




SEP 30 2002

MEMORANDUM FOR: ELLIOT P. LEWIS
Deputy Inspector General for Audit



FROM: JOHN L. HENSHAW
Assistant Secretary

SUBJECT: Response to OIG's Draft Audit Report
No. 05-02-007-10-001
"OSHA Strategic Partnership Program"

This memorandum is in response to your August 30, 2002, memorandum transmitting the Office of the Inspector General (OIG) draft Audit Report Number 05-02-007-10-001, "OSHA Strategic Partnership Program." OSHA appreciates the effort that went into this audit and the opportunity this affords us to help improve and strengthen this program.

Before addressing the specific conclusions and recommendations in the draft audit report, we note that the OSHA Strategic Partnership Program (OSPP) audited by the OIG is a relatively new program that has evolved out of prior partnership experiences in OSHA. The OSPP has been undergoing material changes and refinements over the last 15 months during the period in which the OIG has been conducting its audit. As the agency has gained additional experience in the management of the OSPP, program changes have been implemented to strengthen the accountability of participants and the effectiveness and impact of the partnerships. We expect that these changes, many of which address concerns identified in the current draft audit report, will enable the agency to improve the OSPP consistent with the tenor of the OIG findings and recommendations. Specifically, OSHA has:

- Enhanced data collection and improved its accuracy.

- Initiated a comprehensive analysis of individual OSHA Strategic Partnership (OSP) evaluations received through FY 2002.
- Increased coordination among OSHA's National, Regional and Area Offices.
- Made significant progress in performing annual evaluations for OSPs.
- Drafted a revised OSPP directive to clarify program requirements (including the elimination of the categories of Comprehensive and Limited).
- Initiated efforts to enhance OSPP tools available to OSHA staff and the public.

In addition, OSHA is planning an internal OSPP conference in FY 2003 to share best practices in OSP design, development, implementation, and management. This meeting will provide the agency with a further opportunity to consider issues and concerns raised by the OIG in this audit.

OSHA employs a number of strategies through both compliance assistance and enforcement to carry out its mandate. The OSPP is but one of these. We believe these partnerships have great direct and indirect potential to impact large numbers of employers and employees. Growth in the OSPP has been substantial -- the program has gone from 29 partnerships in 1998 to the current number of 160 open partnerships at the end of FY 2002. Changes in worker injury and illness rates and other indices of partnership successes necessarily take place over a more extended period of time than would typically have been captured by the OIG audit. We are greatly encouraged by the potential of cooperative relationships between employers and OSHA in general and Strategic Partnerships in particular. Still, we think it prudent to reserve specific judgment on the OSPP until the program has a chance to perform and produce results for a few years. Consequently, we believe it is somewhat premature for the OIG to predict that the agency's use of partnerships in the future will have a "relatively minor role in OSHA's total cooperative program."

In specific response to your memorandum, the following agency comments conform to the format of the Findings and Recommendations in the Draft Audit Report.

I. Although OSHA has Succeeded in Increasing the Number of OSP's, Particularly in the Construction Industry, the Program Remains Small Overall, and Many Eligible Employers are Hesitant to Join

Recommendations:

- **Refocus existing outreach efforts and develop specific strategies to enlist more employers so that OSPs can become a more prominent part of OSHA's cooperative program in line with its strategic goals.**

OSHA agrees with the OIG that Strategic Partnerships (OSP) provide great opportunities for success in reducing fatalities, injuries, and illnesses in the workplace. As we redefine our strategic goals, we will continue to actively solicit cooperative ventures with employers and explore new opportunities to expand program participation. However, OSHA never designed or intended the OSPP to be a program for all employers, but rather one option for employers willing to work cooperatively with OSHA.

The agency has come to recognize that there is no one approach that will succeed or appeal to all employers. Any number of factors -- the industry, geographic location, size, injury and illness rates, past experience with OSHA -- influence whether an employer will be interested or inclined to work with OSHA in addressing safety and health in their workplace and whether that relationship will result in a Strategic Partnership. OSHA's approach is to offer employers a variety of tools based on employer needs. The OSPP is but one cooperative strategy employed by the agency. OSHA believes that the OSPP has an impact beyond the number of specific partnering sites included in the program. As participants demonstrate the value of safety and health management systems and share "lessons learned" with their counterparts, additional employers and trade associations can be expected to undertake, with or without OSHA participation, systematic approaches to their work environments. While we will continue to seek opportunities to advertise the benefits of the OSPP program and expand employer participation, we are reluctant to agree with the underlying premise of this OIG recommendation that we must build a "critical mass" of OSPs for the program to make a significant impact on workplace safety and health.

- **Share encouraging preliminary results of the OSP program with potential participating employers**

OSHA agrees with the OIG that it is important to increase awareness of the successes employers and industries achieve through participation in the OSPP as well as other cooperative programs. We will continue to pursue every opportunity to highlight this program among employers who might join OSHA in a cooperative partnership.

II. OSHA Must Ensure the Consistent Application of OSP Policies and Procedures, and Enforce Program Requirements

Recommendations:

- **Provide appropriate training to Area and Regional Offices to ensure staff understand the requirements set forth in OSP Directive TED 8-0.2**

OSHA believes that it has communicated the program requirements of the OSPP throughout the agency. The agency has partnership coordinators in each Region who are charged with the responsibility of assisting Area Offices to promote, develop, review, and manage partnerships to impact as broad a range of participants as possible while directly addressing hazards and issues of local concern. Regional OSPP coordinators participate in monthly conference calls with their counterparts and the National Office and in ad hoc discussions on a variety of program-related issues. These discussions are designed to ensure that OSPP requirements are understood and met and consistently implemented throughout the agency. While OSHA has questions about some of the implications in the audit report regarding program awareness in the agency, we do acknowledge the need to further enhance program training for agency personnel. To that end, the agency is planning on holding an OSHA Strategic Partnership Conference in FY 2003. The conference will serve four purposes:

1. Provide training for field staff on successful techniques to develop, implement, and manage partnerships;
2. Provide training on appropriate measures to gauge partnership success;
3. Provide opportunities for OSHA's partners to offer feedback to OSHA on their partnership experiences; and
4. Develop an OSPP Action Plan for FY 2003.

The agency will share the results of this conference with the OIG.

- **Ensure consistent application of the policies in negotiating partnership agreements.**

OSHA agrees with the OIG that it is important to consistently apply existing policies in negotiating partnership agreements and accepts this recommendation. At the same time, we recognize that it is important to review those same policies to ensure that they are designed to further the

value of the program. As part of our efforts to enhance program oversight activities, OSHA will continue to evaluate the various program criteria.

OSHA is in the process of developing a comprehensive report covering the OSP evaluations received through September 2002. The report should be available by the third quarter of FY 2003.

- **Enforce requirement that program evaluation reports be completed yearly for all partnerships.**

OSHA is currently in the process of tracking and reviewing partnership evaluation reports. This oversight activity includes a thorough review of each evaluation and the entry of evaluation results into a database for future feedback to OSP developers. A report summarizing OSPP results-to-date will be generated and provided to the OIG when it is available.

- **Ensure that verification inspections are performed as required.**

In FY 2003, OSHA intends to implement data collection procedures to track partnership verification inspections. To the extent that verification inspections are required under the OSPP, OSHA will ensure that they are carried out.

III. Corroborating Information Would Help Ensure the Integrity of Reported LWDI Data, and Additional Quality Control Procedures are Needed to Make Certain OSP Performance Data is Accurate

Recommendations:

- **Explore means for obtaining information to corroborate the LWDI information supplied by all partnerships as part of the program evaluation reports. For private sector employers, such information could include the EMR rates from employer worker compensation insurance carriers, and where possible and with the permission of the employer, the number of injuries from state worker compensation offices. For NPS partnerships, OWCP lost work time cases for the parks can be obtained by OSHA, and should be compared to the number of cases reported by the parks.**

OSHA acknowledges the intent of this OIG recommendation and shares its concern for improving the credibility of the OSPP through better data collection and data validation. However, we do not believe that these specific recommendations are practical.

A requirement for OSHA to collect and analyze corroborating worker compensation illness and injury data would be problematic. OSHA's recordkeeping audit program is designed to assess the reliability of injury and illness information recorded and provided by employers. To go beyond that mechanism and require employers seeking cooperative partnerships with OSHA to corroborate their information through workers compensation data would tend to undermine the expansion of the OSPP recommended in this report. Moreover, workers compensation data would not necessarily be useful for this purpose. Definitions used by private insurance carriers or states would not be comparable from carrier to carrier or state to state nor are they required to conform to Federal OSHA injury and illness recordkeeping regulations. No state collects data on the full set of OSHA recordable injuries and illnesses. States vary widely with respect to the types of injuries for which they collect data. Finally, state workers compensation systems vary widely in the scope of firms they cover. Some states make reporting voluntary, others do not require reports from self-insured firms.

OSHA also does not agree with the OIG's finding concerning the National Park Service (NPS) partnership. Office of Worker Compensation Programs (OWCP) data was used by the NPS in its selection of the parks to be included in this agreement. NPS uses actual hours worked to calculate the LWDI rate rather than FTEs. Because OSHA does not have access to site-by-site data on FTEs or hours worked, that data would have to be provided by NPS for OSHA to do a check -- a transmittal of data that might undermine the OIG's intent. There are always going to be differences between agency site logs and OWCP data. These differences result from such things as data maturity and the way in which data is reported. For example, OWCP charges a claim against an agency in the year in which the claim is filed; an agency site log would reflect the incident in the year in which it occurred.

Though OSHA does not agree with these specific OIG recommendations, the agency will continue to explore alternative means of securing information for use in program evaluation reports.

- **Correct and update the OSP log information currently maintained using a PC spreadsheet, and transfer the data to database management information system with proper quality control.**

Some of the data problems identified in the draft audit report reflect the fact that OSHA provided the OIG with the information requested, not the complete information tracked on the OSPP Log. Still, OSHA recognizes

the need to expand its OSPP data reporting and tracking capabilities. OSHA has been working over the past six months to improve the existing log and believe we have made great strides in improving the nature and validity of the data collected. To the extent that funding is available, OSHA agrees to follow this OIG recommendation in upgrading its data tracking capabilities.

We appreciate the opportunity to comment on the draft audit report and hope that our concerns will be incorporated into the final OIG audit document. If you have any questions about this response, please coordinate them through Robert Poogach at (202) 693-2407.