



# **Federal Annual Monitoring and Evaluation (FAME) Report**

## **Illinois Public Sector**

**September 1, 2009 to September 30, 2010**

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## **I. Executive Summary**

This Federal Annual Monitoring Evaluation (FAME) provides a status update of the Illinois Public Sector Only State Plan (IDOL-SIED) performance goals established in their Fiscal Year (FY) 2010 Annual Performance Plan and the effectiveness of programmatic areas related to enforcement.

IDOL-SIED deobligated \$500,000 of the \$1,500,000 FY 2010 grant due to delays in filling vacant positions. This deobligation was completed in a timely manner, which allowed other State Plans to access the funds. Currently there are two vacant compliance staff positions.

In December 2010, the Division Manager retired. The State Plan and Information Coordinator has been acting as the Division Manager since that time. This has reduced the time available for State Plan development issues and delays are occurring, which may prevent IDOL-SIED from meeting the established goals for FY 2011. These goals include the development and approval of the Field Operations Manual (FOM) and recordkeeping rules.

As required, IDOL-SIED started using OSHA's data management system in FY 2010. To date, while IDOL-SIED continues to enter data into the system, OSHA is not able to run management reports to monitor the Program. IDOL-SIED has continued to work with OSHA's help desk to resolve these problems.

Along with the performance goals established in the FY 2010 grant, several developmental goals were established, which included finalizing the IDOL-SIED poster, filling vacancies, entering data into OSHA's Integrated Management Information System (IMIS) and revising the Rules of Procedures in Administrative Hearings (56 ILAC 120) to clarify the separation of the enforcement role of the Director of Labor from the adjudicatory role in contested cases. All but the last developmental goal was completed in FY 2010. 56 ILAC 120 was published in January 2011. IDOL-SIED met all three of the performance goals established in the FY 2010 grant.

Federal OSHA received one Complaint About State Program Administration (CASPA) during FY 2010. An investigation was conducted. It was determined that, at the time, IDOL-SIED was not following their current policies and procedures for complaint handling. Appropriate corrective action was taken to resolve the issue.

IDOL-SIED continues to work with federal OSHA to complete its developmental steps during their development period.

## **II. Introduction**

The IDOL-SIED was approved as a Proposed Plan on September 1, 2009. IDOL-SIED has three years to complete the developmental steps established in the September 1, 2009 Federal Register. This FAME covers the first full development year of October 1, 2009 to September 30, 2010.

The Safety Inspection and Education Division is a division of the Illinois Department of Labor. The Director of the Illinois Department of Labor, Catherine Shannon, is the State Designee and Frederick Lewison, Division Manager, oversees the three offices located in Chicago, Springfield and Marion. Currently, the staff also includes a State Plan and Information Coordinator, and nine safety and two health inspectors. In December 2010, Mr. Lewison retired. Currently, Cheryl Neff is the Acting Division Manager. IDOL also has a new state designee as Joe Costigan replaced Catherine Shannon as the Director of Labor in the Spring of 2011.

Currently, staff covers both enforcement and consultation services for the Public Sector. It is expected that at the end of the three year development period, these two Programs will be completely separated. Federal OSHA maintains jurisdiction for all private sector and federal employees.

### III. Summary of Recommendations and State actions from FY 2009 FAME

N/A

### IV. Major New Issues

As this is the full first year of the State Plan, there are no major new issues. IDOL-SIED continued to work with federal OSHA through the development steps. Federal OSHA received one CASPA during FY 2010.

### V. Assessment of State Performance

IDOL-SIED developed and implemented an annual performance plan. They met all three performance goals along with established developmental goals (see Other Issues).

#### A. Assessment of Progress in Achieving Annual Performance Goals

The following summarizes the activities and/or accomplishments for each of the FY 2010 performance goals.

**Performance Goal 1.1:** Improve workplace safety and health for all workers, as evidenced by reducing hazards, exposures, injuries, illnesses and fatalities.

**Results:** This goal was met.

**Discussion:** At the time of Plan approval, IDOL-SIED needed to adopt 12 federal standards. These were adopted and published in the Illinois Register on April 2, 2010. IDOL-SIED continues to proceed with standard adoption as new federal standards are published.

**Performance Goal 2:** Promote a safe and healthy culture through compliance assistance, cooperative programs and strong leadership.

**Results:** This goal was met.

**Discussion:** IDOL-SIED staff conducted 189 educational activities, which included speeches and training, 66 advisory consultation visits and 37 written program evaluations.

**Performance Goal 3:** Maximize IDOL-SIED's effectiveness and efficiency by strengthening its capability and infrastructure.

**Results:** This goal was met.

**Discussion:** IDOL-SIED joined the current IMIS in January. While there are still some problems to be worked out through the OSHA IT Help Desk, IDOL-SIED continues to enter data into the system.

IDOL-SIED filled all necessary vacant positions, including the Division Manager, State Plan and Information Coordinator and the Downstate Assistant Manager.

Section § 1956.81(m) required IDOL-SIED to revise and submit a new state poster for posting at all public sector workplaces within one year of Plan approval. On May 25, 2010, IDOL-SIED submitted a poster for review. On June 16, 2010, OSHA submitted comments on the poster to IDOL-SIED for revision and compliance with §1952. A revised poster was submitted by IDOL-SIED on August 31, 2010. OSHA provided final clearance on the poster on October 6, 2010.

## **B. Assessment of State Performance of Mandated Activities**

### **i. Enforcement**

During FY2010, IDOL-SIED conducted 1542 inspections; 1443 safety and 99 health. Of those 1542 inspections, 1203 were programmed, 126 were complaints and 188 were follow ups. Of the 1716 citations issued, 46% were serious.

### **ii. Standards Adoption and Plan Changes**

#### *Standards Adoption*

At the time of Plan approval, IDOL-SIED needed to adopt 12 federal standards. These were adopted and published in the Illinois Register on April 2, 2010. IDOL-SIED continues to proceed with standard adoption as new federal standards are published.

#### *Federal Programs/State Initiated Changes*

The state is current.

### **iii. Variance (if applicable)**

No variances were granted during this timeframe.

### **iv. Consultation**

The Illinois Public Sector Consultation program will not be fully implemented until FY 2012.

### **v. Discrimination Program (if not a specific goal)**

The state has a Discrimination Program. The state has worked with federal OSHA to clarify jurisdictional issues. No whistleblower complaints were filed this Fiscal Year.

### **vi. CASPA**

Federal OSHA received one CASPA during FY 2010. The complainant alleged that IDOL-SIED did not conduct a thorough investigation into a safety and health complaint.

An investigation was conducted. An unsigned, verbal complaint was accepted and investigated by IDOL-SIED. Currently, IDOL-SIED accepts only written, signed complaints from current employees. Based on current policy, IDOL-SIED should not have accepted the safety and health complaint and did not follow their current complaint policies and procedures. Appropriate corrective action was taken to resolve the issue, including retraining for all staff. As a part of their development plan, IDOL-SIED will address their complaint policies and procedures for handling these types of complaints.

vii. Voluntary Compliance Programs

The state's Development Plan includes implementing voluntary compliance programs during the next three years.

viii. Program Administration

The state deobligated \$500,000 of the \$1,500,000 FY 2010 grant. Much of the funds returned were for salaries. Several of the vacant positions were not filled as quickly as the state had hoped. At the end of the Fiscal Year, all proposed positions had been filled. This deobligation was completed in a timely manner, which allowed other State Plans to access the funds.

ix. Other Issues - Developmental Goals

**Hiring critical program staff and filling vacancies**

Developmental step is complete: § 1956.81(g) set forth that IDOL-SIED would begin hiring critical program management staff and fill current vacant positions within 30 days of Plan approval. The critical program management staff included the Division Manager, Assistant Manager for Chicago, Assistant Manager for Marion, and the State Plan and Information Coordinator. The three Safety Inspector positions vacant at the time of Plan approval have been filled. At the end of the first year, all critical management and vacant staff positions were filled.

**Adoption of standards and revising Administrative Hearing rules**

Developmental step is complete: § 1956.81(a) set forth that IDOL-SIED would adopt safety and health standards identical to or at least as effective as the applicable existing OSHA standards within one year of Plan approval. At the time of Plan approval, IDOL-SIED needed to adopt 12 federal standards. These were adopted and published in the Illinois Register on April 2, 2010. IDOL-SIED continues to proceed with standard adoption as new federal standards are published.

Developmental step is incomplete: § 1956.81(a) also set forth that IDOL-SIED would revise the Rules of Procedures in Administrative Hearings (56 ILAC 120) clarifying the separation of the enforcement role of the Director of Labor from the adjudicatory role in contested cases within one year of Plan approval. IDOL-SIED provided the draft rule to OSHA in May 2010. On August 31, 2010, OSHA's National Office accepted the revision. The revised rule was scheduled to be published in December 2010 in the Illinois Register.

### **Joining the Integrated Management Information System (IMIS)**

Developmental step is complete. § 1956.81(k) set forth that IDOL-SIED would join OSHA's IMIS within six months of Plan approval. IDOL-SIED joined IMIS on January 1, 2010.

### **State Plan poster**

Developmental step is complete. § 1956.81(m) required IDOL-SIED to revise and submit a new state poster for posting at all public sector workplaces within one year of Plan approval. On May 25, 2010, IDOL-SIED submitted a poster for review. On June 16, 2010, OSHA submitted comments on the poster to IDOL-SIED for revision and compliance with §1952. A revised poster was submitted by IDOL-SIED on August 31, 2010. OSHA provided final clearance on the poster on October 6, 2010.

### **Annual performance plan**

Developmental step is complete. § 1956.81(d) required IDOL-SIED to develop and submit an annual performance plan with the FY 2010 grant application. The performance plan was to focus on achievement of developmental steps and activity until the program is fully operational. IDOL-SIED submitted the FY 2010 grant application with the annual performance plan in the fourth quarter of FY 2009.

## **VI. Recommendations**

The Program continues to move forward with the established developmental goals and works closely with Region V.

**Appendix A** New Findings and Recommendations

No recommendations for FY 2010.

**Appendix B** Status of FY 2009 Findings and Recommendations

Not Applicable

No report was issued in FY 2009 since Illinois is a developmental plan.

**Appendix C**  
**Illinois Public Employee Only State Plan**  
**FY 2010 Enforcement Activity**

	IL*	State Plan Total	Federal OSHA
<b>Total Inspections</b>	<b>1,048</b>	<b>57,124</b>	<b>40,993</b>
Safety	994	45,023	34,337
% Safety	95%	79%	84%
Health	54	12,101	6,656
% Health	5%	21%	16%
Construction	57	22,993	24,430
% Construction	5%	40%	60%
Public Sector	1,048	8,031	N/A
% Public Sector	100%	14%	N/A
Programmed	894	35,085	24,759
% Programmed	85%	61%	60%
Complaint	85	8,986	8,027
% Complaint	8%	16%	20%
Accident	13	2,967	830
Insp w/ Viols Cited	453	34,109	29,136
% Insp w/ Viols Cited (NIC)	43%	60%	71%
% NIC w/ Serious Violations	55.2%	62.3%	88.2%
<b>Total Violations</b>	<b>1,282</b>	<b>120,417</b>	<b>96,742</b>
Serious	625	52,593	74,885
% Serious	49%	44%	77%
Willful	-	278	1,519
Repeat	8	2,054	2,758
Serious/Willful/Repeat	633	54,925	79,162
% S/W/R	50%	46%	82%
Failure to Abate	-	460	334
Other than Serious	649	65,031	17,244
% Other	51%	54%	18%
Avg # Violations/ Initial Inspection	2.9	3.4	3.2
<b>Total Penalties</b>	<b>\$ 1,500</b>	<b>\$ 72,233,480</b>	<b>\$183,594,060</b>
Avg Current Penalty / Serious Violation	\$ 2.40	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	N/A	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	0.0%	47.7%	40.9%
<b>% Insp w/ Contested Viols</b>	<b>0.0%</b>	<b>14.4%</b>	<b>8.0%</b>
Avg Case Hrs/Insp- Safety	0	16.2	18.6
Avg Case Hrs/Insp- Health	0	26.1	33
Lapse Days Insp to Citation Issued- Safety	16.8	33.6	37.9
Lapse Days Insp to Citation Issued- Health	34.7	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	52	1,715	2,510

*Source: DOL-OSHA. State Plan & Federal INSP & ENFC Reports, 11.9.2010.*

## Appendix D

CAPR	Consultation Annual Project Report
CASPA	Complaint(s) About State Program Administration
CSHO	Compliance Safety and Health Officer
FAME	Federal Annual Monitoring Evaluation
FY	Fiscal Year
IDOL-SIED	Illinois Public Sector Only State Plan
IMIS	Integrated Management Information System
OSHA	Occupational Safety and Health Administration
SAMM	State Activity Mandated Measures Report
SOAR	State OSHA Annual Report

## Appendix E SAMM FY 2009

### SAMMs

Attachment B is the State Activity Mandated Measures Report (SAMM) for Illinois Public Sector covering the period October 1, 2009 through September 30, 2010. The following is a summary of state performance on the major issues covered in the Private Sector.

Measure		State Data	Reference Data	Comment
1. Average number of days to initiate complaint inspections		5.0	10 days	
2. Average number of days to initiate complaint investigations		n/a		n/a – The state currently does not have an informal complaint process in place.
3. Percent of complaints where complainants were notified on time		100%	100%	Met
4. Percent of complaints and referrals responded to within one day		n/a	100%	No imminent dangers
5. Number of denials where entry was not obtained		0	0	No denial of entry occurred during this timeframe.
6. Percent of S/W/R violations verified	Private	0	100%	Could not collect data due to data problems with the NCR. Working with IT Help Desk
	Public	*		
7. Average number of calendar days from opening conference to citation issue	Safety	*		Average for both safety and health - 16 days
	Health	*		
8. Percent of programmed inspections with S/W/R violations – safety	Safety	*		Average for both health and safety 21%
	Health	*		Met
9. Average violations per inspection with violations	S/W/R	*	2.1	Lower than Reference Data
	Other	*	1.3	Lower than Referenced Data
10. Average initial penalty per serious violation – private sector only		n/a	\$1282.70	Illinois does not assess penalties for first level of citation issuance.
11. Percent of total inspections in public sector		100%	4.2%	Public Sector only
12. Average lapse time from receipt of contest to first level of decision		n/a	229.3	No cases contested during this timeframe
13. Percent of 11c investigations completed within 90 days		n/a	100%	No whistleblower cases during this timeframe
14. Percent of 11c complaints that are meritorious		n/a	21.1%	No whistleblower cases during this timeframe
15. Percent of meritorious 11c complaints that are settled		n/a	85.7%	No whistleblower cases during this timeframe

- Could not collect data due to data problems with the NCR. Working with IT Help Desk

**Appendix F** FY 2010 SOAR