

FY 2012 Abridged Federal Annual Monitoring and Evaluation (FAME) Report

Hawaii Occupational Safety and Health Program



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I. Executive Summary

The Final Rule announcing the Assistant Secretary's decision to modify the Hawaii State Plan's approval status from final approval to initial approval was published in the Federal Register on September 21, 2012. At the same time, OSHA and Hawaii entered into an Operational Status Agreement (OSA) (Appendix F) outlining the state and federal enforcement responsibilities during the time of concurrent jurisdiction.

During this evaluation period, the Hawaii State plan was administered by the Hawaii Occupational Safety and Health Division (HIOSH) under the State Department of Labor and Industrial Relations (DLIR). Mr. Dwight Y. Takamine was the State Plan Designee and Director of DLIR. Jennifer Shishido retired as the HIOSH Administrator in December 2011 and Diantha M. Goo became the new Administrator in April 2012.

HIOSH was comprised of two major sections: (1) an Occupational Safety and Health (OSH) division, which administered the Hawaii Occupational Safety and Health Law and (2) the Boiler and Elevator Safety division, which administered the Hawaii Boiler and Elevator Safety Law. The Boiler and Elevator Safety division was not part of the OSHA grant.

The Occupational Safety and Health section was comprised of four branches: Administration and Technical Support, Occupational Safety, Occupational Health, and Consultation and Training.

HIOSH started fiscal year (FY) 2012 with a 23(g) federal base award of \$1,457,000. The grant included funding for four managers, one public sector consultant, three clerical staff members, two statisticians, nine OSH compliance officers and nine environmental health specialists. HIOSH's established benchmarks were nine safety and nine health enforcement staff. HIOSH had filled and maintained all benchmark position since June of 2012. HIOSH provided public sector consultation under the 23(g) grant and private sector consultation under the 21(d) cooperative agreement.

The research statisticians were integral to the OSH section operations, but were not organizationally under HIOSH, although the positions are 100% funded by the 23(g) grant. The research statistician position was part of DLIR's Research and Statistics office and provided various program data in support of the HIOSH mission, such as the inspection-scheduling lists, activity reports, and workers' compensation data. One statistician position was vacant this fiscal year.

During FY 2012, HIOSH conducted 328 of their 365 planned enforcement inspections, 20 of their 22 planned public sector consultation visits, and five discrimination investigations.

There was one new finding this fiscal year, the untimely response to Complaints About State Program Administration (CASPA). The state completed 17 of the 36 findings identified in the FY 2011 FAME Report and struggled to accomplish their Annual Performance Goals. A review of HIOSH's complaints identified improvement in the process of addressing complaint items, and the introduction of "Duty Officer" responsibilities helped to improve HIOSH's complaint program. Of the 19 remaining findings: five remain open - one of which was combined with a

similar finding; ten had corrective action taken but are awaiting verification; two are now observations; and one was closed. The open findings involve the accomplishment of performance goals, a high lapse time for inspections, timely adoption of federal program changes and standards, and two grant-related issues involving timely certification of quarterly Federal Financial Reports and proper management of grant funds. Corrective actions taken for ten findings will be verified after they have been in place through the 2013 fiscal year.

Information and data referenced in this report were derived from computerized State Activity Mandated Measures (SAMMs), FY 2012 23(g) Grant, Complaints About State Program Administration (CASPA)s, Integrated Management Information System (IMIS) reports, discussions with state staff, and an abbreviated onsite enforcement review focused on the complaint process conducted in January 2013.

The enforcement review was conducted by the Honolulu Area Director and two Federal OSHA Compliance Officers. The onsite review focused on verification of completed actions from the 2011 Corrective Action Plan (CAP) and a follow-up of outstanding CAP items, including complaint case file reviews and health inspection case file reviews. Case files were selected following Appendix K of the 1994 "State Plan Monitoring Manual" per the FAME guidance. In total, 48 health enforcement case files were reviewed. In addition, 19 formal and 46 non-formal complaints were reviewed.

II. Major New Issues

The Final Rule announcing the Assistant Secretary's decision to modify the Hawaii State Plan's approval status from final approval to initial approval was published in the Federal Register on September 21, 2012. Also on September 21st, Federal OSHA and Hawaii entered into an Operational Status Agreement (OSA) (Appendix F) outlining the state and federal enforcement responsibilities during the time of concurrent jurisdiction. An addendum to the OSA (Appendix G) outlines the milestones for Hawaii to regain final approval status. Governor Neil Abercrombie signed the OSA in a public press conference.

On October 7, 2012 Federal OSHA began conducting inspections in Hawaii under General Industry, excluding warehouse and transportation. Federal OSHA is providing support through five staff rotating in from OSHA offices throughout the country to conduct inspections, on-the-job training to HIOSH compliance safety and health officers (CSHOs) and managers, state program oversight and assistance, and technical assistance and outreach.

III. State Progress in Addressing FY 2011 FAME Report Recommendations

Finding 11-01: Complaints were not being properly screened and efficiently processed.

Recommendation 11-01: Ensure complaints are properly screened and processed.

Status: Completed—HIOSH follows CPL 02-11-140, Complaint Policies and Procedures when handling complaints. A case file review was conducted to follow-up on this item. Sixty-four complaints were reviewed, including 16 formal inspections and 48 investigations. Initially, the bottleneck to the complaint process was due to all complaints being taken and processed by the

Environmental Health and Safety (EHS) Manager and the Safety Supervisor. The office implemented “duty officer” responsibilities for the staff. The program included having the newly hired staff perform complaint intake and processing. This allowed HIOSH to respond to complaints in a timely manner. In FY 2012, the SAMM reported that HIOSH initiated an inspection in 5.4 days and investigations in 3.1 days from the time the complaint was received. This was an improvement over previous years.

Finding 12-01 (formerly 11-02): Complaint inquiries were not being responded to within one day of receipt

Recommendation 12-01 (formerly 11-02): Manage the complaint process to ensure that complaint inquiries (non-formal) are initiated within one day of receipt.

Status: Corrective Action Taken - Awaiting Verification— Complaint investigations were responded to within an average of 3.1 days from the time the complaint was received. This was an increase from the previous year, but it is believed that the Duty Officer procedure initiated during this review period will help to reduce the response time.

Finding 12-02 (formerly 11-03): In 81% of the formal complaints received, inspections were not opened within five days of receipt.

Recommendation 12-02 (formerly 11-03): Manage the complaint process to ensure that formal complaint inspections are initiated within five days of receipt.

Status: Corrective Action Taken - Awaiting Verification—The response time, according to the FY 2012 SAMM, shows that formal complaints were responded to within 5.4 days. This was an improvement over FY 2011’s response time of 6.1 days and was attributed to the use of a Duty Officer

Finding 11-04: Complaint letters to the employer were not consistent, allowing employers from five to 20 days to respond to alleged hazards for non-formal phone/fax investigations.

Recommendation 11-04: Ensure non-formal investigation letters to employers are consistent and only allow five days to respond to alleged complaint items.

Status: Completed—HIOSH immediately made corrections to their complaint letter template and trained all staff on the response time required.

Finding 11-05: Diary sheets were not fully completed for all complaint and inspection files.

Recommendation 11-05: Ensure that complaints and inspections have complete diary sheets.

Status: Completed—Compliance staff were required to use both case diary sheets and correspondence sheets. In conjunction with the dates in the case file, captures important times and events with the case. During the on-site review, it was noted that this issue had been corrected.

Finding 11-06: Complaints received via e-mail (E-Complaints) were not coded properly in IMIS.

Recommendation 11-06: Provide training for and ensure that these complaints are coded N-11-LOGXXXX.

Status: Observation 12-01: Training was accomplished and employees were made aware of the requirement. During the on-site review, only one of the e-complaints reviewed (#2055565849) did not correctly code the complaint with the N-11-LOGXXXX code. This item is amended to an observation and this issue will be monitored.

Finding 11-07: The complaint procedures were causing a delay in response time and did not utilize resources efficiently.

Recommendation 11-07: Review the complaint processing procedures to eliminate inefficient and unnecessary steps.

Status: Completed—With the institution of a Duty Officer, the underlying issue affecting HIOSH’s ability to respond timely to complaints has been corrected.

Finding 12-03 (formerly 11-08): The case load for compliance staff is not being appropriately managed to maximize the efficient use of resources and ensure adequate coverage state-wide.

Recommendation 12-03 (formerly 11-08): Focus on the annual goals set for the office and assign inspections to maximize resources.

Status: Corrective Action Taken - Awaiting verification—When the new Program Administrator took over in April, there had been only 120 inspections conducted. The Program Administrator took over the management duties for the Occupational Safety and Occupational Health Branches to ensure assignments would efficiently use available resources to the maximum extent. The EHS Manager and Safety Supervisor were instructed on methods to maximize their resources and put back in charge of their respective Branches.

Finding 11-09: Management is not effectively using standard reports to monitor compliance staff case load.

Recommendation 11-09: Use the available reports such as the “Citations Pending” and “Open Tracker” reports to manage enforcement activities and compliance staff’s case loads.

Status: Observation 12-02—The Program Administrator provided training to the EHS Manager and Safety Supervisor on using the NCR reports to manage compliance staff case load to ensure citations were being processed in a timely manner, abatements were being verified, follow-ups were being conducted and other enforcement processes were being completed.

Finding 12-04 (formerly 11-10): Strategic Goals are not being properly managed.

Recommendation 12-04 (formerly 11-10): Improve management of inspection activity to focus on overall goals of the office.

Status: Open—Reports used to monitor enforcement activity data was not properly set up to the current Strategic Plan goals. Periodic monitoring of the overall Strategic Plan is needed to identify adjustments, improvements or redirection of resources to reach the goals established.

Finding 11-11: In-compliance case files did not contain a full description of the observations made during the inspection.

Recommendation 11-11: Ensure that attention to documentation is provided for in-compliance issues as it is done for items to be cited.

Status: Completed—A checklist is now used to identify which items and programs were reviewed ensuring proper documentation is included.

Finding 12-05 (formerly 11-12): Lapse times for health and safety case files were significantly higher than the reference standard.

Recommendation 12-05 (formerly 11-12): Properly manage case file processes in order to issue citations in a timely manner.

Status: Open—The FY 2012 SAMM showed lapse times continued to be an issue with 84.2 days for safety and 82.5 days for health. The “Citations Pending Reports” is being utilized to manage lapse time and the Program Administrator is using the SAMM national averages as the target goal for the office.

Finding 12-06 (formerly 11-13): Follow-up inspections were not being completed when required.

Recommendation 12-06 (formerly 11-13): Perform follow-up inspections as required and use them to aid in the training of new and inexperienced compliance staff.

Status: Corrective Action Taken - Awaiting Verification—The Program Administrator instituted a follow-up policy focusing on employers who do not respond to abatement requests and are delinquent in penalty payments. The “Candidates for Follow-Up” report from the NCR is also being used to track follow-ups.

Finding 12-07 (formerly 11-14): Union Involvement in inspection activity either was not happening consistently or was not adequately documented.

Recommendation 12-07 (formerly 11-14): Ensure that union participation or declination of union participation is done and is clearly indicated in the case file.

Status: Corrective Action Taken - Awaiting Verification—Instruction and training were given to the staff on ensuring union participation. If a union is identified in the case file, they are faxed a notification of an Informal Conference. During the on-site review, there were still some issues with cases not clearly identifying union involvement and the Program Administrator is addressing this.

Finding 12-08 (formerly 11-15): HIOSH health inspectors conducted sampling in only 5 of 12 health inspections conducted in 2009.

Recommendation 12-08 (formerly 11-15): HIOSH must ensure that health inspectors are conducting appropriate sampling during inspections and properly entering the information into IMIS.

Status: Corrective Action Taken - Awaiting Verification— Eight new Industrial Hygienists were hired in FY 2012 and are completing their training to correct the finding. There is also a focus on sampling for the industrial hygiene program and the new staff is shadowing the federal OSHA staff during the period of the OSA.

Finding 11-16: Case file documentation and required forms in HIOSH inspection files were not organized and ordered consistently.

Recommendation 11-16: Ensure that all files contain documentation and forms in a consistent order.

Status: Completed—HIOSH has implemented a case file standardization guide which went into effect on 1/30/2012. The cases reviewed showed that HIOSH has been following this guide.

Finding 11-17: Citations deleted during an informal conference were incorrectly entered in IMIS.

Recommendation 11-17: Ensure information from informal conferences is entered correctly.

Status: Completed—Clerical staff was trained on processing Informal Settlement Agreements and are now entering this information correctly.

Finding 12-09 (formerly 11-18 and 11-19): HIOSH had not responded and adopted Standards and Federal Program Changes in a timely manner.

Recommendation 12-09 (formerly 11-18 and 11-19): Ensure Standards and Federal Program Changes are responded to and adopted within the required timeframes.

Status: Open— The promulgation and effective dates lag past the six months allowed for adoption of Federal standards. The state has yet to adopt the Field Operations Manual or the Whistleblower Manual. The ATS Manager position with this responsibility had previously been abolished but was reinstated.

Finding 11-20: Discrimination complainants were not informed of their right to dually file with HIOSH and with Federal OSHA.

Recommendation 11-20: HIOSH shall inform discrimination complainants of their right to dually file with HIOSH and with Federal OSHA.

Status: Completed—HIOSH has added a line to the intake form to document this notification.

Finding 12-11 (formerly 11-21): Nexus was not properly investigated, resulting in discrimination Final Investigation Reports that were incomplete and contained inconclusive analysis.

Recommendation 12-11 (formerly 11-21): HIOSH shall investigate whether there is a causal link between the protected activity and the adverse action where nexus is at issue in the discrimination investigation and evaluate the facts presented in the FIR as they relate to the four elements of a violation.

Status: Corrective Action Taken - Awaiting verification—Four staff, including the EHS Manager responsible for the Whistleblower Program, attended OSHA Training Institute's (OTI's) Basic Whistleblower Investigator course in July 2012. One investigator and the Manager were also provided with on-the-job training from the Region IX Whistleblower team in the San Francisco Regional Office. A follow-up on this finding will be conducted after FY 2013.

Finding 12-12 (formerly 11-22): Data regarding whistleblower cases opened and closed in FY 2011 was not accurately entered into and maintained in IMIS.

Recommendation 12-12 (formerly 11-22): HIOSH shall ensure that all discrimination cases opened and closed are accurately entered into and maintained in IMIS.

Status: Corrective Action Taken - Awaiting verification—Training was provided for both the lead whistleblower investigator and the manager which included IMIS use. A follow-up on this finding will be conducted after FY 2013.

Finding 11-23: Investigators involved in discrimination program and the Health Branch Manager have not received adequate training in conducting whistleblower retaliation investigations.

Recommendation 11-23: Investigators involved in the discrimination program and the Health Branch Manager should attend OSHA's 1420 Basic Whistleblower Investigations course and receive on the job training (OJT).

Status: Completed— Four staff, including the EHS Manager responsible for the Whistleblower Program, attended OSHA Training Institute's (OTI's) Basic Whistleblower Investigator course in July 2012. One investigator and the Manager were also provided with on-the-job training from the Region IX Whistleblower team in the San Francisco Regional Office.

Finding 11-24: HIOSH's VPP program is not fully supported or endorsed due to a lack of resources.

Recommendation 11-24: Utilize Special Government Employees (SGEs) and other resources if possible and continue to encourage employers' participation in the program.

Status: Completed—The Safety Supervisor was designated as the VPP coordinator. One staff member was sent to the VPPPA to become more familiar with the program and gather information and ideas on public promotions. Additionally, all public speeches reference the VPP program.

Finding 12-10 (formerly 11-25): Develop goals for the Public Sector On-site Consultation Program, including promotional strategies and visits that reflect the grant funding.

Recommendation 12-10 (formerly 11-25): Ensure goals are developed and manage the program to achieve the goals.

Status: Corrective Action Taken - Awaiting verification—Goals were set for Public Sector On-site Consultations for FY 2013. Continued monitoring will be conducted to ensure the program is managed to achieve the goals.

Finding 11-26: Management did not effectively evaluate staff through OJEs and did not ensure effective OJT was provided.

Recommendation 11-26: Management needs to ensure compliance officers receive on the job training and to evaluate training through OJEs to ensure consistency and proper guidance for compliance staff.

Status: Completed—The new Program Administrator has implemented a tracking spreadsheet on the job evaluations (OJEs) for staff. Compliance officers are provided with close supervision throughout their development to the point of being able to conduct their own inspections.

Finding 11-27: The 23(g) grant fund was reallocated between cost categories without prior approval from the OSHA Regional Office.

Recommendation 11-27: The OSHA Regional Office shall be notified of significant changes to the budget plans and pre-approval obtained when reallocating more than 10% of total grant funds between cost categories.

Status: Completed—The Program Administrator was aware of the requirements and this was not repeated in FY 2012.

Finding 12-13 (formerly 11-28): The June 30 and October 30, 2011 FFRs and the close out report were not certified in a timely manner.

Recommendation 12-13 (formerly 11-28): Ensure FFRs and the closeout reports are certified in a timely manner.

Status: Open—Certification of the FFR was two days late for the first quarter, on time for the second quarter, nine days late for the third quarter, and nine days late for the fourth quarter. The final closeout was on time, but there were errors in the drawdown of the federal funds resulting in the report being three weeks late.

Finding 12-14 (formerly 11-29): HIOSH does not have a method to track the current status of their budget.

Recommendation 12-14 (formerly 11-29): The 23(g) grant fund must be properly managed to support the goals of the program.

Status: Open— At the end of FY 2012, \$61,000 of unused funds remained and were allowed to lapse; in FY 2011, 21% of the 23(g) grant fund was allowed to lapse at the end of the year. The Program Administrator relied on reports from the Accounting Services Office (ASO) which are similar to the Detailed Funds Report that federal OSHA uses to reconcile funds against their budget and did not have a reliable method of tracking the budget.

Finding 11-30: A request to draw federal funds did not coincide with the disbursement of the federal share for 23(g) program-related expenses.

Recommendation 11-30: Implement procedures to ensure that federal funds are drawn down as close as possible to the time a program expense is scheduled for payment.

Status: Completed—The financial department has improved its process of drawing down funds. At no point had the state drawn down more than they had expended.

Finding 11-31: Employee travel reimbursement claims were not submitted for payment until two or more months after the travel date.

Recommendation 11-31: HIOSH must ensure that employees submit travel claims timely to ensure reimbursement claims are processed within a reasonable time period.

Status: Completed—Supervisors and employees were briefed on the necessity to submit travel claims in a timely manner to ensure timely disbursement of the appropriate grant funds.

Finding 11-32: The procedures as outlined in the grant agreement were not followed regarding the purchase of \$365,000 for equipment and computer items during the last four months of the fiscal year.

Recommendation 11-32: OSHA approval shall be obtained prior to making a purchase for items restricted by the 23(g) agreement.

Status: Completed—The type of purchase that initiated this finding in the previous FAME was not repeated and the new Program Administrator is aware of the purchase requirements under the grant agreement.

Finding 12-15 (formerly 11-33): Grant documents were submitted without being reviewed by the Regional Office.

Recommendation 12-15 (formerly 11-33): Adhere to the provided timeframes for early grant submittal so that problems and issues with the grants can be addressed before they are entered into the system.

Status: Corrective Action Taken - Awaiting verification—A schedule has been agreed upon that breaks the grant into sections that can be discussed as they are completed to ensure ample time for Regional Office review.

Finding 11-34: There was an average vacancy rate of 50% of the compliance positions.

Recommendation 11-34: Use all available tools and resources to fill vacancies.

Status: Completed—As of June 2012, all nine safety and nine health compliance positions were filled and staffing levels were maintained until the end of the evaluation period.

Finding 11-35: HIOSH did not meet established Strategic Goals in key industries.

Recommendation 11-35: Ensure that goals are communicated and prioritized with all staff members.

Status: Closed—This is a repeat of Finding 11-10 and will be removed.

Finding 11-36: HIOSH did not establish goals that reflect grant funding.

Recommendation 11-36: Inspection goals must be set based on a fully staffed and functioning office.

Status: Completed—The inspection goals for FY13 were based on a fully staffed office.

IV. Assessment of FY 2012 State Performance of Mandated Activities

A. **Enforcement**

• **Complaints**

HIOSH responded to 91 complaints, 58 which were inspected, and 33 which were handled as investigations. Response time of 5.4 days improved over the previous years for inspections, but the response to non-formal investigations rose to 3.1 days. The negotiated number of days to respond to complaints with inspections or investigations is not clear, but with the new SAMM measures, these will be renegotiated with the state to ensure consistency. HIOSH instituted the use of rotating Duty Officers as a means to spread the responsibility for complaint processing among a greater number of staff, rather than just one manager. This change is expected to positively impact SAMM 1, 2 and 3 listed below and the effects will be tracked and verified throughout the year. In FY 2011, a finding identified complaints received through the eComplaints system were not being coded properly in IMIS. Training was conducted and employees were made aware of the requirements. Only one of the complaints reviewed during the on-site visit was found to be incorrectly coded. This finding was changed to an observation and will continue to be monitored.

Finding 12-01 (formerly 11-02): Complaint inquiries were not being responded to within one day of receipt

Recommendation 12-01 (formerly 11-02): Manage the complaint process to ensure that complaint inquiries (non-formal) are initiated within one day of receipt.

Finding 12-02 (formerly 11-03): In 81% of the formal complaints received, inspections were not opened within five days of receipt.

Recommendation 12-02 (formerly 11-03): Manage the complaint process to ensure that formal complaint inspections are initiated within five days of receipt.

Table 1
Complaints (SAMM 1, 2, 3)

	FY 2010	FY 2011	FY 2012	Goal
Days to Initiate Inspection (SAMM 1)	3.46 days	6.10 days	5.39 days	10
Days to Initiate Investigation (SAMM 2)	1.31 days	2.26 days	3.12 days	5
Complainants Notified Timely (SAMM 3)	84.62%	88.89%	96.3%	100%

• **Fatalities / Imminent Danger**

HIOSH responded to six fatalities in FY 2012, three in construction. The six inspections, resulted in one, willful 29 serious, six other-than-serious violations for \$100,157 in total penalties.

There were three imminent danger situations that HIOSH responded to in FY 2012. The staff was improperly classifying imminent danger situations which resulted in response times of less than 100%. This situation was corrected through awareness training shortly after the imminent danger item was brought to HIOSH's attention.

Table 2
Imminent Danger (SAMM 4)

	FY 2010	FY 2011	FY 2012	Goal
Percent Responded to Within One Day	86.67%	90.91%	100%	100%

- **Targeting and Programmed Inspections**

Targeting programs at HIOSH consisted mainly of workers compensation data. About 53% of the 329 inspections conducted were programmed. Only 71% of programmed safety inspections and 49% of programmed health inspections had violations. The Federal OSHA office has worked with the EHS Manager and the Safety Supervisor to develop local emphasis programs (LEP) under the Operational Status Agreement. The intent is to educate the managers how to identify high hazard industries, to develop and write LEPs to target these industries, and to have HIOSH take over the LEPs as jurisdiction is returned to the state. HIOSH's targeting should be modified to ensure that inspection resources are used effectively.

When the new Program Administrator took over in April, there had been only 120 inspections conducted. In the FY2011 evaluation, it was noted that compliance staff assignments were not efficient in maximizing resources. The Program Administrator took over the management duties for the Occupational Safety and Occupational Health Branches to ensure assignments would efficiently use available resources to the maximum extent and instructed the EHS Manager and Safety Supervisor on methods to better utilize their resources. This will be reviewed in the next evaluation report to verify that the corrective action completed this recommendation.

The Program Administrator also provided training to the EHS Manager and Supervisor in the use of the NCR reports as a means to manage the cases to ensure citations were being processed in a timely manner, abatements were being verified, follow-ups were being conducted and other enforcement processes were being completed. This finding was changed to an observation and will continue to be monitored.

Reports used to monitor enforcement activity data was not properly set up to the current Strategic Plan goals. Periodic monitoring of the overall Strategic Plan is needed to identify adjustments, improvements or redirection of resources to reach the goals established.

Finding 12-03 (formerly 11-08): The case load for compliance staff is not being appropriately managed to maximize the efficient use of resources and ensure adequate coverage state-wide.

Recommendation 12-03 (formerly 11-08): Focus on the annual goals set for the office and assign inspections to maximize resources.

Finding 12-04 (formerly 11-10): Strategic Goals are not being properly managed.

Recommendation 12-04 (formerly 11-10): Improve management of inspection activity to focus on overall goals of the office.

Table 3
Percent Programmed Inspections with S/W/R Violations (SAMM 8)

	FY 2010	FY 2011	FY 2012	FY 2012 National Data (3 years)
Safety	72%	56.10%	57.55%	58.5%
Health	53.85%	88.89%	41.51%	53.0%

- **Citations and Penalties**

Lapse time for HIOSH inspections decreased but still remained high. Although this measure was well above the national average, there was progress made toward achieving this measure. The Program Administrator temporarily took over review of the cases files to get an understanding of the work being done and to address quality issues, which slowed the process down. The EHS Manager and Safety Supervisor are now back in charge managing CSHO cases utilizing the “Citations Pending Reports” to improve the lapse time.

Finding 12-05 (formerly 11-12): Lapse times for health and safety case files were significantly higher than the reference standard.

Recommendation 12-05 (formerly 11-12): Properly manage case file processes in order to issue citations in a timely manner.

Table 4
Citation Lapse Time (SAMM 7)

	FY 2010	FY 2011	FY 2012	FY 2012 National Data
Safety	142.11 days	84.27 days	76.32 days	55.9
Health	69.76 days	82.54 days	77 days	67.9

Managements’ emphasis of this indicator and hazard recognition training has resulted in an increase over the past three years. The newly hired staff, when they complete their training and conduct their own inspections, should help to further increase this indicator.

Table 5
Average Violations per Inspection with Violations (SAMM 9)

	FY 2010	FY 2011	FY 2012	FY 2012 National Data (3 years)
S/W/R	1.9	2.23	2.37	2.1
Other	1.42	1.17	1.62	1.2

HIOSH increased their base penalties by 10% due to a change in their statutes in FY 2011. This has made a marked difference over the past two years, as shown in Table 6, in the penalty per serious violation.

Table 6
Average Initial Penalty per Serious Violations (SAMM 10)

	FY 2010	FY 2011	FY 2012	FY 2012 National Data (3 years)
	\$870.74	\$1,118.10	\$1,278.70	\$1,990.5

- **Abatement**

Although not at the goal of 100%, this along with closer tracking of abatement has improved for inspections in the private sector.

HIOSH conducted 14 follow-up inspections and issued four Failure to Abate citations. The Program Administrator instituted a follow-up policy focusing on employers who do not respond to abatement requests and are delinquent in penalty payments. HIOSH is not specifically tracking the number of follow-ups and has not set a goal, but will be using this method along with utilizing the “Candidates for Follow-Up” report from the NCR. Changes made will be verified through continued monitoring.

Finding 12-06 (formerly 11-13): Follow-up inspections were not being completed when required.

Recommendation 12-04 (formerly 11-13): Perform follow-up inspections as required and use them to aid in the training of new and inexperienced compliance staff.

Table 7
S/W/R Violations Verified (SAMM 6)

	FY 2010	FY 2011	FY 2012	Goal
Private Sector	79.59%	83.95%	90.12%	100%
Public Sector	94.12%	96.0%	88.89%	100%

- **Employee and Union Involvement**

One of the findings in previous years was in regards to union involvement in HIOSH’s inspections. Instructions were given to staff to ensure that Union information is collected and documented in the case file. Unions were contacted prior to the Informal Conference, yet rarely do they participate. Of the informal conferences conducted where a union representative was present, an average of 5% attended the informal conference. There were still some issues with cases not clearly identifying union involvement and the Program Administrator is addressing this. This finding will continue to be monitored for verification of completion.

Finding 12-07 (formerly 11-14): Union Involvement in inspection activity either was not happening consistently or was not adequately documented.

Recommendation 12-07 (formerly 11-14): Ensure that union participation or declination of union participation is done and is clearly indicated in the case file.

In addition, the following finding related to enforcement was previously identified. Eight new Industrial Hygienists were hired in FY 2012 and are completing their training to correct the finding. There is also a focus on sampling for the industrial hygiene program and the new staff is shadowing the federal OSHA staff during the period of the OSA. The progress of the Industrial Hygiene program will continue to be monitored to verify the corrective actions are successful.

Finding 12-08 (formerly 11-15): HIOSH health inspectors conducted sampling in only 5 of 12 health inspections conducted in 2009.

Recommendation 12-08 (formerly 11-15): HIOSH must ensure that health inspectors are conducting appropriate sampling during inspections and properly entering the information into IMIS.

B. Review Procedures

• **Informal Conferences**

The informal conference process allows hazards to be expeditiously corrected by avoiding delays caused by litigation of citations. In approximately 30% (74/248) of inspections where citations were issued, employers requested an informal conference. OSHA held informal conferences in 48% of such cases. As in the past, HIOSH did an excellent job of preserving citations, classification and penalties during informal conferences. HIOSH vacated only 0.6% (5/845) of violations under dispute which is less than 7.1% of violations vacated by federal OSHA. HIOSH did not reclassify any of the 845 violations as compared to 4.9% for federal OSHA. HIOSH retained 75.0% (\$354,570/\$472,973) of its assessed penalties which is also higher than the 59.1% of penalties retained by federal OSHA. (SIR C7-C9). Informal conferences are typically held by either the safety supervisor or the EHS Branch Manager, but more recently some are conducted by the new HIOSH Administrator in an effort to understand the process and get to know her constituents.

• **Formal Review of Citations**

Once a notice of contest is filed, the case is handled by the State Attorney General’s Office. Every attempt to settle the case, by working with the HIOSH Administrator and the employer, is made before the cases heard in front of the Hawaii Labor Relations Board. The board consists of three individuals, appointed by the Governor.

Contest data indicated most citations were upheld. In FY 2012, 12.2% (11/90) of violations were vacated, 3.3% (3/90) were reclassified, and 22.1% (\$59,973/\$271,525) of the penalties were retained. Federal data for the same time period was 23.4%, 15.1% and 58.5% respectively (SIR E1-E3).

C. Standards and Federal Program Changes Adoption

• **Standards Adoption**

Table 8 lists the FY 2012 Standards on the Automated Tracking System:

Table 8

Standard:	State Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Adoption Date:
29 CFR 1910.102 Revising Standards Reference in the Acetylene Standard (03/08/2012)	05/10/2012	Yes	Yes	09/08/2012	11/02/2012
29 CFR 1910, 1915, 1917, 1918, 1926 Hazard Communication-Globally Harmonized System of Classification (03/26/2012)	05/10/2012	Yes	Yes	09/26/2012	11/02/2012

Neither standard was adopted timely due to HIOSH waiting on the Governor’s office for the “Effective Date.”

- **Federal Program/State Initiated Changes**

Table 9 lists the FY 2012 Federal Program Changes (FPCs) and other outstanding FPCs on the Automated Tracking System:

Table 9

FPC Directive/Subject:	State Response Date	Intent to Adopt	Adopt Identical	Adoption Due Date	State Adoption Date
TED 01-00-018 Training Program for OSHA Compliance Personnel (08/06/2008)	11/10/2008	Yes	No	05/10/2009	4/1/2011
CPL 02-00-148 Field Operations Manual (03/26/2009)	05/21/2009	Yes	No	09/26/2009	Pending
CPL 02-00-148 Revisions to FOM November 2009	11/30/2009	Yes	Yes	05/09/2009	Pending
CPL 02-00-150 Revisions to Field Operations Manual – April 2011	09/20/2011	Yes	Yes	10/22/2011	Pending
CPL 02-03-003 Whistleblower Investigations Manual	09/22/2011	Yes	No	03/22/2012	Pending
CPL 02-01-053 2012 482 Compliance Policy for Manufacture, Storage, Sale, Handling, Use, and Display of Pyrotechnics (10/27/2011)	11/28/2011	Yes	Yes	04/27/2012	11/28/2011
CPL 03-00-014 2012 483 National Emphasis Program-PSM Covered Chemical Facilities (11/29/2011)	12/08/2011	Yes	Yes	05/29/2012	12/08/2011
CPL 03-00-016 2012 484 Nursing Home NEP (04/05/2012)	06/04/2012	Yes	Yes	10/05/2012	10/01/2012
CPL 03-00-153 2012 504 Communicating OSHA Fatality Inspection Procedures to a Victim’s Family (04/17/2012)	06/04/2012	Yes	Yes	12/04/2012	10/01/2012
CPL 02-00-154-2012 524 Longshoring and Marine Terminals Tool Shed Directive (07/31/2012)	08/30/2012	Yes	Yes	01/31/2013	08/31/2012
CPL 02-03-004 2012 544 Section 11(c) Appeals (09/12/2012)	11/11/2012	No	N/A	N/A	N/A

HIOSH has re-established the ATS Manager position which had previously been abolished. However, the promulgation and effective dates lag past the six months allowed for adoption of Federal standards. The state has yet to adopt the Field Operations Manual and the Whistleblower Manual. Both of these have been “in process” for over a year and are well overdue. The two previously separate findings have been combined into one finding.

Finding 12-09 (formerly 11-18 and 11-19): HIOSH had not responded and adopted Standards and Federal Program Changes in a timely manner.

Recommendation 12-09 (formerly 11-18 and 11-19): Ensure Standards and Federal Program Changes are responded to and adopted within the required timeframes.

D. Variances

HIOSH had two active variances approved prior to this fiscal year - one for public works employees working on planters along the elevated H-1 highway and one for fall protections

during home tenting operations when conducting termite extermination. No new variances were requested or granted during the review period.

E. Public Employee Program

Six percent of inspections occurred at public sector establishments. This is slightly above the target of 5.9, which is the state’s own three year average. The Department of Education (DOE) continued to be the public sector employer with the highest injury and illness rate. The DOE was targeted under HIOSH’s strategic plan. HIOSH only conducted 20 of 91 planned inspections for state and local government. Although consultation services were encouraged during informal conferences, there was difficulty in getting public sector employers to request consultation services. This finding will continue to be monitored to ensure the program is properly managed to achieve the goals..

Finding 12-10 (formerly 11-25): Develop goals for the Public Sector On-site Consultation Program, including promotional strategies and visits that reflect the grant funding.

Recommendation 12-10 (formerly 11-25): Ensure goals are developed and manage the program to achieve the goals.

Table 11
Percent Total Inspections in Public Sector (SAMM 11)

	FY 2010	FY 2011	FY 2012	FY 2012 State Average (3 years)
	4.78%	6.94%	6.10%	5.9%

F. Discrimination Program

The following findings related to the Discrimination Program was identified in the last evaluation. As a result, four staff, including the EHS Manager responsible for the Whistleblower Program attended OSHA Training Institute’s (OTI’s) Basic Whistleblower Investigator course in July 2012. One investigator and the Manager were also provided on-the-job training from the Region IX Whistleblower team in the San Francisco Regional Office. Due to the lack of activity it was difficult to make any conclusion about the overall status of this program for FY 2012, but the changes made and the effects of training will be monitored throughout the year to verify the corrective actions taken are effective. The training that the staff received should help to improve the program. Based on outstanding findings, this program will continue to be a topic of the FY13 FAME.

Finding 12-11 (formerly 11-21): Nexus was not properly investigated, resulting in discrimination Final Investigation Reports that were incomplete and contained conclusory analysis.

Recommendation 12-11 (formerly 11-21): HIOSH shall investigate whether there is a causal link between the protected activity and the adverse action where nexus is at issue in the discrimination investigation and evaluate the facts presented in the FIR as they relate to the four elements of a violation.

Finding 12-12 (formerly 11-22): Data regarding whistleblower cases opened and closed in FY 2011 was not accurately entered into and maintained in IMIS.

Recommendation 12-12 (formerly 11-22): HIOSH shall ensure that all discrimination cases opened and closed are accurately entered into and maintained in IMIS.

Table 10
Percent of 11c Investigations Completed within 90 days (SAMM 13 & 14)

	FY 2010	FY 2011	FY 2012	FY 2012 National Average (3 years)
Completed within 90 days (SAMM 13)	0%	50%	0%	100%
Merit Cases (SAMM 14)	0%	50%	40%	23.4%

G. Voluntary Compliance Program

The Voluntary Protection Program (VPP) was managed out of the 23(g) branch in FY12. There were two current sites in Hawaii. There were no employers that HIOSH was currently working with to get into the program. The VPP program is discussed at most presentations done by HIOSH staff.

The 23(g) public consultation program did not have a dedicated individual assigned to the task. There were three visits in the public sector in FY12 with 11 serious hazards identified. Those visits were conducted by a private sector consultant using 23(g) funds.

H. Program Administration

The Governor reduced all State budgets by 5% through the use of furlough days (leave without pay) during the fiscal year which is due to expire on June 30, 2013. The program had two administrators during the review period. The first retired at the end of December, and the second came on board in April. Besides safety and health duties, the Boiler and Elevator division had taken some of the attention from the administration. In January 2013, the Federal OSHA Region IX Deputy Regional Administrator worked face to face with the HIOSH Administrator and managers to train them on various administrative and programmatic subjects.

All nine safety and nine health compliance positions were filled by June of 2012. An intensive training path was developed for these newly hired staff members. HIOSH brought several OTI courses to Hawaii in order to best utilize their training funds. Using OTI's course curriculum, including the online portion of the classes, HIOSH conducted both Initial Compliance and Legal Aspects courses on their own in Hawaii. They used instructors from the University of California San Diego to conduct the general industry and construction industry standards courses.

There continues to be problems in providing timely certification of the quarterly FFRs. In addition, the final closeout had errors concerning the draw down of federal funds resulting in the report being three weeks late.

At the end of FY 2012, \$61,000 of unused funds remained and were allowed to lapse; in FY 2011, 21% of the 23(g) grant fund was allowed to lapse at the end of the year. The Program Administrator relied on reports from the Accounting Services Office (ASO) which are similar to the Detailed Funds Report that federal OSHA uses to reconcile funds against their budget and did not have a reliable method of tracking the budget. The Honolulu Area Office will work with the Administrator to develop a basic budget tracking sheet for non-fixed costs to assist in making an early determination on excess grant funds and avoid lapsing funds.

A previous finding related to the grant documents being submitted without Regional Office review has been corrected and will be monitored to ensure corrective actions are successful. A process has been agreed upon to break the grant into sections that can be discussed as they are completed, which will free up the Program Administrator during the latter part of June, which is a busy time of their fiscal year.

Finding 12-13 (formerly 11-28): The June 30 and October 30, 2011 FFRs and the close out report were not certified in a timely manner.

Recommendation 12-13 (formerly 11-28): Ensure FFRs and the closeout reports are certified in a timely manner.

Finding 12-14 (formerly 11-29): HIOSH does not have a method to track the current status of their budget.

Recommendation 12-14 (formerly 11-29): The 23(g) grant fund must be properly managed to support the goals of the program.

Finding 12-15 (formerly 11-33): Grant documents were submitted without being reviewed by the Regional Office.

Recommendation 12-15 (formerly 11-33): Adhere to the provided timeframes for early grant submittal so that problems and issues with the grants can be addressed before they are entered into the system.

HIOSH and OSHA worked very closely in FY 2012, mainly due to the process of developing the OSA. Besides the four quarterly meetings, additional meetings were regularly held to discuss planning and development of milestones for HIOSH. Milestones were developed to help guide HIOSH's capacity building efforts.

V. State Progress in Achieving Annual Performance Goals

HIOSH was in the second year of their 5-year strategic plan. The state had difficulty in achieving its overall goals in FY 2012 due to the retirement of the Program Administrator in December of 2011 as well as to the fact that the Research and Statistics Division provided "Planned vs Actual" reports on activities and industries that didn't reflect the current strategic goals. Planning and tracking enforcement activities, during the tenure of the Operational Status Agreement is imperative. Progress in this area will be included in the FY13 FAME.

Strategic Goal 1: Reduce the number of workplace injuries and illnesses in construction, general industry and public sector by 5% by focusing on the injuries and illnesses with the highest percentage of reported workers' compensation (WC) cases.

Performance Goal 1.1: Reduce the number of injuries and illnesses in the Specialty Trade Contractors (SIC 1711 - 1799) industry by 1%

Results: HIOSH achieved 143% (157/110) of their goal to conduct 110 inspections 23% (37/160) of their goal to cite struck-by hazards, and 23% (37/160) of the goal of the number of employees removed from risk of exposure in NAICS 238.

Outcome: Although the inspection goal was met, the rest of the goals under Performance Goal 1.1 were not. As described in the opening paragraph of this section, there was a lack of focus on the goals due to a miscommunication by the Research and Statistics group providing incorrect data points.

Performance Goal 1.2: Reduce the number of “struck-by” and “fall on same level” injuries in the Accommodations industry by 1%.

Results: HIOSH achieved 12% (44/356) of their goal to conduct 356 inspections, 10% (51/534) of their goal to cite struck-by and fall on the same level, and 24% (4,210/17,800) of the goal of the number of employees removed from risk of exposure in NAICS 721.

Outcome: HIOSH inspections of hotels did not meet the projected targets. All of the violations cited for struck-by and falls from the same level violations were abated. As HIOSH points out in their State OSHA Annual Report (SOAR), while workers compensation data show that the number of falls on the same level sharply declined between 2008 and 2010, the number of struck-by injuries increased sharply in those same two years.

Performance Goal 1.3: Reduce the number of “bodily reaction” injuries within local government by 1%

Results: HIOSH achieved 17% (1/6) of their goal to conduct 6 inspections, 8% (1/12) of their goal to cite bodily reaction hazards, and 55% (658/1,500) of the goal for the number of employees removed from risk of exposure in local government.

Outcome: Only one inspection was conducted for local government facilities. Careful management of the targeting program to match the measures set by the performance goals is lacking. The number of employees removed from exposure was not met, but may be due to a misunderstanding as to what the term “employees removed from risk of exposure” means. This term is not to be confused with the number exposed at the time of the inspection, or the number of employees the compliance officer actually witnessed being exposed to the hazard. Instead, it should be considered the number of employees who, by eliminating the hazard, are no longer exposed to it. That would include all employees, on all shifts who could potentially be exposed. This same issue is repeated among all of the performance goals.

Performance Goal 1.4: Reduce the number of “fall on same level” injuries in state government by 1%.

Results: HIOSH achieved 22% (19/85) of their goal to conduct 85 inspections, 36% (31/85) of their goal to cite fall on same level violations, and 38% of the goal for the number of employees removed from exposure in state government.

Outcome: As stated in Goal 1.3, by not focusing on the strategic goals and planning and coordinating accordingly, HIOSH did not meet any of the goals in this area.

Strategic Goal 2: Reduce the number of fatalities associated with the leading causes of workplace death in construction and general industry by 10%

Performance Goal 2.1: Reduce the number of fatalities associated with the leading causes of workplace death in construction and general industry by 1%

Results: HIOSH achieved 46% (130/283) of their goal to conduct 283 inspections, 40% (159/400) of planned citations issued, and 50% (500/1000) of employees removed from hazards in construction and general industry.

Outcome: None of these goals were met. The focus for targeting and inspection activity must be directed towards achieving strategic and programmatic goals. Measurement of the outcome was based on the number of fatalities in FY 2008 (12). The total numbers of fatalities per year have gone down for the most part (five in 2009, nine in 2010, 15 in 2011 and five in 2012). These numbers shows a slight downward trend.

Year	# Fatalities	Trend
2008	12	12.0
2009	5	11.3
2010	9	11.1
2011	15	11.5
2012	5	10.8

VI. Other Areas of Note

CASPAs

Two CASPAs were received in FY 2012 (2012-HI 26 and 2012-HI 27), one dealing with the HIOSH's application of the multi-employer policy and the other with HIOSH's response to a complaint. Both had late responses, with one (2012-HI 27) still awaiting response from the state. The response that was received from HIOSH (2012-HI 26) was adequate. Due to the untimely response, this is a new finding for this fiscal year.

Finding 12-16: CASPAs are not responded to in a timely manner

Recommendation 12-16: Ensure that CASPAs are formally responded to by the due date.

Governor's Biennial Pac Rim Safety and Health Conference: HIOSH co-hosted, along with the American Society of Safety Engineers (ASSE), the 2011 Governor's Biennial Pac Rim Safety and Health Conference on April 2011. The event was held at the Hawaii Convention Center and featured presentations from local as well as national and international safety and health experts. Over 500 participants attended various workshops on occupational safety and health including fleet safety, health care, emergency response, leadership and various technical training topics.

Appendix A – New and Continued Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report

Rec. #	Findings	Recommendations	FY 11 #
12-01	Complaint inquiries were not being responded to within one day of receipt	Manage the complaint process to ensure that complaint inquiries (non-formal) are initiated within one day of receipt. Corrective Action Completed - Awaiting Verification	11-02
12-02	In 81% of the formal complaints received, inspections were not opened within five days of receipt.	Manage the complaint process to ensure that formal complaint inspections are initiated within five days of receipt. Corrective Action Completed – Awaiting Verification	11-03
12-03	The case load for compliance staff is not being appropriately managed to maximize the efficient use of resources and ensure adequate coverage state-wide.	Focus on the annual goals set for the office and assign inspections to maximize resources. Corrective Action Completed – Awaiting Verification	11-08
12-04	Strategic Goals are not being properly managed.	Improve management of inspection activity to focus on overall goals of the office.	11-09
12-05	Lapse times for health and safety case files were significantly higher than the reference standard.	Properly manage case file processes in order to issue citations in a timely manner.	11-10
12-06	Follow-up inspections were not being completed when required.	Perform follow-up inspections as required and use them to aid in the training of new and inexperienced compliance staff. Corrective Action Completed – Awaiting Verification	11-13
12-07	Union Involvement in inspection activity either was not happening consistently or was not adequately documented.	Ensure that union participation or declination of union participation is done and is clearly indicated in the case file. Corrective Action Completed – Awaiting Verification	11-14
12-08	HIOSH health inspectors conducted sampling in only 5 of 12 health inspections conducted in 2009.	HIOSH must ensure that health inspectors are conducting appropriate sampling during inspections and properly entering the information into IMIS. Corrective Action Completed – Awaiting Verification	11-15
12-09	HIOSH had not responded and adopted Standards and Federal Program Changes in a timely manner.	Ensure Standards and Federal Program Changes are responded to and adopted within the required timeframes.	11-18 11-19
12-10	Develop goals for the Public Sector On-site Consultation Program, including promotional strategies and visits that	Ensure goals are developed and manage the program to achieve the goals.	11-25

**Appendix A – New and Continued Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

	reflect the grant funding.	Corrective Action Completed – Awaiting Verification	
12-11	Nexus was not properly investigated, resulting in discrimination Final Investigation Reports that were incomplete and contained conclusory analysis.	HIOSH shall investigate whether there is a causal link between the protected activity and the adverse action where nexus is at issue in the discrimination investigation and evaluate the facts presented in the FIR as they relate to the four elements of a violation. Corrective Action Completed – Awaiting Verification	11-21
12-12	Data regarding whistleblower cases opened and closed in FY 2011 was not accurately entered into and maintained in IMIS.	HIOSH shall ensure that all discrimination cases opened and closed are accurately entered into and maintained in IMIS. Corrective Action Completed – Awaiting Verification	11-22
12-13	The June 30 and October 30, 2011 FFRs and the close out report were not certified in a timely manner.	Ensure FFRs and the closeout reports are certified in a timely manner.	11-28
12-14	HIOSH does not have a method to track the current status of their budget.	The 23(g) grant fund must be properly managed to support the goals of the program.	11-29
12-15	Grant documents were submitted without being reviewed by the Regional Office.	Adhere to the provided timeframes for early grant submittal so that problems and issues with the grants can be addressed before they are entered into the system. Corrective Action Completed – Awaiting Verification	11-33
12-16	CASPAs are not responded to in a timely manner.	Ensure that CASPAs are formally responded to by the due date.	N/A

Appendix B – Observations Subject to Continued Monitoring
FY 2012 Hawaii State Plan Abridged FAME Report

Rec # [OB-1]	Observations	Federal Monitoring Plan	FY 11#
12-01	Complaints received via e-mail (E-Complaints) were not coded properly in IMIS	Since there was only one exception noted, monitor to ensure that corrections made are continuing to work.	11-06
12-02	Management is not effectively using standard reports to monitor compliance staff case load.	Track the state's success at managing the case file load by the use of tracking reports.	11-09

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-01	Complaints were not being properly screened and efficiently processed.	Ensure complaints are properly screened and processed.	Typing pool has been told to process complaints as soon as they receive them. Managers will assign cases as soon as they are processed.	The office implemented “duty officer” responsibilities for the staff. This allowed HIOSH to respond to complaints in a timely manner.	Completed
11-02	Complaint inquiries were not being responded to within one day of receipt.	Manage the complaint process to ensure that complaint inquiries are initiated within one day of receipt.	See 11-1.	Complaint investigations were responded to within an average of 3.1 days from the time the complaint was received. This was an increase from the previous year. It is believed that the Duty Officer procedure initiated during this review period will help to reduce the response time and the process needs further monitoring.	Awaiting Verification
11-03	In 81% of the formal complaints received, inspections were not opened within five days of receipt	Manage the complaint process to ensure that formal complaint inspections are initiated within five days of receipt.	See 11-1.	The response time according to the FY12 SAMM shows that formal complaints were responded to within 5.4 days. This was an improvement over FY11’s response time of 6.1 days attributed to the use of a Duty Officer, but still needs further monitoring	Awaiting Verification
11-04	Complaint letters to the employer were not consistent, allowing employers from five to 20 days to respond to alleged hazards for non-formal phone/fax investigations.	Ensure non-formal investigation letters to employers are consistent and only allow five days to respond to alleged complaint items.	Informal complaint letters will now require that employers respond in 5 days irrespective of whether the complaint allegation was serious or other-than-serious.	HIOSH immediately made corrections to their complaint letter template and trained all staff on the response time required.	Completed
11-05	Diary sheets were not fully completed for all complaint and inspection files.	Ensure that complaints and inspections have complete diary sheets.	Staff will be instructed to identify whether individuals were contacted or what communications were associated with the complainant.	HIOSH utilizes both a case diary sheet and a correspondence sheet. This, in conjunction with dates in the case file, captures important times and events with the case.	Completed

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-06	Complaints received via e-mail (E-Complaints) were not coded properly in IMIS.	Provide training for, and ensure that these complaints are coded N-11-LOGXXXX	Training will be provided to staff on the correct IMIS coding.	Training was accomplished and employees were made aware of the requirement. During the on-site review, only one of the e-complaints reviewed (#2055565849) did not correctly code the complaint with the N-11-LOGXXXX code.	Observation
11-07	The complaint procedures were causing a delay in response time and did not utilize resources efficiently.	Review the complaint processing procedures to eliminate inefficient and unnecessary steps.	See answers to 11-1, 11-4, 11-5 and 11-6. HIOSH was unaware that requesting information listed in the complaint directive was considered "beyond what was required to make a determination of actions," but this misunderstanding has been corrected. Now that HIOSH has additional staff, the number of HIOSH employees processing complaints has been increased. At the time of the evaluation, HIOSH had only five journeymen inspectors and four trainees and was attempting to use them to conduct inspections. This is the reason why the supervisors were the only ones screening complaints. As recommended by the evaluation, HIOSH will no longer send hard copy of phone-fax letters to the employer.	With the institution of a Duty Officer, the underlying issue affecting HIOSH's ability to respond timely to complaints has been corrected.	Completed

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-08	The case load for compliance staff is not being appropriately managed to maximize the efficient use of resources and ensure adequate coverage state-wide.	Focus on the annual goals set for the office and assign inspections to maximize resources.	HIOSH will match its inspection scheduling to its annual goals starting in FY 2013 since it got a final copy of the evaluation on July 31, 2012.	When the new Program Administrator took over in April, there had been only 120 inspections conducted. The Program Administrator took over the management duties for the Occupational Safety and Occupational Health Branches to ensure assignments would efficiently use available resources to the maximum extent. The EHS Manager and Safety Supervisor were instructed on methods to maximize their resources and put back in charge of their respective Branches.	Awaiting Verification
11-09	Management is not effectively using standard reports to monitor compliance staff case load.	Use the available reports such as the “Citations Pending” and “Open Tracker” reports to manage enforcement activities and compliance staff’s case loads.	HIOSH will use all available tools to meet the inspection goal assigned by OSHA in FY 2013.	The Program Administrator provided training to the EHS Manager and Safety Supervisor on using the NCR reports to manage compliance staff case load to ensure citations were being processed in a timely manner, abatements were being verified, and follow-ups were being conducted and other enforcement processes were being completed.	Observation
11-10	Strategic Goals are not being properly managed.	Improve management of inspection activity to focus on overall goals of the office.	HIOSH will ensure that inspection scheduling in FY 2013 is more equitable. HIOSH will recognize the good work done by its inspectors on the Big Island.	Reports used to monitor enforcement activity data was not properly set up to the current Strategic Plan goals. Periodic monitoring of the overall Strategic Plan is needed to identify adjustments, improvements or redirection of resources to reach the goals established	Open

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-11	In-compliance case files did not contain a full description of the observations made during the inspection.	Ensure that attention to documentation is provided for incompliance issues as it is done for items to be cited.	HIOSH will ensure that in-compliance rates are lower and that case files will contain complete narratives in FY 2013.	A checklist is now used to identify which items and programs were reviewed ensuring proper documentation is included.	Completed
11-12	Lapse times for health and safety case files were significantly higher than the reference standard.	Properly manage case file processes in order to issue citations in a timely manner.	HIOSH will do its best to ensure that case file lapse times meet national averages.	The FY2012 SAMM showed lapse times continued to be an issue with 84.2 days for safety and 82.5 days for health. The "Citations Pending Reports" is being utilized to manage lapse times and the Program Administrator is using the SAMM national averages as the target goal for the office.	Open
11-13	Follow-up inspections were not being completed when required.	Perform follow-up inspections as required and use them to aid in the training of new and inexperienced compliance staff.	More follow-up inspections will be assigned in FY 2013.	The Program Administrator instituted a follow-up policy focusing on employers who do not respond to abatement requests and are delinquent in penalty payments. The "Candidates for Follow-Up" report from the NCR is also being used to track follow-ups.	Awaiting Verification
11-14	Union Involvement in inspection activity either was not happening consistently or was not adequately documented.	Ensure that union participation or declination of participation is done and is clearly indicated in the case file.	HIOSH will ensure that union participation or declination of participation is done and is clearly indicated in the case file by re-training staff and more carefully reviewing case files. As of April 2012, HIOSH was notifying all unions of closing conferences in addition to requiring that the employer do so; as of August 2012, the unions have sent a representative to two informal conferences.	Instruction and training was given to the staff. If a union is identified in the case file, they are faxed a notification of Informal Conference. During the on-site review, there were still some issues with cases not clearly identifying union involvement and the Program Administrator is addressing this.	Awaiting Verification

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-15	HIOSH health inspectors conducted sampling in only 5 of 12 health inspections conducted in 2009.	HIOSH must ensure that health inspectors are conducting appropriate sampling during inspections and properly entering the information into IMIS.	HIOSH will ensure that its EHSs follow all policies and procedures in the HIOSH FOM and the OSHA Technical Manual. HIOSH sent 4 of its EHSs to other OSHA offices to observe monitoring.	Eight new Industrial Hygienists were hired in FY 2012 and are completing their training to correct the finding. There is also a focus on sampling for the industrial hygiene program and the new staff is shadowing the federal OSHA staff during the period of the OSA.	Awaiting Verification
11-16	Case file documentation and required forms in HIOSH inspection files were not organized an ordered consistently.	Ensure that all files contain documentation and forms in a consistent order.	HIOSH will ensure that its staff follows the 01/30/2012 STANDARDIZATION sheet.	HIOSH has instated a case file standardization guide which went into effect on 1/30/2012.	Completed
11-17	Citations deleted during an informal conference were incorrectly entered in IMIS.	Ensure information from informal conferences is entered correctly.	HIOSH will re-train its clerical staff to enter informal conference information correctly.	Clerical staff has been trained on how to process Informal Settlement Agreements.	Completed
11-18	HIOSH had not responded and adopted Standards in a timely manner.	Ensure Standards are responded to and adopted within the required timeframes.	HIOSH is now responding timely to the memos providing a memo is distributed. HIOSH tries to adopt the standards within the 6-month time limit but the State rules promulgation process requires all rule changes get approval from the Department of Budget and Finance, Department of Business, Economic Development and Tourism and the Governor and we cannot control their response time to grant approval for the process to move forward.	The promulgation and effective dates lag past the six months allowed for adoption of Federal standards. The state has yet to adopt the Field Operations Manual or the Whistleblower Manual. The ATS Manager position with this responsibility had previously been abolished but was reinstated.	Open (combined with 11-19)

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-19	HIOSH had not responded to Federal Program Changes in a timely manner.	Ensure Federal Program Changes are responded to in a timely manner.	HIOSH is now responding timely to the memos providing a memo is distributed.	The promulgation and effective dates lag past the six months allowed for adoption of Federal standards. The ATS Manager position that has this responsibility has been reinstated. The state has yet to adopt the Field Operations Manual or the Whistleblower Manual.	Open (combined with 11-18)
11-20	Discrimination complaints were not informed of their right to dually file with HIOSH and with Federal OSHA	HIOSH shall inform discrimination complainants of their right to dually file with HIOSH and with Federal OSHA.	It is HIOSH's practice to inform discrimination complainants of their right to dually file with HIOSH and Federal OSHA. A line has been added to the intake form to document this activity and to the letter sent to the complainant.	HIOSH has added a line to the intake form to document this notification.	Completed
11-21	Nexus was not properly investigated, resulting in discrimination Final Investigation Reports that were incomplete and contained inconclusive analysis.	HIOSH shall investigate whether there is a causal link between the protected activity and the adverse action where nexus is at issue in the discrimination investigation and evaluate the facts presented in the FIR as they relate to the four elements of a violation.	All EHSs expected to conduct discrimination investigation were sent or will be sent to the OTI whistleblower training.	Four staff, including the EHS Manager responsible for the Whistleblower Program, attended OSHA Training Institute's (OTI's) Basic Whistleblower Investigator course in July 2012. One investigator and the Manager were also provided with on-the-job training from the Region IX Whistleblower team in the San Francisco Regional Office.	Awaiting Verification
11-22	Data regarding whistleblower cases opened and closed in FY2011 was not accurately entered into and maintained in IMIS.	HIOSH will ensure that all discrimination cases opened and closed are accurately entered into and maintained in IMIS.	All EHSs expected to conduct discrimination investigation were sent or will be sent to the OTI whistleblower training.	Training was provided for both the lead whistleblower investigator and the manager which included IMIS use.	Awaiting Verification

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-23	Investigators involved in discrimination program and the Health Branch Manager has not received adequate training in conducting Investigations involved in the discrimination program and the Health Branch Manager should attend OSHA's 1420 Basic Whistleblower Investigations course and receive on the job training (OJT).whistleblower retaliation investigations.	Investigators involved in the discrimination program and the Health Branch Manager should attend OSHA's 1420 Basic Whistleblower Investigations course and receive on the job training (OJT).	All EHSs expected to conduct discrimination investigation were sent or will be sent to the OTI whistleblower training. Since OSHA has deemed all HIOSH personnel to be in need of training and OJT, HIOSH requests that OSHA provide the mentoring for HIOSH personnel in how to properly conduct and review whistleblower cases.	Four staff, including the EHS Manager responsible for the Whistleblower Program, attended OSHA Training Institute's (OTI's) Basic Whistleblower Investigator course in July 2012. One investigator and the Manager were also provided with on-the-job training from the Region IX Whistleblower team in the San Francisco Regional Office.	Completed
11-24	HIOSH's VPP program is not fully supported or endorsed due to a lack of resources.	Utilize Special Government Employees (SGEs) and other resources if possible and continue to encourage employers' participation in the program.	HIOSH will utilize SGEs and continue to encourage employer's participation in the program. HIOSH sent one of its staff members to the VPPPA convention to learn about ways to promote VPP.	The Safety Supervisor has been designated the VPP coordinator and one of the staff has been sent to the VPPA to become more familiar with the program and to gather information and ideas on public promotions. Additionally, all public speeches refer to the VPP program.	Completed

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-25	Develop goals for the Public Sector On-site Consultation Program, including promotional strategies and visits that reflect the grant funding.	Ensure goals are developed and manage the program to achieve the goals.	HIOSH will do its best to ensure that it meets its goals for Public Sector Consultation by promoting consultation during informal conferences and at any meetings it has with the public sector.	Goals were set for Public Sector On-site Consultations for FY 2013. Continued monitoring will be conducted to ensure the program is managed to achieve the goals.	Awaiting Verification
11-26	Management did not effectively evaluate staff through OJEs and did not ensure effective OJT was provided.	Management needs to ensure compliance officers receive on the job training and to evaluate training through OJEs to ensure consistency and proper guidance for compliance staff.	Compliance officers are currently receiving OJT and OJE. Four of the EHSs were sent to other OSHA offices for OJT. OSHA has agreed to provide OJT to HIOSH compliance staff.	The new Program Administrator has implemented a tracking spreadsheet on the job evaluations (OJEs) for staff. Compliance officers are provided with close supervision throughout their development to the point of being able to conduct their own inspections.	Completed
11-27	The 23(g) grant fund was reallocated between cost categories without prior approval from the OSHA Regional Office.	The OSHA Regional Office shall be notified of significant changes to the budget plans and pre-approval obtained when reallocating more than 10% of total grant funds between cost categories.	The OSHA Regional office will be notified if HIOSH must allocate more than 10% of total grant funds between cost categories.	The Program Administrator is aware of the requirements and this has not been repeated in FY12.	Completed
11-28	The June 30 and October 30, 2011 FFRs and the close out report were not certified in a timely manner.	Ensure FFRs and the closeout reports are certified in a timely manner.	HIOSH will remind ASO of the requirements for timely certification of the FFR.	Certification of the FFR was two days late for the first quarter, on time for the second quarter, nine days late for the third quarter, and nine days late for the fourth quarter. The final closeout was on time, but there were errors in the drawdown of the federal funds resulting in the report being three weeks late.	Open

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-29	HIOSH does not have a method to track the current status of their budget.	The 23(g) grant fund must be properly managed to support the goals of the program.	The majority of the unused funds were in the personnel category. When HIOSH submitted the grant application in August 2011, it included vacant positions. It was unable to staff those positions because it had to get authorization by the Legislature and the Governor to recreate positions that had been abolished. Unfortunately, by the time positions were authorized, the fiscal year had ended leaving HIOSH with unspent money. HIOSH has begun monitoring its expenditures and expects to be able to exert better control in FY 2012. HIOSH control of its budget should be fully acceptable in FY 2013.	At the end of FY 2012, \$61,000 of unused funds remained and were allowed to lapse; in FY 2011, 21% of the 23(g) grant fund was allowed to lapse at the end of the year. The Program Administrator relied on reports from the Accounting Services Office (ASO) which are similar to the Detailed Funds Report that federal OSHA uses to reconcile funds against their budget and did not have a reliable method of tracking the budget.	Open
11-30	A request to draw federal funds did not coincide with the disbursement of the federal share for 23(g) program related expenses.	Implement procedures to ensure that federal funds are drawn down as close as possible to the time a program expense is scheduled for payment.	HIOSH will explain grant requirements to the other departments involved. HIOSH has no control over how the departments operate. Matters are complicated by the fact that the State fiscal year differs from the Federal fiscal year.	The financial department has improved its process of drawing down funds. At no point had the state drawn down more than they had expended.	Completed
11-31	Employee travel reimbursement claims were not submitted for payment until two or more months after the travel date.	HIOSH must ensure that employees submit travel claims timely to ensure reimbursement claims are processed within a reasonable time period.	State travel and fiscal procedures are different from Federal travel and fiscal procedures.	Supervisors and employees were briefed on the necessity to submit travel claims in a timely manner to ensure timely disbursement of the appropriate grant funds.	Completed

**Appendix C - Status of FY 2011 Findings and Recommendations
FY 2012 Hawaii State Plan Abridged FAME Report**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-32	The procedures as outlined in the grant agreement were not followed regarding the purchase of \$365,000 for equipment and computer items during the last four months of the fiscal year.	OSHA approval shall be obtained prior to making a purchase for items restricted by the 23(g) agreement	HIOSH will obtain OSHA approval for any purchase of items restricted by the 23(g) agreement.	The type of purchase that initiated this finding in the previous FAME was not repeated and the new Program Administrator is aware of the purchase requirements under the grant agreement.	Completed
11-33	Grant documents were submitted without being reviewed by the Regional Office.	Adhere to the provided timeframes for early grant submittal so that problems and issues with the grants can be addressed before they are entered into the system.	HIOSH will submit grants for review by the Regional Office prior to submission.	A schedule has been agreed upon that breaks the grant up into sections that can be discussed as they are completed to ensure there is ample time for Regional Office review.	Awaiting Verification
11-34	There was an average vacancy rate of 50% of the compliance positions.	Use all available tools and resources to fill vacancies.	All benchmark positions are filled. Although HIOSH has tried to fill the manager position vacancies, most candidates were not qualified and those who were found the salaries offered to be too low to be acceptable.	As of June 2012, all nine safety and nine health compliance positions were filled and staffing levels were maintained until the end of the evaluation period.	Completed
11-35	HIOSH did not meet established Strategic Goals in key industries.	Ensure that goals are communicated and prioritized with all staff members.	HIOSH will ensure that goals are communicated and prioritized with all staff members.	This is a repeat of Finding 11-10 and will be removed.	Closed
11-36	HIOSH did not establish goals that reflect grant funding.	Inspection goals must be set based on a fully staffed and functioning office.	HIOSH goals for FY 2013 have been approved by the Regional Office.	The inspection goals were based on a fully staffed office.	Completed

**Appendix D - FY 2012 State Activity Mandated Measures (SAMM) Report
FY 2012 Hawaii State Plan Abridged FAME Report**

NOV 09, 2012
RID: 0951500

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	313 5.39 58	23 23.00 1	Negotiated fixed number for each state
2. Average number of days to initiate Complaint Investigations	103 3.12 33	5 .83 6	Negotiated fixed number for each state
3. Percent of Complaints where Complainants were notified on time	52 96.30 54	2 100.00 2	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	3 100.00 3	1 100.00 1	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	383 90.12 425	29 72.50 40	100%
Public	32 88.89 36	0 0	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	13051 76.32 171	1579 75.19 21	2032800 55.9 36336
Health	3465 77.00 45	1329 132.90 10	647235 67.9 9527

**Appendix D - FY 2012 State Activity Mandated Measures (SAMM) Report
FY 2012 Hawaii State Plan Abridged FAME Report**

RID: 0951500

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	61	14	76860
Safety	57.55	82.35	58.5 National Data (3 years)
	106	17	131301
	22	6	9901
Health	41.51	85.71	53.0 National Data (3 years)
	53	7	18679
9. Average Violations per Inspection with Violations			
	513	60	367338
S/W/R	2.37	1.93	2.1 National Data (3 years)
	216	31	175950
	352	61	216389
Other	1.62	1.96	1.2 National Data (3 years)
	216	31	175950
10. Average Initial Penalty per Serious Violation (Private Sector Only)	594598	54426	624678547
	1278.70	907.10	1990.5 National Data (3 years)
	465	60	313826
11. Percent of Total Inspections in Public Sector	20	1	56
	6.10	5.56	5.9 Data for this State (3 years)
	328	18	945
12. Average lapse time from receipt of Contest to first level decision	2426	143	3197720
	346.57	143.00	187.0 National Data (3 years)
	7	1	17104
13. Percent of 11c Investigations Completed within 90 days*	0	1	
	.00	33.33	100%
	5	3	
14. Percent of 11c Complaints that are Meritorious*	2	0	1619
	40.00	.00	23.4 National Data (3 years)
	5	3	6921
15. Percent of Meritorious 11c Complaints that are Settled*	0	0	1444
	.00		89.2 National Data (3 years)
	2	0	1619

*Note: Discrimination measures have been updated with data from SAMM reports run on 1/3/2013

0*HI FY12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E– FY 2012 State OSHA Annual Report (SOAR)
FY 2012 Hawaii State Plan Abridged FAME Report

[Available Upon Request]