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THE INDUSTRIAL COMMISSION OF ARIZONA DIVISION OF OCCUPATIONAL SAFETY & HEALTH



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July 29, 2016

Ms. Barbara Goto
Regional Administrator, OSHA
90 -7th Street, Suite 18100
San Francisco, CA 94103

RE: ADOSH Response to the FFY 2015 FAME

Dear Ms. Goto:

Thank you for the opportunity to provide the Arizona Division of Occupational Safety and Health's (ADOSH) formal response to OSHA's FFY 2015 Federal Annual Monitoring and Evaluation (FAME) report. ADOSH and federal OSHA have continued to develop a constructive and productive relationship between our agencies, which has effectively resolved concerns raised by both sides. The required Corrective Action Plan (CAP) response regarding the findings and recommendations found within the FAME will be submitted to OSHA by August 15, 2016, as requested in your July 15, 2016 letter.

Overall, I believe the FFY 2015 FAME to be a fair, balanced and positive review of ADOSH's FFY 2015 activities and concur with the overall findings of the audit with regard to the effectiveness of ADOSH's program responsibilities. While I appreciate the efforts made by OSHA's staff to include some positive findings, along with the findings where corrections are recommended, I still believe that some of the findings and recommendations that continue to represent non-substantive issues that did not need to be part of a formal evaluation process and could have been better served informally. At this time, I will take this opportunity to respond to the more substantive issues identified in the FAME.

With respect to the issues identified under Section H, Major New Issues, OSHA listed Personal Identifiable Information (PII) as a new issue, stating: *"During an investigation into a Complaint About State Program Administration (CASPA), it was noted that the names of complainants, witnesses, and personally identifiable information had been disclosed."* In reviewing our files, ADOSH disputes and disagrees with this statement. ADOSH has not released the names of any complainants, which is prohibited by Arizona state law.

In regards to the Enforcement Section B, Item 1, Complaints, the report noted on page 8: *"As noted earlier, throughout FY 2015, compliance staff performed on-site inspections where any complaint of fall protection was alleged in construction. This commitment to perform so*

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many on-site inspections in construction, regardless of the source of the complaint and without assessing its likely validity, was a response to enforcing the newly adopted Federal fall protection regulation." OSHA's statement that ADOSH's enforcement was a response to a newly adopted Federal fall protection regulation is incorrect. In regards to fall protection complaints, ADOSH has consistently inspected workplaces where complaints of alleged fall hazards exist, bypassing a formalized complaint process, where the complaint is likely valid as part of Arizona's local emphasis on fall hazards in construction. This has been standard practice at ADOSH for many years.

With respect to Section C, Item 1, regarding informal conferences, OSHA stated: *"Sofew informal conferences were held is likely because of the relatively low number of serious violations and the relatively small penalty amounts"* I do not believe this accurately describes the ADOSH program. ADOSH has improved its serious violations by twenty-nine percent since FFY 2013. Additionally, we have improved our documentation of all informal conferences that document discussion between ADOSH and employers along with justification for any reductions or reclassifications offered.

In regards to Section F, State and local government worker program, While I concur that the number of serious violations were low in your sample (29%), ADOSH recognized this issue early on and revised our inspection procedures to focus on high hazard areas of public sector employers (police, fire, streets, waste water, maintenance, etc.). With these changes, the percentage of serious violations found in future public sector inspections will likely increase.

Finally, regarding your concern that the ADOSH website was difficult for web users on how to file a new workplace retaliation complaint, ADOSH has made significant progress in this area, and as of this writing, is creating a new webpage with fillable discrimination complaint forms that will be readily available for complainants. This new webpage and electronic form process will greatly enhance our service to complainant's ability in communicating with us.

In closing, I appreciate the opportunity to respond to the FAME and look forward to working collaboratively with you and your staff as the workers of Arizona are best served when we work together toward the common goal of keeping them safe from recognized hazards that are most likely to result in serious injury, illness and death. If you should have questions regarding this response, please feel free to contact me at 602-542-1693.

Sincerely,

Bill Warren,
ADOSH Director

BW:bw

cc: James Ashley
T. Zachary Barnett, CSP