U.S. Department of Labor

Office of Inspector General
Washington, DC 20210

September 24, 2026

MEMORANDUM FOR: KEITH E. SONDERLING
Acting Secretary of Labor

DAVID L. KEELING
Assistant Secretary of Labor
for Occupational Safety and Health

FROM: LAURA B. NICOLOSI
Assistant Inspector General
for Audit

SUBJECT: **Alert Memorandum:** OSHA Needs to Determine if Recent Inspections of Small Employers in Low-Risk Industries Were Permissible
Report No. 03-26-001-10-105

This memorandum is to alert the Occupational Safety and Health Administration (OSHA) of an urgent concern the U.S. Department of Labor (DOL or Department) Office of Inspector General (OIG) has identified that needs immediate attention. Our analysis of OSHA Information System (OIS) data[1] from November 8, 2024, through January 21, 2026, indicated OSHA may have conducted up to 481 inspections that did not comply with the agency's authorized appropriations acts.[2] As a result, there is a risk OSHA may not have complied with the Antideficiency Act.[3] OSHA officials explained the agency's inspections of small employers in low-risk industries were possibly allowed but were incorrectly coded. However, management officials were unable to verify this without conducting a thorough review of the related case files. OSHA's initial assessment of 27 case files found 4 inspections that did not meet any exceptions allowed under its appropriations acts.

[1] The scope of our work was limited to analyzing OIS data, and we did not review any supporting case file documentation.
[2] Consolidated Appropriations Act, 2026, Pub. L. No. 119-75, 140 Stat. 248 (2026). See also OSHA Instruction, "Enforcement Exemptions and Limitations under the Annual Appropriations Act," (CPL 02-00-170) dated July 18, 2024, last accessed July 9, 2026, available at: https://www.osha.gov/sites/default/files/enforcement/directives/cpl-02-00-170.pdf.
[3] 31 U.S.C. § 1517

OSHA's explanation raises additional concerns about the reliability of OIS data. If the agency conducts impermissible inspections, it could strain the agency's limited resources, increase the burden on small employers, and heighten public concern about regulatory overreach. Likewise, if OSHA does not ensure OIS data is reliable, OSHA leadership cannot make informed decisions about the agency's focus, proper implementation of inspections, or the resources needed to ensure the agency's enforcement programs are effective. The issues identified appear to have resulted from systemic control weaknesses related to agency guidance and data reliability. Such issues put at risk OSHA's compliance with applicable laws, ability to address Congressional intent, and public trust.

The OIG did not perform this work under Generally Accepted Government Auditing Standards; however, we followed our internal procedures to ensure independence, due professional care, quality assurance, and the accuracy of the information presented. This memorandum provides additional details regarding our results and associated recommendations.

OSHA Inspections and Its Appropriations Acts

The Occupational Safety and Health Act of 1970 requires employers to provide a safe workplace free from recognized hazards. OSHA's mission is to ensure compliance with health and safety standards and help employers and workers prevent or reduce injuries, illnesses, and deaths in the workplace. To support its mission, OSHA conducts several types of workplace inspections, including both programmed and unprogrammed inspections.

Planned programmed inspections are pre-scheduled inspections that are: (1) set by OSHA's enforcement policy and targeted inspection strategy, including the agency's National Emphasis Programs, and (2) based on inspection data, injury and illness data, and inspection findings. Because conducting inspections requires significant personnel and agency resources, OSHA must direct inspections to workplaces where they have the greatest impact. In Fiscal Year 2025, OSHA conducted 13,962 programmed inspections—46 percent of its total 30,273 inspections.

Unprogrammed inspections are inspections scheduled in response to alleged hazardous working conditions identified at a specific workplace. This type of inspection responds to fatality/catastrophes, imminent dangers, complaints, referrals and includes follow-up and monitoring inspections.

The OIG has previously reported significant resource constraints affecting OSHA's enforcement capabilities. We highlighted in 2022 how a lack of available personnel can lead to diminished enforcement, particularly in high-risk industries, thereby increasing the risk of fatalities, injuries, or compromised health for workers.[4] These resource constraints continue to pose substantial challenges to OSHA's ability to achieve its mission, underscoring the importance of a prioritized enforcement strategy.

OSHA receives its funding through an annual appropriations act. Since 1981, Congress has included a recurring appropriations rider,[5] which restricts OSHA from expending funds for enforcement activities on certain small employers. This limitation is intended to reduce the regulatory burden on small businesses.

The appropriations acts effective during the scope of our review generally exempted small employers from inspections if they: (1) have 10 or fewer employees controlled by the employer and (2) are businesses in low-hazard industries. OSHA identifies low-hazard industries by using the Bureau of Labor Statistics' occupational injury and illness data[6] to determine which North American Industry Classification System (NAICS) codes have injury rates below the national private-sector average for a given time period. OSHA updates its Low-Hazard Industries Table of exempt NAICS codes annually.

OSHA's appropriations acts also provided specific exceptions in which OSHA was allowed to conduct inspections of these small employers. These permissible exceptions allowed inspections for:

1. health hazards (rather than safety);
2. fatalities, or hospitalizations of two or more employees;
3. imminent danger; and
4. complaints from current employees.

Because these congressional appropriations include specific requirements and limitations governing the use of agency funds, federal agencies must ensure that obligations and expenditures comply with their appropriations acts.

The Antideficiency Act prohibits federal agencies from spending or obligating funds in excess of their authorized appropriations. If OSHA conducted impermissible inspections on small exempt employers, there is risk that OSHA may not have complied with the Antideficiency Act. If DOL determines OSHA violated the Antideficiency Act, federal law requires the Department to: (1) report

[4] COVID-19: To Protect Mission Critical Workers, OSHA Could Leverage Inspection Collaboration Opportunities with External Federal Agencies, Report No. 19-22-003-10-105 (March 31, 2022), https://www.oig.dol.gov/public/reports/oa/2022/19-22-003-10-105.pdf

[5] A rider is a provision added to an appropriations bill that modifies, restricts, or directs the use of federal funds. In this case, the appropriations rider is being applied to OSHA's annual appropriations bill that restricts OSHA use of federal funds to enforce its standards on exempt small employers.

[6] OSHA uses the Bureau of Labor Statistics' annual survey of occupational injuries and illnesses involving days away, restricted, or transferred—or the DART rate, which is the number of work-related injuries or illnesses per 100 full-time equivalent workers that result in days away from work, restricted duty, or transfer to another job.

immediately to the President and Congress all relevant facts and a statement of actions taken and (2) provide a copy of each report to the Comptroller General of the United States on the same date the report is transmitted to the President and Congress.[7]

In September 2025, we received a hotline complaint alleging OSHA had performed a planned program inspection on the complainant earlier that year even though the complainant's business was allegedly exempted by OSHA's appropriations rider.[8] In response to this allegation, we reviewed OIS data for inspections initiated and closed from November 8, 2024, through January 21, 2026 (herein referred to as the review period). We selected this 14-month period to include the inspection referenced in the hotline complaint and to align with OSHA's 2024 Low-Hazard Industries Table,[9] which was applicable during that period.

OSHA May Have Conducted Nearly 500 Impermissible Inspections

Our analysis of OIS data found OSHA initiated and closed 621 inspections of businesses that met exemption criteria in its appropriations acts, meaning data indicated the employers had: (1) a NAICS code included on the 2024 Low-Hazard Industries Table[10] and (2) fewer than 11 employees under their control. Of these 621 inspections within the review period, OIS data indicated 140 inspections involved a permissible exception to the exemption criteria including inspections for imminent danger, employee complaints, death, or hospitalization of two or more employees. We specifically identified:

- 52 inspections involving fatalities or hospitalizations of two or more employees,
- 46 inspections involving complaints from a current employee,
- 34 inspections involving imminent danger at the inspection level, and
- 8 inspections involving referrals that alleged imminent danger.

However, we also found 201 inspections had insufficient OIS data demonstrating an exception applied, and 280 inspections had no permissible exceptions supported by the OIS data. These issues may have stemmed from control

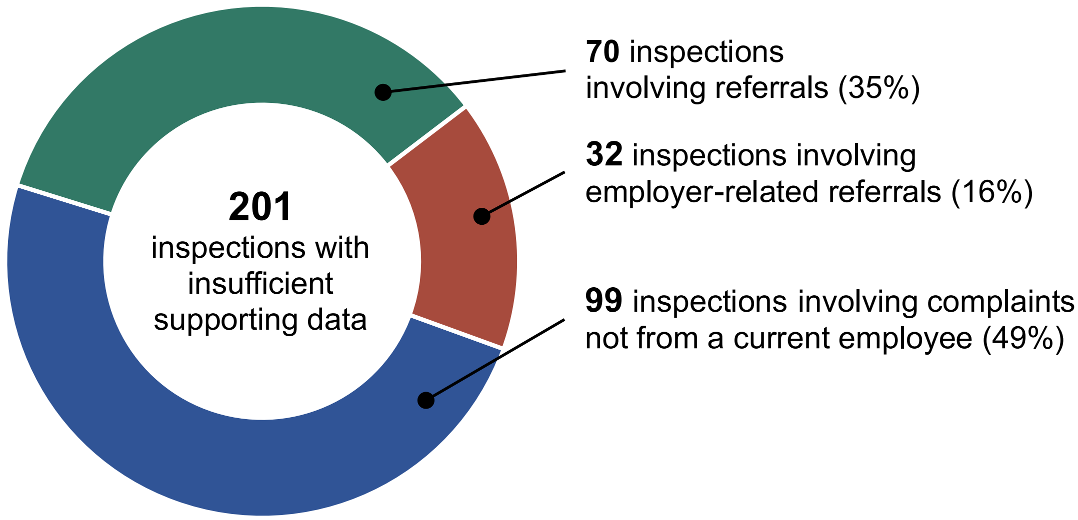
[7] 31 U.S.C. § 1351
[8] Our analysis of OIS data found that the complainant did not meet the exemption criteria in the appropriations acts because it had more than 10 employees controlled by the employer. Further, the Administrative Law Judge overseeing the employer's contest of OSHA's citation rejected the employer's motion making similar arguments.
[9] OSHA, 2024 Low-Hazard Industries Table, enforcement memorandum (November 14, 2024), last accessed February 25, 2026, available at: https://www.osha.gov/memos/2024-11-14/2024-low-hazard-industries-table
[10] The NAICS code for the employer's industry is included in the Low-Hazard Industries Table if the days away, restricted or transferred (DART) rate for this industry is currently below the national average, per the data most recently published by the Bureau of Labor Statistics.

weaknesses in agency guidance and issues with data reliability. Therefore, OSHA may have conducted 481 impermissible inspections that did not comply with its appropriations acts.

OIS Data Was Not Sufficient to Determine if 201 OSHA Inspections Were Permissible

We identified 201 inspections related to referrals and complaints that were initiated for reasons that could be permissible; however, OIS data lacked sufficient detail to determine if an exception applied (see Figure 1).

Figure 1: Inspections without Sufficient Supporting Data



Source: OIG analysis of OIS data as of April 9, 2026

For example, referral inspections are allowed when the reported condition alleges or falls into one of the other exceptions, such as health hazards, hospitalization of two or more employees, or imminent danger. However, the OIS data did not include sufficient information to determine if the criteria for a permissible exception was satisfied for the 102 inspections involving referrals and employer-related referrals.

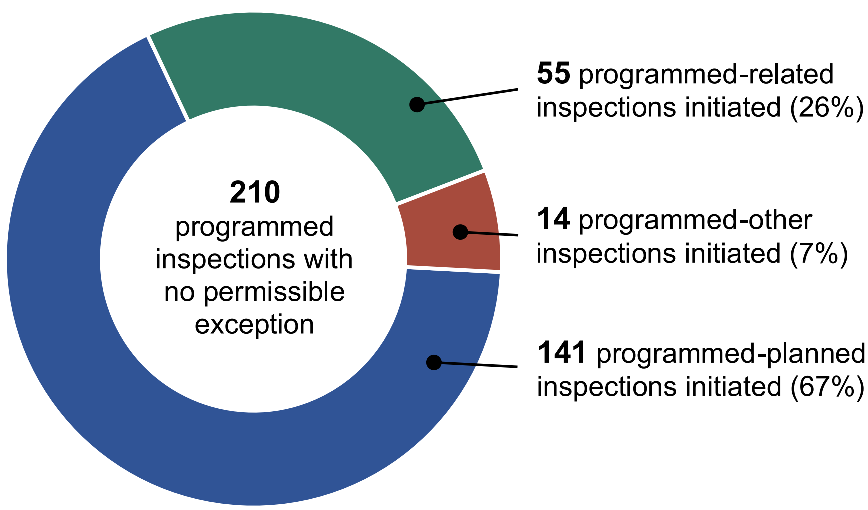
Similarly, OIS data indicated OSHA conducted 99 inspections initiated based on complaints that did not come from a current employee. While OSHA's appropriations acts did permit a complaint inspection if the complaint came from a current employee, OIS data did not include sufficient information regarding why other complaint sources, such as former employees and family members, were inspected by OSHA.

OIS Data Showed 280 OSHA Inspections Had No Permissible Exceptions

We identified 280 inspections that were initiated with no permissible exceptions indicated in the OIS data. Of those inspections, 210 were initiated as planned programmed inspections, and 70 were initiated as unprogrammed inspections.

For the 210 initiated planned programmed inspections, OSHA requires inspectors to verify if the employer met the small employer's exemption criteria within the previous 12 months prior to conducting the inspection.[11] Our analysis considered the possibility that inspection data could be revised after initiation and accounted for any permissible exceptions identified at the inspection level. We found 210 programmed inspections that were closed without a permissible exception documented in the OIS data (see Figure 2).

Figure 2: Programmed Inspections Initiated by OSHA with No Permissible Exception



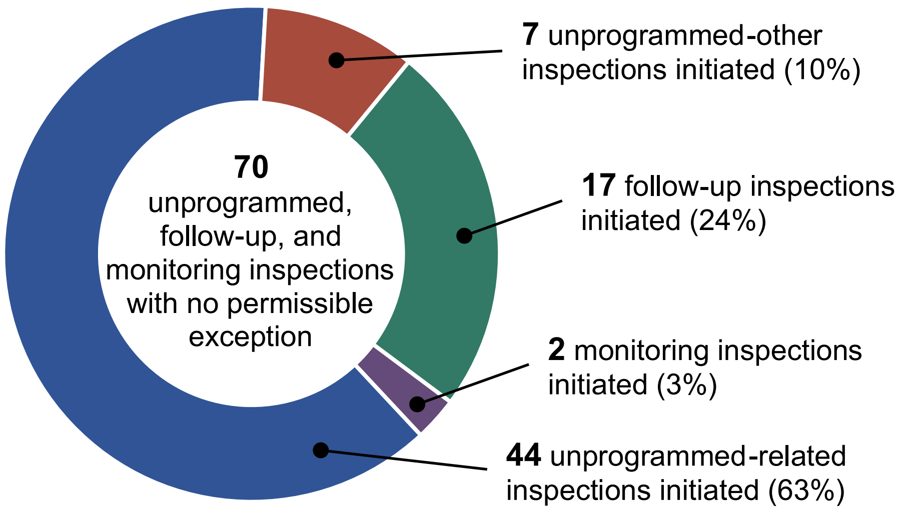
Source: OIG analysis of OIS data as of April 9, 2026

The other 70 inspections were related to unprogrammed inspections including unprogrammed-related,[12] follow-up, and monitoring inspections. Generally, unprogrammed inspections are conducted without prior notice and are triggered by an employee complaint, referral, reported accident, or incident. Follow-up inspections are intended to determine if the previously cited violations have been corrected and monitoring inspections are conducted to ensure that hazards are being abated by the employer. These 70 inspections had no permissible exception documented in the OIS data (see Figure 3).

[11] OSHA Instruction CPL 02-00-170, XIII. Enforcement Guidance for Small Employers in Low-Hazard Industries, B. Programmed Safety Inspections

[12] Unprogrammed-related inspections are conducted at multi-employer worksites whose operations are not directly addressed by the subject of the condition identified in a complaint, accident, or referral.

Figure 3: Unprogrammed Inspections Initiated by OSHA with No Permissible Exception



Source: OIG analysis of OIS data as of April 9, 2026

OIS Data Included Numerous Coding Errors

During our review, we initially provided OSHA with a list of 181 programmed inspections involving potentially exempted small employers. According to OSHA, it identified 27 inspections from the list that included a violation but were not coded as imminent danger at the inspection level. OSHA officials examined supporting case file documentation for these 27 inspections and cited coding errors for 23 inspections, stating the other 4 were not exceptions to the appropriations rider. OSHA indicated it found two types of coding errors in OIS during this preliminary assessment:

1. **Imminent danger not coded at new inspection level:** In 10 cases, imminent danger was indicated in OIS at the violation level, but not at the inspection level.[13] Before October 2024, OSHA primarily tracked imminent danger-related event codes at the violation level; in October 2024 (prior to our review period), OSHA added inspection level coding and began tracking imminent danger information at the inspection level.

2. **Imminent danger identified, but not coded:** In 13 cases, the inspector identified imminent danger and acted accordingly but did not code it correctly in OIS.

In addition, OSHA officials theorized that inspectors may have failed to update the number of employees under the employer's control or imminent danger

[13] Inspection level identifies whether the case/inspection involved an imminent danger investigation. Violation level identifies which specific citation(s) were associated with the imminent danger condition.

indicators in OIS after an inspection has been initiated. Furthermore, OSHA officials posited that most of the inspections the OIG identified as impermissible were likely involved with a National Emphasis Program. They stated OSHA had, in the past, coded emphasis program inspections as programmed planned inspections although they are different types of inspections.

Having realized this issue as a result of the OIG's inquiries, OSHA implemented an "Unprogrammed Emphasis Hazard" inspection initiation type in OIS. While this change should improve the accuracy and quality of OIS inspection data, emphasis program inspections are not a permissible exception to the appropriations rider so this change would not impact the results of our review. Furthermore, OSHA may need to take steps to ensure targeting lists used for its emphasis programs do not include establishments that are exempt under its appropriations acts criteria.

OSHA stated further analysis, including detailed case file reviews, would be necessary to determine whether errors stem from emphasis program coding, appropriation rider determinations made after an inspection began, coding mistakes, or other errors.

Considering the numerous coding errors noted above by OSHA, the OIG is concerned that the agency lacks sufficient system and supervisory controls to ensure its inspection data is accurate and complete. Without an adequate process in place to ensure data is properly entered, there is a significant risk that OIS data does not accurately reflect the results in the case files. Erroneous data in OIS could impact national decision and policymaking on workplace safety. In addition, without sufficient data validation checks in OIS regarding exempt employers, OSHA increases its risk of conducting impermissible inspections and not complying with its appropriations acts.

OSHA Guidance for Determining Number of Employees Was Unclear

During our review, we noted that OSHA's guidance did not explicitly define how to identify the number of employees when determining if the appropriations rider applies. The inspection data included three fields related to the number of employees: (1) employees controlled by employer, (2) employees in the establishment, and (3) employees covered by inspection. OSHA officials clarified to the OIG that inspectors should be using the number of employees controlled by the employer. However, OSHA guidance did not specify this. Without clear guidance, it is difficult to be certain OSHA inspectors and supervisors across the country are applying these specifications consistently.

Conclusion

Prompted by a complaint, the OIG conducted a high-level analysis of OIS inspection data. The data indicated that, during the 14-month review period, OSHA may have conducted up to 481 inspections that did not comply with its appropriations acts—therefore, there is risk OSHA may not have complied with the Antideficiency Act. Specifically, we identified 280 inspections for which no permissible exception was documented in the data. For the remaining 201 inspections, the data was insufficient to determine if an exception applied.

Based on the agency's limited initial assessment, OSHA officials indicated the issue was likely a matter of coding errors rather than impermissible inspections but stated they would need to perform an in-depth review of case files to confirm. Potential coding errors in OSHA's inspection data—which is used to target high-risk industries and hazards—raise concerns about overall data reliability.

OSHA must ensure it is not conducting impermissible inspections of exempt employers. Given OSHA's constrained resources, adherence to the appropriations rider could also help enforcement efforts remain focused on high-risk workplaces that warrant prioritized regulatory oversight. Furthermore, because OSHA's inspection resources can only cover a small percentage of workplaces each year, if swift action is not taken, even a modest diversion of resources could mean missed opportunities to intervene in high-hazard industries where enforcement could prevent serious harm or death.

Recommendations

We recommend the Secretary of Labor:

1. Conduct an investigation to determine whether OSHA violated the Antideficiency Act. If validated: (1) report immediately to the President and Congress all relevant facts and a statement of actions taken and (2) provide a copy of each report to the Comptroller General of the United States.

We recommend the Assistant Secretary of Labor for Occupational Safety and Health:

2. Review the 481 OIG-identified inspections to determine if they complied with OSHA's appropriations acts. Take appropriate action based on the results of the review, which may include addressing coding errors and ensuring there is sufficient data in OSHA's information system to demonstrate OSHA inspections comply with its appropriations acts.

3. Establish adequate controls to ensure: (1) impermissible inspections are not initiated on exempt employers and (2) adequate documentation is maintained in both OSHA's information system and case files to support any inspection where a permissible exception applied.

4. Update guidance to specify which employee-related field to use when determining if enforcement exemptions and limitations apply under OSHA's appropriations acts.

5. Improve the accuracy of OSHA's inspection data related to excepted activities by including appropriate data entry checks and use data validation techniques to ensure the data is sufficiently supported by case file documentation.

Analysis of Agency's Comments

In response to a draft of this alert memorandum, the agency did not agree with our finding that OSHA may have conducted up to 481 inspections that did not comply with the agency's authorized appropriations acts. OSHA stated that the OIG's findings stem from a limited understanding and review of OIS data that led to unsupported conclusions. OSHA highlighted its guidance regarding how inspectors should apply the exemptions in the appropriations acts to ensure compliance, including adhering to notification banners in OIS, multi-level management reviews, annual reviews of open cases following the release of low-hazard NAICS data, and ongoing improvements in data coding. OSHA also noted that determining whether the rider or its exemptions apply often requires investigation, such as verifying employee counts or imminent danger, which can only be assessed during inspections.

We reviewed OSHA's response; however, the agency's concerns did not result in any changes to our reported results or conclusions. This alert memorandum identifies OSHA inspections requiring further agency review based on the results of the OIG's high-level data analysis; we did not audit supporting case file documentation and therefore draw no conclusions on whether OSHA complied with its appropriations acts. Although OSHA characterized our results as reflecting a limited understanding of its inspection data, we confirmed our methodology and understanding of relevant OIS data fields with OSHA upon initiating our review and made appropriate adjustments based on feedback from OSHA. OSHA's initial assessment of 27 case files found 4 inspections that did not meet any exceptions allowed under its appropriations acts. Additionally, OSHA found coding errors with the other 23 inspections. Both issues warrant immediate attention from agency management.

While OSHA's consideration of the OIG's recommendations is ongoing, we look forward to continuing our work with OSHA to ensure planned corrective actions meet the intent of our proposed recommendations. OSHA's response is included in its entirety in the attachment.

Attachment: Agency Response to the Alert Memorandum

The agency's response to our draft alert memorandum follows.

U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210

August 25, 2026

MEMORANDUM FOR: LAURA B. NICOLOSI
Assistant Inspector General for Audit

FROM: DAVID L. KEELING
Assistant Secretary of Labor
for Occupational Safety and Health

SUBJECT: Response to the Office of the Inspector General Alert Memorandum: *OSHA Needs to Determine if Recent Inspections of Small Employers in Low-Risk Industries Were Permissible*

The U.S. Department of Labor's (Department) Occupational Safety and Health Administration (OSHA) appreciates the opportunity to respond to the Office of the Inspector General's (OIG) Alert Memorandum, referenced above, and its recommendations. The stewardship of the funds entrusted to the Department and its agencies by Congress is of great importance to the Department and OSHA. Further, as illustrated by recent OSHA initiatives, such as OSHA Cares, OSHA values our nation's small businesses and is working tirelessly to build greater collaboration with them and expand compliance assistance to ensure that all employers have the knowledge and tools they need to protect their employees.

OIG's alert memorandum makes clear that OIG shares the Department's and OSHA's commitment to careful stewardship of Congressionally appropriated funds and the welfare of small businesses and their workers. OSHA values OIG's oversight and appreciates its partnership in our shared goals. Moreover, OSHA takes the matters raised by OIG seriously and has already begun a review of the inspections identified in the memorandum. It is therefore in this spirit that OSHA provides the following response to OIG's alert memorandum.

OSHA disagrees with OIG's finding that OSHA may have conducted 481 inspections that did not comply with the small-employer/low-hazard rider which appears in OSHA's annual appropriations acts. OIG's lack of familiarity with the OSHA Information System (OIS) and its data fields and OIG's limited review of the inspection information for each inspection or investigation led OIG to unsupported conclusions. OIG's findings also overstate weaknesses in OSHA's coding and other OIS data.

OSHA has issued extensive guidance (CPL 02-00-170) on how CSHOs should apply the exemptions in OSHA's appropriation act, and OIG's memorandum does not account for the steps that OSHA takes to identify inspections that are prohibited by the small-employer/low-hazard rider. These include the use of notification banners in the OIS, protocols for multiple levels of management review for casefiles prior to citation issuance, and annual review of open cases following the release of BLS low-hazard NAICS data. OSHA also makes continuous efforts to improve its OIS data, including ongoing efforts to address coding.

Finally, OIG's alert memorandum does not recognize that actually determining whether the small-employer/low-hazard rider or its exemptions applies often requires investigation. For example, OSHA is frequently not able to determine how many employees are employed by the employer without opening an inspection, e.g., talking to the employer, reviewing employment records, or interviewing employees. Similarly, the alert memorandum fails to recognize that determining whether one of the exceptions to the rider applies also often requires investigation. For example, OSHA is typically not able to determine whether an imminent danger exists without going on-site. If, after undertaking these initial steps (which are necessary steps for OSHA to comply with the rider), OSHA determines (1) that the rider applies and (2) none of the rider's exceptions are applicable, then OSHA does not take further action.

OSHA's consideration of OIG's recommendations is ongoing, and OSHA will provide its written response to OIG's findings and recommendations in due course, in accordance with Departmental policies.