

ILLINOIS DEPARTMENT OF LABOR
ILLINOIS OSHA DIVISION

REPORT TO THE GOVERNOR

PURSUANT TO 820 ILCS 219/1-925

ANNUAL GOVERNOR'S REPORT

January 1, 2019 through December 31, 2019

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I. HISTORY & BACKGROUND

The Illinois State and Local Government Plan (SLGP) is administered by the Illinois Occupational Safety and Health Act (Illinois OSHA) Division Manager under the leadership of the Director of the Illinois Department of Labor (IDOL). The Illinois OSHA Division (the Division) is made up of two separate programs: Enforcement and Consultation. The Enforcement program enforces safety and health standards in public sector workplaces, has oversight of public sector occupational safety and health whistleblower discrimination investigations, adopts Federal Occupational Safety and Health Administration (OSHA) standards, and provides public sector outreach services. U.S. Department of Labor OSHA enforces safety and health standards in the private sector in Illinois. The Consultation program provides consultation services to small to medium sized private and public sector employers.

On December 19, 2019, Illinois OSHA's Division Manager, Mr. Ben Noven, resigned. The State Plan Coordinator, Mrs. Brandy Lozosky, was appointed acting and as of January 15, 2020 the Governor's office approved the IDOL Director's appointment of Mrs. Lozosky as the new Illinois OSHA Division Manager.

Enforcement

The Illinois OSHA Enforcement program has been in place since 1985 to ensure safe and healthy working conditions for state, county, municipal, and educational employees. To accomplish this, Illinois OSHA performs inspections, investigations, and consultations outlined under the provisions of the Illinois Occupational Safety and Health Act [820 ILCS 219].

On September 1, 2009, IDOL was approved by OSHA to become a State and Local Government Plan (SLGP) for public sector worksites. Under OSHA's SLGP, States develop and operate their own safety and health programs, which must be at least as effective as the federal program and are eligible for up to 50 percent matching funds for operating costs. Illinois became the 27th State and/or territory that has an OSHA-approved SLGP.

Illinois OSHA has the authority to enforce standards (General Industry, Construction, and Maritime Industries) identical to federal OSHA. The specific Code of Federal Regulations (29 CFR 1910 and 1926) are cited for any violations that Illinois OSHA issues.

Illinois OSHA conducts program planned inspections (PPIs) and investigates fatalities, catastrophic events (FAT/CATs), and complaints. In addition, it administers referrals and conducts follow-up enforcement inspections. On-site inspectors identify and immediately address imminent danger situations, and in doing so, they have the authority to post warnings, inform the affected employees (or representatives), and recommend to the IDOL Director or his or her designee that a cease and desist order be issued to the public employer requiring immediate abatement of the hazard.

Any public employee in Illinois has the right to file a hazardous working condition complaint with Illinois OSHA.

Consultation

In 1975, the United States Congress began funding the voluntary compliance On-Site Consultation program, and by 1980, all 50 States had a program [29 CFR 1908]. For years, the program has provided free consultation services to private sector employers with 250 or fewer employees on-site or 500 employees corporate-wide. On October 1, 2011, Illinois OSHA expanded its consultation services to include public sector employers.

The Illinois On-Site Safety and Health Consultation program is funded 90% by OSHA and 10% by State matching funds. Consultation services are provided through on-site visits, which are initiated by an employer making a consultation request. Services include, but are not limited to, helping private and public employers identify safety and health hazards, control or eliminate hazards, establish or improve a workplace safety and health program, and better understand all requirements of applicable federal and/or state standards.

II. MISSION STATEMENT

It is the mission of Illinois OSHA to ensure safe and healthy working conditions by setting and enforcing standards and providing training, outreach, education, and assistance to employers and employees throughout Illinois.

Illinois OSHA's mission is accomplished by:

- Improving workers' knowledge of safety and health by informing them of their rights to participate in all inspections/investigations/visits/training activities and by encouraging workers to report potential hazards without fear of retaliation from their employer.
- Establishing, adopting, maintaining and enforcing standards that reduce hazards in the workplace.
- Encouraging employers and employees to recognize and reduce safety and health hazards in the workplace through education and training opportunities.
- Conducting PPIs without advance notice to selected workplaces including those in the National Emphasis Program (NEP).
- Investigating work-related incidents involving public sector employees that resulted in the loss of an eye, amputation, in-patient hospitalization, or death of one or more employees.
- Acting as a resource for occupational safety and health issues.
- Oversight of whistleblower discrimination investigations in accordance with the Whistleblower Investigation Manual.
- Ensuring that staff maintains and enhances professional standards of the Division by participating in continuing education courses at the OSHA Training Institute (OTI).
- Providing consultation services to help public and private employers identify safety and health hazards, control or eliminate hazards, establish or improve workplace safety and health programs, and understand all requirements of applicable federal and/or state standards.

III. VISION

Illinois OSHA's vision is to be the resource for occupational safety and health for employers and employees in the public and private sector in Illinois. Illinois OSHA realizes this vision through timely, practical, useful, courteous, and professional services, all of which is built on the premise that occupational deaths, injuries, and illnesses can be prevented.

Illinois OSHA focuses on:

- State and local agencies having effective, self-sufficient occupational safety and health programs that exceed standard requirements.
- Innovative concepts and strategies that will be used to increase awareness and stakeholder participation in occupational safety and health matters.
- Education, technical support, and consultation activities that will provide learning opportunities to enable state and local agencies to become more proactive in addressing occupational safety and health issues.
- Developing and implementing information technology improvements to better meet the needs of customers.
- Maintaining a professional Illinois OSHA team committed to being the State's resource for promoting safety and health in the public and private sector work force.

IV. ILLINOIS PUBLIC SECTOR DEMOGRAPHICS

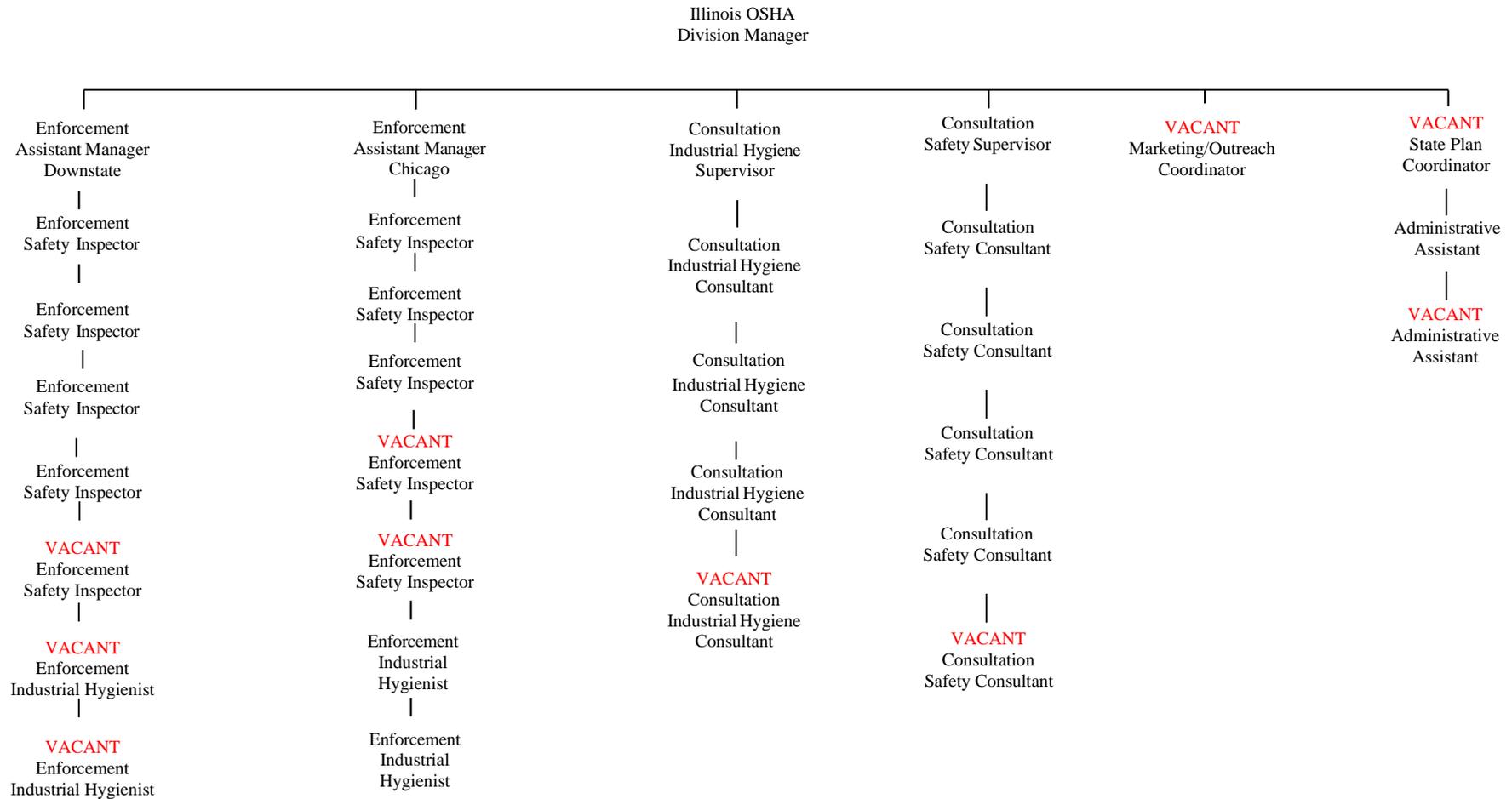
The public-sector constituency covered under the Illinois Occupational Safety and Health Act [820 ILCS 219] includes approximately 6,505 public establishments¹ with an estimated 722,628 public employees in Illinois.²

¹ Public establishments can, and in many cases do, have more than one worksite. This data is not currently collected and broken up individually by the State.

² Data Source: Illinois Department of Employment Security (IDES), Quarterly Census of Employment and Wages (QCEW), 2019 Q2.

V. ILLINOIS OSHA PROFILE

Fully staffed, the Illinois OSHA Division employs 32 professionals. Included in this number are one Division Manager, six Supervisors, 10 Safety Inspectors, four Industrial Hygiene Inspectors, five Safety Consultants, four Industrial Hygiene Consultants and two Support Staff.



VI. PROGRAM ACTIVITIES

Enforcement Activities

Illinois OSHA conducted a total of 289 public sector inspections in calendar year (CY) 2019. Inspections are categorized as programmed and unprogrammed. Programmed inspections are scheduled based upon objective or neutral selection criteria. Unprogrammed inspections are scheduled in response to alleged hazardous working conditions identified at a specific worksite.

TABLE 1.0 – TOTALS BY ENFORCEMENT INSPECTION ACTIVITY

ACTIVITY/YEAR	2014	2015	2016	2017	2018	2019
PROGRAMMED INSPECTIONS						
Planned	204	392	277	139	86	206
Related	1	2	0	1	5	2
Other	0	0	2	0	0	0
UNPROGRAMMED INSPECTIONS						
Accident	0	0	0	1	0	0
Fatality	13	9	4	4	7	4
Complaint	66	81	40	52	41	37
Referral	47	8	12	4	5	2
Monitoring	1	1	3	3	0	0
Follow-up	27	20	27	5	0	7
Related	0	2	3	0	0	5
Non-Fatal Accident <small>(amputations, hospitalizations, non-hospitalizations)</small>	0	33	42	36	31	26
Other	4	0	0	0	0	0
TOTALS	363	548	410	245	175	289

Consultation Activities

The program provided occupational safety and health consultation services to 279 employers in CY 2019. These employers cover a total of 92,219 employees nationwide, 29,043 of whom work in Illinois. Illinois OSHA consultants identified and corrected exposures affecting 24,151 employees in a timely manner. In addition to removing hazards during the consultation visits, Illinois OSHA consultants informally trained 369 employees, supervisors and managers on how to provide a safe and healthy workplace.

TABLE 1.1 CONSULTATION ACTIVITIES

ACTIVITY/YEAR	2014	2015	2016	2017	2018	2019
Initial Visits	507	481	300	252	240	217
Training & Assistance Visits	10	6	4	4	5	4
Follow-up Visits	47	76	63	60	75	58
TOTALS	564	563	367	316	320	279

Compliance Assistance

Illinois OSHA conducts compliance assistance activities for high hazard industry organizations/groups concerning the hazards of relevant National Emphasis Programs (NEPs), OSHA Directives and to promote Illinois OSHA's On-Site Consultation services. In CY 2019, Illinois OSHA performed the following compliance assistance activities:

- January 21, 2019, performed leadership training at Essentra Specialty Tapes.
- January 28, 2019, promoted program at the Southern Illinois Occupational Safety and Health (SIOSH) Day event.
- January 30, 2019, performed application of first aid standard training at Park District Risk Management Agency.
- February 8, 2019, notified all State and Local Government agencies reminding them of the Electronic Reporting Requirements.
- February 27, 2019, promoted program at the Downstate Illinois Occupational Safety and Health (DIOSH) Day event and presented Robert Luginbuhl, from Oberlander Electric, Peoria, IL with the 8th Annual Governor's Safety and Health Award for an individual.

- February 27, 2019, presented “Leadership” and “How to become SHARP” at the Downstate Illinois Occupational Safety and Health (DIOSH) Day event.
- March 25, 2019, promoted program at the Grain Stand Down with Illinois Fire Service Institute and Federal OSHA.
- April 9, 2019, promoted program and performed excavation training at Altorfer Rents.
- April 9-11, 2019, promoted program at the Trenching Safety Conference.
- April 26, 2019, promoted program at the Decatur Trades & Labor Assembly, AFL-CIO Workers Memorial Day 2019 event.
- May 3, 2019, promoted program at the Workers’ Compensation Trust of Illinois event.
- May 20, 2019, mailed fire department outreach letter to 37 Will & Kankakee County Fire Departments and Fire Districts.
- June 2019, workplace fatigue social media campaign for National Safety Month.
- June 6, 2019, performed recordkeeping requirements for temporary workers training at Clear Staff.
- June 20, 2019, performed 29 CFR 1910 Subparts E, K, & L training at OSHA Safety Day, Joliet Junior College.
- June 28, 2019, presented “Who’s on First & What Rules Apply” at the Fire Districts Conference.
- July 9, 2019, Workplace Violence press release; <https://www2.illinois.gov/idol/News/Documents/WorkplaceViolence.pdf>
- July 24, 2019, OSHA poster press release; <http://wlds.com/news/illinois-employers-required-to-keep-osha-poster-displayed-in-worksite/>
- July 29, 2019, program promotion at the Commission on Government Forecasting and Accountability Legislator.
- September 16, 2019, presented “Fire Code 101” at the Chicagoland Safety Conference.
- September 18, 2019, program promotion at the Chicagoland Safety Conference.
- October 17, 2019, program promotion at the 16th Annual Greater St. Louis Area Safety and Health Conference.
- November 6, 2019, performed confined space entry training at the Water Collections Systems Safety Seminar.

VII. CITATIONS AND HAZARDS PROFILE

The Illinois Occupational Safety and Health Act describes procedures for issuing citations and proposes penalties. If an inspector believes a violation of a safety and health standard exists, the inspector will propose a violation and recommend to his/her supervisor that Illinois OSHA issue a citation. Willful and criminal/willful citations must be approved by the Illinois OSHA Director. The citation will describe the nature of the violation including reference to the appropriate regulation, along with providing the employer a deadline for abatement of the violation. The citations are classified according to the following categories:

- **Other than Serious** – the most serious injury or illness that would likely result from a hazardous condition and which cannot reasonably be predicted to cause death or serious physical harm to exposed employees but does have a direct and immediate relationship to their safety and health.
- **Serious** – there is a substantial probability that death or serious physical harm could result from a condition that exists, or from one or more practices, means, methods, operations, or processes that have been adopted or are in use in the place of employment and is known to the employer.
- **Willful** – the evidence shows either an intentional violation of the Illinois Occupational Safety and Health Act or plain indifference to its requirements. A willful violation need not be committed with a bad purpose or evil intent; it is sufficient that the violation was deliberate, voluntary or intentional.
- **Criminal/Willful** – the evidence demonstrates that an employer violated a specific standard; the violation was willful in nature; and the violation caused the death of an employee.
- **Repeat** – an employer has been cited previously for a substantially similar condition and that citation has become a final order.

The General Duty Clause of the Occupational Health and Safety Act is cited when there is no standard that applies to the particular hazard involved. All such proposed citations must be approved by the Illinois OSHA Division Manager.

Monetary penalties are not normally issued along with the first notice of citations for public sector employers in Illinois. These sanctions are reserved for employers who do not meet abatement timeframes or who have repeat or willful violations of the same standards. All citations that have proposed monetary penalties attached to them must be approved by the Illinois OSHA Division Manager.

The Illinois On-Site Consultation program issues notices of hazards in the aforementioned categories that also reference the corresponding OSHA standard along with abatement timelines.

TABLE 2.0 ENFORCEMENT CITATIONS

	IMMINENT DANGER	SERIOUS	OTHER THAN SERIOUS	REPEAT	WILLFUL
2019 TOTALS	0	542	60	13	0
2018 TOTALS	0	234	51	7	0
2017 TOTALS	0	379	112	13	0
2016 TOTALS	0	730	258	0	0
2015 TOTALS	0	813	242	5	0
2014 TOTALS	0	685	90	10	0

TABLE 2.1 CONSULTATION HAZARDS NOTED

	SERIOUS	OTHER THAN SERIOUS
2019 TOTALS	818	94
2018 TOTALS	715	29
2017 TOTALS	636	45
2016 TOTALS	805	36
2015 TOTALS	1739	43
2014 TOTALS	2162	40

VIII. FATALITY AND ACCIDENT INVESTIGATIONS

As of October 19, 2015, public sector employers must report all work-related fatalities within eight hours and all work-related hospitalizations, amputations, and losses of an eye within 24 hours. This information must be reported verbally to Illinois OSHA by calling our confidential 24-hour number at (217) 782-7860. All incidents that meet these criteria are investigated by Illinois OSHA within 24 hours in conjunction with other agencies to determine if a violation of a known safety and health standard contributed to the incident.

Fatality Investigations

There were 22 fatalities reported to Illinois OSHA in CY 2019, four which met Illinois OSHA criteria for requiring a more thorough investigation beyond the preliminary inspection. Fatalities broken out by activity and occupation are shown in Table 3.0 and Table 3.1.

Non-Fatal Accident Investigations

Non-Fatal accident investigations consist of amputations, hospitalizations and accidents that result in a hospitalization. There were 195 accidents reported to Illinois OSHA in CY 2019, 26 of which met Illinois OSHA criteria for requiring a more thorough investigation beyond the preliminary inspection.

TABLE 3.0 FATALITIES BY ACTIVITY

ACTIVITY/YEAR	2015	2016	2017	2018	2019
Falls	1	0	0	3	1
Heart Attacks (work-related)	0	0	1	0	0
Struck by/Caught in Machinery	3	0	0	2	1
Transportation	2	3	1	0	0
Trenching	0	0	1	0	0
Gunshot	1	0	0	1	0
Electrocution	0	1	0	0	1
Asphyxiation	0	0	0	0	0
Drowning	0	0	1	1	0
Natural Causes or Unknown	2	0	0	1	0
TOTALS	9	4	4	8	4

TABLE 3.1 FATALITIES BY OCCUPATION

ACTIVITY/YEAR	2015	2016	2017	2018	2019
Law Enforcement/Corrections	2	1	0	3	0
Firefighter/EMT	2	0	1	1	1
Laborer	2	2	0	2	0
Electrician/Lineman	0	0	0	0	0
Technician/Engineer	0	1	3	0	0
Operator	0	0	0	0	2
Janitor/Custodian	0	0	0	2	0
Administrator/Education	3	0	0	0	1
Bus/Tow Truck Driver	0	0	0	0	0
TOTALS	9	4	4	8	4

IX. WHISTLEBLOWER INVESTIGATIONS

The Illinois Occupational Safety and Health Act prohibits a public employer from discharging or in any way discriminating against an employee for filing complaints, testifying or otherwise acting to express rights under the Act. Discrimination complaints must be filed within 30 calendar days after the alleged violation occurs. To be a viable case, four determining factors must be present:

- A protected activity
- Employer knowledge
- Adverse action
- Nexus

The Illinois Director of Labor or his or her designee may bring action in the circuit court for appropriate relief, including rehiring and/or reinstatement of the employee to his or her former position with back pay. In 2018, Federal OSHA monitors approved an intergovernmental agreement (IGA) between the Illinois OSHA Division and the IDOL Conciliation and Mediation Division (Con/Med) granting Con/Med staff the authority to investigate Whistleblower cases. Administration, monitoring and reconciliation are handled by the Illinois OSHA Division. In CY 2019 there were 29 complaints filed and after investigation, 20 were administratively closed, two settled, two were dismissed for no merit and six are pending.

X. LEGAL ISSUES

Appeals, Hearings, Proposed Fines and Lawsuits

After receiving a citation, a proposed assessment of penalty, or a notification of failure to correct a violation, an employer may request a hearing before the Illinois Director of Labor or his or her designee for an appeal from the citation order, notice of a penalty, or abatement period. An employee or representative of an employee may also request a hearing before the Illinois Director of Labor or his or her designee for an appeal from the citation on the basis that the period of time fixed in the citation for abatement is unreasonable. In CY 2019 there were four inspections with informal contests, no formal contests and a total of \$11,510 in penalties paid.

XI. SAFETY AND HEALTH ACHIEVEMENT RECOGNITION PROGRAM (SHARP)

The Illinois On-Site Consultation program evaluates the safety and health programs of small to medium sized businesses to determine if they meet the criteria to be certified as a SHARP site. SHARP recognizes employers who operate exemplary safety and health programs at their worksites that result in immediate and long-term prevention of job-related injuries and illnesses. By end of CY 2019, 38 Illinois employers have achieved SHARP status. (listed below):

Addison Fire Protection District
Andrews Engineering
Avery Dennison
Becker Iron and Metal, Inc.
C. Keller Manufacturing
Catty Corporation
Chem Processing
CMS Inc.
Concentric Itasca Inc.
Corrosion Materials
Corrugated Metals, Inc.
Crane Composites
DeKalb Area Retirement Center - Oak Crest
Elizabeth Nursing Home
Essentra Specialty Tapes
Gallagher Corporation
Harris Rebar Rockford Inc.
K-Plus Industrial Services, Inc.
Lafayette Steel
Mid-States Concrete
Minova
New Indy Ivex Specialty Paper, LLC
Obiter Research LLC
Posen Fire Department (Public Sector)
Real Alloy Recycling (Aleris)
Roscoe Company
Scot Forge - Franklin Park
Spoon River Pregnancy Center
Staunton Fire Protection District (Public Sector)
Sun Chemical
Swiss Precision Machining
Teleweld Inc.
The Scoular Company - Channahon
Thomas Electronics
Troy Fire Protection District (Public Sector)
Tru Vue
Vosges Haut Chocolat
Zookbinders

XII. STATE PLAN APPLICATION

Overview

The Illinois Department of Labor was approved by the United States Department of Labor, Occupational Safety and Health Administration (OSHA) to become a State and Local Government Plan (SLGP) for public sector worksites on September 1, 2009.

The OSHA SLGP application process has three major components. The first component is the developmental phase where the State must assure the US DOL OSHA that within three years it will have in place all structural elements necessary for an effective occupational safety and health program. The elements include appropriate legislation, regulations and procedures for setting standards, enforcement, appeal of citations and penalties, and a sufficient number of qualified enforcement personnel. Once the developmental steps have been completed and documented, the State is eligible for certification, which attests to the structural completeness of the plan. An operational status agreement will not be necessary for the Illinois SLGP proposal since OSHA does not have jurisdiction over the public sector and therefore does not have to relinquish any official authority. The ultimate accreditation of a State's plan is called final approval. Following certification status, the State must have demonstrated worker protection to be at least as effective as the protection provided by the federal program. The State must also meet 100 percent of the established compliance staffing levels and participate in the OSHA computerized inspection data system.

Benefits

Illinois OSHA requested and received \$1,527,100 for Enforcement and \$1,919,000 for Consultation in annual federal matching grants in 2019³, which are used to supplement Illinois' current safety and health activities.

PROGRAM	FEDERAL FUNDS	STATE FUNDS	PROGRAM TOTAL
CONSULTATION (90/10)	\$1,919,000	\$212,314	\$2,131,314
ENFORCEMENT (50/50)	\$1,527,100	\$1,527,100	\$3,054,200

³ Due to staffing vacancies, the Consultation program de-obligated \$700,000 and the Enforcement program de-obligated \$661,000 in federal funds.

Federal funding enables Illinois OSHA to remain proactive in approaching safety and health issues by providing better coverage, more enforcement, increased public awareness, and training to help employees and employers better understand safety and health topics. In addition, OSHA SLGP approval increases the professionalism and awareness of our safety and health program, provides the State with more professional resources, includes federal certification and training, computer tracking, program reporting, standards development, laboratory services, and testing protocols.

Status

On September 1, 2009, Illinois OSHA received developmental plan approval (see 74 Fed. Reg. 45114 (2009)) and began a three-year process to establish all structural elements necessary to be deemed effective. The initial three-year time frame for meeting developmental steps expired, and Illinois OSHA requested a two-year extension in October of 2012, which was granted by Federal OSHA. This extension expired in 2014 with Illinois OSHA still not having met their required developmental steps for State Plan certification. As such, additional requests were made by Illinois OSHA. Since this time, three one-year extensions have been approved by Federal OSHA.

On October 1, 2018, Illinois OSHA requested an additional two-year extension regarding staffing level requirements. The request has been verbally approved by Federal OSHA, with stipulations that significant ongoing progress must be shown toward filling vacancies and heightened monitoring be put in place, including monthly Federal OSHA monitoring meetings and quarterly updates to OSHA Region V and the National Office. If unsuccessful in filling necessary vacancies in the program in accordance with the extension agreement, Illinois OSHA will likely lose a significant amount of federal funding permanently.