

Agreement Between Occupational  
Safety And Health Administration  
Corpus Christi Area Office, Federal  
Correctional Institution, Three Rivers,  
TX, and A.F.G.E. Local 4044

April 25, 2003

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# Background

The Federal Correctional Institution at Three Rivers, TX and OSHA enter into this Agreement pursuant to the authority of the Federal Bureau of Prisons Policy Statement 1600.8 and sections 19 and 24 of the Occupational Safety and Health Act of 1970 and Executive Order 12196 that allows OSHA to give help to specific sites categorized as Federal Agencies. This agreement describes the scope of assistance that will be provided by a specific area office to the Federal Correctional Institution at Three Rivers, TX.

The purpose of this agreement is to place FCI Three Rivers in a technical assistance mode, rather than on a targeted inspection list.

## Objectives

1. Strengthen the existing comprehensive safety and health program currently in place, ensuring compliance at all institutional levels.
2. Reduce the total case rates for the Federal Correctional Institution at Three Rivers, TX by 10% per year, while at the same time increasing the timeliness of reporting new injuries and illnesses to OWCP.
3. Identify and correct the primary casual factors in employee injuries and illnesses, in particular those behind the three top causes of injuries and/or illnesses.
4. Improve employee productivity and quality of life by providing safe and healthful occupational environments.
5. Improve the safety and health program to become qualified and eligible to participate in a Federal Agency Voluntary Protection Program (FAVPP).

## Statement Of Agreement

OSHA, the Federal Correctional Institution at Three Rivers, TX, and A.F.G.E. Local 4044, agree to work in partnership to improve the employee safety and health at the Federal Correctional Institution at Three Rivers, TX. Accordingly, they make the following commitments:

### The OSHA Area Office Agrees To:

1. Help identify programmatic needs at this site by reviewing the Documented Safety Program (DSP) and provide practical help in implementing the program.
2. Help identify the primary casual factors in injuries and illnesses, in particular the three top hazards at this site and develop countermeasures for correcting those hazards.
3. Provide access to training resources including:
  - a. A safety management training session as the need arises and resources are available for department heads and the Union.
  - b. Access to OSHA Training Institute Courses (OTI).
  - c. Guidance to other available sources of training.

4. Help mentor FCI Three Rivers safety and health professionals and offer technical assistance at this site by arranging an Agency Technical Assistance Request (ATARs) so that FCI Three Rivers safety and health professionals could accompany OSHA compliance officers on inspections for training purposes. Technical assistance may include:
  - a. Practical abatement assistance.
  - b. Technical equipment loans.
  - c. Air monitoring assistance.
5. Accept the findings, if satisfactory, of FCI Three Rivers investigations and inspections of complaints and referrals that would normally be handled by OSHA. These will be conducted in accordance with OSHA policy except as modified by this agreement as follows:
  - a. Complaints
    - 1) Complaint Inspections. If the complainant agrees, the FCI Three Rivers safety and health professionals and accompanied by a Union Official may inspect those complaints which would normally result in an OSHA complaint inspection except for:
      - A. Complaints evaluated as imminent danger or high gravity serious;
      - B. Complaint investigations which the employer fails to provide an adequate response to; or
      - C. Complaints where the complainant provides evidence that the employer's response to a complaint investigation is false or does not adequately address the hazard(s).
    - 2) Complaint Investigations.
      - A. When OSHA asks FCI Three Rivers to inspect a complaint, the FCI Three Rivers safety, health professionals in conjunction with A.F.G.E. LOCAL 4044 will give a response to the OSHA area office which has been signed off by the establishment parties. (FCI / Union Official)  
  
NOTE: If either establishment party chooses not to sign off on the response, that party can provide a written explanation documenting why. The explanation will be an attachment to the response to OSHA, or, in the case where no explanation is given, the response will advise that no explanation was provided.
      - B. If a response satisfactory to OSHA is not received by the due date, OSHA may conduct an inspection.
  - b. Referrals

For referrals handled by letter, FCI Three Rivers safety, health professionals will prepare a written response to OSHA which will be approved by the Warden and AFG E President.

NOTE: If an establishment party chooses not to sign off on the response, that party can provide a written explanation documenting why. The explanation will be attached to the response to OSHA, or, in the case where no explanation is given, the response will advise that no explanation was provided.

If a response satisfactory to OSHA is not received by the due date, OSHA may conduct an inspection.

## The Warden Agrees To:

1. Provide a written statement to be included in the Institutional Familiarization and Annual Refresher Training that identifies safety as the first priority for every job.
2. Post copies of this signed agreement at key locations.
3. Provide an opportunity for top management officials, including department heads and union leadership to attend a program presented by OSHA on basic safety management.
4. Begin a comprehensive training program designed to achieve the goal of educating all employees on the current safety record and need for improvement.
5. Commit to implementing and achieving the objectives of this agreement.
6. Provide the opportunity for employees to participate in developing and managing the safety and health program by soliciting participation of workers and their representatives in:
  - a) Hazard identification and abatement;
  - b) Employee training;
  - c) Participation in improving the safety and health program in place at the establishment;
  - d) Employee attendance at all related meetings;
  - e) Employee access to all documents pertinent to the safety and health program and this agreement;
  - f) Support of existing safety and health committees;
  - g) Employee access to safety and health records except if prohibited by law, policy, regulations or security concerns;
  - h) Accident investigations;
  - i) Self-inspection teams; and
  - j) Developing an employee/inmate occupational hazard reporting system.
7. Make sure that employees are not subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in

this agreement.

8. Improve safety-related communications within the establishment, including accident investigation results, risk management information, and methods of abatement.
9. Provide adequate resources to effectively enhance the current safety and health program. However nothing in this agreement will be construed as obligating either OSHA or the Federal Correctional Institution, Three Rivers, TX to expend in any one fiscal year any sum in excess or in advance of appropriations made by Congress in accordance with the Anti-Deficiency Act, 31 U.S.C. 1341.
10. Support and enhance the current system of internal safety and health self audits including action items and follow-up.
11. Provide an opportunity for union participation with this agreement.
12. Gather self-inspection data (hazards identified, hazards abated, and the number of employees removed from those hazards) and submit according to Agreement Evaluation criteria.
13. Develop a baseline injury and illness log for calendar year 2002 utilizing the current 29 CFR 1904 regulations and provide to OSHA Corpus Christi Area Office.
14. Maintain the injury and illness log as required by 29 CFR 1904 for employees and inmates in the work setting.

### **Union Leadership Or Their Representatives Will:**

Inform workers of the partnership agreement through union channels. The workers should be informed of the background, requirements of management, and of the union.

1. Designate institution senior local union officials, as required by BOP Policy, to participate in the inspections conducted by Federal Correctional Institution, Three Rivers, TX safety and health officials.
2. Designate institution senior local union officials not involved in the complaint to participate, as appropriate, in Federal Correctional Institution, Three Rivers, TX investigations and inspections of worker complaints and any OSHA referrals and sign off on the response to OSHA or, if they choose not to sign off, provide a written explanation documenting why.
3. Encourage appropriate employee participation in this agreement.
4. Encourage employee participation in the safety and health program to include accident investigations, site self-inspection, etc.

# Term Of Agreement

This agreement will start on the date it is signed and run for a period of five (5) years in one (1) year increments. At the end of each year OSHA will conduct an evaluation to determine if adjustments in the agreement are necessary. If no adjustments to the partnership are recommended the agreement will automatically be renewed for an additional year. At the end of the five (5) year period this agreement is to be reviewed by the signatories and upon consensus may be renewed by a simple letter of renewal signed by all parties involved. All modifications to this agreement will be in writing and will become effective only upon the written agreement of all parties.

## Agreement Evaluation

In order to evaluate the effectiveness of this agreement quarterly status reports must be submitted to the Corpus Christi Area Office. These reports should contain the following information.

1. Updates on all required elements of the partnership until the criteria has been met. The elements of the partnership are those items agreed to by the Warden and the Union Leadership. The elements are listed in the sections entitled, "The Warden Agrees to" & "Union Leadership or Their Representatives will".
2. The current injury/illness log, and
3. The number of hazards identified through the self-inspection procedure, the number of hazards corrected, and the number of employees affected by these hazards.

## Key Officials

The primary key officials in this agreement include the Warden, the OSHA Area Director (Corpus Christi, TX), and Federal Correctional Institution at Three Rivers, TX, Union - Local 4044. Other key officials include the Associate Warden (O), Associate Warden (P), Department Heads, and the Safety Manager as general coordinator, and designated officials of OSHA.

## Funds

It is not anticipated that any funding will be transferred between OSHA and the Federal Correctional Institution at Three Rivers, TX. However, should there be a need for transfer of funds to accomplish the objectives of this agreement it will be done according to the policies of the agencies and the respective departments of which these agencies are a part.

## Termination

Any problems that arise that cannot be resolved satisfactorily through the agreement participants will be addressed in writing. A letter outlining the problems will be sent to all participants and will constitute grounds for discontinuing the agreement if these concerns cannot ultimately be resolved.

# Signatures

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Edward Perez  
Federal Correctional Institution, Three Rivers, TX  
Warden

\_\_\_\_\_  
Date

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Richard Wechsler  
Federal Correctional Institution, Three Rivers, TX  
Employee Representative - AFGE Local 4044

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Date

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Joe Reina  
Occupational Safety and Health Administration  
Deputy Regional Administrator, Region VI

\_\_\_\_\_  
Date

\_\_\_\_\_  
John A. Giefer  
Occupational Safety and Health Administration  
Area Director – Corpus Christi Area Office

\_\_\_\_\_  
Date