



# OSHA AND ABC SAFETY PARTNERSHIP

## *GREATER HOUSTON CHAPTER*

### **I. Construction Leaders Agreement for Safety (CLAS)**

- A. The Associated Builders and Contractors, Inc., (ABC) Greater Houston Chapter, and the Occupational Safety and Health Administration (OSHA) Houston North and Houston South Area Offices, mutually recognize the importance of providing a safe and healthful work environment in the construction industry. To advance our mutual goal, we strongly agree on the need to develop partnerships that foster mutual trust and respect for the respective roles of each organization in the construction safety process. We recognize and embrace the responsibilities inherent in those roles. We are committed to work as partners to achieve construction workplace safety and health through shared strategies and objectives.
- B. This agreement in principle between the ABC National Office and the Assistant Secretary of Labor is intended to serve as a template for ABC local chapters to utilize as a basis for partnerships with OSHA Area Offices. The actual partnerships will be negotiated between the local chapters of ABC and the OSHA Area Directors. This Document will serve as that agreement between the Houston OSHA Offices and the Greater Houston Chapter of ABC.
- C. Implementation of this agreement is expected to result in decreased injuries, illnesses, and fatalities for participant contractors with a resultant decrease in worker compensation costs.
- D. This agreement provides incentives to construction contractors that voluntarily participate in the ABC Safety Training and Evaluation Process (STEP) program and demonstrate implementation of effective safety and health programs.
- E. This agreement will not in any way affect employees' exercise of rights under the OSH Act and OSHA regulations, including walk-around rights.

### **II. Specific Goals**

- A. Reduce by 3% annually the number of injuries, illnesses, and fatalities affecting participant employers, with an emphasis on reducing injuries and fatalities resulting from falls, struck-by and caught-in mishaps, and

electrocution (focused four construction hazards).

- B. Increase the number of construction companies that implement effective safety programs.
- C. Decrease worker compensation costs and OSHA penalties for contractor participants.
- D. Allow OSHA to focus resources on companies that require attention from OSHA, rather than companies that have demonstrated existence of effective safety programs.
- E. It is anticipated that with minimal use of OSHA resources, this partnership will result in improved safety and health programs, a higher level of employee safety and health training, and as a secondary benefit, improved job site safety and health program commitments by subcontractors working with CLAS participants.

### **III. Program**

- A. ABC has implemented a program to assist its member construction companies in evaluating their safety and health program performance and their safety and health training programs. This program is known as the Safety Training and Evaluation Process, or “STEP” program. The ABC National Office processes all applications and, in turn, presents awards to qualified applicants.
- B. The STEP program was created by the ABC National Safety Committee in 1992. The National Safety Committee is composed of construction safety professionals drawn from ABC member companies throughout the United States. Along with this national committee, ABC has over 60 safety committees formed in various chapters across the United States and Guam. Safety committee members at these local chapters identify and provide safety courses and seminars on safety compliance programs pertinent to their geographical area. These committees convey concerns, stance on issues and other items of construction safety interest to the National Safety Committee.
- C. A Partnership Steering Committee from the National Safety Committee will oversee the activities of the CLAS Partnership program. The Partnership Steering Committee will be comprised of safety and health representatives from ABC member companies. The Committee will review and approve or disapprove CLAS applications. OSHA’s Directorate of Construction will serve as advisor to the Partnership Steering Committee.
- D. The STEP program has four award levels. The Bronze, Silver and Gold

awards are based on self-evaluation scores and are administered by ABC. The fourth category, Platinum, will be open to those companies whose achievements in the area of worksite safety are, certifiably, the best of the best. Acceptance into the CLAS Partnership will require additional validation of safety and health program efficacy through an on-site verification inspection. Contractors which are accepted into the CLAS Partnership will receive incentives from OSHA, as listed in Section VI of this document.

- E. Once a partnership has been established between the local chapters of ABC and the Area Offices, the Partnership Steering Committee will inform the local chapters of their members who have successfully completed the application process and are thus eligible for participation in the partnership. The local chapter will then follow the procedures developed in the local partnership to inform the Area Director of the qualified contractors.

#### **IV. Program Implementation**

- A. The STEP program is implemented in two phases:

- 1) First phase is the completion of the STEP application. ABC National will distribute applications to construction contractor members. The application consists of a two-part form. Part One of the form requests safety statistical data. This data is found on summary OSHA 200/300 logs. Part Two of the form is the self-evaluation section. Here, contractors answer a series of questions related to the safety program; each response has a numerical rating. Responses from questions are totaled, providing a self-evaluation rating.
- 2) The second phase of the STEP program is the evaluation of applicants and the distribution of certificates. Application evaluation is conducted at the ABC National office. Data from each application is keyed into ABC National's database. This includes information from the applicant's Summary OSHA 200/300 Log, employee work-hours from the noted calendar year, as well as the self-evaluation score. While Summary OSHA 200/300 Log data are collected from all STEP participants, these data will be used for evaluation purposes only for Platinum award level applicants; self-evaluation scores are used to determine the award levels of Bronze, Silver and Gold.

- B. Applicants seeking CLAS status will have additional criteria to satisfy. CLAS applicants must:

- 1) Have been recipients of Gold certificate in the prior year and must qualify as Gold level (self-evaluation score 120 or higher) in the current year;

- 2) Submit their Summary OSHA 200 Log for 2002 Participants (OSHA 300 Logs for those who participate after 2002) and have an occupational injury & illness recordable rate (total case per BLS formula) below 4.0;
- 3) Supply a statement from their insurer that verifies the applicant's self-evaluation score;
- 4) Receive a verification inspection of at least *ONE* owner approved VPP construction work-site, or *ONE* owner approved construction work-site, of their choice and agreed to by the owner and the Committee, to be conducted by the Partnership Steering Committee or its designated representatives;
- 5) Supply a statement indicating the number of company safety inspections conducted by the Platinum applicant, in the Greater Houston Area;
- 6) Have a written site specific safety and health program based on the ANSI A-10.38 guidelines or the OSHA 1989 Safety and Health Program Management Guidelines;
- 7) Show evidence of employee involvement in the safety and health program, for example, participation in self-audits, site inspections, job hazard analyses, safety and health program reviews, safety training, and mishap investigations;
- 8) Show evidence of effective employee training for avoidance of hazards specific to the contractor's work site(s);
- 9) Have provided construction site supervisors with training equivalent to the OSHA 10-hour construction safety course;
- 10) Have designated safety personnel who, through training and experience, are able to recognize work hazards and have the authority to take prompt corrective action, ensure program enforcement, employee involvement and effectively trained their employees and supervisors. Training curriculum equivalent to the OSHA 30-hour Construction Safety course will be deemed to be satisfactory;
- 11) Implemented a fall protection program where participants require and enforce the use of conventional fall protection, ie. Personal fall arrest systems, safety net systems or guardrail systems (as defined within 29CFR1926.502) when their employees or sub-contractor employees are performing work that is in excess of 6 feet above a lower level.

- 12) Have no willful violations in the last three years;
- 13) Have no repeated serious violations in the last three years;
- 14) Have no fatalities or catastrophes within the last three years that resulted in serious citations related to the incident.

## V. Program Verification

- A. The ABC National Director of Safety and Health is responsible for the following program monitoring activities:
  - 1) Periodic reviews of participatory ABC chapter activities to ensure that program requirements are met;
  - 2) Reviews will include random on-site verification of CLAS participants to validate partnership program administration;
  - 3) Termination of a participating contractor's status if findings indicate unacceptable performance or submission of falsified documentation;
  - 4) Providing recommendations to the ABC National Safety Committee for program improvements.
- B. Additionally, participants randomly selected from the CLAS member list will have the effectiveness of their safety and health programs verified through a Focused Inspection on falls, struck-by and caught-in mishaps, and electrocution (focused four construction hazards) by OSHA. Participants will provide *ONE* owner approved VPP construction work-site, or *ONE* owner approved construction work-site of their choice to OSHA. Each Houston OSHA Area Office will conduct onsite verification inspections per partnership jurisdiction on a minimum of 5% and a maximum of 10% of participants annually, at the Area Director's discretion, on mutually agreed upon dates and times. The verification inspection will only be directed toward the specific contractor applying for the CLAS Partnership. All other contractors, and the owner, will be exempt from inspection and/or citations. OSHA will not issue penalties for violations, provided the violations are abated within a prescribed period of time. In addition, any OSHA inspection of a CLAS Partner's job site can serve as a verification inspection. Hazards that are seen outside of that format, which are not under the control of the applicant will be brought to the applicant's attention, with the expectations that the applicant would take the necessary action to notify the controlling employer of the discovered hazards and to take action to abate the hazards.

The applicant in turn would take the necessary steps to protect its employees from the hazards and notify the OSHA Safety and Health Compliance Officer of the actions taken within 15 working days.

- C. Bronze, Silver and Gold STEP participants will not be eligible to participate in the partnership until such time as they have been accepted and formally recognized as a Platinum level participant.
- D. Information submitted by contractors as part of the application or renewal process, as well as information obtained by virtue of the contractor's application or participation in the program, will be held in strict confidence within the confines of the partnership program. However, in event of an OSHA inspection, such information that is relevant to any element of the investigation and normally is available will be provided to OSHA upon request.

## **VI. Incentives**

- A. CLAS participants will receive special recognition in ABC's national publication.
- B. Upon acceptance as a CLAS participant, the local OSHA Area Directors of the Houston North and Houston South Area Offices will provide certain incentives to participants;
  - 1) After successful conclusion of an OSHA verification inspection, that contractor's sites within the Houston North and Houston South Area Office jurisdictions will not receive another programmed inspection within the next twelve months;
  - 2) After such verification inspections CLAS participants will receive unprogrammed inspections only in response to reports of imminent danger, fatalities/catastrophes and signed formal complaints. OSHA will use telephone and fax to handle all other complaints except in cases of reported serious injuries. When an inspection of an informal complaint is deemed necessary, a copy of the complaint will be provided to the ABC National Safety Director by the Platinum Level participant;
  - 3) OSHA will not issue penalties for non-serious violations, provided the violations are abated within a prescribed period of time;
  - 4) If cited by OSHA, CLAS participants in good standing will be eligible for the maximum good faith, size and history penalty reductions currently available in the OSHA FIRM (CPL 2.103);

- 5) During OSHA inspections of non-participant employers, CLAS participants whose program has been previously verified by an OSHA inspection will not be included in the inspection unless the compliance officer documents that the CLAS participant is responsible for employee exposure to hazards listed in II.A. (Specific Objectives).

## **VII. Employee/Employer Rights**

- A. 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 200/300 log 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.
- B. Employers retain all rights guaranteed under the OSH Act, including the right to appeal or contest violations issued by OSHA.
- C. Participation by employers at the CLAS level does not abrogate the employer's responsibility to comply with the rules and regulations adopted pursuant to the OSH Act and does not abrogate their responsibility to comply with any other commitments negotiated via separate agreements between the agency and the employer.

## **VIII. Program Evaluation**

- A. The partnership pilot will be evaluated annually for achievement of the annual goal of a 3 % reduction in the number of injuries, illnesses and fatalities has been met. The ABC National Office is responsible for gathering baseline data upon which the partnership will be measured.
- B. Participant aggregate injury/illness incidence rates (total case rates) and fatality rates will be compared with BLS published data to determine whether the goal has been met.
- C. Participant incidence of the focused four construction hazards (falls, struck-by, caught between and electrocutions) will be measured and compared against a baseline established in the first year of the partnership
- D. The ABC National office will prepare an annual report evaluating the merits

of the program and providing recommendations for continuous improvement. The report will include injury/illness total case rates, fatality rates and focused four incidence rates. Copies of the report will be provided to all of the organizations participating in the partnership.

- E. The ABC Greater Houston Chapter office will provide quarterly reports to the Houston North and South OSHA offices that indicate the number of company safety inspections conducted in the past three months.
- F. The partnership annual report will be reviewed by OSHA and the Partnership Steering Committee and may be revised based on recommendations for continuous improvement.
- G. ABC will strive to increase the number of CLAS members each year, which will decrease the number of fatalities and injuries at our respective work sites. We are optimistic that our concentrated efforts will impact industry as a whole.

## **IX. Contractor Termination**

- A. A contractor's participation will be terminated and OSHA will be informed if one or more of the following occurs:
  - 1) An inspection reveals a significant deviation from program criteria;
  - 2) The contractor has falsified information on the application or supporting records;
  - 3) The contractor's injury/illness rate rises above 4.0;
  - 4) The contractor takes other such actions that may be determined to be grounds for termination by the Partnership Steering Subcommittee.
- B. Prior to final termination of a contractor's status, the following will occur:
  - 1) The contractor will be notified in writing of the intent to terminate;
  - 2) The notice will include an explanation of the reasons for termination;
  - 3) The contractor will have an opportunity to reply to the written notice within a period of thirty (30) days; and
  - 4) The contractor will have the right to make an appearance before the Partnership Steering Subcommittee.

- C. The Partnership Steering Committee will have the authority to reinstate the contractor if it determines that the contractor's experience was unusual and not necessarily inconsistent with a sound safety and health program. In this event OSHA is free to conduct another verification inspection.
- D. Any contractor may terminate participation in the program at any time.

**X. Duration and Location of Partnership**

- A. The partnership shall have an initial term of three years and may be renewed if all parties concur.
- B. Either party to the partnership may withdraw from the agreement at any time after submitting written notification of intent to the other partner.
- C. This Partnership Agreement is specifically for the Associated Builders and Contractors (ABC) Greater Houston Chapter and the OSHA Houston North and OSHA Houston South Area Offices Jurisdiction.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2002, all undersigned parties mutually agree to the terms and conditions of this document and commence the OSHA and ABC Safety Partnership Agreement.

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