

PREFERRED PARTNERING AGREEMENT

ASSOCIATED BUILDERS AND CONTRACTORS
NORTHERN OHIO CHAPTER

and

U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
CLEVELAND AND TOLEDO AREA OFFICES

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I PURPOSE

This partnering agreement was developed jointly by the above named groups. The common objective and goal of the agreement is to provide a safe and healthful work environment for employees engaged in construction activities in the Northern Ohio Area, and to help prevent serious accidents within the industry through increased training and implementation of enhanced safety and health programs.

By focusing its efforts and utilizing the skills and resources of all employees, the ABC, Northern Ohio Chapter, their member employers, and with assistance by OSHA, it is believed that through this cooperative and voluntary program, hazards and serious injuries can be reduced at construction jobsites and that participants, will achieve an injury and illness rate below the National average for the construction industry.

This initiative represents a voluntary agreement and affords a partnership alternative to the traditional OSHA enforcement procedures. This partnership program is consistent with OSHA's long-range efforts to develop a business/worker/government partnership approach to safety management, allows for better use of OSHA resources, and encourages more participation in the safety process by each stakeholder. Partners of the individual construction trades most directly involved or affected by this agreement have been consulted and encouraged to provide input on an ongoing basis to help suggest improvements and further enhancements to this partnership initiative.

II BACKGROUND

Associated Builders & Contractors, Northern Ohio Chapter (“ABC”) is a trade association focused on residential, commercial and industrial construction with over 380 member companies with over 25,000 employees representing all aspects involved in this industry. Member companies include, but are not limited to: site construction, concrete, masonry, metals, wood and plastics, thermal and moisture protection, doors and windows, finishes, specialties, equipment, furnishings, special construction, conveying systems, mechanical, electrical and service industries.

ABC’s mission is to provide opportunities for members and leadership to the Northern Ohio Construction community and ABC’s focus is to provide the means and measures to help its members develop and grow. One of ABC’s principle goals and a long-standing commitment of the association are to promote safety awareness and serve as a safety resource for its members. This safety commitment includes information, education, referrals and training.

ABC and OSHA believe that by maintaining a focus on safety, it saves lives, time and dollars. The impact of accidents leads to employee deaths, injuries, equipment damage, worker’s compensation increases, insurance increases, down time, increases in temporary employee costs, fines, penalties and civil penalties. A focus on safety is one objective that OSHA and ABC members have in common.

In 1993, the ABC Board of Directors, realizing the importance of safety for their members, agreed to increase the organization’s commitment and resources to the safety efforts. A safety consultant was hired and given the long-term goal of helping develop a safety-training center, a safety committee, and safety inspection team and safety resources for ABC members.

OSHA along with ABC has a vested interest in protection of employees and working with other associations and groups to assist in promoting safety. To maximize the limited resources to inspect worksites, joint efforts by ABC and OSHA will provide an opportunity to reach larger populations and keep the focus on safety in the forefront.

Forming this partnership will increase OSHA’s safety and health visibility within ABC’s membership and help *continue a sense of cooperation throughout the construction industry.*

III ASSOCIATED BUILDERS & CONTRACTORS. NORTHERN OHIO CHAPTER COMMITMENT/PLEDGE

Recognizing the diversity of ABC's membership, ABC's and OSHA's partnering initiative will be focused on *Safety Awareness training for employees.*

TRAINING PARTNERSHIP

ABC will administer this partnership program as outlined herein, and will serve as the principle safety resource in support of ABC members, and:

- Act as liaison for members with OSHA. Members will be able to call ABC with questions and ABC will, through CSN, contact OSHA for responses.
- Offer on-going, quality training on topics of importance for members specifically the focused areas such as fall protection, scaffolding, trenching, etc.
- Provide tool box talks to members to assist with their training efforts. Members can use these for site-specific and topical training. To further this effort, ABC will be developing a prepackaged safety awareness program that includes toolbox talks as well as specific safety slogans and incentive programs.
- Provide up-to-date informational materials and brochures to ABC members (from OSHA, OSHA On-Site Consultations Services, the Bureau of Workers Compensation ("BWC"), and similar organizations). ABC will secure pertinent publications from all available sources and provide such materials to members upon request, thus helping to save them the time and effort to secure this material.
- Organize and provide OSHA's interpretations of major standards as well as local inspection perspectives. Providing this information to members will help them understand and properly interpret standards.
- Provide FATAL FACTS to members from recent OSHA information targeted to the Tri-State area.
- Develop safety training criteria for all levels of construction employees. This will help to define and better clarify what OSHA accepts as adequate training for superintendents, supervisors, foreman, and every level of construction worker.
- Work with OSHA to use the above established training criteria developed for implementation in ABC's Safety Training Center where member companies, that agree to partner, can begin this defined training program for their employees.
- Develop written safety and health policies and procedures, to be available for members, including emphasis on company/employee responsibilities.
- Explore potential grants to further develop the goal of being a "safety training center" and initially features hands-on training in fall protection, scaffolding and trenching.
- Administer the overall partnership program, including but not limited to the initial conduct and evaluation of the partnership applications to determine whether the contractor meets the criteria specified within this partnership initiative. Information to be considered by ABC will include pertinent company information, i.e., demonstrated safety and health program, training commitments. OSHA citation history, fatalities,

injury/illness experience, and similar factors. (Reference Section V)

- ABC will notify OSHA on a regular and recurring basis with the name(s) of contractors which have meet the partnership criteria, including notifying OSHA whether the contractor qualified as a "Level 1" or "Level 2" partner. Steel erection contractors will be considered "Level 1" by following Subpart R 1926.750 unless the contractor elects to become "Level 2".
- ABC will conduct a periodic evaluation to determine the impact and effectiveness of this partnership with OSHA.
- A representative of ABC, Ron Guidetti or an authorized representative and a representative from OSHA, or an authorized representative, will conduct random jobsite audits, jointly, of 10% of the participating members on an annual basis to verify members qualifications efforts.

IV OSHA's COMMITMENT/PLEDGE

Contractors participating in the partnership will be designated as a "Preferred" partner. The "Preferred" contractor's initiative will only be subject to OSHA inspections as defined herein:

- OSHA receives a report of an imminent danger situation;
- A fatality/catastrophe as defined in OSHA Instruction CPL 2.103 ("Field Inspection reference Manual") occurs;
- Any and all mandatory type of inspections such as a signed formal complaint or any complaint that deals with Local Emphasis Program (LEP) and National Emphasis Program (NEP).

OSHA supports ABC and its activities to increase safety efforts for ABC members and, as resources permit, will recognize Level 1 and Level 2 participants as outlined below:

A. Level 1

1. Assist ABC in the development of criteria to be used for the Safety Training Center.
2. Provide technical information to ABC regarding the grant process to apply for funding for the ABC Safety Training Center.
3. Provide an OSHA representative to meet with ABC Safety Committee on a regular basis (e.g. quarterly) to discuss current job site findings, current violation trends and possible options/corrective measures to eliminate hazards.
4. Share information on current violations and statistics, including relevant interpretations, proposed standards and similar information, which may be of interest to ABC membership (for possible publication in ABC mailings to its members).
5. Recognize and consider ABC safety-training programs when inspecting job sites of partnering members, consider the extent of employee training and instruction and the ABC member's safety and health program.
6. Where ABC has advised that specific participating members have established and implemented a comprehensive safety program (such as referenced in PRN 54:3904-3916, "Safety and Health Program Management Guidelines," January 26, 1989 and/or American National Standards Center ("ANSI") A 10.38, "Basic Elements of an Employer Program to Provide a Safe and Healthful Work Environment"), including frequent and regular safety inspections of the jobsite, the appropriate monitoring/presence of a competent person(s) (as defined within 29 CFR 1926.32(f)), ensuring program enforcement, employee involvement and effectively trained their employees and supervisors (e.g. utilizing ABC's safety training program or equivalent training), OSHA will focus and limit the scope of its investigation to the four primary groups of hazards, falls, electrical hazards, caught in/between hazards, and struck-by hazards, which account for the majority of fatalities and injuries in the construction industry.

B. Level 2¹²

¹Contractors electing to participate in this agreement as a "Level 2" partner are not

In addition to the commitments made by the Level 1 participants, and in recognition of the additional commitments by Level 2 participants to require and enforce the use of conventional fall protection (i.e. personal fall arrest systems, safety net systems or guardrail systems (as defined within 29 CFR 1926.502)) when their employees or sub-contractor employees are performing work that is in excess of 6' above a lower level, OSHA will:

1. Limit its site investigation as it relates to level 2 participants, and will evaluate the employer's compliance with the terms and principles contained within this partnership agreement;
2. OSHA will not specifically target program inspections for the jobsite where the controlling contractor is a qualified partner;
3. Consider Level 2 participants eligible for the maximum good faith, size and penalty reduction currently outlined within OSHA Instruction CPL 2.103 (Field Investigation Reference Manual);
4. Not issue citations for "other-than-serious" violations which are abated immediately *and* in the presence of the compliance officer; and
5. When conducting inspections of non-Level 2 participating contractors, OSHA will no include Level 2 participants within the scope of the site inspections, other than imminent danger, fatality/catastrophes, or plain view hazards.

subject to additional citations or violations which exceed the level of requirements mandated by existing OSHA regulations or policy. Non-compliance with Level 2 commitment, however, may be evaluated and a determination made *by agreement of both partners*, as to whether the employer should remain in the program and retain the rights and considerations identified within this partnership agreement.

²Contractors having been elected to the fourth category, Platinum, of the STEP Platinum Incentive program will automatically become Preferred Platinum Level 2 contractors. Contractors will receive the same incentives as listed in Section 6 of the National OSHA & ABC Safety Partnerhisp.

V COMMITMENT BY ABC MEMBERS

ABC's members will be able to take advantage of this opportunity to partner with OSHA . Contractors participating in this partnership agreement must:

- A. Sign a letter of agreement with ABC indicating their intent to participate in this partnership initiative, and request recognition by ABC as a level 1 or Level 2 partner.
- B. Certify that the OSHA office has not cited their company within the past three years for alleged violations classified as "willful" and "serious violations related to a fatality".
- C. Verify through ABC that a comprehensive written safety and health program is in place which is at least equivalent to the criteria referenced in Section IV, Paragraph A.6 as the minimum established criteria for participation, including the ABC's member's implementation of policies and procedures to ensure that safety rules and procedures are enforced at their jobsites.
- D. Certify that their policy and procedures hold supervisor(s) and employee(s) accountable for following established safety rules and OSHA regulation.
- E. Provide training, as required by OSHA regulations, to their employees either through ABC, their own training personnel or other consultant/trainers.
- F. Ensure that within one year after obtaining ABC's acceptance into this partnership program, all supervisory personnel or other personnel serving in the capacity as a competent person will have completed the OSHA 30-hour course for the construction industry (or its equivalent). Records of training certification will be provided to ABC and made available for review.
- G. Ensure that within one year after obtaining ABC's acceptance into this partnership program, all non-supervisory personnel engaged in construction activities will have completed the OSHA 10-hour course for the construction industry (or its equivalent).
- H. In addition to OSHA's required training, ensure that all employees will receive a 4-6 hour safety orientation when hired unless already trained. Full-time employees in the job after six months will receive the remaining necessary training. Summer employees and interns will receive a 2 hour safety orientation, but will be exempt from the 10 hour or equivalent requirement as identified in this partnership agreement. Records of training certification will be provided to ABC and made available for review.
- I. Provide periodic safety related data or statistics to ABC concerning such issues as man-hours worked, lost workday injuries, accident records and OSHA inspection results. ABC will provide a summary of and analysis of pertinent safety related information for review by OSHA. The purpose of such summary information will assist in preparing an annual report necessary for the evaluation of the merits of the program and making recommendations for continuous improvement.
- J. Maintain a Lost Work Day Indicator (LWDI) as or below the National Average for the specific construction trade that is relevant to the partners business.

VI EMPLOYEE/EMPLOYER RIGHTS

As an integral part of an effective safety and health program (as defined within Section IV) the availability of employees to exercise their rights which are guaranteed under the OSH Act and regulations (such as, but not limited to, the right to file a safety and health complaint, and the right to information collected pursuant to OSHA requirements (e.g. the OSHA 200 log and medical exposure records)) will not be infringed. The employee involvement in the day to day implementation of worksite safety and health programs will be assured, including employee participation in employer self-audits, site inspections, job hazard analyses, safety and health program reviews, and mishap investigations.

Employers retain all rights guaranteed under the OSH Act, including the right to appeal or contest violations issued by OSHA.