

PARTNERSHIP

BETWEEN



OSHA

AND

AGC Houston
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

Quality People. Quality Projects.



**OSHA STRATEGIC PARTNERSHIP
PROGRAM
2020 – 2023**

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I. Program Summary/Overview – Statement of Purpose

The Associated General Contractors Houston Chapter (AGC) and its member companies and the Houston Offices of the Occupational Safety and Health Administration of the United States Department of Labor (OSHA), all mutually recognize the importance of ensuring a safe and healthful work environment in the construction industry. To advance this mutual goal, this OSHA Strategic Partnership Program (OSPP) has been established to formalize a cooperative effort between these entities committed to encouraging construction companies to voluntarily improve their safety and health performance, providing methods to assist them in their efforts, and recognizing companies with exemplary safety and health programs.

The cooperative effort will provide incentives to participating construction companies who voluntarily improve their safety and health performance and demonstrate the implementation of an effective safety and health program. Incentives will include special recognition from OSHA, applicable penalty reductions, and more benefits fully described in Section IV.

The cooperative effort will be conducted within the jurisdictional areas of the OSHA Houston Area Offices. Participation is strictly voluntary and is available to any member company of AGC, which meets the qualification requirements of this program.

Participating member companies 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.

II. Participants in Program and Their Commitment

The following are identified as participants in the Cooperative Safety Program:

A. OSHA

The Houston Area Offices of Occupational Safety and Health Administration of the United States Department of Labor (OSHA) shall:

- (1) Upon annual notification by AGC, OSHA will conduct a no notice inspection of a jobsite for each nominated member company to verify that the member company's program requirements are in place and then proceed to a focused construction inspection. The inspection focus will address hazards related to the four major causes of fatalities and serious injuries in Texas (falls, struck-by, caught-in/between mishaps, and electrocution).
- (2) Once the evaluation inspection is successfully completed, the member company will be placed on a members list in participating OSHA area offices.
- (3) Every other year the annual inspection will consist of a corporate inspection of the company programs.
- (4) If cited, give the maximum good faith and size penalty reductions available in current OSHA policy.
- (5) Give special recognition designating to the member company as a participant in this program.
- (6) After such verification inspections, OSHA will conduct un-programmed inspections as follows:
 - (a) These inspections will follow the "Focused Inspection" protocol {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, and electrical hazards. Inspections conducted in response to complaints, 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.
 - (b) If OSHA receives a report of an imminent danger situation or observes exposure to hazards listed in II.A.1, or hazards covered by a Local or National Emphasis Program.
 - (c) If OSHA receives a report of a fatality or catastrophe as defined in OSHA Instruction CPL 02-00-150 (Field Operations Manual).
 - (d) If OSHA receives a complaint or referral, it will be handled according to OSHA Instruction CPL 02-00-150 (Field Operations Manual).
- (7) OSHA will allow a reasonable amount of time for the partner's safety representative to arrive at the job site to participate in the walk-around portion of the inspection.
- (8) Cite any apparent violations in accordance with OSHA interpretation as stated in the Guidance to Compliance Officers for Focused Inspections in the Constructions Industry. If cited, OSHA will give full consideration in evaluating maximum good faith in giving penalty reductions available in current OSHA policy.
- (9) Give priority status to member companies and their participating specialty or trade

contractors for compliance assistance and outreach activities.

- (10) Conduct a training session for Houston area CSHOs on partnership requirements.

B. Associated General Contractors shall:

- (1) Evaluate applicant companies to ensure they meet the requirements to participate in the OSPP.
- (2) Perform periodic reviews of participating companies to ensure program requirements are continuing to be met (ie. quarterly reports).
- (3) Recommend termination of OSPP membership if findings indicate unacceptable performance or submission of falsified documentation.
- (4) Provide OSHA with a list of qualifying member companies and results of verification inspections conducted by the sponsoring organization.
- (5) Participate in the collection, review and transmitting of documentation to OSHA required of the member company to qualify for participation in the OSPP. Examples: Audits, Hazards, Corrections (reflected on quarterly reports), Training (Supervisor, Manger, Craft), OSHA Statistics
- (6) Have safety personnel representing the parent Chapter make a minimum of one (1) site program verification inspection annually to one of the projects being performed by each member company.
- (7) Have safety personnel representing AGC model the best in "safety coaching" practices with an emphasis on reinforcing positive safety practices and behaviors.
- (8) Offer new ways member companies can take preventative actions in identifying hazards before something happens by helping them collect jobsite data to create baseline(s) for safety performance.

C. Partnering Participants:

A member company that meets the qualifications laid out by its parent sponsoring organization and in this agreement shall:

- (1) Meet and continue to meet the requirements set forth by AGC to qualify for this OSPP in addition to the requirements set forth within the OSPP itself.
- (2) Set a positive example for desired safety behavior and establish goals and accountability for safety excellence.
- (3) Be engaged in the construction industry and be a member in good standing of Associated General Contractors (AGC).
- (4) Have a continual employee involvement program in place (e.g. field safety suggestions or participation in safety audit observations).

III. Goals

- A. Minimum rates that are 10% below the current national average the number of injuries, illnesses, and fatalities affecting participating employers, with an emphasis on reducing injuries and fatalities resulting from falls, struck-by, caught-in/between mishaps, and electrocution (focused four construction hazards).

- B. Increase the number of construction companies that implement effective safety programs through mentoring.
- C. Decrease worker compensation costs and OSHA penalties for participating companies.
- D. Allow OSHA to focus resources on companies that require attention from OSHA, rather than companies that have demonstrated existence of effective safety programs.
- E. Make safety and health resources available to all members of the participating organizations and the construction industry.
- F. It is anticipated with minimal use of OSHA resources, this OSPP will result in improved safety and health programs, a higher level of employee safety and health training, and as a secondary benefit, improved job site safety and health program commitments by other companies working with/for the OSPP participants.
- G. Foster open and continuing communication.
- H. Share knowledge of the best practices through the Safety Committee.
- I. Cooperation in contractor and compliance officer training. Participating members will establish a training goal for each year of participation in the partnership.
- J. Inform and educate small construction companies of the resources available from the Texas Occupational Safety and Health Consultation Program (OSHCON).
- K. Hold quarterly best practice meetings to discuss incidents and trends in the construction industry. CSHOs will be encouraged to attend.
- L. During one quarterly meeting each year, partners in the OSHA/Associated Builders and Contractors Houston Chapter will be invited to attend for a joint best practices meeting.

IV. Incentives

Participants in good standing will receive the following incentives:

- A. Maximum penalty reduction for AGC/OSHA Partners as allowed in the OSHA Field Operations Manual (FOM) for good faith and history.
- B. Priority consideration for compliance and offsite technical assistance (phone calls/faxes) by OSHA as resources allow.
- C. At the commencement signing and each significant event or success story, a press release will be submitted for release by OSHA to highlight partnership members.
- D. Partner companies will have an opportunity to meet and interact directly with area OSHA representatives, with the goal of building a mutually beneficial relationship based on providing a safe workplace for all employees.

- E. Partner companies will be able to display the OSHA/AGC Partnership Banner at their jobsites, and can market the Partnership as an incentive to safety-conscious clients.
- F. Having top company executives sign a partnership with OSHA representatives sends a clear message to all employees that safety is a priority at the highest levels of the company.
- G. Partner company representatives will have the opportunity to attend quarterly Partnership Meetings, where partners discuss recent lessons learned, best practices, and industry insights to improve safety. OSHA representatives will provide current, relevant statistical information from local Area offices, and discuss current OSHA initiatives, changes in safety regulations, and any other available information to improve workplace safety.
- H. Partner companies can utilize the Partnership to raise the safety awareness at all levels of the workforce, positively impacting behaviors and building a stronger safety culture in the workplace.
- I. For partners in good standing, OSHA will evaluate the sites' program to determine whether it qualifies for a focused inspection during programmed inspections prior to initiating a comprehensive inspection.
- J. Partners can request an informal conference with the appropriate Area Director to discuss any proposed citations as time and resources allow.

V. Program Acceptance

- A. Submit to the AGC Houston Chapter a list of all active construction projects within the jurisdiction of the Houston OSHA Area Offices where the OSPP was signed and quarterly once accepted into the Partnership.
- B. Have a Total Case Incidence Rate (TCIR) and Days Away, Restricted, Transferred (DART), for the previous year that is 10% less than the rate for its NAICS code, as published by the most current Bureau of Labor Statistics Report. The TCIR and DART rates will be calculated using the OSHA formula as outlined in the "Forms 300, 300A, 301 and Instructions – Fillable Format" and Compliance Directive (CPL 2-00-135).
- C. Member companies shall have no work related fatalities or catastrophes in the last year that occurs at a site under their control as determined by OSHA.
- D. Have no willful or repeat OSHA citations for the past 3 years.
- E. Provide OSHA and AGC the OSHA 300 Logs for the three previous years plus the current year. This information will assist in measuring the impact on safety and health during this agreement.
- F. Partner applications will include a copy of their safety program, submitted on a thumb drive.
- G. Submit to the parent Chapter, within 15 days after the end of each quarter, a summary of the number of inspections made by the member company's Safety Director (or their designee) and any third party. The report shall be broken down into the four major categories of fatality

hazards along with leading indicator data. The report shall show the number of items within the four categories that were corrected. The report should reflect all active jobsites in the geographical area covered by this OSPP. First quarterly report is due to the AGC Chapter by April 15. Second quarterly report is due to the AGC Chapter by July 15. Third quarterly report is due to the AGC Chapter by October 15. The Forth quarterly report is due to the AGC Chapter by January 15. The OSHA 300 and 300A will be provided prior to February 1st of each year.

- H. Quarterly partnership meetings with AGC and OSHA representatives will occur the first week of the month in which a quarterly report is due and are considered mandatory.
- I. The company will have a designated full time employee in charge of the safety program. The safety person will have experience managing a construction safety and health program and have sufficient training to be able to recognize existing and predictable hazards in the workplace. Safety personnel shall have the authority to take prompt corrective action.
- J. Agree to permit the verification visit by an OSHA and AGC representative to a construction site.
- K. Each member company and any participating specialty or trade contractors at each construction site must agree to develop and implement a comprehensive safety and health program that adheres to, or exceeds, the OSHA Safety and Health Program Management Guidelines.
- L. The member company must make each of its construction projects available for OSPP verification by OSPP volunteer or designees of the AGC Houston chapter.
 - (1) These program verification inspections are independent from any other site inspections and are not meant to replace the frequent and regular inspections of work areas required of each and every employer by both OSHA standards and the Safety and Health Program Management Guidelines.
 - (2) All hazards identified by these inspections shall be documented, dated, and communicated to all applicable contractors via the member company, and resolved by documented corrective actions.
 - (3) At any time the designated representative performing the verification inspection concludes that the member company is apparently not fulfilling the agreed upon stipulations of the agreement, the member company may be referred to the AGC Houston partnership committee. If the partnership committee finds just cause for termination of the member company's participation in the program, written notice shall be provided by the AGC representative to the OSHA Houston North Area Office.
- M. Member companies will have the following:
 - (1) A comprehensive written safety and health program, which will include:
 - Include Employee Involvement such as participating in site safety inspections, safety and health audits, job hazard analysis, and other types of hazard identification, and develop and use a system for reporting hazards.
 - Include Effective Employee training for avoidance of hazards specific to the member company's work site(s)

- Provide construction site supervisors with training equivalent to OSHA's 10-hour construction safety course
 - Have designated safety personnel who, through training and experience, are able to recognize work hazards and have the authority to take prompt corrective action. Training curriculum equivalent to the OSHA 30-hour course will be deemed to be satisfactory.
- (2) A designated competent person at all worksite(s).
 - (3) Weekly documented tool box talks at all worksite(s).

VI. Implementation

All companies interested in participating in the OSPP must submit a formal request the AGC Houston Chapter for review and consideration for participation in the OSPP. Member companies that qualify and accept the established requirements of the OSPP will be enrolled for a period of twelve months. In order to maintain membership in the partnership, a member company must provide the documentation required by the parent Chapter indicating the member company still meets the current established criteria and successfully complete an annual on-site OSHA inspection. Individual company partnerships will expire at the time of the overall OSHA/AGC OSPP agreement.

VII. Partnership Evaluation

- A. The partnership will be evaluated annually to determine whether the annual goals have been met. AGC is responsible for collating baseline and annual performance data upon which the OSPP will be measured. This aggregated data will be managed by the parent chapter and submitted to the Houston OSHA Area Offices.
- B. Member company's TCIR and DART rates will be compared against their previous years, the BLS published rates for their NAICS, and aggregate TCIR and DART against the partnership as a whole to determine whether goals have been met.
- C. If all signatory partners agree, member company criteria may be revised annually based on recommendation for continuous improvement.

VIII. Termination and Suspension

- A. This agreement will terminate on HHHHHH. If the AGC Houston Chapter wishes to terminate their participation prior to the established termination date, written notice of the intent to withdraw must be provided to the OSHA Houston North Office.
- B. If OSHA chooses to withdraw its participation in the partnership, the entire agreement is terminated and a written notice will be provided to the AGC Houston Chapter. Any signatory may also propose modification or amendment of the agreement.
- C. For non-signatory participants of the strategic partnership, OSHA may terminate the participant's involvement at any time with written notice. Additionally, the participant may withdraw their participation from the strategic partnership at any time by providing thirty (30) days written notice to the AGC Houston Chapter and the OSHA Houston North Area Office.

- D. If any of “the participants” to this Agreement are not participating in “good faith” according to the requirements spelled out for each party in this Agreement, they may be terminated and will be provided written notice by an OSHA Houston Area Office.
- E. A member company’s participation can be terminated by OSHA and/or the AGC Partnership Committee if one or more of the following occurs:
- (1) An inspection by OSHA or AGC representatives reveals a significant deviation from program criteria.
 - (2) The member company has falsified information on the application or supporting documentation.
 - (3) The member company’s total case injury/illness incidence rate (TCIR) and Days Away, Restricted, Transferred (DART) rises above the established criteria.
 - (4) A fatality or catastrophic event (defined as three or more employees admitted to the hospital due to exposure to the same event) occurs at their worksite arising from the work or operations of the partner or any subcontractor, supplier or vendor of the partner of any tier as determined by OSHA to be a workplace related fatality or catastrophe.
 - (5) A partner will be allowed to reapply to the partnership after one year from the date of withdrawal. Withdrawal date is the date of receipt of the written notice by the OSHA Houston North Office or removal of any partnership signage from the worksites, whichever occurs last.
 - (6) Any member company requires a warrant of OSHA prior to commencement of an on-site program verification or other inspection activity.
- F. Prior to the final termination of a member company’s status, the following will occur:
- (1) The member company will be notified in writing of the intent to terminate.
 - (2) The written notice will include an explanation of the reason for termination.
 - (3) The member company will have an opportunity to reply to the written notice within thirty days; and will have the right to make an appearance before the parent Chapter and be represented by counsel.
 - (4) All signs, advertising, and references implying the company is an OSHA partner must be removed immediately after receiving the written termination letter
- G. The parent Chapter can request from OSHA the reinstatement of a member company if it determines the member company's experience was unusual and consistent with a sound safety and health program.

IX. Employee/Employer Rights and Responsibilities

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

X. Term and Location of Partnership

- A. The OSPP will cover the geographical area of the Houston North and Houston South Area Offices and will be for a period of five years. At the end of the five years, the Houston Area

OSHA Offices and AGC Houston Chapter will make a joint determination of whether or not to continue the partnership program.

- B. Any participant to this OSPP may withdraw from the agreement at any time after submitting written notification of intent to the parent chapter by providing a thirty-day written notice. Any participant may also propose modifications or amendments to the program subject to concurrence by the other participants to the agreement.

DRAFT





Agreed to this _____ day of _____, 2019 _____

Four sets of horizontal lines for signature and date.



OSHA Strategic Partnership Program Application Form

Directions: Please complete the following questions by typing or printing legibly.

Company Name: _____

Address: _____

Construction NAICS Code: _____

Company Safety Contact: _____ Title: _____

Phone: _____ Fax: _____

Trades Employed: _____

Average Number of Employees: _____ Average Number of Supervisors: _____

SAFETY PERFORMANCE

1. List your company's Experience Modification Rating (EMR) for the three (3) most recent years.

Year: _____ EMR: _____

Year: _____ EMR: _____

Year: _____ EMR: _____

2. List your number of injuries/illnesses from your OSHA 300 Logs for the three most recent years.

Year: _____ Year: _____ Year: _____

Lost Work Days..... _____

Fatalities _____

Restricted Work Days..... _____

Medical Only Cases _____

Total Hours Worked _____

3. Does your company maintain a total case injury/illness incidence rate that is 10% less than the most current Bureau of Labor Statistics National Rate for its NAICS?

Yes _____ No _____ If yes, what is it? _____

4. Please submit the following information:

- a. OSHA 300 logs for the most recent three (3) years and current year-to-date.
- b. Experience Modification Rating (EMR) verification letter from your insurance carrier.
- c. Complete company safety program manual on thumb drive.
- d. Listing of projects to be active in the next 90

I HEREBY CERTIFY THAT ALL INFORMATION IS ACCURATE.

Person Completing Application Form (please print)

Signature

Title (please print)

Date

Phone Number: _____

Corporate Officer of Company (please print)

Signature

Title (please print)

Date

Phone Number: _____

**Please submit completed application and ALL required items outlined in the application
(Hardcopy and on thumbdrive) to the Houston AGC Chapter:**

OFFICE USE ONLY

Safety Program submitted to & reviewed by safety association representative:

Association Representative (please print)

I have received and reviewed the Safety Program submitted by _____ and it meets or exceeds
the requirements of the Program.

Association Representative Signature

Agency

Date

OSHA Strategic Partnership Program Self-Evaluation Form

Eligibility: To determine if a contractor can qualify as a Partnership Program participant, the applicant must provide the Partnership Steering Committee with evidence of meeting each requirement below.

OSPP Requirements		YES	NO
1.	Contractor has implemented a comprehensive written safety and health program based on ANSI A10.38-2013 or the current OSHA Recommended Practices for Safety and Health Programs in Construction, and has site specific safety plans for all of the contractor's worksites.		
2.	Contractor maintains a copy of its specialty contractor's safety and health plan, hazard communication plan, and fall protection plan (where applicable) or contractor requires specialty contractor to follow participant's plan.		
3.	Contractor has an employee who administers the firm's safety and health program and conduct's documented safety inspections. The employee has completed the OSHA 30-Hour Construction Course Outreach or equivalent within the previous three years.		
4.	Contractor has safety personnel responsible for conducting documented safety inspections of all work on the contractors' projects and through training and experience, can recognize hazards, and have authority to take prompt corrective action. Training equivalent to the OSHA 30- Hour Construction Outreach Course is satisfactory.		
5.	Contractor has trained all field supervisory personnel to the equivalent of at least OSHA 10Hr construction safety course and has provided additional training for competent persons in such areas as scaffolding, excavation, fall protection, crane operations, etc. (This additional training will be predicted by the type and scope of the work the contractor routinely conducts.)		
6.	Contractor provides a safety and health program orientation for all new employees and trains employees for hazard recognition specific to the contractor's work sites.		
7.	Contractor has evidence of employee involvement such as, but not limited to, participation in self-audits, site inspections, job hazard analyses, safety and health program reviews, safety training and mishap investigations.		
8.	Contractor maintains a substance abuse program.		
9.	Contractor conducts and documents weekly employee safety meetings.		
10.	Contractor conducts and documents self-audits		
11.	Contractor has a six-foot fall protection policy.		
12.	Contractor maintains a total case injury/illness incidence rate that is 10% less the most current Bureau of Labor Statistics national rate for its NAICS.		
13.	Contractor has not had any willful or repeat violations in the last three years.		
14.	Contractor has not had any fatalities or catastrophes or on a job site under their control in the last year.		
15.	If the contractor is re-entering the partnership did they previously meet documentation and participation requirements of the partnership agreement e.g. quarterly inspections, submittal of OSHA 300 Logs, withdrawal notification, partnership meeting attendance?		
16.	Contractors EMR is less than 1.00		

If the applicant has answered "no" to any of the questions listed above, then the applicant *may* not be eligible to become a partnership participant. If the applicant has answered "yes" to all of the questions, then the applicant is eligible to apply for the Cooperative Agreement for one year. AGC & OSHA must complete an inspection of at least one representative job site before the applicant is accepted into the program.

Quarterly Partnership Report

Date _____

The following is a summary of job site inspections conducted by the AGC Houston Partnering Contractors conducted in the ___ quarter of 20__.

There was a total of ___ inspections conducted resulting in the following:

Electrical Hazards _____

Fall Protection Hazards _____

Struck By Hazards _____

Caught Between Hazards _____

All of these items were corrected immediately.

Leading Indicators

Number of new worker site orientations _____

Number of site visits by senior leadership _____

Number of Behavior Based Observations _____

Number of Near Miss Reports _____

Number of Near Miss Reports Investigated _____

Other partnership related activities:

OSHA Non Enforcement Site Visits: _____

OSHA presentations to partnering companies: _____

Other activities: _____

Sincerely

Director of Safety Services
Houston Chapter AGC

