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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

MANPOWER AND WELFARE
DIVISION

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The Honorable Morton Corn
Assistant Secretary for Occupational
Safety and Health
Department of Labor



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Dear Mr. Corn:

We recently completed a survey of selected regulatory disaster loan programs administered by the Small Business Administration (SBA), one of which was the Occupational Safety and Health loan program. SBA administers this program in cooperation with the Occupational Safety and Health Administration (OSHA). As part of our survey, we examined the efforts of OSHA, and States operating under OSHA-approved plans, to promote the loan program by making small businesses aware of the financial assistance available from SBA.

We reviewed pertinent laws and regulations and interviewed (1) OSHA officials at Washington headquarters and three regional offices--Atlanta, San Francisco, and Seattle--and (2) officials of eight States--Kentucky, North Carolina, South Carolina, Tennessee, California, Nevada, Oregon, and Washington--operating occupational safety and health programs under OSHA-approved plans. We also contacted some small businesses which could be potential users of the loan program.

We found that some States operating under OSHA-approved plans were not actively promoting the loan program. As a result, some small businesses, who expressed a need for financial assistance to comply with the mandatory occupational safety and health standards, were unaware of the assistance offered by the program.

BACKGROUND

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651) authorizes the Secretary of Labor to establish mandatory occupational safety and health standards and enforce them by inspecting workplaces and setting penalties and correction deadlines for violations of the standards. The Secretary's responsibilities under the act are carried out by OSHA.

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The act provides that States operate their own occupational safety and health programs. However, to do so, the act requires that States submit, for OSHA approval, plans which provide for the development and enforcement of standards at least as effective as those included in the Federal program. As of September 30, 1975, 22 States were operating occupational safety and health programs under OSHA-approved plans.

To achieve the act's overall objective of insuring worker protection, small businesses may be required to add to or alter their equipment, facilities, or methods of operation in order to come into compliance with the mandatory standards. Section 28 of the act authorized the SBA to provide financial assistance through loans and loan guarantees, as follows:

"* * * to assist any small business concern in effecting additions to or alterations in the equipment, facilities, or methods of operation of such business in order to comply with the applicable standards promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 or standards adopted by a State pursuant to a plan approved under section 18 of the Occupational Safety and Health Act of 1970 if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

As of September 30, 1975, SBA had made or guaranteed 145 OSHA loans totaling \$30.3 million. Small businesses may apply to SBA for financial assistance before or after being cited for violation of the mandatory standards. OSHA regional and area offices are to assist SBA regional and district offices in processing and approving loan applications. OSHA field offices (regional and area) are primarily responsible for promoting the program by making small businesses aware of the financial assistance available from SBA.

NEED FOR STATES TO PROMOTE
THE LOAN PROGRAM

Although OSHA has established policies and procedures to assure that its regional and area offices alert small businesses of the occupational safety and health loan program, OSHA had not required States operating under OSHA-approved plans to do so. We found that only four of the eight States we contacted were promoting the program. As a result, small businesses requiring financial assistance to meet the mandatory occupational safety and health standards were not always aware of the SBA assistance.

OSHA promotes the loan program mainly by having its regional and area offices furnish to small businesses copies of an OSHA pamphlet/fact sheet on how and where to apply for a loan. In addition, OSHA's compliance operations manual requires its compliance officers to give businesses copies of appropriate laws, standards, regulations, and promotional materials at the time of inspection. In a July 5, 1972, memorandum to all regional administrators and area directors, OSHA's Deputy Assistant Secretary stated it was OSHA's policy that the fact sheet on obtaining SBA compliance loans be given to all small businesses at the completion of an inspection. We found, however, this policy has not been applied to States operating under OSHA-approved plans.

OSHA had not required States operating under OSHA-approved plans to establish and implement policies and procedures to promote the loan program. None of the eight States we contacted had established written policies and procedures to insure promotion of the occupational safety and health loan program.

Four of the eight States we contacted--California, Nevada, Oregon, and Washington--were not promoting the program. California and Nevada officials said that, although they had no objections to promoting the program and probably should, they had not done so. They said that, on occasion, they had informed small businesses of the availability of the assistance, usually when the business complained about the financial burden of complying with the standards. Oregon officials stated that, since the loan program was a Federal program, the State was under no obligation to promote it and had not done so. Washington officials said that they had not promoted the program primarily because they were not sufficiently familiar with its details.

The remaining four States--Kentucky, Tennessee, North Carolina, and South Carolina--promoted the program along with their compliance activities even though promotion was not required by written policies and procedures. We were told by officials of the States that the program was promoted by either giving an OSHA pamphlet to each small businessman at the completion of an inspection, or by having the State compliance officer mention the availability of SBA financial assistance during the closing conference.

Because the program had not been promoted some small businesses were unaware that SBA loans were available. For example, of eight businesses we contacted that had been inspected by the State of Washington, four said that they were unaware of the loan program. Two of these businesses said that they had an immediate financial need to correct cited deficiencies.

CONCLUSION

The Congress authorized SBA to make loans available to small businesses who are likely to suffer substantial economic injury by complying with mandatory safety and health standards. As demonstrated above, some States were not promoting the loan program and, as a result, some small businesses requiring financial assistance for the purpose of coming into compliance with the mandatory standards were not aware of opportunities for help. To prevent such situations from recurring, OSHA will need to take actions assuring that all States operating under OSHA-approved plans actively promote the occupational safety and health loan program.

RECOMMENDATION

We recommend that you direct OSHA to require all States operating under OSHA-approved plans to establish and implement policies and procedures requiring that small businesses be advised of the availability of financial assistance through the loan program at the time compliance inspections are made.

We would appreciate your comments on the matters discussed in this report, including any actions you take or plan to take on our recommendation. A copy of this report is being sent to the SBA.

We appreciate the excellent cooperation by the OSHA field and headquarters personnel during our survey.

Sincerely yours,



Joe E. Totten
Assistant Director