



U.S. Department of Labor
Occupational Safety and Health Administration

OSHA



Partnering Charter

Between the

**United States Department of Labor
Occupational Safety and Health Administration
Region V, Columbus Area Office**

and the

Builders Exchange of Central Ohio

July 24, 2003

Table of Contents

- I. Introduction and Objective**
- II. Background and Goals**
- III. Builders Exchange of Central Ohio's Commitment/Role**
- IV. OSHA's Commitment/Role**
- V. Participating Member Firm's Commitment/Role**
- VI. Employer/Employee Rights**
- VII. Partnership Evaluation**
- VIII. Termination of Agreement**

I. Introduction and Objective

The United States Department of Labor Occupational Safety and Health Administration (OSHA), Columbus Office and the Builders Exchange of Central Ohio (BX) mutually recognize the importance of providing a safe and healthful work environment for employees engaged in construction activities.

To advance our mutual goal of preventing accidents, we strongly agree on the need to develop a working relationship between OSHA, the BX and BX member firms that fosters mutual trust and respect for each organization's role in the construction safety process.

We are committed to working as partners to achieve construction workplace safety through the following shared strategies and objectives:

1. Implement a continuing and open communication policy between OSHA and approximately 1,100 member firms of the BX, in a manner that encourages respect and understanding.
2. Share knowledge of the best industry technology, innovations and work practices that improve jobsite safety and health performance.
3. Cooperate in the development and continuous improvement of safety training programs for the construction industry and OSHA personnel.
4. Promote recognition for construction safety excellence at every opportunity.
5. Ensure that enforcement policies and practices are effective, consistent and fair.
6. Recognize that either party to the partnership may withdraw from the agreement at any time after submitting written notification of intent to the other partner.

Agreed this day, July 24, 2003

<hr/> Deborah Zubaty Area Director U.S. Department of Labor OSHA Columbus Area Office	<hr/> Dan Lorenz 2003 BX Board President Performance Site Management
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II. Background and Goals

The Builders Exchange of Central Ohio is the area's oldest and largest commercial construction trade association with over 1,100 member firms and 2,200 individuals on the roster.

The core members of the Builders Exchange are general contractors and subcontractors in a wide variety of trades, including masonry, roofing, sheet metal, structural steel, carpentry, electrical, mechanical, concrete and other specialties.

Other members of the BX represent the entire spectrum of the construction industry, including architects, engineers, material suppliers, manufacturing representatives, and industry related professionals such as bankers, attorneys and bonding agents.

The BX mission is to "advance the commercial construction industry as *the* resource for communication, education, services and recognition." This mission is accomplished through a wide variety of services offered to BX and industry members, such as education classes, discount services, annual awards programs, a full-service plan room, an outreach program and scholarships for school-aged children, and a variety of networking opportunities.

One of the most important and popular offerings of the Exchange is the BX Safety Program. The program was established in 1992 to assist construction companies with their various safety needs – including OSHA compliance, workers' compensation issues, and most importantly, accident prevention.

In addition to a written safety and health program, the BX offers safety training courses, a monthly breakfast meeting called the "Safety Exchange," an annual awards program and a resource library.

The success of the BX Safety Program is due in large part to cooperation from the Columbus OSHA office, which has provided numerous resources and assistance to the BX over the years.

This partnership is one more example of the two organizations working together to improve occupational safety and health in the central Ohio construction community.

The partnership is expected to:

- result in decreased injuries, illnesses and fatalities for participating companies;
- increase the number of construction companies that implement effective safety programs;
- increase the number of companies implementing a 100 percent six-foot fall protection policy;
- increase the number of construction companies that implement aggressive training efforts with their employees; and
- allow OSHA to focus resources on companies that require assistance from OSHA, rather than companies that have demonstrated effective safety programs.

OSHA staff, BX staff and BX members provided input in the partnership agreement and will be consulted regularly for feedback to improve the partnership and its goals.

III. Builders Exchange of Central Ohio's Commitment/Role

The Builders Exchange will administer this partnership program, as outlined herein, and will serve as the principal safety resource in support of BX members. To fulfill the partnership, the BX also will:

- A. Act as a liaison for members with OSHA. Members will be able to call the BX with questions and the BX will contact OSHA for responses.
- B. Offer ongoing, quality training on topics of importance for members – specifically the focused areas of fall protection, scaffolding, trenching, etc.
- C. Provide up-to-date informational materials and brochures to BX members (from OSHA, the Bureau of Workers' Compensation (BWC) and other organizations).
- D. Organize and provide OSHA's interpretations of major standards, as well as local inspection perspectives.
- E. Develop written safety and health policies and programs for members, including emphasis on employer/employee responsibilities.
- F. Promote construction safety excellence through the annual BX Safety Recognition Program.
- G. Administer the overall partnership program, including but not limited to the initial evaluation of the partnership applications to determine whether the contractor meets the criteria specified within the partnership initiative. Information to be considered by the BX will include pertinent company information as referenced in Section V (demonstrated safety and health program, training commitments, OSHA citation history, fatalities, injury/illness experience and similar factors).
- H. Each June, notify OSHA with the names of contractors which have met the partnership criteria, including notifying OSHA whether the contractor is a Preferred or Leadership partner.
- I. Conduct a periodic evaluation to determine the impact and effectiveness of this partnership with OSHA.
- J. A representative from the BX and representative(s) from OSHA (the compliance assistance specialist and/or a supervisor) together will conduct random on-site evaluations of 10 percent or more of participating companies, to ensure that participating companies are fulfilling their commitment to the partnership. During these reviews, if the OSHA representative observes serious hazards that are not immediately abated, OSHA may issue citations.
- K. If necessary, terminate companies from the partnership, if findings indicate unacceptable performance or submission of falsified documentation. (Note: At the discretion of the BX and OSHA a participating company may be permitted to correct deficiencies within 30 days of notification and apply to the BX for continued recognition as a partner in good standing before termination would take effect.)

The BX and OSHA must jointly agree to accept a company into the partnership.

IV. OSHA's Commitment/Role

Upon acceptance into the BX partnership program, OSHA will provide the following incentives to participants:

Preferred Contractor

- A. OSHA will provide a representative to meet quarterly with the BX partnership participants to discuss current jobsite findings, current violation trends, and possible options/corrective measures to eliminate hazards, and to answer questions.
- B. OSHA will not issue citations to companies for other-than-serious items that are fixed immediately or in the presence of the compliance officer.
- C. Participants will receive unprogrammed inspections only in response to reports of imminent danger, fatalities/catastrophes or in the case of a signed, formal complaint.
- D. Formal complaints will be handled by the phone/fax process, if the complainant agrees, unless there is an imminent danger situation.
- E. If cited by OSHA, companies will receive a good-faith discount of at least 15%, in addition to any other penalty reduction factors that may be available.

Leader Contractor

- A. Leader Contractor participants will receive all of the incentives for Preferred Contractor participants.
- B. Leader Contractor participants may be removed from the University of Tennessee construction resources analysis on which that site may appear for a period of 12 months provided:
 - (a) The participants can demonstrate during an OSHA visit they have safety and health responsibility for their jobsite, which includes their subcontractors (i.e., jobsite control).
 - (b) The participants require their subcontractors on site to have written comprehensive site-specific safety and health programs that have been implemented.
- C. During OSHA inspections of non-participating employers, Leader Contractors will not be included in the inspection unless the inspector observes that, as a result of the partnership contractor's actions, employees are exposed to serious hazards such as, but not limited to falls, electrical hazards, caught in/between hazards or struck-by hazards.

If the OSHA representative observes serious hazards that are not immediately abated, an inspection may be initiated.
- D. For inspections resulting from formal complaints, the inspection will only address the complaint item and "in plain view" items.

- E. Companies will be eligible for a 40 percent discount on fines, through the Expedited Informal Settlement Agreement/EISA (instead of the 30% offered to non-participants).
- F. If cited by OSHA, companies will receive the maximum allowable good-faith discount (25%), in addition to any other penalty reduction factors that may be available.
- G. The OSHA area director will meet individually with companies to address their role in the partnership, upon the request of the participating companies.
- H. During inspections, if minor (ex: missing midrail) problems are found, OSHA may review the employer's records and provide limited on-site training as needed.

V. Participating Member Firm's Commitment/Role

To take advantage of partnership status, participating BX member firms must:

Preferred Contractor

- A. Sign a letter of agreement and submit an application with the BX indicating their intent to participate in the partnership initiative, and request recognition as a Preferred Contractor or Leader Contractor participant.
- B. Certify that their company has not been cited by any Ohio OSHA office within the past three (3) years for alleged violations classified as "willful" or "repeat."
- C. Certify that their company has not been cited by any OSHA office within the past three (3) years for alleged serious violations that resulted in a fatality or catastrophe.
- D. Verify that a comprehensive written safety and health program is in place which is at least equivalent to OSHA's "Safety and Health Program Management Guidelines" of January 26, 1989 in FRN 54:3904-3916, or the American National Standards Institute (ANSI) A-10.38, "Basic Elements of an Employer Program to Provide a Safe and Healthful Work Environment," or the BX Safety Program.
- E. Implement a fall protection program where participants require and enforce the use of conventional fall protection (i.e. personal fall arrest systems, safety net systems or guardrail systems) when their employees or subcontractor employees are performing work that is in excess of six feet above a lower level. (Note: Contractors electing to participate in this agreement are not subject to additional citations or violations which exceed the level of requirements mandated by existing OSHA regulations or policy. Non-compliance with the six-foot commitment, however, may be evaluated and a determination made by OSHA and the BX as to whether the employer should remain in the program and retain the rights and considerations identified within this partnership agreement.)
- F. Submit their OSHA Log 200 and/or OSHA Log 300 for the past three years, and have an occupational injury and illness lost-workday rate (LWDII) for work in Ohio below the national average for the company's Standard Industrial Classification (SIC) code, as determined by the Bureau of Labor Statistics (BLS).

(Note: If a company fulfills all other Preferred Contractor requirements, but has a higher than average LWDII, it may appeal for inclusion in the partnership. OSHA and the BX will review these appeals on a case by case basis, and have sole discretion but no obligation to allow the company to participate if improvement can be shown.)

- G. Provide all new hires with site-specific training before beginning work and provide at least a 2-hour safety orientation within the first week of hire. Topics for the orientation must include at least fall protection, electrical, struck-by, trenching/caught-between and personal protective equipment.
- H. Provide periodic safety-related data or statistics to the BX concerning such issues as man-hours worked, lost workday injuries, accident records and OSHA inspection results. The BX will provide a summary of and analysis of pertinent safety related information for review by OSHA. The purpose of such summary information is to assist in preparing an annual report necessary for evaluating the merits of the program and making recommendations for continuous improvement.

Any information compiled, summarized and provided to OSHA by the BX shall only be used for purposes of the partnership agreement.

Leader Contractor

- A. Leader Contractor participants will complete all of the requirements for Preferred Contractor participants.
- B. Certify that their policy and procedures hold supervisor(s) and employee(s) accountable for following established safety rules and OSHA regulations.
- C. Submit their OSHA Log 200 and/or OSHA Log 300 for the past three years, and have an occupational injury and illness lost-workday rate (LWDII) for work in Ohio at least 25 percent below the national average for the company's Standard Industrial Classification (SIC) code, as determined by the Bureau of Labor Statistics (BLS). (Note: If a company fulfills all other Preferred Contractor requirements, but has a LWDII higher than the 25 percent threshold, it may appeal for inclusion in the partnership. OSHA and the BX will review these appeals on a case by case basis, and have sole discretion but no obligation to allow the company to participate if improvement can be shown.)
- D. Ensure that within one year after obtaining the BX's acceptance into the partnership, all supervisory field personnel will have completed the OSHA 30-Hour Training Course for the construction industry. Records of training certification will be provided to the BX upon request and made available for review. Supervisory personnel will receive 10 hours of refresher training in the OSHA 10-Hour Training Course or equivalent training for their trade every three years. (Note 1: Equivalent training requires the instructor to be OSHA-authorized and must cover hazards which are specific to the participant's industry/trade. Note 2: The training specified in paragraph D does not negate the participant's obligation to comply with a specific OSHA training standard.)

- E. Ensure that within one year after obtaining the BX's acceptance into the partnership, all non-supervisory field personnel engaged in construction activities will have completed the OSHA 10-Hour Training Course for the construction industry. Records of training certification will be provided to the BX upon request and made available for review. Non-supervisory personnel will receive 10 hours of refresher training in the OSHA 10-Hour Training Course or equivalent training for their trade every three years. (Note 1: Equivalent training requires the instructor to be OSHA-authorized and must cover hazards which are specific to the participant's industry/trade. Note 2: The training specified in paragraph E does not negate the participant's obligation to comply with a specific OSHA training standard. Note 3: All employees will receive orientation training, as detailed in Preferred Contractor, G. Full-time employees on the job after six months will receive the remaining necessary training. Summer employees and interns will receive the orientation, but will be exempt from the 10-Hour Course requirement.)
- F. Allow OSHA access to sites for inspections, if the contractor has the authority to allow inspections of the site. OSHA will follow the guidelines for inspections as outlined in the Field Inspection Reference Manual (FIRM).
- G. Participate in a site audit by an outside, independent source approved by the BX. The audit will review at least management's commitment, employee involvement, fall protection, electrical safety, struck-by hazards and caught-between/trenching hazards. The audit also will include an action plan to prevent future hazards, rather than just identifying current hazards.

VI. Employer/Employee Rights

As an integral part of an effective safety and health program, 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 and/or 300 Logs and medical exposure records) will not be infringed.

It is anticipated that routine 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.

VII. Partnership Evaluation

This partnership will be evaluated yearly by all participants. Such evaluation will include criteria such as, but not necessarily limited to, contractor lost workday injury rates, number of OSHA recordable injuries, etc.

The BX's evaluation will include a comparison of the contractors' OSHA lost workday injury and illness rates with the latest available data from the Bureau of Labor Statistics for the contractor's SIC code.

As addressed in Section V, Preferred Contractor, H, the BX will provide a summary of this information to OSHA.

If OSHA requires complete OSHA Logs to verify incident rates, the BX will provide the company logs to OSHA.

It is anticipated that OSHA's onsite evaluation of the effectiveness of this partnership agreement will occur during the normal course of compliance investigations and onsite inspections consistent with the criteria specified within this partnership agreement.

VIII. Termination of Agreement

Either party may withdraw from this agreement by providing written notification to the other partner. Termination shall be effective thirty days after receipt of notification.

Furthermore, an individual contractor electing to participate in this program may withdraw from this agreement by providing written notification to the BX and OSHA. Termination shall be effective thirty days after receipt of notification.

An individual contractor's violation of this agreement shall not be grounds for OSHA to terminate this partnership agreement as between OSHA and the BX.

The BX and OSHA may terminate an individual contractor from the partnership program if the contractor fails to meet the qualifications or otherwise violates the terms and conditions of this partnership agreement.

Any party of this partnership may propose modification or amendment to the program subject to concurrence by the other partner(s) to the agreement.

Unless modified or superseded, this partnership agreement will expire on or before June 30, 2004. As indicated, should any party choose to withdraw prior to that date, a 30 day written notice will be given to the other members of the partnership, and the partnership agreement will terminate.