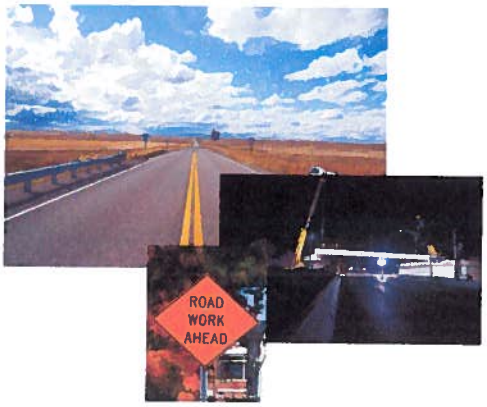
# *ASSOCIATED CONTRACTORS OF NEW MEXICO (ACNM/AGC)*

# *AND*

# *NEW MEXICO OCCUPATIONAL HEALTH AND SAFETY BUREAU (NM OSHA)*




# HEAVY HIGHWAY CONSTRUCTION SAFETY PARTNERSHIP (H.H.C.S.P.)

## I. Purpose and Scope

The purpose of this agreement is to encourage, acknowledge, and assist New Mexico's heavy highway construction industry in their efforts to ensure a safe and healthful workplace for employees engaged in construction of our highways.

The New Mexico Occupational Health and Safety Bureau (NM OSHA) and the Associated Contractors of New Mexico (ACNM), mutually recognize the importance of providing a safe and healthful work environment for New Mexico's heavy highway construction workforce. To further advance our shared goal, we enter into a partnership that fosters mutual trust and respect for the respective roles of each organization in the heavy highway construction process.

This initiative represents a voluntary agreement and affords a partnership for voluntary compliance alternatives to the traditional NM OSHA enforcement activities. NM OSHA and ACNM believe that maintaining a focus on safety, saves lives, time and dollars. The outcome of this focus can be expected to result in a reduction of employee injuries, illnesses and deaths, equipment damage, insurance costs, down times and regulatory penalties. The overall goal of this partnership is the protection of life, limb, and property.

## II. Specific Goals

A. To reduce annually the severity and frequency rate of injuries, illnesses and fatalities affecting participant employers;

B. To increase the number of heavy highway constructors who implement effective safety and health programs, including safety and health focused training for employees, supervisors and management;

C. To increase the number of qualifying H.H.C.S.P. participants and their progression within the program;

D. To decrease accident and regulatory penalty costs to participants; and,

E. To improve the image of, and to increase the public's trust in, New Mexico's heavy highway construction industry.

## III. Eligibility Requirements for the Multi-Platform Program: RED, WHITE, BLUE, Level Participants

A. Eligibility requirements for all applicants:

1. Completion of the application packet including complete and accurate company information, statistical data from the contractor's OSHA 300 logs and the self-evaluation checklist; and,

2. A signed letter of commitment to workplace safety and participation in the partnership from the company owner or senior manager.

3. Support documentation is required for verification but will be maintained by the contractor for review upon request by the verification committee and NM OSHA.

B. Requirements for applicants seeking entrance into the **RED** Platform Level:

1. Develop and implement a written safety and health program using, at minimum, OSHA's Safety and Health Program Management Guidelines, and based on company specific hazard assessments;

2. Implement a substance abuse program;

3. Provide traffic control training for employees engaged in activities where such training would be deemed relevant;

4. Conduct new hire orientation safety and health program training and worksite specific hazard recognition and avoidance training;

5. Conduct and document weekly jobsite safety meetings; and,

6. Conduct and document site safety and health self-audits, correct deficiencies and communicate findings to employees.

C. Requirements for applicants seeking entrance into the **WHITE** Platform Level:

1. Develop and implement a written safety and health program using, at minimum, OSHA's Safety and Health Program Management Guidelines and based on company specific hazard assessments;

2. Implement a substance abuse program;

3. Assign a minimum of one competent person to administer the employer's safety and health program. At minimum, this person must have attended current (every 5 years) OSHA 510 Construction Industry Standards and OSHA 511 General Industry Standards courses, or equivalent, as deemed by the verification committee;

4. Conduct and document weekly jobsite safety meetings;

5. Ensure designated safety personnel are present at each site to conduct and document safety and health self-audits, correct deficiencies and communicate those findings to employees;

6. Implement an equipment safety program including regular equipment inspections, preventative maintenance, and a tracking system;

7. Conduct new hire orientation safety and health program training and worksite specific hazard recognition and avoidance training;

8. Conduct quarterly company safety meetings;

9. 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, safety committees and accident investigations);

10. Provide traffic control training for employees engaged in activities where such training would be deemed relevant;

11. Ensure field construction supervisory possess a current (every 5 years) OSHA 10-hour Construction Industry Standards course; and,

12. Days Away from Work, Restricted Work Activity, and/or Job Transfer Rate (DART Rate) at, or below, the national average for specific industrial classification (SIC/NAICS)

D. Requirements for applicants seeking entrance into the **BLUE** Platform Level:

1. Ensure all contractors on the site, for which the Blue level participant has responsibility, use a written site-specific safety and health plan. If the subcontractor does not have a program, they shall adopt and implement the program written by the participant contractor;

2. Implement a company substance abuse program and ensure all contractors on the site, for which the Blue level participant has responsibility, have substance abuse programs in place;

3. Assign a minimum of one competent person to administer the employer's safety and health program. At minimum, this person must have attended current (every 5years) OSHA 510 Construction Industry Standards and OSHA 511 General Industry Standards courses, or equivalent, as deemed by the verification committee;

4. Designate site safety personnel who, through training and experience, must be able to recognize hazards associated with various phases of construction and shall have the authority to take prompt corrective action. (At minimum, this person must have attended a current (every 3years) training equivalent to the OSHA 30-Hour or OSHA 510 Construction Standards course will be deemed satisfactory.);

5. Ensure designated safety personnel are present at each site to conduct and document safety and health self-audits, correct deficiencies and communicate those findings to employees;

6. Conduct new hire orientation safety and health program training and worksite specific hazard recognition and avoidance training;

7. Conduct and document daily tool-box talks;

8. Conduct monthly company safety meetings;

9. 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 accident investigations);

10. Implement a fleet safety program;

11. Implement an equipment safety program including regular equipment inspections, preventative maintenance, and a tracking system;

12. Provide traffic control training for employees engaged in activities where such training would be deemed relevant;

13. Have no repeated serious or willful violations in the last three years;

14. Have no fatalities or catastrophes within the last three years that resulted in serious or willful citations related to the incident;

15. Provide updated lists of activities, when requested, to NM OSHA, through ACNM Program Administrator, for verification purposes; and, Maintain a Lost Workday

16. Days Away from Work, Restricted Work Activity, and/or Job Transfer Rate (DART Rate) at, or below, the national average for specific industrial classification (SIC/NAICS).

## IV. Program Verification and Acceptance

A. The ACNM is responsible for assuring the following program monitoring activities:

1. All eligibility requirements from multi-platform applicants are received and reviewed by the Verification Committee;

2. On-site verifications according to established protocols are conducted to ensure that the participating contractors meet program requirements and to validate the partnership program administration; and,

a. Verification protocols for **RED**, **WHITE** and **BLUE** levels are as follows:

i. Perform at least one job-site and one fixed site verification for all prospective

participants prior to designating them as having reached their desired platform.

ii. In addition to the job-site and fixed site verifications described above, the Verification Committee will perform un-announced verifications of at least one of each participant's job-sites and fixed sites throughout the year.

iii. Verification results/records will be maintained by the ACNM Program Administrator for the length of the partnership and shall be available for review by NM OSHA when requested.

3. Termination of a participant's current status and re-designation to the appropriate status in the event the Verification Committee discovers, through an on-site verification inspection, information that significantly contradicts the representations made by the participant in its application.

B. NM OSHA will ensure the following monitoring activities are performed:

1. Final acceptance for all participant levels;

2. Once the participant has been identified by the Verification Committee as a WHITE or BLUE level platform participant, the Committee will provide to NM OSHA for each participant:

a. A copy of the participant's application packet;

b. The summary OSHA 300 A Log for the last three years including total number of hours worked per year; and

c. A copy of the completed audit/evaluation forms used by the Verification Committee to verify WHITE or BLUE level status.

3. All WHITE and BLUE level participant contractors recognize that OSHA verification inspections are non-enforcement inspections not resulting in the issuance of citations. However, any observed violation must be corrected at the time of the verification or within the prescribed time frame.

4. Prior to acceptance into the partnership by NM OSHA,

each WHITE and BLUE level platform participant will have the effectiveness of its safety and health program verified through at least one planned job-site, and one planned fixed site comprehensive visit by NM OSHA. The verification process for RED level platform participants will be conducted by the Verification Committee and a recommendation made to NM OSHA for final acceptance into the partnership.

a. One job-site verification inspection will be conducted per 10 active projects or part thereof. For example, if a participant has 11 active jobsites at the time of their partnership application, a total of two verification inspections will be conducted.

b. NM OSHA understands that unannounced visits may result in the absence of key personnel important to a full and fair evaluation. NM OSHA will cooperate to allow the participant to have such personnel participate in the verification process.

c. Once a participant is accepted into the partnership, NM OSHA will perform unannounced on-site verification visits on at least one of each WHITE or BLUE participant's work sites throughout the year.

d. NM OSHA will communicate recommendations for approval or level adjustment to the verification committee.

e. WHITE and BLUE level participants must receive on-site verification visits annually from NM OSHA in order to maintain partnership status and be eligible for partnership incentives.

## V. Program Confidentiality

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. The information will be used only to measure the effectiveness of the partnership program.

## VI. Incentives

A. Upon acceptance from the Verification Committee and NM OSHA for **RED, WHITE** and **BLUE** Platform Levels, the following incentives are afforded to participants for approved levels.

1. **RED** Platform Level:

   a. RED level participants will not receive citations for non-serious violations provided the hazards are abated at the time of inspection.

2. **WHITE** Platform Level:

   a. WHITE level participants will be given a special recognition certificate from NM OSHA and ACNM designating the contractor as a participant in the ACNM H.H.C.S.P.

   b. WHITE level participants will not receive citations for non-serious violations, provided the hazards are abated at the time of the inspection.

   c. WHITE level participants will be eligible to receive the maximum good faith penalty reductions currently available under NM OSHA policy.

3. Inspections of RED and WHITE Platform Level Participants - with the exceptions noted above, Programmed/Planned and Unprogrammed inspections of RED and WHITE Platform Level Participant contractors' sites will be conducted in accordance with established NM OSHA policy. Violations documented during such inspections may result in the issuance of citations and penalties.

4. **BLUE** Platform Level:

   a. Upon successful conclusion of a NM OSHA verification inspection, BLUE level participants will be given special recognition by NM OSHA and ACNM designating participant as a BLUE level participant in the ACNM H.H.C.S.P. This recognition will include the presentation of a certificate and one partnership banner. Additional banners may be purchased from the vendor through NM OSHA. Sites displaying a partnership banner are expected to exceed the minimal acceptable safety and health standards. Following the NM OSHA verification inspection, BLUE level participant jobsites within the jurisdiction of NM OSHA will not receive another Programmed inspection within the next twelve (12) months, provided the participant remains at the BLUE Level.

   b. During programmed and referral inspections, Blue level participants will not be inspected at worksites

which are not under their control unless one or more of the following conditions exist: 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.

c. BLUE level participants will receive Unprogrammed inspections only in response to reports of imminent danger, formal complaints, fatalities or catastrophes, referrals alleging a serious injury has occurred, or failure to provide a satisfactory response to an inquiry. NM OSHA will investigate all other referrals by inquiry. When an inspection of a non-formal complaint (referral) is deemed necessary, a copy of the referral will be provided to the safety director or other designated representative at the time of the inspection.

d. BLUE level participants will not receive citations for non-serious violations, provided the hazards are corrected at the time of the inspection. BLUE level participants will be eligible to receive the maximum good faith penalty reductions currently available under NM OSHA policy.

## VII. Partnership Management and Evaluation

A. The partnership will be evaluated annually to determine if the annual goals are being met. ACNM is responsible for collating baseline and annual performance data upon which the partnership will be measured. This information will be reported to NM OSHA.

B. It is the responsibility of the ACNM Program Administrator to gather required participant data for evaluation of the overall success of the program. The following aggregate data will be reported to NM OSHA:

1. A complete updated list of RED, WHITE and BLUE participants;

2. The number of participants involved in mentoring member employers;

3. Participant's OSHA 300 Total Case Incident Rate for Injuries and Illnesses (TCIR), Days Away from Work, Restricted Work Activity, and/or Job Transfer Rate (DART Rate).(This data will be compared with the most recent

published BLS data to determine if goals have been met); and,

4. The number of safety and health related training sessions conducted and the number of employees, supervisors and managers trained.

## VIII. Terms

A. This agreement will terminate five years from the date of signing. If any signatory of this agreement wishes to terminate its participation prior to the established termination date, written notice of the intent to withdraw must be provided to all other signatories.

B. If NM OSHA chooses to withdraw its participation in the partnership, the entire agreement is terminated. Either party may also propose modification or amendment of the agreement.

C. For non-signatory participants of this strategic partnership, NM OSHA may terminate the participant's involvement at any time with written notice. Additionally, the participant may withdraw its participation from the strategic partnership at any time with a written notice of the intent to withdraw to NM OSHA.

D. The overall partnership for all level participants shall have an initial term of five years and may be renewed if all signatories concur.

1. **RED** Level Participants are expected to reach the next participant level within four years of acceptance into the partnership. In the event a participant is unable to reach the next participant level in the prescribed time frames, an extension, not exceeding one year, may be granted by the Verification Committee. Participants requesting an extension must submit a written request, complete with a detailed action plan for reaching the next participant level.

2. **WHITE** Level Participants are expected to reach the next participation level within four years of acceptance into the partnership. In the event a participant is unable to reach the next participant level in the prescribed time frames, an extension, not exceeding one year, may be granted by the Verification Committee. Participants requesting an extension must submit a written request, complete with a detailed action plan for reaching the next participant level.

3. Individual **BLUE** level participants must have their programs verified each year to remain eligible for incentives.

E. Partnership criteria may be revised during the course of the partnership based on recommendations for continuous improvement. All signatory partners must agree to any revisions to the partnership.

## IX. Employee and Employer Rights

This partnership does not preclude employees and/or employers from exercising any right provided under the New Mexico Occupational Health and Safety Act, nor does it abrogate any responsibility to comply with rules and regulations adopted pursuant to the Act.

## X. Contractor Termination

A. A contractor's participation may be terminated by the Verification Committee or NM OSHA, if any of the following occurs:

1. An inspection by the Verification Committee reveals a significant deviation from program criteria;

2. The contractor has falsified information on the application or supporting records;

3. The contractor's annual Lost Workday Incidence Rate rises above the national average;

4. The contractor takes other such actions inconsistent with the goals and intent of this program that may be determined to be grounds for termination by ACNM.

B. Prior to final termination of a contractor's participation:

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 with a detailed action plan; and,

4. The contractor will have the right to appear before the Verification Committee and NM OSHA to present arguments as to why its participation should not be terminated.

C. The Verification Committee has the authority to reinstate the contractor if it is determined that the contractor's experience was unusual and not necessarily inconsistent with a sound

safety and health program. In this event, where a contractor is at the WHITE or BLUE levels, NM OSHA may conduct another verification inspection.

D. Any contractor may terminate its participation in the program at any time.

E. NM OSHA may terminate the partnership with any individual contractor at any time via notification in writing. The observation by NM OSHA from any public place of an imminent danger situation resulting in the issuance of a citation may result in the immediate suspension of any partnership with that contractor. NM OSHA's final decision on the status of the partnership with this contractor will take into account the recommendations of the Verification Committee.

## XI. Partnership Participant Annual Renewal

A. Once accepted into the partnership by all parties, contractor incentives will be effective for one year.

B. Contractors must be verified annually to maintain participation and status in the partnership program.

## XII. Agreement Signing

This agreement shall remain in effect until 12/02/, 2016, or until it is superseded by a new agreement, whichever comes first. Upon mutual agreement, the parties may amend the terms of this agreement prior to its expiration.

Agreed to this 2ND day of DECEMBER, 2011

Mary Uhl
Mary Uhl
Bureau Chief
NM OSHA

A Stott
Alan Stott
2011 ACNM President
James Hamilton Construction Co.

Mike Beck
Mike Beck
ACNM Executive Director