NEW MEXICO OSHA

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District 1

ASA-NM
American Subcontractors Association of New Mexico

Safety and Health Initiative Partners (SHIP) Agreement

Between the
Occupational Health and Safety Bureau
New Mexico Environment Department
&
American Subcontractor's Association of New Mexico

SECTION A

NM-OSHA **ASA-NM**

Purpose

The American Subcontractors Association of New Mexico (ASA-NM), and the Occupational Health and Safety Bureau of New Mexico (OSHA-NM), also referred to as New Mexico OSHA, hereby commit to a cooperative partnership, the purpose of which is to foster, maintain and improve the safety and health conditions and requirements for New Mexico's construction workers and workplaces. The Parties signatory below, mutually commit and dedicate ourselves to this Agreement, particularly on behalf of New Mexico's working families, with a full realization that success in this endeavor will benefit all the people, the businesses and the political institutions of our state.

Goals

1.0 Our primary goals are as follows:

1.1 To provide leadership in creating a culture of full respect for the lives and sound health of New Mexico's construction workforce,

1.2 To continually seek better methods and technologies for reducing injuries, occupational illness, disease and fatalities in New Mexico's workplaces,

1.3 To foster and encourage the implementation and maintenance of best practice safety and training programs,

1.4 To foster and encourage the implementation and maintenance of effective safety program incentive and enforcement policies.

1.5 To focus primarily on the common job site hazards related to falls, electrocution, and accidental impact injuries,

1.6 To mitigate the negative economic impacts of workplace injuries, illnesses and occupational disease, including especially the cost of worker's compensation insurance, in so far as is possible.

2.0 **Our primary strategies include:**

2.1 To build partnerships and employer/employee relationships based on fairness, good faith and mutual respect maintained through honest and open communication,

2.2 To continually strive to improve the science of workplace safety through the adoption of new technologies, and improved management practices,

2.3 To provide recognition and rewards for companies and workers, which demonstrate a consistent, pro-active approach to safety and health program management.

3.0 The term of this Partnership Agreement shall be three years. Renewal of the agreement at the end of the three year period is assumed by the Parties' signatory below. The Parties further assume that withdrawal from the Agreement would be for cause, after a mutual, good-faith effort to resolve any issues of concern.

Implementation

The ASA SHIP Agreement will be effective immediately after signing by signatories. Effective 2012, new applications and level advancement requests will be accepted July 1st to August 31st.

The verification committee will review all applications September 1, 2012 through October 31, 2012. Membership/Advancement will be effective November 1, 2012.

SECTION B

NM-OSHA **ASA-NM**

Safety and Health Initiative Partners, (SHIP) Agreement

1.0 Employee/Employer Rights

1.1 The Safety and Health Initiative Partners, (SHIP) Agreement does not affect the rights of employees under the Occupational Health and Safety Act (hereinafter referred to as "the Act") and NM OSHA regulations. This partnership does not preclude employees or employers from exercising any right provided under the Act (or, for federal employees, 29 CFR 1960), nor does it abrogate any responsibility to comply with the Act.

1.1.1 Employee rights cited above include, but are not limited to: walk-around rights, the right to file complaints, rights to all pertinent safety and health program information including OSHA 300 logs and their own medical records.

1.1.2 The SHIP Program Agreement supports maximum employee involvement in company safety programs, employer self-audits, safety inspections, job hazard analysis, accident and near-miss investigation, review and evaluation.

1.2 The SHIP Agreement does not affect the rights employers are guaranteed under the Act, including the right to appeal or contest violations issued by NM-OSHA.

1.3 Participation in the SHIP Program 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.

1.4 Contractors may publicize their participation in the SOARS Program through job site signs, advertisements and other appropriate means.

2.0 SOARS Partnership Levels and Benefits

2.1 The ASA SHIP Program recognizes three program achievement levels, each with attendant requirements and rewards. Achievement levels are based on objective criteria and a ranking system based on points. Subject to NM-OSHA Validation that all requirements have been met, participant's benefits will take effect and will remain in effect if there are no changes to the company health and safety program or changes to the company's health and safety manager or management. SHIP Program benefits will be conferred following successful validation of the applicant company. Benefits shall remain in place as long as the company remains in good standing with ASA and NM-OSHA.

2.2 **SILVER Level:**

2.2.1 Silver Level participants will receive Certificates of Recognition as SHIP Program Silver level participants from NM-OSHA.

2.2.2 Silver Level participants will not receive citations for non serious violations, provided hazards are abated at the time of inspection and verified by compliance personnel.

2.3 **GOLD Level:**

2.3.1 Gold Level participants will receive Certificates of Recognition as SHIP Program Gold level participants from NM-OSHA.

2.3.2 Gold Level participants will not receive citations for non serious violations, provided hazards are abated at the time of inspection and verified by compliance personnel.

2.3.5 If cited by NM-OSHA, Gold participants will receive maximum good faith and history penalty reductions outlined in the current OSHA Field Operations Manual.

2.4 **PLATINUM Level:**

2.4.1 Contingent on the successful conclusion of the NM-OSHA validation procedure the SHIP Program participants at the Platinum level;

2.4.2 Will receive the same benefits as Gold award level participants,

2.4.3 Platinum level participants 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 failure to provide satisfactory response to an inquiry.

2.4.4 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 the a referral allegation; a serious injury or illness is being investigated; or the NM-OHSA Compliance Program Manager deems inclusion necessary to investigate a serious hazard already identified during the inspection,

2.4.5 Will be exempt from NM-OSHA programmed planned inspections as long as they maintain membership in the partnership at the Platinum Level.

2.4.6 NM-OSHA will allow resolution of all referrals via telephone or FAX except where serious injury or death is involved.

2.4.7 Will be given special recognition by NM-OSHA designating the subcontractor as a Platinum level participant in the SHIP Program with the award of a Platinum banner, which may be on display at all appropriate job sites. The sub-contractor displaying

the Platinum banner will have exceeded minimal acceptable safety standards by demonstrating a pro-active approach to job safety. The same pro-active approach will then be consistently maintained in order to retain Platinum award level status.

3.0 SHIP Program Participation – General Requirements

3.1 Each Member wishing to participate in the SHIP Program at the Silver, Gold or Platinum level, shall submit to ASA of NM a SHIP Program application consisting of four parts:

3.1.1 Part One shall be a Commitment Agreement signed by an authorized company official (owner, chief operating officer, or general manager).

3.1.2 Part Two shall be a copy of the company's written health and safety program, which shall address, at a minimum, the following elements: Management Commitment; Employee Involvement; Worksite Analysis; Hazard Prevention and Control; and Safety and Health Training. The health and safety program shall pertain specifically to the type of work performed by the company.

3.1.3 Part Three shall be performance data from the company's OSHA 300 logs, 300As and experience modifiers from the preceding three years.

3.1.4 Part Four shall be the applicant's self-evaluation of its safety and health program.

3.2 The completed application shall be submitted to ASA of NM as defined by the selection committee.

3.3 ASA of NM shall provide a copy of the completed applications and recommended award levels to NM OSHA.

4.0 SHIP Program Participation – Award Level Requirements

4.1 **Silver Award level;**

4.1.1 A signed Participation Agreement, OSHA 300 log, 300 summary and self evaluation form scored,

4.1.2 A safety program and policy written consistent with OSHA requirements, and specific for the subcontractor's scope of work,

4.1.3 The employer participates in and supports the written company safety policy.

4.1.4 Employee involvement in program is actively encouraged,

4.1.5 Weekly safety meetings are routinely conducted,

4.1.6 OSHA 300 log and self-evaluation score reflect a responsible approach to job site safety.

4.1.7 Documented safety training for general workforce in the four-focused hazard inspection areas;

4.1.7.1 falls from elevation,

4.1.7.2 struck-by falling or other moving objects,

4.1.7.3 crushed or pinched-in between accidents, and

4.1.7.4 electrical hazards.

4.1.8 Assigned competent person(s); (i.e. authorized by subcontractor to identify and correct hazards), in the four focused inspection areas and who has a minimum OSHA 10-hour certification,

4.2 **Gold Award level**;

4.2.1 The above requirements for Silver level plus;

4.2.2 Self-audit documents will be checked during verification.

4.2.3 All construction site supervisors with safety training equivalent to OSHA 10-hour certification

4.3 **Platinum Award level;**

4.3.1 For each subcontractor wishing to participate in the SHIP Program at the Platinum award level, ASA-NM will provide NM-OSHA with verification of the following criterion. The Platinum award level participant shall demonstrate the following **Platinum Award level evaluation criteria,**

4.3.2 A recordable occupational injury and illness rate (total case per BLS formula) that is at or below national TRC (or DART) rates or have a workers' compensation insurance modification rate of 1.0 or less

4.3.3 Additional Platinum Award level criteria to be verified by the SHIP Program Committee, shall include;

4.3.3.1 At least one active job site visit by representatives of the SHIP Verification Committee, this visit is to include NM OSHA and they will conduct their own site visits annually as well;

4.3.3.2 Ensure that all the subcontractor's safety and health program includes OSHA 10-hour certification for all site supervisors or foremen,

4.3.3.3 Demonstration that site-specific hazards are routinely checked for in addition to routine hazards listed in the company safety program,

4.3.3.4 Evidence of employee involvement in such safety program activities as self-audits, site inspections, safety training and mishap and near-miss investigations,

4.3.3.5 Absence of willful violations or repeated serious violations in the prior three years, and

4.3.3.6 Absence of fatalities or catastrophes in the prior three years that resulted in serious, willful or repeat citations related to the incident.

4.4 Contractors may publicize their participation in the OSHA/ASA SHIP Program through job site signs, advertisements and other appropriate means.

4.5 The SHIP Committee shall have the ability to act as an advocate for any of its subcontractor members in a contest or dispute with NM-OSHA.

5.0 OSHA Validation Procedures

5.1 NM-OSHA will have the authority to validate information in the ASA SHIP Program applications of participants in advance of benefits taking effect, and on an annual basis thereafter, through job site visits and other means.

5.2 NM OSHA will conduct an on-site comprehensive evaluation of SHIP members applying to participate at the Platinum Level. Platinum Level Applicants will not receive the benefits of that Level until an on-site evaluation is conducted by NM-OSHA.

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

5.4 Participants under the SHIP Program retain the right to request the presence of their designated safety personnel in connection with NM-OSHA validation activities at their job sites.

6.0 SHIP Partners Program Governance

6.1 Information submitted by subcontractors as part of their SHIP application will be held in strict confidence by the SHIP Verification Committee. Note, however, that information normally provided for purposes of an OSHA investigation would still have to be provided on request by OSHA.

6.2 Any SHIP Program participant may terminate their participation at anytime by notifying ASA-NM in writing.

7. Loss of Benefits and Termination of Participation

7.1 NM-OSHA retains the right to downgrade or terminate a sub-contractor's participation under the SHIP Program under the following conditions:

7.1.1 Its validation activities reveal a significant deviation from participation criteria,

7.1.2 The contractor is found to have falsified information on its SHIP Program application or supporting records,

7.1.3 The sub-contractor's injury/illness rate rises above what is permitted for the receipt of benefits under this Partnership, or

7.1.4 The sub-contractor demonstrates a pattern of deficiencies evidencing willful disregard for the occupational health and safety of its employees.

7.2 NM-OSHA will notify ASA SHIP Verification Committee in writing prior downgrading or terminating a subcontractor's participation under the SHIP Program. The notification will explain why the contractor's participation is being downgraded or terminated.

7.3 A contractor whose participation under the SHIP Program is downgraded or terminated may not re-apply to participate the following year at the SHIP Platinum Award level.

7.4 A participant's involvement under the SHIP Program will be terminated by ASA-NM if it fails to maintain its status as a member in good standing of ASA-NM.

8.0 SHIP Verification Committee Oversight

8.1 An ASA/NM-OSHA SHIP Verification Committee will oversee activities under the Partnership. The Verification Committee will include an occupational safety and health representative from designated ASA member companies participating in the Partnership. NM-OSHA will serve as advisor to the SHIP Verification Committee.

8.1.1 The SHIP Verification Committee will;

8.1.1.1 Verify each SHIP application by confirming the applicant's qualifications, including letter from insurance carrier confirming reported regarding EMOD's, calculating OSHA Incident Rates from contractor proved OSHA 300 Logs, 300 summaries and the occupational safety and health professionals qualifications and site visits for the Platinum Level,

8.1.1.2 Review all reports of complaints and referrals issued to SHIPmate participants,

8.1.1.3 Make recommendations for changes and improvements to the Partnership,

8.2 The SHIP Verification Committee will have the authority to recommend reinstatement of any participant on the SHIP Partners Program 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.

8.3 ASA SHIP Verification Committee will be made up of ASA Members in good standing.

9.0 SHIP Program Performance Measures

9.1 Each year the ASA SHIP Verification Committee will review 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 classifications (SIC/NAICS).

9.2 The review activity measures shall include as a minimum:

9.2.1 The number of construction workers trained, and

9.2.2 Experience modifiers and incident rates of Partnership members

9.3 Annual evaluation will be completed in accordance with Appendix C of CSP 03-02-002 OSHA Strategic Partnership Program for Worker Safety and Health.

10.0 ASA/NM-OSHA Partnership Review and Terms of Agreement

10.1 NM-OSHA and the ASA SHIP Verification Committee will review the Partnership each year in three (3) year renewal.

10.2 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.

10.3 Participant protective programs for the focused four construction hazards (falls, struck-by falling and other moving objects, caught-in between and crushed-by hazards and electrocutions) will be measured and compared against a baseline established in the first year of the Partnership.

10.4 The term of this Partnership Agreement shall be three years. Renewal of the Agreement at the end of the three year period is assumed by the Parties signatory below. The Parties further assume that withdrawal from the Agreement would be for cause, after a mutual, good-faith effort to resolve any problems and differences.

Agreed to this 7th of December, 2011.

Mary Uhl

Mary Uhl, Bureau Chief
New Mexico OSHA

Jason File

Jason File, President Board of Directors
ASA New Mexico

Attachment 1 – Commitment Letter
Attachment 2 – Self Evaluation Form (Revised 2011)