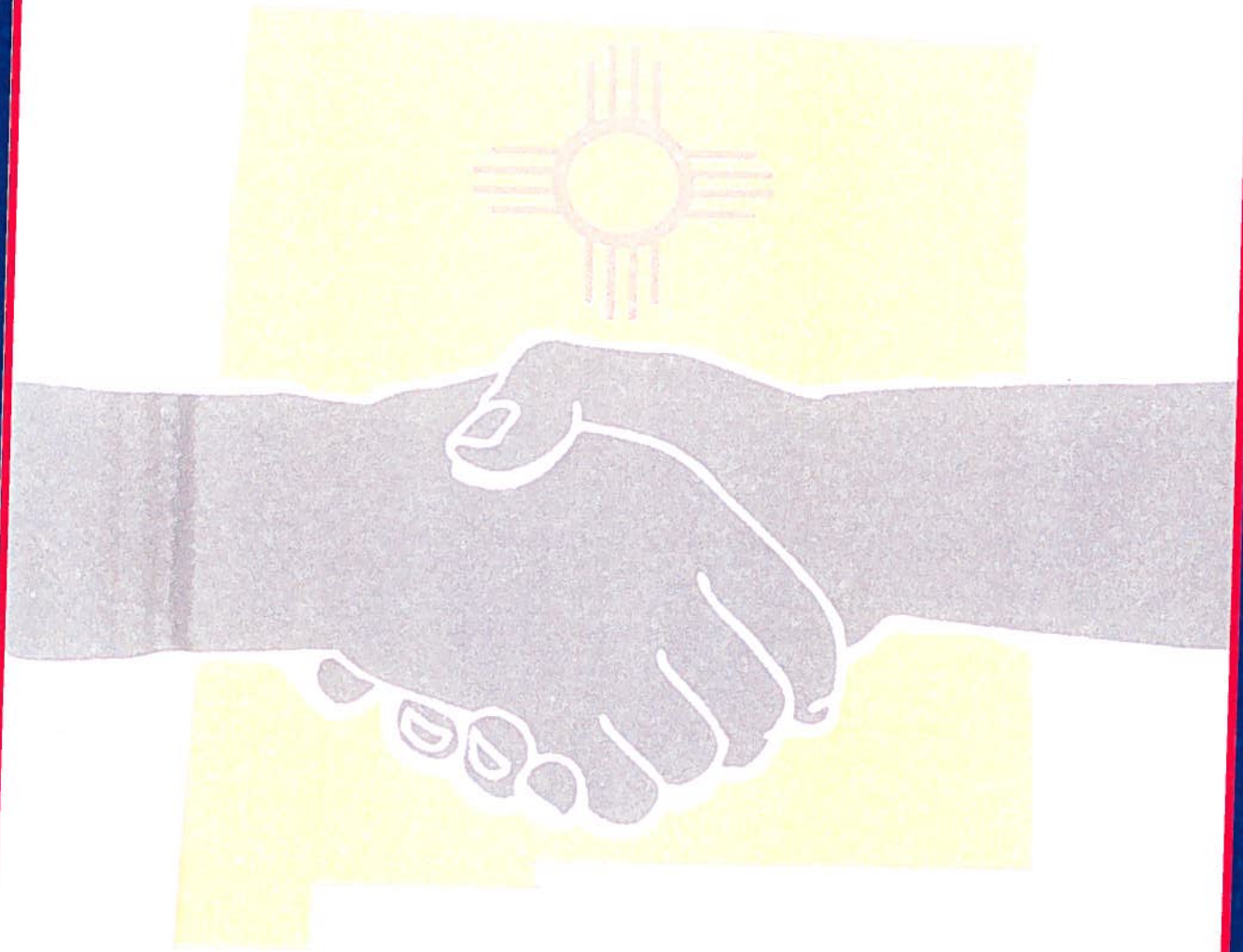
CLAS PARTNERSHIP



CONSTRUCTION LEADERS AGREEMENT FOR SAFETY

NEW MEXICO OSHA

ABC
Associated Builders and Contractors, Inc.
New Mexico Chapter

NEW MEXICO OSHA

ABC Associated Builders and Contractors, Inc.

New Mexico Chapter

Construction Leaders Agreement for Safety (CLAS) Partnership

Between the

Occupational Health and Safety Bureau
New Mexico Environment Department

&

Associated Builders and Contractors, Inc., New Mexico Chapter

I. Purpose and Scope

The Occupational Health and Safety Bureau (**NM OSHA**) of the New Mexico Environment Department and the New Mexico Chapter of Associated Builders and Contractors, Inc. (**ABC-NM**) commit to fostering trust and respect for each other's roles and responsibilities in the construction safety process and to working as partners in achieving occupational safety and health for the construction industry by:

- building and maintaining a relationship based on open communication, respect and understanding, good faith and fairness;
- sharing information about new technology and best practices for improving occupational safety and health;
- cooperating to achieve continuous improvement of safety training programs for the construction industry and **NM OSHA** personnel;
- providing ongoing recognition throughout the construction industry for those demonstrating excellence in occupational safety and health; and
- supporting effective and consistent application of enforcement policies and practices.

II. Goals

Consistent with these commitments, the Occupational Health and Safety Bureau of the New Mexico Environment Department and the New Mexico Chapter of Associated Builders and Contractors agree to the attached Construction Leaders Agreement for Safety (**CLAS**) Partnership. The objectives are:

A. to reduce the number of construction injuries, illnesses and fatalities, with an emphasis on those resulting from falls, struck-by and caught-in mishaps, and electrocution (focused four construction hazards);
B. to increase the number of construction companies that implement effective occupational safety and health programs;

C. to facilitate NM OSHA's ability to focus resources on companies that have not demonstrated a commitment to applying effective occupational safety and health programs;

D. to offer incentives to contractors that demonstrate effective implementation and a commitment to continual improvement of their occupational safety and health programs by voluntarily applying for ABC Safety Training and Evaluation Process (**STEP**) awards;

E. to decrease workers' compensation expenses; and

F. to improve the image of and to increase the public's trust in Associated Builders and Contractors, Inc., New Mexico Chapter.

III. Strategies

A. Conduct frequent job site inspections documented in writing to provide continuous coverage and documentation over a wide variety and perspective of site conditions.

B. Conduct OSHA 10 and 30 hour courses.

C. Conduct other hazard-specific training on an as-needed basis.

D. Require written safety and health programs in order to participate.

IV. Measurement Systems

A. The measurement system will use OSHA recordable injuries and illnesses to determine the total lost workday injury and illness rate for the participants and participant sites compared to the national average for specific industrial classification (SIC/NACIS).

B. Activity measures shall include the number of construction workers trained. Intermediate measures will include the number of safety and health programs instituted and the number of participants progressing through the STEP program.

C. The total number of hazards documented during site inspections and corrective action taken, including a listing of improvements made to safety and health programs will be gathered.

D. Actions specific to NFPA 70E, such as working on live electrical components, training records, PPE availability and use, and required permits, will also be a part of the measurement systems.

V. Management of the Partnership

A. ABC of New Mexico

ABC of New Mexico will use the ABC Safety Training and Evaluation Process (**STEP Program**) as the basis for entry into the CLAS Partnership. This program will assist its member companies in evaluating and improving the content and performance of their occupational safety and health programs. ABC of NM will use the STEP Program as a tool to manage member companies entering into the CLAS Partnership.

B. NM OSHA

1. OSHA will participate as available in the monthly Partnership Committee meetings.

2. The assigned CAS will serve as a resource and liaison for partnership participants.

3. OSHA will conduct inspections in accordance with this partnership.

VI. Employee/Employer Rights

A. The Construction Leaders Agreement for Safety (**CLAS**) Partnership (**CLAS Partnership**) does not affect an employee's rights under the OSH Act and NM OSHA regulations.

1. Employee rights guaranteed under the OSH Act and regulations, including walk-around rights, the right to file an occupational safety and health complaint, and the right to information collected pursuant to OSHA requirements (e.g., the OSHA 300A and medical exposure records), are an integral part of an effective occupational safety and health program.

2. The CLAS Partnership is intended to support maximum employee involvement in the day-to-day implementation of job site occupational safety and health programs, as well as the completion of employer self-audits, site inspections, job hazard analyses, occupational safety and health program reviews and mishap investigations.

B. The CLAS Partnership does not affect the rights employers are guaranteed under the OSH Act, including the right to appeal or contest violations issued by NM OSHA.

C. Participation in the CLAS Partnership does not abrogate an employer's responsibility to comply with the rules and regulations adopted under the OSH Act and does not abrogate its responsibility to comply with commitments negotiated via separate agreements with NM OSHA.

VII. CLAS Partnership Participation Requirements

A. The first requirement for STEP award winners wishing to participate in the CLAS Partnership is submission of a signed Participation Application to ABC-NM during the month of September of each year in which it wishes to participate in the Partnership. ABC- NM will, in turn, provide copies of these Participation Applications to NM OSHA /CLAS Verification Committee.

B. For each contractor participating in the CLAS Partnership at the Gold and Silver level, ABC-NM will provide the ABC Verification Committee and NM OSHA a copy of the completed STEP Program application.

C. Additional requirements at the CLAS Platinum level:

1. For each contractor participating in the CLAS Partnership at the Platinum level, ABC NM will provide NM OSHA/CLAS Verification Committee:

a.) a copy of the completed STEP Program Platinum level award application (including the OSHA 300A),

b.) must have a recordable occupational injury and illness rate (total case per Bureau of Labor Statistics formula) that is at or below the national average for the contractor's standard industrial classification code as determined by the BLS; (The 3-year TCIR rates must be below at least 1 of the 3 most recent years of specific industry national averages for non fatal injuries and illness at the level published by the BLS.)

c.) self-audit reports upon request, and

d.) make available upon request a list of current job locations.

D. Information submitted by contractors as part of their STEP application and in connection with their participation in the CLAS Partnership, will be held in strict confidence within the confines of the Partnership. Notwithstanding, information normally provided as part of an NM OSHA investigation must be provided to NM OSHA upon request.

E. Any participant may terminate its participation in the Partnership at any time by notifying ABC-NM in writing.

VIII. NM OSHA Validation Procedures

A. NM OSHA will have the authority to validate information in the STEP Program applications of participants under the CLAS Partnership in advance of benefits taking effect, and on a periodic basis thereafter, through job site visits and other means.

B. Information obtained by NM OSHA in connection with its CLAS Partnership validation activities will not be used for compliance purposes and will not be shared with others, including other agencies of government.

C. Participants under the CLAS Partnership retain the right to request the presence of their designated safety personnel in connection with NM OSHA validation activities at their job sites.

D. NM OSHA will conduct an onsite verification visit.

IX. CLAS Partnership Benefits

A. In recognition of their commitment to occupational safety and health, all CLAS Partnership participants will receive certain benefits from NM OSHA. NM OSHA will:

1. provide recognition of CLAS Partnership participants on its web site;

2. recognize CLAS Partnership participants in its reports to federal OSHA; and

3. prepare a certificate for CLAS Partnership participants identifying the contractor and its level of participation.

B. CLAS Partnership participants at the Silver level:

1. will receive the benefits identified in Paragraph A of this section;

2. will not receive citations for non-serious violations, provided hazards are abated at the time of inspection; and

3. a contractor may not participate at the Silver level for more than two years.

C. CLAS Partnership participants at the Gold level:

1. will receive the same benefits as CLAS Partnership participants at the Silver level, and

2. in cases where a citation is issued, will be given maximum good faith penalty reductions outlined in the current NM OSHA Field Operations Manual (FOM).

D. Contingent on the successful conclusion of the NM OSHA validation, CLAS Partnership participants at the Platinum level:

1. will receive the same benefits as CLAS Partnership participants at the Gold level;

2. will be exempt from program planned inspections for the current year;

3. will receive un-programmed inspections only in response to reports of imminent danger, formal complaints, fatalities, catastrophes, referrals alleging a serious injury has occurred, or to failure to provide a satisfactory response to an inquiry. NM OSHA will investigate all other referrals by inquiry;

4. will be able to resolve most referrals via telephone, fax or email;

5. during programmed and referral inspections, Platinum Level participants will not be inspected at worksites which are not under their control unless one or more of the following conditions exists: the participant is covered by a referral allegation; a serious injury or illness is being investigated; or the NM OSHA Compliance Program Manager deems inclusion necessary to investigate a serious hazard already identified during the inspection;

6. will be given special recognition by OSHA and ABC-NM designating the contractor as a Platinum participant in the CLAS program. This recognition will include presentation of one CLAS Partnership banner to the Platinum level participant. Additional banners may be purchased by the participating company from the vendor. Prior to displaying banners, NM OSHA must conduct a site verification visit. Site(s) displaying the Partnership Banner is (are) expected to exceed the minimal acceptable standards.

E. CLAS Partnership benefits will be conferred annually. Subject to NM OSHA validation that all requirements have been met, a participant's benefits will take effect on January 1 and will expire on December 31.

F. Contractors may publicize their participation in the NM OSHA/ABC CLAS Partnership through the use of the OSHA CLAS Partnership banner, job-site signs, advertisements and other appropriate means.

X. Loss of Benefits and Termination of Participation

A. The CLAS Partnership Verification Committee and NM OSHA retain the right to downgrade or terminate a contractor's participation under the CLAS Partnership under the following conditions:

1. Its validation activities reveal a significant deviation from participation criteria;

2. the contractor is found to have falsified information on its STEP Program application or supporting records;

3. the contractor's injury/illness rate rises above what is permitted for the receipt of benefits under this Partnership; or

4. the contractor demonstrates a pattern of deficiencies with evidence of willful disregard for the occupational health and safety of its employees; or

5. has not participated in ABC Safety Team meetings at least 50% of the time.

B. The CLAS Partnership Verification Committee and NM OSHA will notify ABC-NM in writing prior to downgrading or terminating a contractor's participation under the CLAS Partnership. The notification will explain why the contractor's participation is being downgraded or terminated.

C. A contractor whose participation under the CLAS Partnership is downgraded or terminated may not re-apply to participate the following year at the Platinum level.

D. A participant's involvement under the CLAS Partnership will be terminated by ABC-NM if it fails to maintain its status as a member in good standing of ABC-NM.

E. Appeal process. The participant will have 30 days to appeal a downgrade or termination.

XI. CLAS Partnership Verification Committee Oversight

A. The ABC/ NM OSHA CLAS Partnership Verification Committee will oversee activities under the Partnership. NM OSHA will serve as advisor to the CLAS Partnership Verification Committee.

B. The CLAS Partnership Verification Committee will:

1. verify each Platinum level application by confirming the applicant's qualifications, including reconfirming the contractor's occupational injury and illness recordable rate and reviewing the insurer's statement and the occupational safety and health professional's qualifications;

2. review all reports of complaints and referrals issued to CLAS Partnership participants;

3. make recommendations for changes and improvements to the Partnership;

4. prepare necessary documents to support the Partnership, including an explanation of the Partnership for distribution to supervisory personnel of contractors participating in the Partnership;

5. determine the CLAS level of the applicants; and

6. conduct an annual evaluation of the Partnership.

C. The CLAS Partnership Verification Committee can recommend reinstatement of any participant in the CLAS Partnership whose involvement has been terminated or reduced a level if it determines the contractor's experience was unusual and not necessarily inconsistent with a sound occupational safety and health program. In these cases, NM OSHA will conduct a follow-up validation visit.

XII. Partnership Review

A. NM OSHA and ABC will review the Partnership each year in March.

B. The review will include, among other things, discussion of the success of the Partnership in meeting its stated objectives and recommendations for changes and improvements.

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.

XIII. Annual Evaluation

The program will be evaluated on an annual basis through the use of the Strategic Partnership Annual Evaluation Format measurement system as specified in Appendix C of CSP 03-02-022, OSHA Strategic Partnership Program for Worker Safety and Health Directive.

It will be the responsibility of ABC New Mexico to gather required participant data to evaluate and track the overall results and success of the partnership program. This data will be shared with OSHA.

The CLAS Partnership Verification Committee will prepare an annual report evaluating the merits of the program and providing recommendations for continuous improvement. The partnership annual report will be reviewed by OSHA and the Associated Builders and Contractors, Inc., New Mexico Chapter and may be revised based on recommendations for continuous improvement.

The Partnership will have a term of three years and may be renewed. It may be amended from time to time based on the agreement of both parties. Either party may withdraw from the Partnership upon thirty days notice to the other party.

Agreed, August 10, 2011

Mary Uhl

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