



# Statement for the Record for Associated Builders and Contractors

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U.S. Department of Labor

Occupational Safety and Health Administration

Assistant Secretary David Michaels

“OSHA Listens” Public Meeting

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March 4, 2010

**The Voice of the Merit Shop®**

Associated Builders and Contractors, Inc. (ABC), appreciates the opportunity to submit the following statement for the record.

ABC would like to thank the U.S. Department of Labor (DOL), and the Occupational Safety and Health Administration (OSHA), for coordinating and facilitating the “OSHA Listens” public meeting.

ABC and its members are strong advocates of workplace safety, which is demonstrated through our proven record of cooperation and collaboration. Over the past year, our members have grown increasingly concerned with OSHA emphasis on and promotion of its enforcement agenda over its agency-industry cooperative efforts. Furthermore, we strongly believe that funding, resources and staff for the Voluntary Protection Program (VPP) should not be decreased from current levels.

**About Associated Builders and Contractors:**

ABC is a national construction industry trade association representing more than 25,000 merit shop contractors, subcontractors, materials suppliers and construction-related firms within a network of 77 chapters throughout the United States and Guam. ABC member contractors employ more than 2.5 million skilled construction workers, whose training, skills, and experience span all of the twenty-plus skilled trades that comprise the construction industry. Moreover, the vast majority of our contractor members are classified as small businesses. Our diverse membership is bound by a shared commitment to the merit shop philosophy in the construction industry. This philosophy is based on the principles of full and open competition unfettered by the government, nondiscrimination based on labor affiliation, and the award of construction contracts to the lowest responsible bidder through open and competitive bidding. This process assures that taxpayers and consumers will receive the most for their construction dollar.

**ABC’s Comments**

Over the years, ABC and its 77 chapters nationwide have had the privilege of building excellent working relationships with OSHA’s national, regional and area offices. OSHA staff members have addressed ABC members at our annual Construction Education and

Attorneys conferences, worked with our chapters to conduct safety training courses throughout the country (through OSHA's Susan Harwood Training Grants, as well as regional partnerships and alliances), and involved ABC members in the rulemaking process. OSHA has traditionally fostered a cooperative, open environment with ABC's construction employers, which has led to better communication between both parties, and—most importantly—a corresponding decrease in the number of fatalities and injuries in the construction industry since 1994.

Safety is at the forefront for ABC members as well. Established in 1989, our Safety Training Evaluation Process (STEP), was developed by contractors, for contractors. STEP incorporates OSHA-required safety data with self-assessment requirements to give a full, wide-ranging report on the entire nature of a company's safety program. Participants maintain a 41 percent lower incidence rate, 16 percent lower Experience Modification Rate (EMR) and 39 percent lower Days Away, Restricted or Transferred (DART) rate than industry averages.

It is because of the success of our cooperative programs and alliances, that ABC and its members are concerned about cuts to VPP in OSHA's proposed 2011 budget and other indications that cooperative efforts to help prevent fatalities and injuries are no longer a key part of OSHA's national agenda. This is supported by statements made by DOL and OSHA leadership over the past year indicating that OSHA plans to shift resources from industry cooperative programs to enforcement activity. While ABC understands the importance of OSHA enforcement, OSHA's move away from cooperative programs is misguided and contrary to the evidence that shows such programs have led to a significant reduction in workplace incidents.

One program that has surely led to reductions in fatalities and injuries is OSHA's Susan Harwood Training Grant (SHTG) program. ABC has been an OSHA SHTG recipient since fiscal year 2000. During the last ten years, ABC's SHTG efforts have resulted in more than 21,000 construction industry professionals receiving valuable fall protection, lockout/tagout, "caught in-between" and "struck-by" hazard training. Despite this positive statistic, budget allocations for this valuable safety training program have

decreased over the past five years. While we certainly understand the current economic realities facing government agencies and the “want” versus “need” dilemma that constantly confronts budget managers, it is concerning that funds for a program with such a high return-on-investment continue to be slashed.

ABC is also concerned about OSHA’s reduced emphasis on VPP, OSHA Challenge, and both national and regional OSHA/industry partnerships and alliances. For many years, ABC and the construction industry have been willing partners with OSHA to develop effective evaluation and prevention programs that industry employers could use to improve their corporate safety programs. VPP and OSHA Challenge use components of ABC’s Safety Training Evaluation Process—STEP—to help companies determine areas of improvement in safety training practices. ABC and its member companies serve as administrators in the OSHA Challenge project, which helps guide companies through the stringent, industry-supported VPP qualification process. Over the past ten years, more than 30 ABC chapters, as well as our national office, have had successful alliance or partnership agreement with area/regional/national OSHA offices.

While we may never be able to quantify the exact number of employee lives saved through these cooperative OSHA-industry initiatives, it is safe to deduct that these programs have played a major role in an industry-wide reduction of construction-related fatalities from 1,226 in 2001, to 969 in 2008. While one fatality is more than ABC members are willing to accept, OSHA’s effort to engage and work with the construction industry has no doubt saved lives.

Yet, despite their benefits, it seems these programs are at risk of being cut or severely defunded by the current leadership. In the case of VPP, that risk is now a reality.

Recently, Secretary Solis stated that:

“OSHA is proposing to significantly reduce direct federal funding of the agency’s Voluntary Protection Program (VPP) while working closely with the Agency’s stakeholders both to identify and secure alternative forms of funding. We plan to move 35 CSHOs from cooperative programs to work directly on enforcement activities. We think the Voluntary Protection Program is making a valuable

contribution to workplace safety. These are companies that go above and beyond OSHA requirements and they all of workplace safety and health programs that should serve as a model for the rest of American companies. But we are facing some very difficult budget choices. **We need to decide whether we will spend our limited resources on supporting those companies who really “get it,” who are doing a great job at protecting their employees, or do we spend our scarce resources on companies that disregard workplace safety and allow workers to die in situations that could easily have been prevented.** (ed; note: emphasis added)” (Remarks given during DOL’s FY 2011 budget webchat: <http://www.dol.gov/budget/chat-solis-static.htm>)

Secretary Solis’ remarks were reinforced the same day by similar comments made by OSHA Assistant Secretary Dr. David Michaels, a longtime proponent of VPP. The Secretary’s statement above would hold merit, were it not for the fact that President Obama has proposed an increase of \$14 million in OSHA’s budget for fiscal year 2011. Reducing the budget for VPP in a year in which the overall OSHA budget is increasing sends the wrong message to both employers and employees—it says that working with employers to continually improve corporate safety training programs and creating best practices that can be disseminated throughout the construction industry is no longer a priority.

VPP promotes effective worksite-based safety and health, in which management, labor, and OSHA establish cooperative relationships that implement comprehensive safety and health management systems. According to a May 2009 Government Accountability Office (GAO) report, VPP worksites have more than doubled from 2003 to 2008, growing from 1,039 to 2,174. The same report credits two primary factors for the program’s popularity: OSHA’s longtime emphasis on VPP expansion, and, more importantly, participants’ dissemination of the program’s virtues throughout the employer community. By significantly reducing the VPP budget (which renders it ineffective unless, as OSHA states, alternative, non-governmental forms of funding can be secured—a possibility that is far from certain at this time), and shifting staff members to enforcement efforts, OSHA is turning its back on key allies in the battle to promote a

culture of safety in American workplaces.

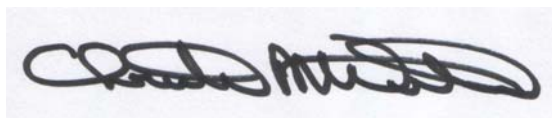
Ultimately, ABC, its members and OSHA share the same central goal—to send each construction worker home safely to his or her family, every night. The 25,000 member firms that comprise the ABC federation understand that excellent safety is excellent for business.

ABC hopes to continue to work with OSHA to reduce construction industry fatalities and injuries through cooperative efforts, and by providing the best safety training to the employers and employees alike. We both agree that egregious violators have no place in our industry. Yet, ABC believes that enforcement alone cannot bring greater safety to our, or any other industry. It is our sincere hope that OSHA will reconsider any cuts to its OSHA-industry cooperative programs.

Again, ABC would like to thank DOL and OSHA for holding today’s public meeting, and for allowing stakeholders the opportunity to provide statements for the record. Please contact us if we can be of further assistance.



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