

OSHA Response to Draft Report

U.S. Department of Labor

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



SEP 28 2012

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

FROM: 
DAVID MICHAELIS, PhD, MPH

SUBJECT: Response to OIG’s Draft Audit Report No.02-12-202-10-105
“OSHA’s Site-Specific Targeting Program Has Limitations on
Targeting and Inspecting High-Risk Worksites”

This memorandum is in response to your September 19, 2012, transmittal of the Office of Inspector General (OIG) Audit Report No.02-12-202-10-105, *OSHA’s Site-Specific Targeting Program Has Limitations on Targeting and Inspecting High-Risk Work-Sites*. Thank you for the opportunity to comment on your draft report. Additionally, we appreciate that the OIG was responsive to some of the Agency’s concerns with earlier characterizations of the Site-Specific Targeting (SST) Program. However, while we appreciate the comprehensive scope of your audit, the evaluation focuses heavily on numerous policy issues outside the Agency’s authority or jurisdictional control. As such, we believe the OIG’s depiction of the operation of the SST Program and the Agency’s commitment and efforts to protect workers at high-risk worksites is not completely accurate. In fact, several audit recommendations support the need for major policy changes with regulatory implications and go well beyond internal operational changes to improve program effectiveness.

In response to the draft report, please find attached a document containing a few technical comments to audit report findings and below are OSHA’s comments to the recommendations:

- 1. Include the highest risk worksites in the ODI survey and SST program targeting by:**
 - a. Expanding coverage of ODI through negotiations on the use of data from worksites with 11 to 19 employees for enforcement purposes.**

OSHA Response: This is a major policy change that requires evaluation and supportive evidence/data for the Agency to pursue the necessary negotiations for modifications to ODI coverage. OSHA agrees that slight modifications to the ODI data collection can be made to broaden the scope of the survey to gather data on high-rate worksites. However, OSHA believes it is necessary to state for the record that the major modifications suggested by the OIG can potentially result in a decrease of useable data to the Agency. Currently, the ODI surveys 1 percent of non-construction

establishments in the United States and captures 22 percent of non-construction DART cases. While small establishments account for a disproportionate amount of fatalities, the Bureau of Labor Statistics (BLS) injury and illness data historically shows the converse. Small establishments have lower rates of injuries and illnesses than mid-size establishments. A reallocation of the survey sample from mid-size establishments to small establishments will potentially decrease the portion of injuries and illnesses captured by the ODI.

Additionally, OSHA uses other enforcement strategies and interventions to target employers with 11 -19 employees. For example, during the relevant time period (August 2010 through September 2011), OSHA conducted numerous National Emphasis Programs (focusing on hazards related to amputations, lead, crystalline silica, shipbreaking, trenching/excavations, petroleum refinery process safety management, and combustible dust) concurrently and approximately 140 Regional and Local Emphasis Programs. Along with the SST Program, these enforcement strategies complement each other in covering different types of employers and workplace hazards.

b. Encouraging more State Plan States to consider participation in the ODI survey and SST inspections through outreach efforts on the merits of the programs.

OSHA response: OSHA will encourage States that express interest to consider participation in the ODI and SST Program and will provide the requisite information. OSHA already works with a number of States that currently participate in the program. However, OSHA cannot mandate State Plan participation and there are factors that inhibit the States' interest in participating. For example, while additional funding is available to States that participate in the ODI it does not offset the costs associated with creating the infrastructure to collect the data. Making additional funding available might entice some State Plans to participate. Additionally, many State Plans have established targeting strategies tailored specifically to the needs of their State and believe that these strategies suit their needs better than the ODI and SST, which are designed for broader applicability.

Additionally, increasing the number of State Plan States that participate in the ODI would result in a reallocation of the survey sampled from the Federal jurisdiction to the newly entered State Plans. OSHA believes this would be a misallocation of resources unless evidence shows the States' current targeting programs are less efficient than Federal OSHA's and that the States commit to using the ODI data prior to the reallocation of the sample.

c. Revising the list of industries included in the ODI survey based on current BLS injury and illness data.

OSHA response: We agree with this recommendation. OSHA is proposing to update Appendix A to Subpart B of its Injury and Illness Recording and Reporting regulation, 29 CFR 1904. Appendix A contains a list of industries that are partially exempt from

maintaining records of occupational injuries and illnesses, generally due to their relatively low rates of occupational injury and illness. The current list of industries is based on the Standard Industrial Classification (SIC) system. In 1997, the North American Industry Classification System (NAICS) was introduced to classify establishments by industry. The proposed rule would update Appendix A by replacing it with a list of industries based on NAICS and more recent injury and illness data. This new recordkeeping rule will address this recommendation.

2. Prioritize and complete programmed inspections of the highest risk worksites to ensure effective and efficient use of resources. In prioritizing inspections, OSHA should:

a. Evaluate whether to pursue target worksites that carryover for two or more years. In addressing this recommendation, OSHA should consider the worksite's DART and DAFWII for the current year.

OSHA response: The SST directive allows for the Regional Offices to evaluate whether to inspect target worksites that carryover. Further, regarding the use of the current year's DART and DAFWII, it is difficult to implement due to the two-year lag in the collection of the ODI data. However, in accordance with the SST directive, Compliance Officers are required to calculate the establishment's current and the previous three years of DART and DAFWII rates from the OSHA 300 Logs.

b. Use additional data to improve targeting precision such as the average number of days away and average number of days transferred, and/or other information collected in ODI.

OSHA response: At this time, the Agency does not have evidence to indicate that value will be added to our targeting by separating the metrics as the OIG suggested.

3. Complete the evaluation of the SST program, and implement a monitoring system to evaluate efficiency and effectiveness on an on-going basis.

OSHA response: OSHA agrees that the current evaluation of the SST Program should be completed. OSHA believes subsequent evaluation of the program should be done on a periodic rather than on-going basis. The SST has been in place for more than a decade and the basic function of the program changes little from year to year. OSHA believes evaluation resources can be better utilized by rotating evaluations among the Agency's various programs, and periodically returning to its core programs.

ATTACHMENT 1

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
TECHNICAL COMMENTS TO OIG DRAFT AUDIT REPORT ON THE SITE-
SPECIFIC TARGETING PROGRAM

OIG FINDING: RESULTS IN BRIEF, WHAT WAS KNOWN ABOUT THE EFFECTIVENESS OF OSHA'S PROGRAM

"...OSHA is using output measures to monitor program activities, e.g., inspections counts, citations issued, penalty amounts, and does not measure the effect of these actions on improving safety and health – "outcome based performance metrics."

OSHA RESPONSE: Universities and other entities are conducting these evaluations—see Science 18 May 2012: Vol. 336 no. 6083 pp. 907-911, *Randomized Government Safety Inspections Reduce Worker Injuries with no Detectable Job Loss*. Further, we reference BLS data, as well as OSHA's inspection data, when considering the success of our programs; and whether some of these programs should be continued. For example, in the last 10 years the rate of amputations across the industry has generally decreased; we believe the Amputations National Emphasis Program has had a positive impact in general industry.

OIG FINDING: OBJECTIVE 1, RESULTS AND FINDINGS, FINDING 1 --

"... the SST program has been expanded to include employers with 20 or more employees; it does not go far enough to reach this at-risk group."

OSHA RESPONSE: OSHA can inspect employers with 11-19 employees through various National, Regional and Local Emphasis Programs and other types of interventions. Please see OSHA's response to Recommendation 1(a).

"... a result some low-hazard industries were included in ODI while other industries with high injury rates were excluded...For example, another excluded industry, *Grain and Field Beans* SIC 5153 had 10 worksites with 8 fatalities and 2 injuries reported in 2010. ..In August of 2010, OSHA issued a hazard alert letter to Grain Storage Facility Operators due to fatalities in the industry from grain entrapment. The letter stated 38 grain entrapments..."

OSHA RESPONSE: SIC 5153 is covered by Regional and Local Emphasis Programs. Our Severe Violators Enforcement Program (SVEP) also captures this SIC by including the Grain Handling Rule as a high emphasis hazard; OSHA would inspect this sector through the Regional and Local Emphasis Programs, in addition to conducting mandatory follow-ups inspection under SVEP.