

# **The Lighter Side of OSHA**

**By Jason Bader, Principal  
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When most of us hear the word OSHA, we instantly conjure up images of ticket writing cops invading our workplace. And these aren't the \$35 tags that grace our windshield when we linger in a parking spot too long. These citations can easily hit the four or five digit mark depending on the severity of the violation. Let's face it, a visit from OSHA often ranks up there with a visit from the IRS. But, were you aware that there is a completely separate arm of OSHA designed to help small businesses provide a safe environment for their employees? Best of all, it's free.

The statement "We're from the government and we're here to help" has been the punch line in many a pop culture medium. At the very least, it raises an eyebrow when spoken from an overstarched, briefcase toting individual. Entrepreneurs are natural skeptics when it comes to governmental assistance and advice. But I am here to tell you, this one is a pretty good deal.

I stumbled across this side of OSHA when I began teaching a warehouse management course for the American Supply Association. In our discussions about employee safety, some of the participants mentioned that they had invited an OSHA consultant in to do an assessment of their facility. After the initial shock wore off – envisioning letting the fox in the hen house – I was exposed to some pretty amazing success stories. After the session, I became more curious about OSHA's alter ego. I did some research and learned that this less publicized side of the safety and health administration is referred to as the OSHA Consultation Services program. I even invited a member of the consulting service side to speak at one of my training classes. It was at this event that my opinion of this agency completely changed.

The consulting program is designed to help small businesses provide safe working environments. They generally focus on companies with fewer than 250 employees at one site and work on practical solutions designed to fit the individual environment. Best of all, working with the consulting services side of OSHA can give you an exemption from the enforcement side for up to 2 years. I would consider that some pretty cheap insurance.

So what happens if the enforcement side of OSHA comes knocking on your door? For starters, you are going to get a violation. I don't care how squeaky clean you think you are, an inspector can always find something to write up. It's just like an IRS audit. They will find some reason to justify their time and energy on site. There have often been rumors that auditors have quotas or receive bonuses for issuing citations. My contact with the service told me that this was simply not the case. On the other hand, those who discover more citable violations tend to be promoted faster.

As anyone who has been investigated by OSHA can tell you, this is not a slap on the wrist event. Generally first time offenders, without malicious or negligent intent, can expect somewhere around \$7000 per violation discovered. Willful, repeat or severe negligence situations can expect \$50,000 to \$70,000 fines being levied. Of course, these fines are negotiable and rarely does a company pay the full amount, but it hurts all the same. How many additional sales dollars do you have to produce in order to pay for \$50,000 in violations? Do the math.

Here is how the consultation service works. First, it should be noted that the consultation side is not allowed to discuss your case with the enforcement side. In most states, they are completely separate entities. In fact, many states contract with local universities to conduct the consulting services.

### **Step One**

Contact your local consultative service program either by phone or email. The best way to locate your local office is to look on the OSHA.gov website and click on the “Small Business” tab. You will see references to the Consultation Services program. Again, each state handles this a little differently. Once you have made contact, you set up an appointment for the initial meeting.

### **Step Two**

This is the on-site visit. The consultant will sit down with you and explain the program and what they will be looking for during the visit. They will explain their separation from the enforcement side of OSHA and clarify expectations from both sides. They will complete the walk through survey and gather information for their report. At the close of the day, they will discuss some of the things they discovered. Both sides will discuss reasonable timelines for cleaning up the issues discovered during the walk through.

### **Step Three**

The consultant will formalize the report and document the agreed upon action steps. They may also provide some research and statistical data to help you justify the work you are doing to make your workplace safe. By the way, this information can be very helpful when negotiating insurance rates.

### **Step Four**

The company must correct any situation which poses imminent danger or is a severe OSHA violation. Other recommendations must be acted upon within the agreed upon timeline. Hazards must be posted where employees can see them until the problem is corrected. Part of the enforcement exemption is the understanding that you will comply with the recommendations.

This is a pretty painless process. As I was gathering information about this service, I found that my brother’s company had recently invited OSHA in to start the consulting process. When I spoke to the warehouse manager, he said it was relatively easy and the person was very familiar with distribution warehouses. It’s always nice to know some of this stuff works.

The best thing about this program is that you will be providing a safe work environment for the people that work with you and for you. As an added bonus, you block out the enforcement side. Once you make contact with the consultation service folks, the enforcement people can’t touch you for at least a year. So here is a little advice. A sizable accident, or a string of claims, can trigger an OSHA audit. If you think you may be getting a visit, call the consulting services folks. Once you get involved with the consulting side, you essentially drop off the enforcement radar.

The only catch is that you have to clean up what the consultants find. This is a small price to pay considering the alternative.

No decent business owner wants to see their employees get injured on the job. When someone goes down, the rest of the team has to step up and cover the work. Additionally, we have developed relationships with the people who have made us successful over the years. They become a part of our family. It is unsettling when a part of that family sustains a serious injury. I know the thought of inviting OSHA into your facility is slightly uncomfortable; but this is one government program I would take a hard look at. If anything, it might just prompt you to become more safety conscious in the future. Good luck.

***About the Author:***

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