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



HUMAN RESOURCES  
DIVISION

B-163375

JUNE 6, 1979

The Honorable Ray Marshall  
The Secretary of Labor

*AGC 000009*

The Honorable A. Vernon Weaver  
Administrator, Small Business  
Administration

*AGC 000002*

We reviewed the Small Business Administration's (SBA's) occupational safety and health loan program--a program to help small businesses comply with mandated occupational safety and health standards. SBA administers the program in cooperation with the Department of Labor's Occupational Safety and Health Administration (OSHA).

*AGC 0049*

We found that:

- Few loans have been made.
- No assurance exists that loans are (1) made only to businesses that would suffer substantial economic injury without assistance or (2) needed for compliance with occupational safety and health standards.
- Controls are not adequate to ensure that workplace hazards are corrected.

BACKGROUND

Section 28(a) of the Occupational Safety and Health Act, approved December 29, 1970, authorizes economic assistance under section 7(b) of the Small Business Act, as amended, to:

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(206840)



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*Letter Report*

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"\* \* \* 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."

The occupational safety and health loan program is one of five SBA compliance loan programs. A small business may apply for financial assistance to voluntarily comply with standards or to correct hazards cited during an inspection.

SBA requires an applicant for an occupational safety and health loan to submit

- a reference to the standards to be complied with and the plan for compliance;
- the notice of violations, if the loan is to correct hazards cited during an inspection; and
- a statement of the applicant's financial condition.

When major construction or remodeling is necessary, SBA also requires a report from an engineer or an architect, which includes plans and specifications, to permit OSHA or the State to determine whether the planned work will result in compliance with the standards.

We obtained data on 60 of the 218 loans SBA approved (for 57 businesses) through fiscal year 1978 and examined 30 of the 60 loan files. The 30 loans accounted for \$14.9 million, or about 28 percent of the total amount approved. We also reviewed SBA and OSHA policies and procedures, and interviewed agency officials at the Washington headquarters and Boston regional offices and the SBA district offices in Boston, Massachusetts; Providence, Rhode Island; and Montpelier, Vermont.

LOAN PROGRAM LITTLE USED

As shown below, through fiscal year 1978, SBA had made or guaranteed 218 loans totaling \$53 million since the program began in 1971.

Occupational Safety and Health  
Loans Awarded  
(Apr. 1971 through Sept. 1978)

<u>Region</u>	<u>Number</u>	<u>Amount</u>
I (Boston)	41	\$ 9,105,515
II (New York)	3	146,000
III (Philadelphia)	3	492,000
IV (Atlanta)	35	9,699,388
V (Chicago)	29	8,968,500
VI (Dallas)	16	7,151,214
VII (Kansas City)	37	5,378,434
VIII (Denver)	34	4,019,850
IX (San Francisco)	9	3,674,600
X (Seattle)	<u>11</u>	<u>4,611,800</u>
Total	<u>218</u>	<u>\$53,247,301</u>

According to an SBA official, SBA made only six loans during the first 6 months of fiscal year 1979.

The loan program provides more favorable loan terms and conditions than SBA's regular (section 7(a)) business loan program. Occupational safety and health loans (1) have no dollar limit and (2) can be repaid over up to 30 years (compared to 10 to 20 years for a regular SBA loan).

The program is publicized in several ways. At the end of an inspection, OSHA and State inspectors must furnish employers a fact sheet, which describes where and how to apply for an occupational safety and health loan. Consultants 1/

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1/Consultations are provided by States or OSHA contractors when requested by employers. The consultant visits the workplace and identifies hazards. No citations are issued, and no reports are forwarded to enforcement authorities unless the employer fails to correct a serious hazard.

are not required to provide the fact sheet. OSHA also distributes this information at seminars and other meetings with small businesses and publishes the "OSHA Handbook for Small Businesses," which refers to the availability of SBA loans. According to OSHA officials, over 2 million handbooks have been distributed to small businesses through OSHA field offices and other public and private organizations.

SBA's efforts to promote the program are much more limited than OSHA's. SBA headquarters officials said that the agency makes no special effort to publicize the program but provides information when requested. They believe that SBA's and OSHA's promotional efforts are sufficient. SBA Boston officials said they have not promoted the program. According to an SBA official from the Providence district office, the program is not used because it is unknown to many small businesses.

In August 1978, an Interagency Task Force on Safety and Health reported that underuse of the occupational safety and health loan program was due to several factors, particularly the perception by small businesses that requests for loans will result in an OSHA inspection. The report also cited SBA's lack of publicity and the cumbersome, time-consuming process of obtaining a loan.

According to an OSHA headquarters official, the SBA application requirements and lengthy approval process are two primary reasons there are few loan requests.

Neither OSHA nor SBA officials we talked to could provide any evidence clearly showing why more loan applications or inquiries are not made by small businesses.

Generally, the SBA district offices did not maintain records showing who (1) applied for an occupational safety and health loan and was denied or (2) inquired about a loan but did not apply. However, several regional and district officials said that few inquiries are made about loans and denials of loan applications are rare. Also, SBA does not have nationwide data to show how those who applied for loans learned about the program.

According to officials from SBA district offices in regions II and III, the primary reasons for the lack of applications from small businesses are the time required to process an application and the cost of obtaining an engineer to prepare a proposal for correcting standards' violations. One SBA district official estimated that his office received about 15 loan inquiries in 1978, but the small businesses did not submit applications after being told of the loan application requirements.

An SBA district office official in region III believed that many loans that could have been made under this program were requested and approved as regular 7(a) business loans to avoid the requirement for an engineering proposal.

NO ASSURANCE THAT APPLICANTS  
NEED LOANS TO CORRECT HAZARDS

SBA approved some loans without ensuring that the businesses qualified for the loans. Of the 30 loans we reviewed, SBA approved 20 without having sufficient evidence of substantial economic injury and 3 without obtaining OSHA or State review and approval of the applicant's abatement plan.

Neither SBA nor OSHA determined whether the amounts requested were reasonable and necessary to correct violations.

Little evidence showing whether  
applicant would suffer substantial  
economic injury

In 20 of the 30 loans we reviewed, we were unable to find evidence showing how SBA determined that the applicant would suffer substantial economic injury without loan assistance. We addressed SBA's lack of operating procedures and criteria for determining substantial economic injury in an April 1974 report to the Senate Committee on Labor and Public Welfare entitled, "Administration of Small Business Loan Program Under the Occupational Safety and Health Act," and in a May 1976 letter to the SBA Deputy Administrator on the consumer protection loan program. Both reports recommended that SBA establish policies and procedures for determining what constitutes substantial economic injury.

In September 1976, SBA revised its procedures for defining substantial economic injury. It listed specific factors that should be considered, but did not tell what conditions constitute substantial economic injury. The loan officer, therefore, still is required to establish the criteria for eligibility on each case reviewed. An SBA headquarters official said that the procedures are sufficient guidance for loan officers. He said that substantial economic injury must be determined on a case-by-case basis.

SBA regulations state that an applicant shall furnish proof of the extent to which the business has been or will be injured by the need to correct the deficient conditions.

SBA requires loan officers to state in a report why the applicant will suffer substantial economic injury without an occupational safety and health loan and to include in the loan file the supporting evidence.

Of the 30 loan files we reviewed, the loan officer's report mentioned substantial economic injury in only 13 cases, and the basis for the loan officer's determination was mentioned in only 10 cases. Only 1 of the 11 loan files we reviewed in the Boston region contained the basis for the loan officer's determination. SBA officials told us that substantial economic injury was often assumed because capital expenditures were necessary to comply with OSHA requirements.

No assurance that loans are  
needed to comply with standards

Neither SBA nor OSHA requires evidence that the amount requested is reasonable and necessary to bring the applicant into compliance with OSHA standards' requirements. Each agency believes the other should obtain such evidence. Further, from information submitted by the applicant and in the absence of an OSHA or a State visit to the worksite, often neither can adequately tell the appropriateness of the amount requested or the extent of work required to correct violations.

In many cases we reviewed, no evidence existed showing that OSHA or SBA had determined that the loan funds were to be used primarily to correct standards' violations. For 22 of the 30 loans we reviewed, SBA authorized loans for construction, extensive alterations, upgrading of plant facilities, or replacement of equipment.

SBA may authorize loans to (1) construct a new facility when remodeling is not feasible, (2) replace rented quarters when necessary upgrading cannot be arranged, and (3) finance the purchase of equipment. SBA does not determine that the amount requested is reasonably necessary to correct standards' violations.

OSHA does not have written procedures for reviewing applicants' proposed corrective actions. The OSHA Boston official responsible for reviewing occupational safety and health loan applications said that he will approve an application as long as the proposed actions will bring the employer into compliance with standards. He said that, while there is often more than one way to correct violations, he will not suggest an alternative method unless the proposed actions will not eliminate or control the hazard. He does not determine whether the amount requested is reasonable or whether the proposal includes work not related to correcting the standards' violations.

During an April 1978 OSHA headquarters telephone survey, one regional official said that many loan proposals primarily involved changes for expansion and increased productivity and only secondarily dealt with correcting the violations. OSHA officials in two other regions stated that SBA had requested that OSHA determine what specific improvements are needed to comply with OSHA standards and at what cost. OSHA, however, considers determining reasonableness of cost to be SBA's responsibility.

Some loans not reviewed  
by compliance authority

We identified three loans that SBA authorized without obtaining OSHA or State approval of the applicant's proposed corrective action. For two of the loans, SBA regional officials told us they did not know why there was no letter from OSHA or the State approving the applicant's proposal in the loan file. OSHA's log of loan applications did not include a record of these two loans. In the third case, an official in the SBA office that processed the loan said that, since the State had visited the facilities and found numerous standards' violations during a consultation, this satisfied the requirement that the applicant's proposal be reviewed. We disagree. The fact that a consultant has identified a hazard provides no assurance that an action proposed later will correct the hazard.

NO ASSURANCE THAT THE USE OF  
LOAN FUNDS ELIMINATES HAZARDS

Controls are not adequate to ensure that improvements made with loan funds result in compliance with standards. Neither OSHA nor the States are required to visit the workplace before or after the applicant's proposed corrective action is completed to determine whether the corrective action results in compliance with standards. For at least 11 of the businesses in our review, neither OSHA nor the State visited the workplace. Although SBA generally visits each loan recipient, the purpose is to review the firm's collateral and accounting records and advise the firm about loan conditions and payment.

In addition to OSHA and State inspections, consultants working for the State or under contract with OSHA also visit workplaces, but only if the business requests it. Many of the loans, however, were made to businesses in States where consultative services were not available.

SBA records indicated that the businesses in States with consultative services generally did not request consultation visits.

The following table summarizes the inspection activity for the businesses included in our review.

OSHA and State Inspections of Loan  
Recipients' Workplaces

<u>Inspection activity</u>	<u>Number</u>	<u>Percent</u>
Never inspected	<u>a/15</u>	26
Inspected only before loan	12	21
Inspected only after loan	<u>a/10</u>	18
Inspected before and after loan	15	26
Inspection data not readily available	<u>5</u>	<u>9</u>
Total	<u>57</u>	<u>100</u>

a/For 4 of the 15 workplaces never inspected and 1 of the 10 workplaces only inspected after a loan, we were unable to verify that the State had not provided a consultation visit. SBA records did not indicate any visits.

As shown above, 25 of the establishments were never inspected or visited before loan funds were approved. (See note a above.) Similarly, 27 were not inspected after approval of loan funds.

OSHA Boston regional officials told us that OSHA's policy is not to inspect an applicant before loan approval when the applicant is attempting to voluntarily comply with OSHA standards. The OSHA Boston official responsible for reviewing loan applications said that a policy requiring OSHA to inspect establishments attempting voluntary compliance might discourage other businesses from seeking use of SBA loan funds to comply voluntarily. He said he encourages applicants attempting voluntary compliance to request a consultation visit from the State.

According to OSHA Boston officials, scheduling OSHA or State inspections at establishments requesting loan assistance would present a problem because current inspection policy requires compliance officers to make 95 percent of their inspections at establishments in industries with high injury and illness rates. If businesses requesting loans were not in high-hazard industries, inspecting them would be inconsistent with OSHA's 95-percent goal.

Regarding firms previously inspected by OSHA, OSHA's inspection policy is to follow up only serious violations to determine whether they were corrected. Whether an inspector will return to the worksite depends on the availability of resources, the nature of the violation, and area office priorities.

#### CONCLUSIONS

✓ The occupational safety and health loan program is seldom used by small business. Neither SBA nor OSHA knows why. It has been suggested that more businesses do not request loans because of fear of an OSHA or State inspection or reluctance to prepare and submit engineering plans. We believe SBA should determine why some businesses that inquire about the program do not request loans and should query small businesses during seminars and other such forums to determine why the program is seldom used.

In many cases, there is no assurance that businesses receiving loans

--would have suffered substantial economic injury if they did not receive the loan,

--needed loans to correct violations of standards,

--received only amounts reasonably necessary to correct violations, or

--corrected the violations.

✓SBA and OSHA need to do more to assure that (1) loans are needed to correct violations and (2) the violations are actually corrected. ✓

Under its other compliance loan programs (i.e., Coal Mine Health and Safety, Consumer Protection, Water Pollution, and Air Pollution), SBA must also determine whether the applicant would suffer substantial economic injury before a loan can be approved. Our review did not cover administration of these other programs. However, since the SBA district offices follow the same operating procedures for determining substantial economic injury and obtaining approval by the compliance authority, the problems noted may also exist in the other compliance loan programs.

RECOMMENDATIONS TO THE  
ADMINISTRATOR OF SBA

We recommend that the Administrator of SBA

--establish criteria for determining whether an applicant would suffer substantial economic injury without a loan and review how this determination is being made in its other loan programs,

--require that loan officers document the basis for their determination of whether an applicant would suffer substantial economic injury without a loan, and

--in cooperation with OSHA, establish procedures for determining whether the loan amount requested is needed to correct violations of standards.

Such procedures should include a visit to an applicant's workplace before approving a loan.

To ensure that the use of loan funds results in correcting standards' violations, we recommend that the Administrator, in cooperation with OSHA, jointly establish procedures requiring, after the corrective action is completed, a followup

--consultation visit to businesses that received a loan to voluntarily correct standards' violations or to correct nonserious standards' violations previously cited by inspectors and

--inspection to businesses that received a loan to correct serious violations cited by inspectors.

We recommend also that the Administrator determine (1) why more businesses do not request loans and (2) whether program changes could or should be made to better meet the needs of small businesses.

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We would appreciate your comments on the findings and recommendations in this report, including any actions you take or plan to take.

Copies of this report are being sent to the Chairmen of the four above-mentioned Committees and of other interested congressional committees and subcommittees and to the Director, Office of Management and Budget.

We appreciate the courtesy and cooperation extended to our representatives during this review.

  
Gregory J. Hart  
Director