

RESIDENT CONTRACTORS

At Non – VPP Sites

An OSHA VPP Star Demonstration Program

Occupational Safety and Health Administration
May, 2004

Background

The Occupational Safety and Health Administration (OSHA) has long recognized the challenge resident contractors face to control hazards and protect workers from injuries and illnesses at multiemployer sites. The contractor may lack control or the authority to correct hazards created by others. For this reason, OSHA limits participation in the Voluntary Protection Programs (VPP), its premiere recognition program, to contractors working at a host site that already has received VPP Star or Merit approval.

The only exception has been for a contractor with ultimate control at a worksite, including control over the decision to expend capital for hazard corrections. This situation exists at a limited number of sites where the host employer serves as a landlord and has minimal involvement in site operations.

OSHA has received numerous requests to reconsider this policy, so that larger numbers of contractors with exemplary safety and health management systems may apply for recognition. Moreover, the agency recognizes that at some worksites, good relations between owners and contractors can be established. Voluntary Protection Programs An OSHA Cooperative Program may give contractors the necessary authority to fix or direct others to fix hazards.

Based on OSHA's successful experience with other VPP Star Demonstrations, the agency has decided to address this issue with a new VPP Star Demonstration Program intended for resident contractors at non-VPP sites.

The Goal

The Resident Contractor at Non –VPP Sites Star Demonstration, effective December 1, 2003, explores the efficacy of allowing major contract employers to apply for VPP recognition when the host employer does not have VPP approval. By the end of the Demonstration, OSHA hopes to know whether resident contractors who do not control a worksite can provide Star quality safety and health protection for their employees at non-VPP sites.

OSHA will monitor the program and determine if worker protections are maintained at a level comparable to traditional VPP Star sites. The agency will conduct an evaluation of this Demonstration Program at the end of 5 years from the date the first applicant was approved. At that time, OSHA will decide whether to continue the Demonstration, cancel it, or modify the traditional VPP program so that resident contractors at non-VPP sites may qualify for Star or Merit status.

Program Eligibility

The Resident Contractor at Non-VPP Sites Star Demonstration Program is open to contractor employers whose operations are located at non-VPP host sites whose operations fall within Federal OSHA jurisdiction. The contractor's project/operations must have been ongoing for at least 12 continuous months, and expected total work duration to last at least 3 years.

Examples of eligible companies are those that perform construction, maintenance or another service at sites such as government-owned facilities, power plants, or chemical/petrol facilities. An example of a specialized service would be a company that occupies a space in a building and, under contract, provides medical care for employees at the facility.

- OSHA is limiting the number of companies it will accept. The agency will consider each applicant on a case-by-case basis, taking into account available resources and potential impact to improve employees' safety and health.



Participation Requirements

All elements of an applicant's safety and health management system must meet current VPP Star requirements except for the additional and/or modified elements approved under the Demonstration.

VPP Star Program Alternatives

The safety and health management systems of the resident contractors must provide VPP Star quality protection to employees. Some of the Star requirements may be met by alternative means.

OSHA will work with applicants to find alternative methods for meeting the requirement to ensure that **all** employees at the site are provided equal safety and health protection. An example of an alternative may be for the contractors to share their safety and health management systems with host employers and employees. Protocols should be clearly defined and will identify hazards & controls specific to the work performed, unique management leadership and employee involvement strategies, such as employees' right to leave the work area if unsafe conditions exist.

The injury and illness rates will be for work at the applicant site only and for the time period worked. At least 12 months of data are initially required, then every year thereafter.

Application & Approval Process

1. Contractors must submit copies of their application to their OSHA Regional Office and the Directorate of Cooperative and State Programs (DCSP), Washington, DC. Applicants must demonstrate how they assure excellent safety and health protection for:

- Their own employees working in areas of a facility outside the applicant's control, and
- Employees not under the control of the applicant who may be assigned to work in the applicant's areas of control or responsibility.

2. The application must contain a "host provision," that is, a written statement in which the host employer:

- Supports the resident contractor's participation in VPP,
- Agrees to allow OSHA to perform onsite evaluations of the resident contractor's space as well as other areas where the contractor's employees are required to work within the facility,
- Agrees to allow OSHA to review the site's emergency response procedures and related activities, and

- Agrees to correct any conditions deemed a violation of OSHA rule, either immediately or within an agreed upon timeframe. Only if correction does not occur will OSHA take enforcement action.

3. The Regional and National Office VPP staff will review the written application and jointly decide whether to accept it.

4. Once OSHA has accepted an application for the Star Demonstration Program, the Region will schedule and conduct the pre-approval onsite review following normal VPP guidelines. National Office VPP staff will participate on pre-approval visits when appropriate.

5. The Assistant Secretary will approve an applicant's participation in the Demonstration based upon the report and recommendations of the VPP onsite review team.

6. OSHA will award a new VPP Star Demonstration flag, certificate or both (whichever is appropriate) to approved resident contractors for each worksite evaluated and approved.

7. OSHA will grant VPP approval to the resident contractor only. OSHA will remove the contractor from any programmed inspection lists. The benefits and privileges of VPP participation will not extend to the entire host facility.

Where Can I Get More Information?

The VPP Manager in your OSHA Regional Office can provide you with a VPP information kit and can help answer your questions. Additionally, there is a wealth of useful information about VPP and other OSHA cooperative programs at OSHA's Internet site:

Voluntary Protection Programs
An OSHA Cooperative Program

www.osha.gov

Or go directly to OSHA's VPP page:

www.osha.gov/dcsp/vpp/index.html

You may also direct your questions or comments to Jim Boom, Occupational Safety and Health Specialist. Contact him at:

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