Indiana Department of Labor
(IDOL)
and the
Indiana Construction Association, Inc.
(ICA)
Safety Partnership

October, 2006

I. Introduction and Objective

The Indiana Department of Labor (IDOL) and the Indiana Construction Association, Inc. ("ICA") mutually recognize the importance of providing a safe and healthful work environment for employees of the Nation's construction workforce.

To advance our mutual goal of preventing accidents, we strongly agree on the need to develop a working relationship amongst IDOL and ICA and their members, which fosters mutual trust and respect for each organization's role in the construction safety process. To achieve this goal, ICA and IDOL agree that a statewide partnership charter would be more effective for those contractors that routinely perform construction activities on a statewide basis.

We are committed to working as partners to achieve construction workplace safety through the following shared strategies and objectives:

1. Implement a continuing and open communication policy between IDOL and the ICA in a manner that encourages respect and understanding.
2. Share knowledge of the best industry technology, innovations and work practices that improve jobsite safety and health performance.
3. Cooperate in the development and continuous improvement of safety training programs for the construction industry and IDOL personnel.
4. Promote recognition for construction safety excellence at every opportunity.
5. Ensure that enforcement policies and practices are effective, consistent and fair.
6. Promote principles of good faith and fair dealings as the foundation of our relationship.
7. Recognize that either party to the partnership may withdraw from the agreement at any time submitting written notification of intent to the other partner.

II. Background and Goals

ICA and IDOL recognize the need to develop a working relationship that creates mutual trust and respect for the respective roles of each organization in the construction safety process. This partnership is an example of these two organizations working together to improve occupational safety and health in the Indiana construction community.

The Goals of the partnership include:

- Annual reduction in the composite rate of injuries and illness with an emphasis on reducing injuries resulting from those hazards that are the four leading causes of death on construction sites(Falls, Struck-by, Caught in between, electrocutions). This will be measured through use of participants' Total Case Incident Rate (TCIR), Days Away, Restrictions and Transfers (DART) Rate, and the number of days associated with each element of the DART rate. Each participants' TCIR and DART rates shall be determined by the type and principal type of work generally performed by the participant.

- Increase the number of ICA members who implement effective safety and health programs and provide effective safety and health training for management, supervisors, and employees.

- Demonstration of an effective safety program will be determined by their involvement in any one or combination of a safety awards program of ICA, and ICA's related regional and national association or any other safety award program where there performance can be measured.

- Conduct **a** semi-annual meeting with the participants to discuss and determine best practices based on their experiences. The best practices will be shared with ICA.

- Annually increase the number of participants in the partnership.

- Recognize the achievements of those contractors with exemplary safety and health programs and effective site-specific safety and health plans by acknowledging them as an IDOL/ ICA partner, which includes but is not limited to, recognition at the ICA annual membership meeting and a signed certificate.

- IDOL staff and ICA staff members have provided input in the partnership agreement and will be consulted regularly for feedback to improve the partnership and its goals.

- Allow IDOL to focus resources on companies that have not demonstrated implementation of effective safety programs.

A "Participating Contractor" within this program is defined as a ICA member that meets and satisfies all of the terms and obligations of Participating Members Firm's Commitment as set forth by Section V hereof.

III. Indiana Construction Association's Commitment/Role

The ICA will administer this partnership program, as outlined herein, and will serve as the principle safety resource in support of ICA members. To fulfill the partnership, ICA also will:

A. Act as a liaison for ICA members with IDOL as appropriate. Members will be able to call ICA with questions and ICA will contact IDOL for responses.

B. Offer ongoing, quality training on topics of importance for members, specifically the focused areas of falls, struck-by, caught in/between, and electrocutions.

C. Provide up-to-date informational materials and brochures to ICA members.

D. Organize and provide IDOL's interpretations of major standards, as well as statewide inspection issues including the most frequently cited IOSHA standards.

E. Ensure that written safety and health policies and programs for "Participating Contractors" include an emphasis on employer/employee responsibilities. This may include, but is not limited to, specific safety talks.

F. Promote construction safety excellence through the annual ICA Safety Recognition Program.

G. Administer the overall partnership program, including but not limited to the initial evaluation of the partnership applications to determine whether the contractor meets the criteria specified within the partnership initiative. Information to be considered by ICA will include pertinent company information as referenced in Section V (demonstrated safety and health program, training commitments, OSHA citations history, fatalities, injury/illness experience and similar factors).

H. Notify IOSHA on a regular and recurring basis (not less frequently than the 15th of each month) with the name(s) of contractors that have met the partnership criteria and have been enrolled in the program and applications will be reviewed annually. All applicants will have their safety program audited by ICA representatives before they are certified or recertified and they will be audited at least every three years thereafter.

I. Conduct an annual evaluation to determine the impact and effectiveness of this partnership with IDOL.

J. If necessary, terminate "Participating Contractors" from the partnership, if findings indicate that the participant is not fulfilling its obligation to the basis of this partnership or has provided falsified documentation.

IV. IDOL's Commitment/Role

Upon acceptance into the ICA partnership program, IDOL will provide the following incentives to participants. Participating Contractor's are companies whose achievements in the area of worksite safety are outstanding, **as** defined herein**.** Acceptance into this partnership will require additional validation of safety and health program effectively through a comprehensive onsite qualifying inspection by ICA. The qualifying inspection will be conducted on at least one active job site by the ICA safety staff.

A. IDOL will exempt all "participating contractors" from scheduled general schedule inspections and will not issue citations to companies for non-serious violations that are fixed immediately and in the presence of the compliance officer.

B. Participants will receive unprogrammed inspections only in response to reports of imminent danger, fatalities/catastrophes, "plain view" violations or conditions or in the case of a signed, formal complaint.

C. Non-formal Complaints will be handled through the phone/fax process, if the complainant agrees.

D. During IDOL inspections of non-participating employers, contractors / subcontractors who are participating in this partnership will not be included in the inspection unless the inspector observes that, as a result of the partnership contractor's actions, any employees are exposed to hazards such as, but not limited to falls, electrical hazards, caught in/between hazards, or struck-by hazards.

E. For inspections resulting from formal complaints, "drive by" inspections and/or Programmed Inspections the inspection will be limited to the complaint item(s) and "in plain view" items.

F. During inspections, if potential violations are found, i.e., where employees are not exposed to the hazard, IDOL may review the employer's records and provide limited on-site training as needed**,** so long as noted or observed hazards are abated immediately or prior to exposure to any employee.

G. **Planned Programmed Inspections (Emphasis Inspections)**

- Participating Contractor's, will not be subjected to program inspections where verification has been conducted and completed in the past 12 months.

- *Onsite Verification* - In order to qualify for partnership, IDOL will conduct a verification inspection of the project within sixty (60) days of the signing of this

agreement and annually thereafter. This verification will determine Participating Contractors compliance with the terms of this agreement and include a comprehensive review of each contractor's safety and health program for its effectiveness in eliminating the four major hazards in construction (falls, electrical, caught in/between and struck-by hazards). Serious hazards related to the hazards outlined above may result in the issuance of citations and penalties.

- *Observed Violations* – Any violations observed by IDOL personnel while in the area of the project will be brought to attention of the Safety Director/Coordinator of the respective Participating Contractor and may not necessarily be cited if the violation is corrected in an immediate manner. IDOL shall contact the Safety Director/Coordinator of the respective Participating Contractor who will initiate the corrective action and will report back in writing to the IDOL by the end of the next working day. Any sighted violation that is not corrected will be cited per normal IDOL citation policies.

- *Follow-up Inspections* - If citations are issued by IDOL on any inspection conducted, IDOL may conduct a follow-up inspection to verify abatement

- *Non-Participating Contractors* - Employers who elect not to participate or who are determined by OSHA, to be outside the aforementioned criteria for inclusion under this partnership agreement will be subject to traditional IDOL inspections and enforcement actions. Participating Contractor's shall provide to IDOL a list of any and all non-participating contractors, with information regarding address, principal contact, etc. IDOL shall provide to ICA a list of any contractors deemed not eligible for participation, with information regarding address, principal contact, etc.

IDOL and ICA may jointly or independently have the discretion to veto companies from participating in this program. Examples of issues that could disqualify a company from participation include unpaid fines or penalties to IDOL and/or any agency or department of the State of Indiana.

V. Participating Members Firm's Commitment/Role

To take advantage of partnership status, the applicant must be a member of ICA and must:

A. Certify company-wide that no fatalities or catastrophes within the last three years that resulted in serious, and or/knowing citations, related to the incident.

B. Verity that a comprehensive written safety and health program is in place which is at least equivalent to OSHA'a "Safety and Health Program Management Guidelines" or January 26, 1989 in FRN 54:3904-3916, or the American National Standards Institute (ANSI) A-10.38, "Basic Elements of an Employer Program to Provide a Safe and Healthful Work Environment," or the ICA Safety program.

C. Implement a fall protection program where participants require and enforce the use of conventional fall protection (i.e. personal fall arrest systems, safety net systems, restraints or guardrail systems) when their employees or subcontractor employees are performing work covered by 29 CFR 1926.

D. Submit their OSHA Log 300 Summary for the past three years, and have a "3-year DART" Rate and Total Case Incident Rate (TCIR), for their Indiana average, for the NAICS code of the industry in with the participant is classified. See Attachment A for calculation formulae.

E. Demonstrate that company policy and procedures hold supervisor(s) and employee(s) accountable for following established safety rules and IDOL regulations.

F. Provide training as follows:
   1. Provide documentation that all new hires receive adequate safety training before beginning work. Topics for the orientation shall include fall protection, electrical, struck-by, trenching, caught-in/between and personal protective equipment.
   2. Assure that all supervisory field personnel have completed the OSHA 10-Hour Training Course for the Construction Industry or for newly hired or assigned supervisory personnel provide completion within thirty (30) days of being placed in a supervisory position.

G. "Participating Contractors" agree to serve as a mentor for contractors on its projects who have yet to attain the same level of recognition with in the partnership.

H. Allow IDOL access to sites for inspections, if the contractor has the authority to allow inspections of the site. IDOL will follow the guidelines for inspections as outlined.

I. Participate in a site and/or Home Office Audit by an outside, independent source such as the ICA. The audit will include management's commitment and an action plan to prevent future hazards, rather than just identifying current hazards.

J. Provide periodic safety-related data or statistics required by ICA including current OSHA 300 Log and Total Case Incident Rate (TCIR) report, for Indiana operations. ICA will provide a summary of an analysis of pertinent safety related information for review by IDOL not later than the 15th day of each month. The purpose of such summary information is to assist in preparing an annual report necessary for evaluating the merits of the program and making recommendations for continuous improvement.

K. Develop and maintain a substance abuse program within thirty days of entering the partnership or provide verification of an existing substance abuse program.

VI. Program Confidentiality

Information submitted by contractor as part of the application or renewal process, as well as information obtained by virtue of the contractor's application or participation in the program, will be held in strict confidence within the confines of the partnership program. Such information will not be released outside of the program to third parties except upon the Order of a court or agency of confidential information, notice shall be provided to all other interested parties as soon as is reasonably practical so that such parties may exercise their rights or potential causes of action to protect the confidentiality of such information.

VII. Employer/Employee Rights

As an integral part of an effective safety and health program, the availability of employees to exercise their rights which are guaranteed under the OSH Act and laws of the state of Indiana and regulations such as, but not limited to, the right to file a safety and health complaint, and the right to obtain information pursuant to IDOL requirements, will not be infringed, i.e., access to injury and illness records or medical exposure records.

It is anticipated that routine employee involvement in the day-to-day implementation of worksite safety and health programs will be assured, including employee participation in employer self-audits, site inspections, job hazard analyses, safety and health program reviews, and mishap investigations.

Employers retain all rights guaranteed under the OSHA Act and the laws of the State of Indiana.

VIII. Partnership Evaluation

The partnership will be evaluated annually by IDOL and ICA. Such evaluation will include a comparison of the Participants' TCIR, DART rate, and the number of days associated with each element of the DART rate with the latest available construction data, for their respective industry, (NAICS specific classifications) for Indiana from the Bureau of Labor Statistics.

In addition, ICA shall include a report acknowledging injuries incurred by participating contractors relative to falls, struck-by, caught in/between, and electrocutions. Such reports alone will not be cause for an inspection.

IX. Termination of Agreement

Either party may withdraw from this agreement by providing written notification to the other partner. Termination shall be effective thirty (30) days after receipt of notification.

Furthermore, an individual contractor electing to participate in this program may withdraw from this agreement by providing written notification to ICA and IDOL. Termination shall be effective upon receipt of such notification.

An individual contractor's violation of this agreement shall not be grounds for IDOL to terminate this partnership agreement with any other party or participant.

IDOL or ICA may terminate an individual contractor from the partnership program if the contractor fails to meet the qualifications or otherwise violates the terms and conditions of this partnership agreement.

Any party of this partnership may propose modification or amendment to the program subject to the written concurrence by IDOL and ICA to the agreement.

Agreed this 5 day of October, 2006.

Indiana Department of Labor

By:_____
Miguel R. Rivera, Sr.
Commissioner of Labor
Indiana Department of Labor

Indiana Construction Association, Inc.

By: Charles V. Kahl
Print Name: Charles V. Kahl
Title: President

Attachment A

Rate Calculations

A. Annual rates are calculated by the formula (N/EH) x 200,000 where:

N=Sum of the number of Recordable injures and illnesses in the year.

For the TCIR, use the total number of injuries plus illnesses.

For the DART rate use injuries and illnesses resulting in days away from work, restricted work activity, and/or job transfer.

EH=total number of hours worked by all employees in the year.

200,000=equivalent of 100 full-time workers working 40 hours per week, 50 weeks per year.

B. 3-Year TCIR Calculation. To calculate 3-year TCIR, add the number of all Recordable injuries and illnesses for the past 3-years and divide by total hours worked for those years. Multiply result by 200,000.

$$\frac{[(\#inj + \#ill) + (\#inj + \#ill) + (\#inj + \#ill)]}{[hours + hours + hours]} \times 200{,}000$$

C. 3-Year DART Rate Calculation. To calculate 3-year DART rate, use the same formula as in B. above, except add the number of all Recordable injuries and illnesses resulting in days away from work, restricted work activity, and/or job transfer for the past 3 years.

$$\frac{[(DART\ inj + ill) + (DART\ inj + ill) + (DART\ inj + ill)]}{[hours + hours + hours]} \times 200{,}000$$

D. Rounding Instructions. You must round the rates to the nearest tenth following traditional mathematical rounding rule. For example 5.88 up to 5.9; round 5.82 down to 5.8; round 5.85 up to 5.9.