simulated workplace.

Your assessor will use a checklist to record the assessment decision.

### Overview

Below are a number of practical tasks to be completed over a period of time in a real or simulated workplace where you will perform the duties of a **manager**. The times for completion of the tasks are to be negotiated between yourself and the assessor. The tasks will reflect your ability to:

Project: Identify and ensure compliance with the regulatory, legal, taxation and insurance requirements, and risk management needs of a small business.

Your assessor will provide you with instructions and complete a checklist on which they will record your satisfactory performance of workplace tasks.

The Project Tasks table below identifies the documents that you are required to prepare and submit in your evidence portfolio. They may be presented in printed format in a folder or as an electronic copy.

Ensure both your name and student number is clearly displayed.

### Project Tasks

The following tasks may be completed as a workplace project based on your own organisation and job role, or as a simulated workplace project based on a fictitious organisation, or an organisation you are familiar with.

1. For the organisation where you are the manager, describe the following:

- Business structure (company, partnership, sole trader)
- Type of organisation (retail, wholesale, distributor or service)
- Location of company
- Number of staff
- Your company responsibility level (team leader, department manager, manager of a number of departments or branches). If available, you may provide a position description.
- Industry type (metal products supplier, hairdressing, transport, white goods, etc)
- Type of materials/products and services provided to customers.

Use your current workplace or a simulated workplace to gather the information on the organisation.

You are required to provide your assessor with the following document/s:

- A description of the business.

### Assessor Comments:

Satisfactory ☐ Not Satisfactory ☐



### Project Tasks

2. Your Managing Director has asked you to help prepare a business plan to open another business. He/she has identified a partner who is interested in part ownership of the new business. He/she needs a **report** which identifies the legal requirements of the two business structures (a registered company and a partnership) then a recommendation for a preferred structure.

#### Part A Identify business structure legal requirements

Research the legal requirements to set up a company and a partnership. You should consider the following business structure requirements:

- Business registration
- License to practice
- Taxation
- Liability protection
- Agreements

Your decision may be influenced by the following factors:

- Preferences of owners
- Confidentiality
- Contractual requirements
- Family/community/cultural expectations
- Ownership transfer
- Partnership considerations
- Preferences of owners/stakeholders
- Protection of stakeholders and assets
- Requirements of financial backers
- Superannuation
- Taxation.

#### Part B Identify and consider procedures to comply with legislation, codes of practice and regulatory requirements that could affect the structure and operations of the business.

- Research Commonwealth, Queensland, Local Government legislative and codes of practice requirements affecting business operation, especially in regard to:
  - Occupational Health and Safety
  - Environmental issues
  - EEO
  - Industrial relations
  - Anti-discrimination
  - Relevant industry codes of practice
  - Taxation and recording keeping requirements.
- List the procedures that would need to be developed and implemented to ensure full compliance with relevant legislation and regulatory requirements.

### Project Tasks

You are required to provide your assessor with the following document/s:

- A short report to your Managing Director identifying the legal requirements for a registered company and a partnership and a list of the procedures that would need to be implemented with a recommendation of a preferred structure.

### Assessor Comments:

Satisfactory ☐ Not Satisfactory ☐

### Project Tasks

3. The business systems and procedures for the new business need to be explained to your Managing Director before their development and implementation. Write a **report** explaining the details of the business systems that would be necessary to comply with Commonwealth, Queensland, and Local Government legislation, codes and regulatory requirements.

Part A Review the business operating systems of the current workplace (or the operating systems of the simulated workplace) and **write a paragraph** as to whether these systems and procedures will adequately protect the new business with regard to:

- Business legal rights and responsibilities, including:
  - Business registration
  - Relevant Acts and regulations
  - Industry and OHS codes of practice
  - Environmental legislation
  - Industrial law, consumer legislation and standards, Torts Law and duty of care
  - Equal employment opportunity (EEO) and anti-discrimination legislation, anti-competition regulations

Part B **List and briefly describe** each of the business systems and procedures that would be necessary to comply with Queensland, Commonwealth and Local Government legislation, codes and regulatory requirements

Note: In the procedure descriptions you need to specifically discuss the following:

- Culturally appropriate processes and protocols to allow for diverse staff and customer needs
- Marketing and compliance with the Trade Practices Act and Fair Trading Act
- Customer service and duty of care (Law of Torts)
- Obligations imposed by choice of business structure
- Obligations under environmental protection legislation
- Obligations under business licensing and registration.
- Obligations under OHS including:
  - Processes to identify and manage workplace specific hazards
  - Processes to assess and control workplace risks and hazards
  - Processes to evaluate and review effectiveness of risk control measures
  - Processes to manage OHS compliance including workplace arrangements to consult employees to promote OHS duty of care knowledge and responsibilities
  - Processes to update and maintain written safe operating procedures for equipment and

### Project Tasks

substances (i.e. chemicals, cleaning agents) used in the workplace

- Processes for registering with workers compensation, if staff are employed
- Processes and forms for recording and maintaining records including:
- The risk assessment date, identified hazards, assessed risks and chosen control measures
- How the control measures were implemented, monitored and reviewed
- Relevant induction, training and hazardous substance training records.

Note: Records may include:

- Accident reports and investigations
- First aid and medical
- Hazardous substances register
- Instruction and training
- Manufacturers' and suppliers' information
- Material safety data sheets
- OHS audits and inspections
- Plant maintenance and testing
- Workers compensation and rehabilitation
- Processes to ensure security and accessibility of OHS records

You are required to provide your assessor with the following document/s:

- A paragraph on the current systems and procedures and if they will adequately protect the new business
- A list and brief description on each of the business systems and procedures that would be necessary to comply with Queensland, Commonwealth and Local Government legislation, codes and regulatory requirements.

### Assessor Comments:

Satisfactory ☐ Not Satisfactory ☐

### Project Tasks

4. Taxation issues of the new business will be affected by the preferred business structure from Task 2. The Managing Director will need a **report** on the taxation obligations and responsibilities of the business.

#### Part A Taxation compliance

List the taxation registration requirements for the preferred business structure and explain the reason they are required e.g. compliance requirement, optional, recommended as future option.

- Note: Taxation requirements may include TFN, ABN, GST, PAYG, other withholding arrangements and any other taxation compliance requirements necessary for the new business structure

#### Part B Taxation recordkeeping procedures

Review the current business taxation recordkeeping procedures (or the taxation recordkeeping procedures of the simulated workplace) and identify if they are appropriate and suitable for the new business. You will need to consider:

- The requirements of the new business structure
- The procedures to record the financial and taxation information required by the Managing Director and the ATO including timeframe requirements, record maintenance and updates, record security and accessibility

Refer to the following for guidance on taxation records. Some of the following may not be required.

*Records relating to income tax and GST:*

- Sales records
  - sales invoices, including tax invoices
  - sales vouchers or receipts
  - cash register tapes, credit card statements
  - bank deposit books and account statements.
- Purchase/expense records purchase/expense invoices, including tax invoices
  - purchase/expense receipts, which include an ABN
  - cheque butts and bank account statements
  - credit card statements
  - records showing how any private use of something you purchased was worked out.
- Year-end income tax records
  - motor vehicle expenses
  - debtors and creditors lists
  - stocktake sheets
  - depreciation schedules
  - capital gains tax records.

*Records relating to payments made to employees:*

- tax file number declarations and withholding declarations
- withholding variation notices
- worker payment records
- PAYG payment summaries
- annual reports
- super records
- records of any fringe benefits provided.

### Project Tasks

*PAYG withholding records relating to business payments:*

- records of amounts withheld from payments where no ABN was quoted
- a copy of any PAYG withholding voluntary agreements
- records of voluntary agreement payments
- PAYG payment summaries
- PAYG payment summary – employment termination payments
- annual reports.

You are required to provide your assessor with the following document/s:

- Short report to your Managing Director on the taxation obligations and responsibilities of the business, including:
  - A list of taxation registration requirements for the preferred business structure and the reason they are required.
  - A review of the current business taxation recordkeeping procedures (or those of the simulated workplace) advising if they are appropriate and suitable for the new business.

**Assessor Comments:**

Satisfactory ☐ Not Satisfactory ☐

### Project Tasks

5. The legal and insurance requirements of the new business will be affected by the preferred business structure from Task 2. The Managing Director will need a **report** on the legal and insurance obligations and responsibilities of the business.

#### Part A: Legal document requirements

List the legal requirements for the preferred business structure and explain the reason they are required e.g. compliance requirement, optional, recommended as future option.

Note: Legal documents may include:

- Partnership agreements
- Constitution documents
- Statutory books for companies (register of members, register of directors and minute books)
- Certificate of incorporation
- Franchise Agreements and financial documentation, or other legal compliance requirements.
- Appropriate software licenses for financial records

#### Part B: Maintenance of legal documentation

Review the current business record security practices (or the practices of the simulated workplace) and identify if the current document retention practices are appropriate for the new business to ensure legal documents will be maintained, will be held in a secure place, and will be accessible. Explain to your Managing Director the reason (advantages) for maintaining a legal document register so as to ensure legal documents are preserved, secure and are accessible by appropriate staff.

#### Part C: Insurance requirements

List the insurance requirements for the preferred business structure and explain the reason they are required e.g. compulsory requirement, risk protection, optional, recommended as future option.

Note: Insurance cover may relate to:

- Assets and revenue (building/contents, burglary loss of profits, equipment breakdown, fidelity guarantee, glass, goods in transit, money, motor vehicle)
- People (workers compensation, personal accident, superannuation)
- Liability (public, professional, product).

You are required to provide your assessor with the following document/s:

- Short report to your Managing Director on the legal and insurance obligations and responsibilities of the business, including:
  - A list of the legal requirements for the preferred business structure explaining the reason they are required
  - A review of the current practices for legal document retention as well as the reasons for maintaining a legal document register to ensure legal documents are preserved, secure and are accessible
  - A list of the insurance requirements for the preferred business structure explaining the reason they are required.

#### Assessor Comments:

Satisfactory ☐ Not Satisfactory ☐

### Project Tasks

6. Your Managing Director will also need information on the process/procedure to monitor the supply of products and services to ensure protection of the business and compliance with legal rights and responsibilities. Write a **report** explaining how compliance of the legal rights and responsibilities of the business will be monitored and maintained.

- Describe the processes/procedures that will ensure products and services provided by the business will be supplied according to and in compliance with:
  - Duty of care imposed by Law of Torts
  - Trade Practices Act and Fair Trading Act
  - OHS requirements
  - Industry codes of practice
  - Environmental issues
  - Professional indemnity requirements

You are required to provide your assessor with the following document/s:

- Short report to your Managing Director explaining the process/procedure to monitor the supply of products and services to ensure protection of the business and compliance with legal rights and responsibilities.

### Assessor Comments:

Satisfactory ☐ Not Satisfactory ☐

### Project Tasks

7. Your Managing Director will also need information on the process/procedure to identify legal and regulatory non-compliances and actions available to correct the situation. Write a **report** describe the processes/procedures for:

- Conducting audits or investigations to identify areas of non-compliance with legal and regulatory requirements
- The actions available to correct the situation.

Note: Legal and regulatory requirements may relate to Commonwealth, Queensland or Local Government legislation, codes of practice and regulatory requirements.

Refer to Task 2 and Task 3 legislation, codes of practice and regulatory requirements relating to:

- Occupational Health and Safety
- Environmental issues
- EEO
- Industrial relations
- Anti-discrimination
- Relevant industry codes of practice.

**Project Tasks**

You are required to provide your assessor with the following document/s:

- Short report to your Managing Director explaining the audit or investigation process/procedure to identify legal and regulatory non-compliances and actions available to correct the situation.

**Assessor Comments:**

Satisfactory ☐ Not Satisfactory ☐

**Project Tasks**

**The overall project task:**

Compile all the above documents together. They will be assessed separately and then assessed for overall readability, which includes use of appropriate grammar and punctuation in sentences and paragraphs.

**Assessor Comments:**



Assessment 2 Checklist			
Candidate name			Student Number
Unit	BSBSMB401A Establish legal and risk management requirements		
Assessor name			
<b>Candidate Assessment Declaration</b> (tick the relevant box)			
The purpose and outcomes of the assessment have been explained to me		Yes	No
I have received information about the unit of competency		Yes	No
I understand the type of evidence to be collected		Yes	No
The appeals system has been explained to me		Yes	No
I have informed my assessor of any special needs that may need to be considered during the assessment		Yes	No
Candidate signature		Date	
<b>Assessor comments</b> (tick the relevant box)			
RPL / accelerated progression required		Yes	No
Language / Literacy / Numeracy support required		Yes	No
Any other special needs (describe in the space below)		Yes	No
Assessor signature		Date	
<b>Result of assessment - Assessment 2: Project</b>			
Attempt No 1: S <input type="checkbox"/> NYS <input type="checkbox"/>		Attempt No 2: S <input type="checkbox"/> NYS <input type="checkbox"/>	
		Attempt No 3: S <input type="checkbox"/> NYS <input type="checkbox"/>	
The candidate's overall performance was		Satisfactory <input type="checkbox"/> Not Yet Satisfactory <input type="checkbox"/>	
Feedback to candidate on overall performance			
Assessor signature		Date	
I intend to lodge an appeal on the above decision		Yes	No
Candidate signature		Date	

## Assessment 3: Project

Candidate name:

### Instructions to Candidate

This activity is related to the unit of competency **BSBSMB401A Establish legal and risk management requirements**. In particular, you will be required to demonstrate your skills and knowledge in relation to this unit of competency.

You may refer to your training materials and other research if required. The activity may be completed in the workplace or a simulated workplace.

Your assessor will use a checklist to record the assessment decision.

### Overview

Below are a number of practical tasks to be completed over a period of time in a real or simulated workplace where you will perform the duties of a **manager**. The times for completion of the tasks are to be negotiated between yourself and the assessor. The tasks will reflect your ability to:

Project: Investigate and seek legal advice prior to negotiating and arranging contracts for a small business.

Your assessor will provide you with instructions and complete a checklist on which they will record your satisfactory performance of workplace tasks.

The Project Tasks table below identifies the documents that you are required to prepare and submit in your evidence portfolio. They may be presented in printed format in a folder or as an electronic copy.

Ensure both your name and student number is clearly displayed.

### Project Tasks

The following tasks may be completed as a workplace project based on your own organisation and job role, or as a simulated workplace project based on a fictitious organisation, or an organisation you are familiar with.

1. Your Managing Director will also need information on the contracts that will be required to set up and operate the new business. Write a **report** to provide advice on the key components of contracts that may be required by the business.

#### **Part A:** Contractual rights and obligations

- Research and describe the key performance requirements and components that would be required to make a valid contract.
- Identify the rights and obligations of both parties. Refer to Part C and use a product or service example to explain your response.
- List the contact details of three legal advisors (solicitors) who deal with business liabilities so your Managing Director may be able to seek further advice.

#### **Part B:** Ownership transfer

Your Managing Director has advised you that an existing premise is available for purchase or lease. He/she would like some advice on:

- The advantages and pitfalls of purchasing a commercial premise
- The advantages and pitfalls of leasing a commercial premise
- What information should he/she expect to be provided by the seller or lessor?
- Any other information that should be considered.

#### **Part C:** Potential products and services

- Research and describe three products or services that could be offered by the new business
- For each product/service identify the type of contract and business legal obligations that would need to be entered into which would provide protection of the businesses interests
- Advise if the product/service supply contract relates to any form of licensing, royalties, copyright, patents, trademarks, registered design and applications, intellectual property, software licenses, franchises, and agencies
- Advise the Managing Director if the business will be able to comply with the legal and contractual requirements of the contract conditions to provide the three products/services.

You are required to provide your assessor with the following document/s:

- Short report to your Managing Director on the contracts that will be required to set up and operate the new business.
  - Part A: Contractual rights and obligations- Identify the components of a valid contract, rights and obligations, contact details of three legal advisers
  - Part B: Ownership transfer- Advise the advantages and pitfalls for purchasing and leasing, the information to be supplied by the seller or lessor and any other relevant information that should be considered.
  - Part C: Potential products and services- Identify three products/services and any related contracts or legal obligations relating to the product/service supply contract. Identify if the legal obligations relate to any form of licensing, royalties, copyright, patents, trademarks, registered design and applications, intellectual property, software licenses, franchises, and the compliance ability of the business.

### Project Tasks

#### Assessor Comments:

Satisfactory ☐ Not Satisfactory ☐

### Project Tasks

2. The Managing Director will negotiate the contracts with the three product/services suppliers as well as any other contracts required for the new business. However he/she would like some tips on negotiating and securing contracts. Write a **report** to provide him/her with some advice.

#### Part A: Negotiating contracts

Identify some important points on negotiating a contract and securing a win-win situation. The points should relate to before, during and after the negotiation process.

#### Part B: Securing contractual procurement rights

The Managing Director may need to negotiate contracts with the following people:

- Owners
- Suppliers
- Employees
- Landlords
- Real Estate Agents
- Distributors.

Select **two** groups of people from the above list. One of the contracts **must** be for the lease of premises from a landlord or real estate agent and the other contract may be with any other group.

- For each contract, list the options (or conditions) which would be negotiable when securing a contract to be supplied with their goods/services.
- For each contract, list the options (conditions) that would not be negotiable when securing a contract to be supplied with their goods/services.
- Provide the Managing Director with the preferred options (or conditions) for each contract to enable him/her to complete contractual arrangements.

Note: Some of the options (or conditions) may not be negotiable due to OHS or other legislation or regulation.

You are required to provide your assessor with the following document/s:

- Short report to your Managing Director with advice on how to negotiate the contracts with the three product/services suppliers as well as any other contracts required for the new business.

#### Assessor Comments:

Satisfactory ☐ Not Satisfactory ☐

<b>Project Tasks</b>
<b>The overall project task:</b> Compile all the above documents together. They will be assessed separately and then assessed for overall readability, which includes use of appropriate grammar and punctuation in sentences and paragraphs.
<b>Assessor Comments:</b>

Assessment 3 Checklist			
Candidate name			Student Number
Unit	BSBSMB401A Establish legal and risk management requirements		
Assessor name			
<b>Candidate Assessment Declaration</b> (tick the relevant box)			
The purpose and outcomes of the assessment have been explained to me		Yes	No
I have received information about the unit of competency		Yes	No
I understand the type of evidence to be collected		Yes	No
The appeals system has been explained to me		Yes	No
I have informed my assessor of any special needs that may need to be considered during the assessment		Yes	No
Candidate signature		Date	
<b>Assessor comments</b> (tick the relevant box)			
RPL / accelerated progression required		Yes	No
Language / Literacy / Numeracy support required		Yes	No
Any other special needs (describe in the space below)		Yes	No
Assessor signature		Date	
<b>Result of assessment - Assessment 3: Project</b>			
Attempt No 1: S <input type="checkbox"/> NYS <input type="checkbox"/>		Attempt No 2: S <input type="checkbox"/> NYS <input type="checkbox"/>	
		Attempt No 3: S <input type="checkbox"/> NYS <input type="checkbox"/>	
The candidate's overall performance was		Satisfactory <input type="checkbox"/> Not Yet Satisfactory <input type="checkbox"/>	
Feedback to candidate on overall performance			
Assessor signature		Date	
I intend to lodge an appeal on the above decision		Yes	No
Candidate signature		Date	

Candidate Name	
Unit of Competency	<b>BSBSMB401A Establish legal and risk management requirements</b>

Assessment Task	Date of assessment	Satisfactory	Assessor Signature
Assessment 1: Written Test		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Assessment 2: Project		Yes <input type="checkbox"/> No <input type="checkbox"/>	
Assessment 3: Project		Yes <input type="checkbox"/> No <input type="checkbox"/>	

Assessor's Comments	

Competent ☐      Not Yet Competent ☐      Re-assessment required ☐

ASSESSOR NAME (PLEASE PRINT)	ASSESSOR SIGNATURE	DATE

I intend to lodge an appeal on the above decision		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Candidate signature		Date	