



STRATEGIC PARTNERSHIP BETWEEN

**the OCCUPATIONAL SAFETY and HEALTH
ADMINISTRATION'S**

**KANSAS CITY, OMAHA, ST. LOUIS & WICHITA
AREA OFFICES**

and

The Builders' Association

for the

Build Safe Partnership Program (BSPP)



I. Identification of Partners

The partners in this agreement will include the Occupational Safety and Health Administration's Kansas City, Omaha, St. Louis and Wichita Area Offices (OSHA KCAO, OAO, SLAO, and WAO, respectively) and the Builders' Association. The administration and funding of the partnership program will be by The Builders' Association. The Builders' Association was organized on August 9, 1887 and incorporated on April 10, 1926. The Builders' Association is a not-for-profit commercial contractor association and represents more than 1,000 union and non-union companies throughout Missouri and eastern Kansas, including some who operate in Nebraska. Participation in the partnership is strictly voluntary and is available to any member of The Builders' Association who meets the qualification requirements of this program (specified in this agreement).

II. Purpose/Scope

The Builders' Association and the Occupational Safety and Health Administration of the United States Department of Labor (OSHA), mutually recognize the significance of promoting safe and healthful work environment in the construction and general industries. To advance this mutual goal, the Build Safe Partnership Program (BSPP) has been established to formalize a partnership between these entities committed to encouraging contractors to voluntarily improve their safety and health performance, providing methods to assist them in their efforts, and recognizing employers with exemplary safety and health programs.

On September 11, 2001, the Builders' Association and the OSHA Kansas City, Omaha, St. Louis and Wichita Area Offices entered into the BSPP Agreement. The BSPP Agreement was subsequently renewed on April 9, 2004, and on April 26, 2007. On April 9, 2012, an agreement was signed by the parties to extend the 2007 agreement to December 31, 2012. The extension enabled the parties to develop this new partnership.

This new partnership will cover the fabrication shops for participating employers, including, but not limited to, sheet metal workshops, pipefitters, plumbers, glaziers, millwrights, ironworkers, and concrete products, as well as the employers' construction worksites where parts or products are installed. The partnership program will be conducted within the jurisdictional areas of the OSHA Kansas City and St. Louis, MO, Wichita, KS, and Omaha, NE, Area Offices.

III. Goals/Strategies and Performance Measures

The overall goal of this partnership is to reduce the number of accidents, injuries, and illnesses, with zero fatalities, among participating employers by implementing effective safety and health programs,, as referenced in the section below. The partnership will focus on safety and health topics as follows:

- A. At construction worksites, reduce the number of injuries, illnesses, and fatalities affecting participant employers, with an emphasis on reducing injuries and fatalities resulting from:
 1. Falls
 2. Struck-By
 3. Caught-In/Between
 4. Electrocutions

- B. At general industry fabrication shops, reduce the number of injuries, illnesses, and fatalities affecting participant employers, with an emphasis on injuries and fatalities resulting from:
1. Amputations
 2. Cuts, Lacerations or Punctures
 3. Lockout/Tagout hazards
 4. Machine Guarding

Goals	Strategies	Performance Measures
Achieve a group aggregate rate of accidents, injuries and illnesses below the most current year published BLS National Average for NAICS 23 (all of construction), and for the individual participating employers' primary NAICS; Zero fatalities	Implementation of comprehensive safety and health management system for the sites	OSHA (group aggregate and employer) injury and illness data- Total Case Incident Rate (TCIR); Days Away, Restricted or Transferred (DART) Rate; Days Away From Work (DAFW) Rate below the most current published BLS National Average for NAICS 23 (all of construction), and the individual employers' primary NAICS; Comparison of the actual Workers' Compensation loss costs to the actuarial predicted total compensation loss payment
Developing an employer/government partnership that will encourage involvement of the owner, construction manager and subcontractors in the improvement of safety and health performance	Require the employer/contractor and all subcontractors to develop and implement written safety and health programs (including a fall protection plan)	Verify by reviewing the number of employer/contractors/subcontractors that implemented and/or improved written safety and health programs from year to year
Implementing innovative strategies to eliminate serious accidents, including the four primary construction hazards (falls, struck-by, caught in, and electrical), and the four general industry hazards (amputations, cuts/lacerations/punctures, lockout/tagout & machine guarding)	1. Conduct 30-hour and 10-hour OSHA training courses (see Section VII); 2. Provide all employees site specific safety training/orientations; 3. Implement and enforce an ongoing site safety audit program (to include weekly site walk through)	Document the number of managers and employees trained and the training hours received (including orientation and 10 & 30-hour courses); document the number of hazards identified and abated during the safety audits; track the number of innovative strategies or approaches to training
Provide for worker involvement	Provide worker involvement in weekly site safety meetings; site safety walkarounds; Job Hazard Analyses (JHAs)	Document the number of workers involved in weekly site safety meetings; site safety walkarounds; and JHAs from year to year

Additional anticipated goals include:

- A. Increase the number of employers who developed, implemented, and/or improved effective safety and health management systems, including training programs for management, supervisors and employees, as reference in Section VII. OSP Management and Operation/Implementation, under Safety and Health Management Systems (Program) Criteria.
- B. Develop criteria for a model contractor safety and health program.
- C. Allow OSHA to focus resources on companies that require assistance from OSHA, rather than companies that have demonstrated existence of effective safety and health programs.

- D. Create a mentoring program for The Builders' Association members by members who are actively involved with the partnership program.
- E. Make safety and health resources available to all members of The Builders' Association and the construction industry.

The overall success of the Partnership will be measured as follows:

The overall success of this program will be jointly evaluated by the Partnership Steering Committee and OSHA's Kansas City Regional, Kansas City Area, Omaha Area, St. Louis Area and Wichita Area Offices based on the following eight measures:

- A. Annual group aggregate TCIR, DART and DAFW Rates will be compared to the most currently published Bureau of Labor (BLS) National Average rates for construction (NAICS 23), with zero fatalities. The BLS 2011 rates for NAICS 23 are 3.9, 2.1 and 1.5, respectively for TCIR, DART and DAFW, which will serve as the baseline for the partnership.
- B. Each individual participating employer's annual TCIR, DART and DAFW Rates will be compared with the most currently published BLS National Average rates for their specific primary NAICS (provided by the participating employer), with zero fatalities.
- C. Partnership participants will show a downward trend in injuries and reduced near misses, from year to year.
- D. Documented jobsite inspections and total number of hazards identified and corrected.
- E. Records of training certifications/training rosters will be maintained. Documented number of managers and employees trained, and actual hours trained for managers and employees. This may include, but not be limited to, OSHA 10 and 30 hour courses as well as other hazard specific training and orientations.
- F. Evaluate the effectiveness of the 100% Fall Protection Plan, through the number of plans implemented and/or improved and as measured by injury/illness records and near misses.
- G. Employers' safety and health programs and/or management systems will be evaluated annually by the Partnership Steering Committee, during initial application to the partnership and upon renewal. Changes concerning the general effectiveness of the safety and health programs for participating employers' programs may be provided annually to the OSHA Region VII Partnership Coordinator.

IV. Annual Evaluation

The partnership will be evaluated annually utilizing Appendix C of the OSHA Strategic Partnership Program (OSPP) Directive CSP 03-02-002. The data use to conduct the annual evaluation will be collected on a calendar year basis and the annual evaluation will be sent to OSHA National Office NLT the second day of March each year. The annual report will be provided to the OSHA Area Offices and to the Builders' Association Safety, Health & Environmental Services Director, who will subsequently share with the Partnership Steering Committee. To evaluate the progress of the Partnership, the Partnership Steering Committee shall review the annual evaluation, and if necessary, address opportunities for improvement.

In preparation for the annual evaluation, the OSHA Region VII Partnership Coordinator will request the following information from the participating employers at the end of the calendar year:

- A. OSHA Form 300s and 300As and hours worked for each employers' work sites (including construction sites, general industry sites and corporate/home offices) **operating only in Kansas, Missouri and Nebraska**, including the employer's primary NAICS.

- B. The actual annual Workers' Compensation loss costs compared to the actuarial predicted total compensation loss payment (or alternately a cost of 96 cents per work hour).
- C. Training activities, including number of employees and managers trained, hours of training provided, and training subjects/topics.
- D. Number of self-inspections performed, including the number of hazards identified and abated/corrected.
- E. Other relevant safety and health activities, such as success stories, safety awards, and challenges and opportunities for improvement in their safety and health management systems.

V. OSP Benefits/Incentives

- A. Partnering contractors will receive maximum reductions allowed by the OSHA CPL 02-00-150; Field Operations Manual (FOM) dated April 22, 2011, for good faith, size and history for penalties assessed for OSHA violations. **Note: In the event that the FOM is revised, the most current FOM will be utilized.**
- B. Partnering contractors will receive no penalties for other-than-serious violations from OSHA, provided that the violation is abated during the inspection. The employer reserves the right to request an informal conference and formally contest any alleged OSHA violation/citation.
- C. Special recognition from The Builders' Association designating the employer as a participant in the BSPP. The employer may receive incentives from owners and respective insurance companies/contractors/unions and recognition from affiliates of the partnership program, including the use of the partnership logo and/or signage.
- D. OSHA will provide The Builders' Association with Local Emphasis Program (LEP)/National Emphasis Program (NEP) compliance assistance material for partnership utilization.
- E. One of the core benefits of the Partnership Program will be to develop employers' safety and health programs that can serve as models for others to emulate. The program will include the development of criteria for a "model" company; and those companies that qualify will be asked to mentor smaller companies, or employers with less effective safety and health programs. The Builders' Association can also provide such mentoring services. This mentoring may take several forms as follows:
 1. Structured programs created within the scope of ongoing contractor association/apprenticeship safety and health education;
 2. Programs developed for presentation at the Builders' Association meetings; and
 3. Instruction offered in conjunction with apprentice/journeyman training programs, and other training programs.

VI. OSHA Verification

- A. OSHA will continue to investigate fatalities and catastrophes should they occur at the jobsite as well as alleged "imminent" danger situations per the FOM. **Note: In the event that the FOM is revised, the most current FOM will be utilized.**
- B. OSHA will continue to investigate complaints and referrals received in accordance with OSHA Instruction CPL 02-00-140, Complaint Policies and Procedures and the FOM. **Note: In the event that the FOM is revised, the most current FOM will be utilized.**

- C. An **on-site enforcement verification inspection** of the participating employers will be performed when a jobsite of the respective worksite receives an OSHA enforcement inspection for any reason, programmed or unprogrammed. Note that OSHA will not implement any scheduling of a participating contractor partner for an on-site enforcement verification inspection over and above that which would be experienced by a non-partnership site. The scope of the on-site enforcement verification inspection will be in accordance with the Field Operations Manual (FOM) and the focused inspection policy. These inspections will use "Focused Inspection" initiative policy {Memorandum from James W. Stanley, "Guidance to Compliance Officers for Focused Inspections in the Construction Industry", dated August 22, 1994 (Revision 2 issued September 20, 1995 and incorporated herein)} addressing hazards related to falls, struck by, caught-in/between and electrical shock. Inspections conducted in response to complainants, Local and/or National Emphasis Programs (LEP/NEP), or referrals will qualify as the verification inspection if, in addition to addressing the complaint/LEP/NEP/referral item(s), the compliance officer completes the focused inspection protocol for the worksite in accordance with OSHA Standards Interpretation and Compliance Letter, August 22, 1994, Guidance to Compliance Officers for Focused Inspections in the Construction Industry.
- D. **On-site non-enforcement verification visits**, performed by the Builders' Association and/or the BSPP Steering Committee, may be conducted as appropriate during initial application to the partnership, during renewal applications, at the request by a participating employer, and anytime the Steering Committee identifies a potential safety and health issue, to further assess participating contractors' implementation of the partnership agreement. These worksite observations should be sufficient to confirm that the partner's worksite is operating a safety and health management system that adequately ensures the protection of employees.
- E. **Off-site verifications**, performed by the Builders' Association, the BSPP Steering Committee and/or the OSHA Region VII Partnership Coordinator, may be performed to ensure participating employers are meeting the requirements of the partnership agreement. The off-site verifications will generally be performed during the application/renewal process and during the annual evaluation and review of participating employers' submitted injury/illness data and safety activities.

VII. OSP Management and Operation/Implementation

Program Implementation

- A. The Builders' Association will appoint a Partnership Steering Committee consisting of members of The Builders' Association, one designated staff member, and the Compliance Assistance Specialist from the Kansas City Area Office. The Partnership Steering Committee may consist of up to seven representatives. Each committee member will be entitled to one vote. Term limits for committee members will be for three years, with reappointment possible.
- B. All employers interested in participating in the program must submit a completed BSPP application form to the Partnership Steering Committee for review. The Builders' Association will inform members and the OSHA Region VII Partnership Coordinator of those who have successfully completed the application process and are eligible for participation in the program. The Partnership Steering Committee will provide a copy of the application and supporting documents received to the OSHA Region VII Partnership Coordinator.

- C. Contractors who qualify and accept the established requirements of the BSPP must reapply by February 1st of each year and shall provide all required documentation to The Builders' Association verifying that they still meet current established guidelines. The Builders' Association will provide a copy of the renewal application and supporting documents received to the OSHA Region VII Partnership Coordinator.

Qualification Criteria

A company seeking participation in the partnership program shall:

- A. Be engaged in the construction industry and be a member of The Builders' Association.
- B. Agree to provide written safety and health programs, training records, and injury/illness records to the Partnership Steering Committee.
- C. Have no fatalities or catastrophes that have resulted in accident-related serious citations becoming a Final Order of the Occupational Safety and Health Administration Review Commission within the last three years.
- D. Have no willful violations or repeat violations that have become a Final Order of the Occupational Safety and Health Administration Review Commission in the last three years.
- E. Have an Experience Modification Rating (EMR) of 1.0 or less based on a three year average.
- F. Have implemented a 100% fall protection program where participants require and enforce the use of conventional fall protection (i.e. personal fall arrest systems, safety net systems or guardrail systems as defined within 29 CFR 1926.502) when their employees are performing work that is in excess of six feet above a lower level.
- G. Have read this partnership agreement in full and signify agreement to all of the requirements herein by signing a copy of the "Build Safe Partnership Program (BSPP) Application Form."
- H. Participants will have the following:
 - 1. A written safety and health program.
 - 2. A designated competent person at all worksite(s).
 - 3. Weekly documented safety training at all worksite(s).

Safety and Health Management Systems (Program) Criteria

The Builders' Association will be responsible for collecting employers' written safety and health programs and training records. Information gathered will be forwarded to the Partnership Steering Committee for review and verification. An employer seeking participation in the partnership program must have a safety and health program that meets the following criteria:

- A. Management Commitment and Employee Participation:
 - 1. A written safety policy statement signed by a company principal, or officer with authority, and distributed to all employees.

2. A written safety and health program that addresses recognized hazards and is based on the American National Standards Institute/American Society of Safety Engineers (ANSI/ASSE) A-10.38-2000 (R2007), Basic Elements of an Employer Program to Provide a Safe and Healthful Work Environment, or the OSHA 1989 Safety and Health Program Management Guidelines.
3. A designated safety coordinator shall be appointed by top management to implement and monitor the employer's/contractor's safety and health program. The safety coordinator shall:
 - a. Have responsibilities clearly defined in writing.
 - b. Report to executive management of the company.
 - c. Have completed the OSHA 30-Hour Construction Outreach Training Course or equivalent training. Records of training certification will be maintained and available for review by the BSPP Steering Committee or OSHA upon request.
 - d. Have completed the American Red Cross First Aid and CPR Course or equivalent training within the past two years. Records of training certification will be maintained and available for review by the BSPP Steering Committee or OSHA upon request.
 - e. Have at least five years of construction experience, or a combination of five years of experience and formal education as deemed appropriate by the Partnership Steering Committee.
 - f. Have the line authority from the employer's top management to stop work, instruct, or otherwise direct field supervisory personnel/field employees on matters relating to safety and health.
 - g. Conduct periodic onsite safety and health audits, depending on the hazards involved that address at a minimum the following areas: fall hazards, electrical hazards, caught in between hazards, struck by hazards, and trenching and excavation (for construction sites).
4. It is the responsibility of the employer to establish a comprehensive safety and health disciplinary program.
 - a. The program shall clearly state what disciplinary procedures will be utilized, including termination for willful or repeated safety and health violations. The program shall also have procedures for lesser forms of discipline for less serious types of safety and health violations.
 - b. An employer who is party to a collective bargaining agreement containing an established grievance procedure may utilize such procedure for enforcement of its disciplinary rules.
5. It is the responsibility of the employer to establish a comprehensive written drug and alcohol program. The program at a minimum shall require post-accident drug testing of injured employees who require off-site medical treatment and testing of any personnel directly involved in the accident.

B. Job-Site Analysis:

1. The employer shall have a job-site system to recognize and abate safety and health hazards before work commences, with particular attention to the four key construction industry hazards (falls, electrocutions, caught-in/ between injuries, and struck by injuries), and general industry hazards (amputations, cuts/lacerations/punctures, lockout/tagout, and machine guarding).
2. Job-site safety and health inspections will be conducted, to include subcontractors.

3. Job-site accountability for safety and health program enforcement.

C. Hazard Prevention and Control:

1. Conduct and document investigations of accidents and serious “near miss” events to determine their causes.
2. Develop measures to control hazards through engineering controls, administrative and work practice controls, or the use of personal protective equipment as required.

D. Training:

1. All jobsite supervisors and foremen shall:
 - a. All supervisory personnel engaged in construction activities or other personnel serving in the capacity as a competent person shall have completed the OSHA 10-hour Construction Outreach Course (or its equivalent). Records of training certification will be maintained and available for review by the BSPP Steering Committee or OSHA upon request.
 - b. All supervisory personnel engaged in construction activities shall complete a minimum of 4 hours of documented safety and health training annually. Records of training certification will be maintained and available for review by the BSPP Steering Committee or OSHA upon request.
2. The following employee safety and health training programs shall be conducted and documented at all levels of the company:
 - a. Training on specific jobsite and industry safety and health hazards.
 - b. Weekly toolbox safety training. Non-participant employees on the worksite will be invited to attend this training.
 - c. Formal new employee safety and health orientation.

The Builders’ Association and/or BSPP Steering Committee

The Builders’ Association will be responsible for conducting onsite visits to evaluate and verify employer’s performance. Information gathered from employers will be forwarded to the Partnership Steering Committee and will:

- A. Be part of the initial application process for participation in the BSPP, and an on-site visit to the applying employer’s place of business will be conducted.
- B. Include interviews with the employer’s principals, supervisors and employees, as well as a visit to at least one active job site.
- C. Be evaluated as part of the employer’s annual renewal process and also on a random basis to ensure BSPP guidelines is being met. These visits will include:
 1. An inspection of the employer’s place of business.

2. Safety and health program documentation.
3. Interviews with employees.

On at least a quarterly basis, The Builders' Association will provide the OSHA Region VII Partnership Coordinator a list of active program participants.

Participating employer termination

- A. An employer's participation in the Partnership program will be terminated by The Builders' Association and/or OSHA if one or more of the following occurs:
 1. An inspection by OSHA or Builders Association representatives reveals a significant deviation from program criteria, such as a willful or repeat violations, and accident-related serious citations resulting from a fatality or catastrophic event.
 2. The employer has falsified information on the application or supporting documentation.
 3. The employer takes any other such actions that may be determined to be grounds for termination by the Partnership Steering Committee.
- B. Prior to the final termination of an employer's status, the following will occur:
 1. The employer will be notified in writing of the intent to terminate.
 2. The written notice will include an explanation of the reasons for termination.
 3. The employer will have an opportunity to reply to the written notice within thirty days; and will have the right to make an appearance before the Partnership Steering Committee and be represented by counsel.
- C. The Partnership Steering Committee, after receiving concurrence from OSHA's Regional Administrator, has the authority to reinstate the employer if it determines the employer's experience was unusual and not necessarily inconsistent with a sound safety and health program.
- D. Any employer may terminate its participation in the program at any time by providing thirty days written notification of intent to the Partnership Steering Committee.
- E. In the event of a work-related fatality or catastrophe (hospitalization of three or more employees) occurring at a participating employer's worksite, the employer's participation in the BSPP will be terminated immediately. The employer may re-apply to the Partnership at the conclusion of the OSHA investigation that results in no serious citations affirmed by the Review Commission/Final Order, and upon the Steering Committee's evaluation of the employer's efforts to meet or exceed the Partnership guidelines contained herein.

OSHA

- A. Any OSHA on-site enforcement verification inspections with participating employers will be conducted in accordance with the Field Operations Manual (reference OSHA Instruction CPL 02-00-150) and the focused inspection policy covering the focused four construction hazards of falls, struck by, crushed by and electrocutions (outlined in OSHA Memorandum

for James W. Stanley, Deputy Assistant Secretary, August 22, 1994 and revised September 1995).

- B. OSHA Compliance Assistance Specialists (CASs) from Kansas City, Omaha, St. Louis or Wichita Area Offices may assist the Partnership with off-site safety and health training.
- C. The OSHA Kansas City Area Office CAS will be a member of the BSPP Steering Committee.
- D. OSHA will give priority to participating employers when technical assistance is requested.
- E. OSHA will ensure that the Partnership is evaluated annually; and, the evaluations will include data used to monitor the success of the Partnership efforts.
- F. OSHA agrees to educate their staff regarding the terms of this Partnership.
- G. The OSHA Regional Partnership Coordinator will maintain a Microsoft Excel spreadsheet with participating employers, with information provided from the BSPP Steering Committee. The OSHA Regional Partnership Coordinator will annually request the items listed in Section IV. from the participating employers in order to complete the annual evaluation.

VII. Employee and Employer Rights and Responsibilities

This Partnership does not preclude employees and/or employers from exercising any right provided under the OSH Act (or, for federal employees, 29 CFR 1960), nor does it abrogate any responsibility to comply with the Act.

Participating employers retain all rights guaranteed under the Occupational Safety and Health Act (OSH Act), including the right to appeal or contest citations issued by OSHA.

This agreement will not in any way affect employees' exercise of rights under the OSH Act and OSHA regulations, including walk-around rights. As an integral part of an effective safety and health program, the opportunity for employees to exercise their rights 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-300 log, and medical exposure records will not be infringed. It is anticipated that routine employee involvement in daily implementation of worksite safety and health programs will be assured, including employee participation in employer self-audits, site inspections, job hazard analysis, safety and health program reviews, and mishap investigations.

IX. Term of OSP

- A. This partnership may be terminated by any of the participating organizations with a sixty day notice.
- B. This partnership agreement will remain in effect for three years from the signing date of this agreement.
- C. Should either of the principal participants (OSHA or The Builders' Association) elect to withdraw from participation in the Partnership, prior notification in writing of the intent to terminate shall be given to the other Party. A thirty (30) day written notice is required prior to termination, during which the parties have an opportunity to resolve any issues to avoid termination. Termination by either Party shall constitute a cancellation of the Partnership. In the event of a termination, each party agrees that it shall not, directly or indirectly, contact the media regarding the termination, and it shall not discuss with the media any issues or matters regarding the termination. OSHA and The Builders' Association are the only entities that can terminate this Partnership.

**THE BUILDERS' ASSOCIATION - OSHA
Build Safe Partnership Program (BSPP)**

Signature Page

This Build Safe Partnership Program (BSPP) agreement revised and entered into this _____ day of _____, 2013, by The Builders' Association, Kansas City Regional OSHA Office, and the Kansas City, Omaha, St. Louis, and Wichita Area OSHA Offices, will be for a period of three years. Any party can cancel this agreement by written notice in accordance with Section IX. of this program.

Approved by:

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