

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

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.

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 of which are:

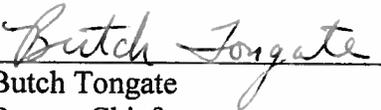
1. to reduce the number of construction injuries, illnesses and fatalities, with an emphasis on those resulting from falls, struck-by and caught-in mishaps, and electrocution (focused four construction hazards),
2. to increase the number of construction companies that implement effective occupational

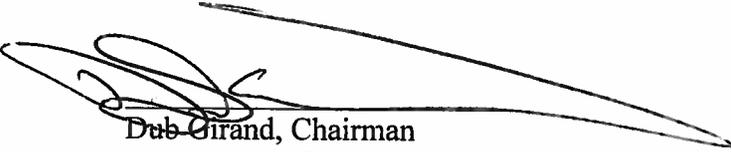
safety and health programs,

3. 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,
4. 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, and
5. to decrease workers' compensation expenses.

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 29, 2007


Butch Tongate
Bureau Chief
Occupational Health and Safety Bureau


Dub Girard, Chairman
New Mexico Chapter
Associated Builders & Contractors, Inc.

NM OSHA and ABC-NM

Construction Leaders Agreement for Safety (CLAS) Partnership

I. Employee/Employer Rights

- A. The Construction Leaders Agreement for Safety (CLAS) Partnership (CLAS Partnership) does not affect an employee's rights under the OHS Act and NM OSHA regulations.
1. Employee rights guaranteed under the OHS 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 300 log 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 OHS 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 OHS Act and does not abrogate its responsibility to comply with commitments negotiated via separate agreements with NM OSHA.

II. ABC STEP Program

- A. The ABC Safety Training and Evaluation Process (STEP Program) is the basis for benefits under the CLAS Partnership. ABC implemented the STEP Program in 1992 to assist its member companies in evaluating, improving and gaining recognition for the content and performance of their occupational safety and health programs.
- B. The STEP Program is an objective, organized tool for contractors to use in evaluating, strengthening and measuring improvements in their occupational health and safety programs. It allows contractors to benchmark their programs against standards of excellence in 20 areas:
1. depth of commitment,
 2. clearly articulated safety policy,
 3. defined responsibility for safety at all levels,
 4. comparability of workers' compensation experience modification rate (EMR),
 5. allocation of financial resources,
 6. annual goal setting, including self-audits, action plans and feedback mechanisms,
 7. frequency of safety meetings with supervisory employees,

8. tailored, pre-job safety planning,
9. employee involvement,
10. new employee orientation,
11. clearly-defined and current safety rules,
12. needs-based safety training by qualified personnel,
13. documentation of frequent "tool box talk" meetings,
14. routine inspections with clear procedures for correcting and avoiding deficiencies,
15. comprehensive supervisory training,
16. defined accident (and near miss) investigation protocols,
17. use of appropriate personal protective equipment (PPE),
18. scheduled program performance reviews,
19. consistent substance abuse policy enforcement, and
20. complete and accurate record-keeping.

C. The STEP Program has four award levels. The first three levels, Gold, Silver and Bronze, are based solely on a contractor's self-evaluation of the content and performance of its occupational safety and health program. The fourth award level, Platinum, requires verification of self-evaluation data through third-party on-site inspection.

D. The STEP Program application process has three phases.

1. All applicants must complete the first phase, which requires a contractor to complete the STEP Program application. Part One of the application calls for performance data copied from the contractor's Summary OSHA 300 log. Summary OSHA 300 log data is used for evaluating STEP Platinum-level award applicants. Part Two consists of a contractor rating the components of its occupational safety and health program. Rating numbers are totaled, providing a self-evaluation score. Self-evaluation scores are used to determine STEP Bronze, Silver and Gold level awards.
2. The second phase of the STEP Program consists of National ABC's evaluation of applications and the distribution of award certificates. National ABC enters information from each application (e.g., data from the applicant's Summary OSHA 300 log, employee work-hours for the year, and the self-evaluation score) into a national data base.
3. The third phase of the STEP Program application process consists of additional requirements imposed on those applying for a STEP Platinum-level award. Platinum-level award applicants
 - a) must have earned a program self-evaluation score of at least 125 on their current year STEP Program application and have reached the STEP Gold award level (i.e., a self-evaluation score of at least 120) on their prior year application,
 - b) must have a recordable occupational injury and illness rate (total case per BLS formula) that is 25 percent below the most recent national average for the contractor's standard industrial classification code as determined by BLS,
 - c) must submit a copy of their Summary OSHA 300 log,
 - d) must supply a statement from their insurer confirming their self-evaluation score, and

- e) must pass an occupational safety and health program verification conducted by an independent third party.
4. The requirement for third-party verification of Platinum-level award application information is satisfied when a written report is filed with ABC by an outside professional safety consultant retained by the contractor or by a loss control specialist affiliated with the applicant's insurance company. The third-party verification report is called the Verification of STEP Platinum Award Level Criteria. The report:
- a) verifies the STEP applicant's self-evaluation score,
 - b) ensures that a visit to at least one active job site has occurred, and
 - c) confirms that the contractor's occupational safety and health program includes
 1. providing all construction site supervisors training equivalent to the OSHA 10-hour construction safety course,
 2. designated occupational safety and health personnel that, through training and experience, are able to recognize work hazards and have the authority to take prompt corrective action to ensure program enforcement (proof of completion of training equivalent to the OSHA 30-hour Construction Safety course satisfies this requirement),
 3. a written site specific occupational safety and health program based on the ANSI A-10.38 guidelines or the OSHA 1989 Safety and Health Program Management Guidelines,
 4. employee involvement in the occupational safety and health program through, for example, participation in self-audits, site inspections, job hazard analyses, occupational safety and health program reviews, safety training, and mishap investigations,
 5. effective employee training for avoidance of hazards specific to the contractor's job site(s), and
 6. implementing a fall protection program using conventional fall protection (i.e., the use of personal fall arrest systems, safety net systems or guardrail systems, as defined in 29 CFR 1926.502, is required and enforced when employees of the contractor or its subcontractors are performing work in excess of 6 feet above a lower level), and
 - d) verifies the absence of willful violations or repeated serious violations in the prior three years, and
 - e) establishes the absence of fatalities or catastrophes in the prior three years that resulted in serious, willful or repeat citations related to the incident.

III. 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 Agreement (see Attachment 2, Participation Agreement) to ABC-NM by no later than April 30 of each year in which it wishes to participate in the Partnership (*see Attachment 3, Time Line*). The second requirement is an interview with NM OSHA to determine the company's commitment to the program. ABC- NM will, in turn, provide copies of these Participation Agreements to NM OSHA.
- B. Additional requirements to participate in the CLAS Partnership are based on the contractor's STEP Program Award level.
 - 1. For each contractor participating in the CLAS Partnership at the STEP Gold, Silver and Bronze award levels, ABC-NM will provide NM OSHA a copy of the completed STEP Program application.
 - 2. For each contractor participating in the CLAS Partnership at the STEP Platinum award level, ABC-NM will provide NM OSHA
 - a) a copy of the completed STEP Program Platinum level award application (including the OSHA 300 log and the signed statement from the insurance agent),
 - b) a copy of the Verification of STEP Platinum Award Level Criteria,
 - c) monthly self-audit reports from each participating contractor for each of its job sites (see Attachment 4, Participant's Monthly Job-site Self-evaluation Report, for the information that must be provided), and
 - d) a contact list for participating contractors, updated monthly.
- C. 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.
- D. Any Participant may terminate its participation in the Partnership at any time by notifying ABC-NM in writing.

IV. NM OSHA Validation Procedures

- A. NM OSHA will meet annually with the company owner to verify their commitment to the program and 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 quarterly 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.

V. 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 STEP Bronze award level will receive only those benefits identified in Paragraph A of this section. A contractor may not participate at the STEP Bronze award level for more than two years.
- C. CLAS Partnership Participants at the STEP Silver award level will receive the benefits identified in Paragraph A of this section and will not receive citations for non-serious violations, provided hazards are abated at the time of inspection and verified by compliance personnel.
- D. CLAS Partnership Participants at the STEP Gold award level
 - 1. will receive the same benefits as CLAS Partnership Participants at the STEP Silver award level, and
 - 2. in cases where a citation is issued, will be given maximum good faith, size and history penalty reductions outlined in the current NM OSHA Field Operations Manual (FOM).
- E. Contingent on the successful conclusion of the NM OSHA validation and their timely filing of the monthly self-audits described in Section 3.B. of this Partnership, CLAS Partnership Participants at the STEP Platinum award level
 - 1. will receive the same benefits as CLAS Partnership Participants at the STEP Gold award level,
 - 2. will be exempt from program planned inspections until June 30 of the following year,
 - 3. will undergo non-program planned inspections only in response to reports of imminent danger, fatalities/catastrophes, signed formal complaints and referrals from NM OSHA officials (when an unprogrammed inspection takes place, NM OSHA will provide a copy of the complaint, referral and any resulting actions to ABC-NM for consideration by the CLAS Partnership Committee defined below),

4. will be able to resolve all referrals, except those involving serious injury, via telephone, fax or email,
 5. absent cause, will be excluded from NM OSHA inspections conducted at a non-Participant's job site, and,
 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 through NM OSHA after a site verification visit. Site(s) displaying the Partnership Banner is (are) expected to exceed the minimal acceptable standards.
- F. 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 July 1 and will expire on June 30 of the following year.
- G. 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.

VI. Loss of Benefits and Termination of Participation

- A. NM OSHA retains 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 evidencing willful disregard for the occupational health and safety of its employees.
- B. 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 STEP award 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.

VII. CLAS Partnership Oversight

- A. An ABC/ NM OSHA CLAS Partnership Committee will oversee activities under the Partnership. The Partnership Committee will include an occupational safety and health representative from each ABC member company participating in the Partnership. NM OSHA will serve as advisor to the CLAS Partnership Committee.
- B. The CLAS Partnership Committee will
 - 1. verify each STEP Platinum award application by confirming the applicant's qualifications, including re-calculating 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, and
 - 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 (see Attachment 6, CLAS Partnership Fact Sheet).
- C. The Partnership Committee will have the authority to 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.

VII. 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

NM OSHA and ABC-NM CLAS Partnership

Participant's Monthly Self-evaluation and Job-site Report

Duplicate report and complete for each job site on which work was performed during the prior month.
Reports must be submitted to ABC by the 10th of the following month.

Job Site _____ of _____ total job sites where work performed during month of _____ Year _____

Company Name _____ SIC No. _____

Designated Safety Contact _____ Phone No. _____

Location

Participant is ___/is not ___ prime contractor at the site.

Start date of Participant work at job site: _____ Projected completion date: _____

Evaluation Criteria

1. Deficiencies and corrective actions taken

___ Falls _____

___ Struck by _____

___ Caught Between _____

___ Electrocutions _____

___ Other _____

2. Job Site training during month

3. NM OSHA visits to job site during month? None/Date(s) and reason(s) for visit(s):

