Avetta

In the Event of a

Workplace Fatality

Reacting in the Wake of a Catastrophe

The value of a human life is truly unfathomable and must be protected at all costs. Notwithstanding there are financial repercussions to consider if a tragic incident results in a fatality on your premises. This is especially applicable if any negligence has been established as a causation to the incident. Sanctions arising from health and safety violations, lapsed or absence of documentation or any general negligence on the part of employees or management can total to a cost of US$ 129,336.[i]

However, the financial ramification is just a small portion of the negative effects that may follow. Workplace incidents have the potential to cause severe dents to an organization's reputation. In addition, organizations may experience decreased employee morale, productivity and loyalty. It's crucial for organizations and subcontractors to keep themselves aware and updated on the appropriate process, procedures and guidelines in the case of any workplace incident.

Putting the scenario in perspective

Perhaps the best way to elucidate the process along with the best practices would be to consider a hypothetical scenario that ends in a fatal workplace incident. Let us consider a scenario where an employee gets hit by a workplace machine like a forklift truck being driven by another employee. The injured person then passes away while being carried off to the hospital.

Upon further investigation, it was found that the employee driving the forklift had an expired license. In this case, the flow of the subsequent actions should be:

Immediate steps

Get in touch with the usual first responders

- Emergency Medical Technicians– For trauma assessment /recommendations
- Police – Getting the legalities covered in case of suspected foul-play
- OSHA (if applicable) – Only needed if immediate hospitalization is required. If the affected employee is not hospitalized within two days, reporting is not required.

Hospitalization-In case of a non-fatal hospitalization, you need to ensure that no less than 2 supervisors go to the hospital to visit the injured employee.

Immediate OSHA compliant procedure

- As per the latest OSHA guidelines (effective January 1st, 2015) employers have to report an event to OSHA in the following cases[ii]:
  - Any work-related fatalities
  - In-patient hospitalizations of one or more employees
  - Any amputations required as a result of work
  - Loss of eye due to work
- Report any work related fatalities mandatorily within 8 hours of the incident. For other non-fatal incidents, the reporting must be done within 24 hours.
- Fill in the online reporting form[iii] (if available within the state's jurisdiction) with pertinent details through the OSHA website. Otherwise, the report has to be logged in through a phone call.
- Particular care should be taken to capture the relevant details of the incident without venturing into graphic descriptions of the injury
- Do not venture into sharing specific medical details while filing the report

Submit a Freedom of Information Act request [iv] to all the first responding agencies for copies of their investigation file.

Assisting the Deceased Employee's Family

Delivering the news of a family member's death is perhaps the most sensitive task your organization will have to do. It must be handled in a caring and mature manner. Assign the task to someone who will use discretion while dealing with the family members of the deceased employee.

The message of grief has to be delivered in person to the family. Provide the family with contact information so that they may get in touch in case of any assistance. Make sure that the family doesn't have to bear the expense of the funeral and they understand the assistance your organization will provide. Seemingly minor gestures such as delivering food to the grieving family and arranging flowers for the funeral can go a long way in helping the family members cope with the loss.

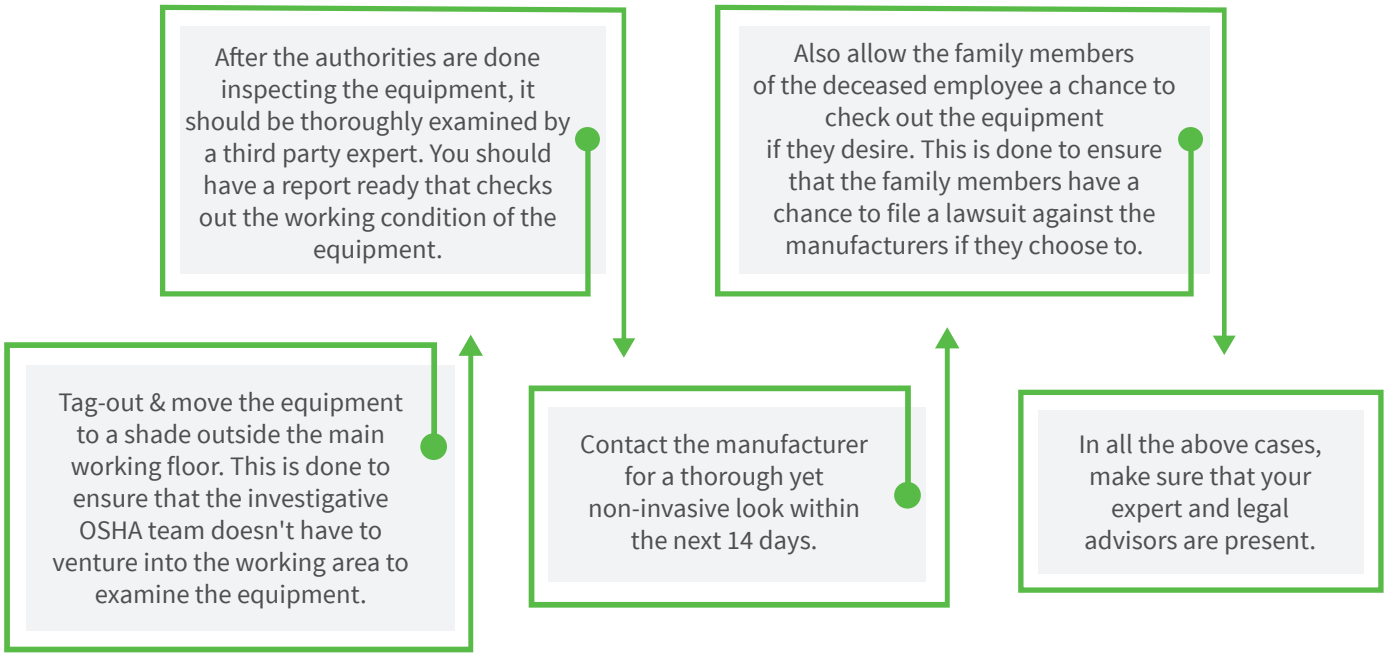
All employees that want to attend the funeral should be able to do so.

There should be a presence of at least three managers at the funeral including two C-level executives.

Dealing with your Workplace Environment Post-accident

Since the workplace will be ground-zero for the investigative agencies over the next few days, it would be a good idea to resolve any visible compliance violations. Any hazardous elements that have been left unchecked should be corrected immediately.

The following steps need to be taken with the equipment that was involved in the incident:



Along with the site and equipment, it is equally important to attend to your employees. Provide grief counselling for the employees that need it. Confirm that they are ready and willing before asking them to participate in any interview.

Next perform a safety hand down of all personnel. Ensure that all relevant documentation of certifications and training programs are in order and available on demand.

Being under the influence can severely alter the nature of the case and affect workers' compensation. It is therefore of utmost importance to conduct a drug testing on all workers. The test should follow OSHA's guidelines.

OSHA drug testing guidelines

OSHA maintains that a drug testing [v] that is conducted in lieu of a workplace incident that "harmed or could have harmed employees" is allowed as long as all employees who could have potentially contributed to the incident are tested rather than only the employees who were directly involved.

Dealing with Insurance

Contacting the insurance companies including all workers' compensation carriers is paramount to secure that all employee coverage stays intact. Organizations should inquire with the insurance companies if the cost of the funeral would be covered. Additionally, workers' compensation carriers should be set up to make a first report of injury to the state workers' compensation commission.

A best practice as the employer is to maintain an open channel of communication between the employees, the insurance agents and the claims adjustors. This facilitates a smooth transition and makes receiving funds faster for the employees and their kin.

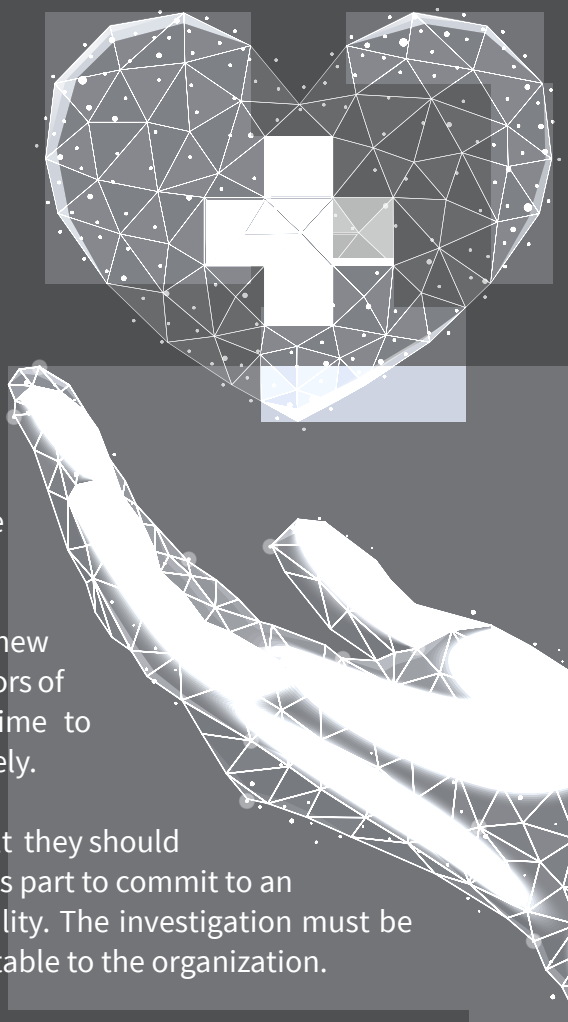
Dealing with OSHA

In the case of a workplace fatality, OSHA will do a mandatory site visit. When the representatives arrive, meet up at a neutral venue like a conference room for a pre-visit discussion.

The discussion should ideally define the “Scope of the Investigation” that clearly outlines the paramters and guidelines. A typical scope of investigation includes:

Interviews – All persons with first-hand experience can be interviewed about the exact mechanics of the incident. Employers may not be present while employees are being interviewed.

Documentation – The initial report, subsequent observations, investigations and interviews - everything is documented in a prescribed format by the OSHA authorities.



It is absolutely imperative that the managers are prepared before the OSHA investigation. Executives or legal should work with the managers & counsel them on how to handle the questions. Anything a manager says can be potentially used against the company by OSHA.

Generally, companies should avoid any activity that might assist OSHA in incriminating them. As such, all planned destruction of document must be put on hold until the completion of the investigation. In addition, when taking the OSHA representatives to the incident area utilize the shortest and most direct route possible.

The OSHA representatives may also ask to see the training logs for all new hires over the last five years along with the training records of all operators of the particular equipment-type. However, companies can ask for time to procure these documents; they do not have to provide them immediately.

The investigation is being carried out on the organization, and as a result they should be well aware of their rights. There is no obligation on the organization’s part to commit to an investigation on the day or even the day after the incident or the fatality. The investigation must be conducted in a reasonable manner and at a reasonable time that is suitable to the organization.

It is equally important to be aware of the outcomes and subsequent effects that follow an OSHA investigation. OSHA citations can significantly impact workers’ compensation claims and lawsuits. This could translate to massive financial and reputational ramifications.

How Avetta can Help

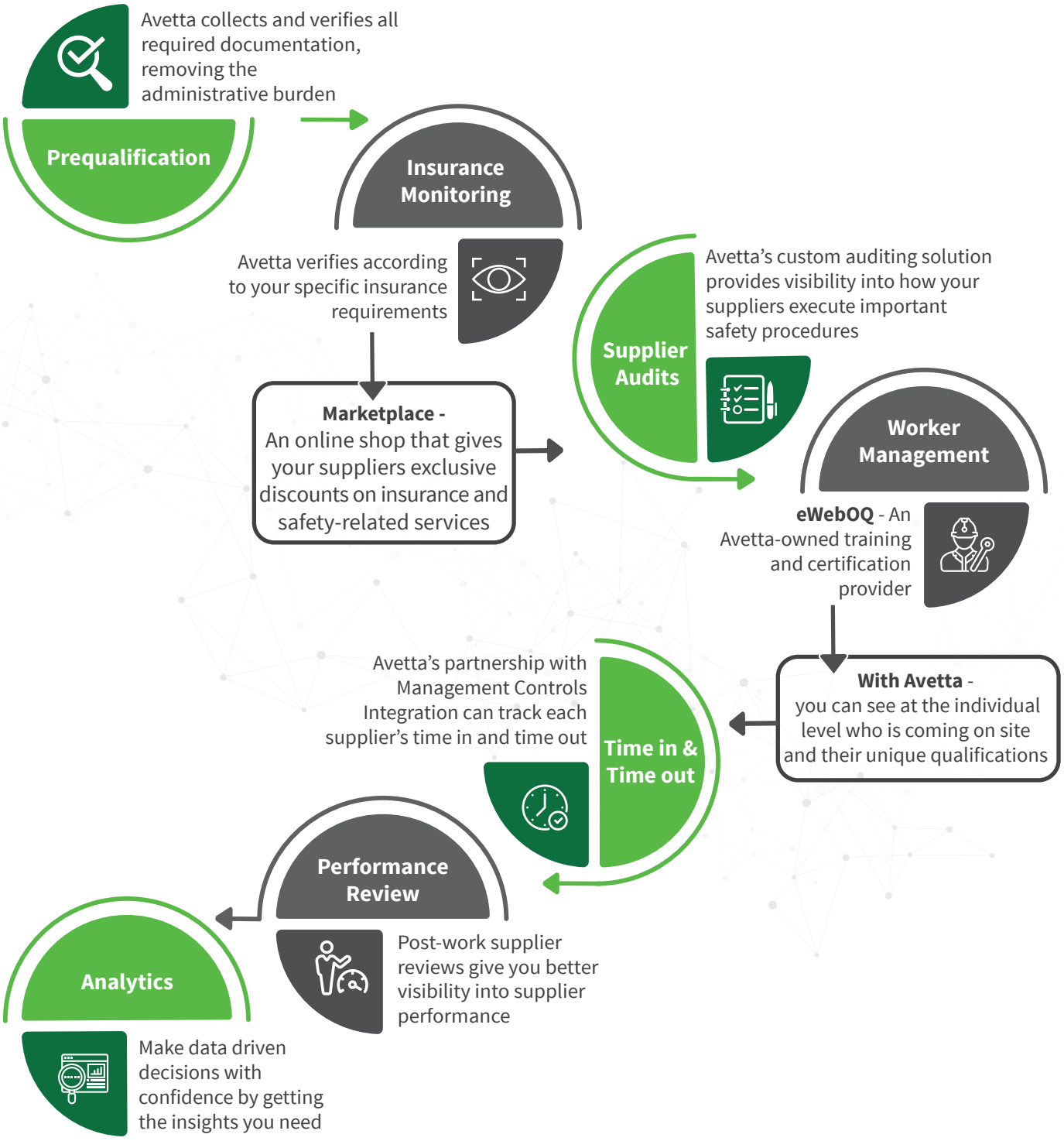
Following an incident, thorough accident investigation is one of the first exercises that companies should undertake. In fact, employers subject to OSHA's recordkeeping mandate need to conduct post-accident investigations for all OSHA recordable injuries. In the investigation, workforce certifications, training logs and insurance coverage are often some of the most concerning aspects for an organization during a workplace fatality. Things can further escalate if a company lacks clear policy, rules and procedures when it comes to enforcing workplace safety and compliance.

Avetta's Connect platform provides you with an opportunity to simplify complex and time-consuming processes such as supplier prequalification, audits, worker management, and insurance management. With Connect, you not only ensure that all your contracted workers are certified and prequalified to be working in your worksite, but also provide them with the adequate training even before they arrive on-site. You can also check the status of your suppliers' and contractors' insurance coverage through comprehensive insurance audits. This allows you to know just how well your contractors are insured and how much of a financial liability would you hold in case of a workplace incident.

In a study completed with EHS Daily Advisor and Avetta, 11% of those polled mentioned that they were able to escape a citation or fine by providing proof that an offending contractor had been sufficiently audited and passed—a good example of due diligence paying off.[vi]

Avetta Solutions At A Glance

Avetta offers a comprehensive portfolio of supply chain risk management solutions that are purpose built to support diverse industry use cases.

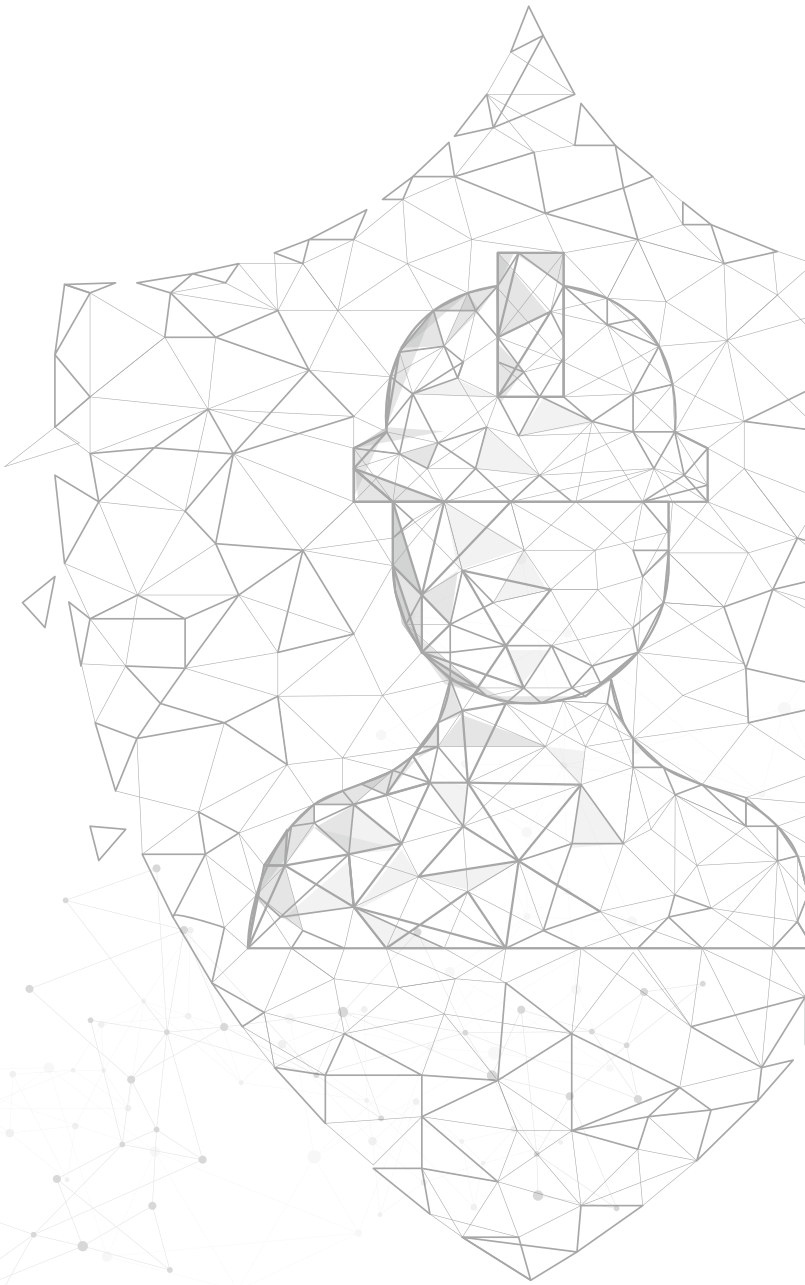


With Connect you can validate that critical factors like certifications, training logs, and insurance coverage are accurate and up to date before an incident occurs. This not only provides timely answers but also gives you peace during an investigation that your organization is not at fault.

In Conclusion

Incident investigations should be approached in a way that reinforces an organization's will to care for its very own employees and continuously enhance safety standards by reducing exposure. However, crafting a robust incident-investigation process and fostering a culture of thorough incident-reporting requires pre-planning and cannot be achieved in a day.

As a starting point, organizations can establish stringent workplace safety protocols and ensure that they are followed at all levels. Next, they should control how they respond to a catastrophe by rightly treating the affected employees and fulfilling their responsibilities. After all, as an employer, an organization is not expected to create a utopian work environment for employee; rather, they are tasked with a simple obligation – caring for the ones who drive the organization forward.



Reference

[i]Source: What's the Real Cost of a Worker's Life; https://www.ehstoday.com/safety/article/21919649 / whats-the-real-cost-of-a-workers-life

[ii]Source: United States Department of Labor; https://www.osha.gov/recordkeeping2014/reporting.html

[iii]Source: United States Department of Labor; https://www.osha.gov/pls/ser/serform.html

[iv]Source: Freedom of Information Act; https://www.foia.gov/how-to.html

[v]Source: United States Department of Labor; https://www.osha.gov/laws-regs/standardinterpretations /2018-10-11

[vi]Source: Avetta, Supply Chains and Sustainability, Is Your EHS Team Managing Contractor and Subcontractor Risk; https://www.avetta.com/ehs-team-managing-risk

About Avetta

Avetta connects leading global organizations with more than 85,000 qualified suppliers, contractors, and vendors across 100+ countries. We support the sustainable growth of supply chains through our trusted contractor prequalification, supplier audits, insurance monitoring, robust analytics and more. With real results in helping companies reduce TRIR, our highly configurable solutions elevate safety and sustainability in workplaces around the world—helping workers get home to their families each night.