

**Comprehensive FY 2013  
Federal Annual Monitoring and Evaluation (FAME) Report**

**Iowa Workforce Development  
Iowa Division of Labor  
Iowa Occupational Safety and Health Administration**



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## **I. Executive Summary**

This Federal Annual Monitoring Evaluation (FAME) assesses the performance of Iowa Occupational Safety and Health Administration (Iowa OSHA) during FY 2013, and its progress in completing recommendations that were developed as a result of the FY 2012 Abridged FAME Report and Corrective Action Plan (CAP).

### **A. Summary of the Report**

The purpose of the Comprehensive FY 2013 FAME was to assess the activities of Iowa OSHA during FY 2013, and assess the State's progress in resolving outstanding recommendations from the FY 2012 FAME and CAP. The main issues discovered during the FY 2012 Abridged FAME were ongoing from the FY2011 FAME that required on-site verification. Most of the issues concerned the Iowa OSHA Whistleblower Protection Program which addresses discriminatory activity covered under the OSH Act Section 11(c).

Previous 11(c) program issues included low meritorious complaint rate findings, inadequate investigation of complaints, inadequate investigation of complaint work refusal elements, the absence of documentation of complaint settlement agreements, the absence of documentation of withdrawal request assessments, the absence of documentation of complaint respondent defense testing, inadequate explanations of complaint dismissal, and inadequate whistleblower protection program training for staff and stakeholders. All corrective actions in response to the FY 2012 FAME Report are complete.

The FY 2013 evaluation resulted in one new 11(c) complaint finding that was related to the discussion of defense pretext in the Report of Investigation analysis section. The overall evaluation determined that Iowa OSHA's Whistleblower Protection Program significantly improved since the last evaluation. The determinations reached in each case were based on substantive evidence and sound legal reasoning. Merit settlement and litigation rates were appropriate, as was the timeliness of investigations. Additionally, policies and procedures that were at least as effective as OSHA's were followed in each investigation.

The safety and health enforcement evaluation resulted in one new finding related to documentation of non-formal complainant responses. The evaluation determined that overall Iowa OSHA followed its policies and procedures during the administration of its safety and health enforcement program. This included the investigation of complaints, the conducting of 967 safety and health inspections, and the administration of cooperative programs. Iowa OSHA was at least as effective as OSHA during FY 2013 in all of these areas.

## **B. State Plan Introduction**

The state of Iowa operates a program in accordance with Section 18(e) of the Occupational Safety and Health (OSH) Act of 1970. Iowa OSHA remains an essential member of the Region VII team. Iowa OSHA is in the Iowa Workforce Development, Labor Services Division administered by the Commissioner of Labor. The Iowa OSHA Administrator also serves as the Deputy Commissioner of Labor. Iowa OSHA adopts most OSHA instructions as promulgated and its enforcement program functions very similar to OSHA's. Like most States Plans, Iowa OSHA did not adopt the enhanced penalty structure; however, there are no significant differences from the federal program. Iowa OSHA conducts inspections including programmed National and Local Emphasis Programs (LEP) in the same manner as OSHA. The enforcement program is benchmarked for 16 safety compliance officers and 13 health compliance officers, though the current program is staffed with only 11 safety compliance officers and 10 health compliance officers. Iowa's State Plan is supported by 44 full and part-time personnel. Iowa OSHA's total allocated funding for the FY 2013 23(g) program included \$1,980,300 federal; \$1,980,300 state match; \$669,850 (100% state share); and \$4,250 (one time) request for a total of \$4,634,700. In addition to providing training and education services, Iowa OSHA Consultation and Education conducts public 23(g) and private 21(d) consultation activities.

## **C. Data and Methodology**

A five person team was assembled from the Kansas City Regional Office and the Des Moines Area Office of Region VII to conduct an on-site comprehensive evaluation of the Iowa OSHA State Plan. Three of the team members conducted the safety and health evaluation, and two team members conducted the Whistleblower Protection Program evaluation.

### **1. Safety and Health Program Evaluation**

The on-site portion of the evaluation was conducted January 6-17, 2014. The evaluation of the enforcement program included the special study of inspection targeting, overall review of safety and health enforcement case files, and review of complaints. Cooperative programs were also reviewed.

A 20% percent random sample was taken from the 967 inspections conducted. This resulted in 195 case files reviewed of which 140 were programmed inspections for the Targeting Special Study. In addition, the other review categories included five fatality investigations, 21 complaint inspections, 19 referral inspections, eight un-programmed related inspections, and two follow-up inspections.

A review of FY 2013 IMIS micro to host data identified 546 private, local, and state complaints. In addition to complaint based inspection case files, 77 non-formal complaints were reviewed from a pool of 404 complaints. OSHA transferred

complaints received in the area office to Iowa OSHA. Forty of those transferred complaints were reviewed.

State Activity Mandated Measures (SAMM) data was also reviewed as part of the safety and health evaluation. The Duty Officer and Management responsible for enforcement activity were also interviewed in conjunction with the evaluation.

## **2. Whistleblower Program Evaluation**

The on-site portion of the Whistleblower Protection Program (WPP) evaluation was conducted from January 13-16, 2014. The evaluation team randomly selected and reviewed 14 (31%) of the 45 investigation files that were docketed and closed during FY 2013. The team also reviewed all six complaints that were administratively closed in FY 2013. Interviews were conducted with the Iowa OSHA Discrimination Investigator and the assigned Iowa OSHA Attorney. The 14 cases reviewed included eight non-merit determinations, four settled cases, one withdrawn case, and four cases referred for litigation. SAMM data for FY 2013 was also reviewed as part of the evaluation.

## **3. Voluntary Compliance Programs Evaluation**

The on-site portion of the Voluntary Compliance Programs evaluation was conducted on January 13, 2014. Ten case files representing 23% of the 44 active Voluntary Protection Program (VPP) files were randomly selected and comprehensively reviewed in accordance with the VPP Policies and Procedures Manual (Cooperative and State Programs [CSP] 03-01-003). Information pertinent to the 12 partnerships, and three alliances, were evaluated in accordance with Iowa OSHA's partnership instruction, and alliance statements. Voluntary compliance program management and staff were also interviewed in conjunction with the evaluation.

## **D. Findings and Recommendations**

The Region VII evaluation team determined Iowa OSHA operates highly effective safety and health programs. The enforcement programs, voluntary compliance programs, and policies and procedures are at least as effective as OSHA.

The evaluation team identified areas for improvement in FY 2014. Specifically, Iowa OSHA needs to improve its management of non-formal complaints. In relation to its Targeting Program, the team observed that Iowa OSHA did not ensure proper program coding for all of its Zip Code LEP inspections. Regarding its VPP, the team observed that Iowa OSHA does not use medical access orders (MAO) in its VPP evaluation process.

The WPP Evaluation Team found significant improvement in the Iowa OSHA Whistleblower Protection Program. Determinations were based on substantive evidence, investigations were timely, and all corrective action items from the previous year's report had been completed. The team believed the respondent defense analysis in the Reports of

Investigation (ROI) could be improved and recommended the investigator add a written discussion as to whether the defense is, or is not, a pretext.

## II. Major New Issues

Two personnel, one public service executive 2 manager, and an industrial hygienist were let go in August of 2013 due to sequestration and the inability of Iowa OSHA to overmatch the federal 23(g) grant with further state funding. The program is currently staffed at 72.4% of its benchmark. Due to shortage of funds there is no plan to fill the vacant positions in the near future. Iowa OSHA projected 1,020 enforcement inspections for FY 2013 but accomplished only 967. The shortfall was attributed to staff reductions caused by sequestration. In addition, Iowa OSHA established a goal of 21,000 outreach participants for FY 2013 but achieved only 16,138 participants.

During FY 2013, the legislature informed Iowa OSHA that it would no longer overmatch the federal 23(g) grant to fund the difference in the program's operating costs. Therefore, the FY 2014 grant application was submitted without a state overmatch, which will likely exacerbate the negative impact of reduced funding in relation to the program's benchmark and further cloud Iowa OSHA's ability to weather future funding cuts.

On September 15, 2014, OIS is scheduled to be rolled out to Iowa OSHA. Iowa OSHA plans to have OSHA's local Area Office assist with the transition to ensure optimum utilization of the new system and to facilitate appropriate application of enforcement codes in the new system.

## III. Assessment of State Plan Performance

### A. State Plan Performance Overview

**SAMM #1 - Average Number of Work Days to Initiate Complaint Inspections** The SAMM FY 2013 report indicated the average number of days was 4.45 days to initiate a formal, complaint based inspection. This was an 18% increase in time over FY 2012 but within the benchmark of five days.

Twenty-one complaint based inspections were reviewed and the average number of days to initiate the inspection was 4.29 days for the sample set. The majority (86%) of all complaint items were addressed appropriately during the reviewed inspections.

**SAMM #2 - Average Number of Work Days to Initiate Complaint Investigations** The SAMM FY 2013 report indicated the average number of work days to initiate non-formal complaint investigations was 0.4 days within the reference standard of one day.

Iowa OSHA's procedure is similar to OSHA. After the complaint is received, if the complaint includes the contact information of a complainant, they are contacted to

confirm the basis of the complaint. When it is determined that the complaint will be handled non-formally, complainants are given the option to receive the findings via telephone, e-mail, or letter mail. Iowa OSHA administration personnel stated that most of the complainants during FY 2013 preferred a telephone response.

During the onsite evaluation, 77 non-formal complaints were reviewed. Fifty-three (69%) of the 77 complaints did not contain contact information for the complainant and were assumed anonymous. Of the remaining 24 complaints that included contact information, a response to the complainant was noted in 13 cases (54%) of the complaints. For the remaining 11 (46%) there was no letter, email, notation of a telephone call, or IMIS entry showing that the complainant was provided a response.

An IMIS micro to host internal scan report dated February 11, 2014 was reviewed. The report contained 546 complaints received during FY 2013. A review of the 410 non-formal complaints revealed that 402 did not contain any dates in the IMIS date field where dates are to be entered to show when complainants were given notification of the employer's response to the non-formal complaint. Additionally, because no complaints were coded with the (N-11-LOGXXXXXX – X = Electronic Complaint Number Optional Information Coding), the 193 electronic complaints that were received could not be tracked in IMIS.

OSHA received a total of 40 complaints that were transferred to Iowa OSHA for processing. Of the 40 complaints, four were determined to be non-jurisdictional, or did not contain enough information to determine if a safety or health hazard existed. The remaining 36 complaints were determined to contain safety or health issues. Of those 36 complaints, 14 were not listed on the IMIS micro to host internal scan report of complaints received during FY 2013. Additionally, of those 14 that were not listed on the micro to host report, five contained the complainant's name, address, and telephone number, to which a response could be sent regarding any investigation conducted. Three of those 14 were signed complaints. Twenty-two complaints were listed on the report, and of those, 12 were coded non-formal. Two of these contained the employee's name, address, and telephone number, but did not contain the appropriate dates in the IMIS date field indicating notification to complainants of the employer's response.

**Finding #13-1:** In accordance with the Iowa Field Operations Manual (FOM), non-formal complainants when identified must be notified of the results of the investigation. In 24 of the non-formal complaints reviewed where the complainant was known, 51% of the complainants were notified of the results of the non-formal complaint investigation. In 11 cases or 45.8%, there was no documentation with the non-formal complaint file or in IMIS showing that the complainant was notified of the investigation results.

**Recommendation #13-1:** The State needs to take action to ensure that a response be provided to all known complainants with responses documented in the non-formal complaint file in accordance with the Iowa FOM.

**SAMM #3 - Percent of Complaints Where Complainants Were Notified in Timely Manner (Informational Purposes Only)**

The SAMM FY 2013 report indicated that Iowa OSHA notified complainants within the required timeframe 94% of the time. While the standard is 100.0% of the time, the activity measurement equates to 123 of 131 complainants being notified on time.

During the onsite evaluation, 21 formal complaint inspection files were evaluated. Nineteen complaints, 91% of the case files, had documentation of a notification of inspection results to the complainant, or their union representative. Fourteen (70%) of the complainants were notified in a timely manner in accordance with the SAMM. Of the 21 formal complaints evaluated, 43% were from union representatives.

A review of the IMIS data was conducted for all of the 136 complaints coded as formal on the report. Of the 136 formal complaints, 101 complaints (74%) contained a date in the IMIS date field showing complainants were given notification of the inspection results. Of the remaining 35 complaints that did not show a notification date in the IMIS report, 13 of these complaints were noted as still open.

**SAMM #4 - Percent of Complaints and Referrals Responded to Within 1 Work Day (Imminent Danger)**

The SAMM FY- 2013 report indicated that Iowa OSHA did not receive any complaints or referrals whereby workers were exposed to potential imminent danger hazards.

**SAMM #5 Number of Denials where Entry Not Obtained**

The SAMM FY 2013 report indicated Iowa OSHA did not have any denial of entries where entry was not obtained.

**SAMM #6 Percent of S/W/R/U Violations per Verified Percent Private and Percent Public (Informational purposes only)**

The SAMM FY 2013 report indicated the percent of S/W/R violations verified as abated was 99% for private industry and 93% for public entities. Of the 139 inspections evaluated that contained S/W/R violations, 126 (91%) required abatement verification. Of the 126, abatement was verified in 115 cases (92%).

**SAMM #7 Average Number of Calendar Days from Opening Conference to Citation Issuance Date (Informational purposes only)**

The SAMM FY 2013 report indicated Iowa OSHA averaged 36.4 calendar days for a safety inspection and 42.1 days for a health inspection to conduct the inspection from the opening conference to citation issuance.

**SAMM #8 Percent of Programmed Inspections with Serious, Willful, Repeat, and Unclassified Violations (Informational purposes only)**

The SAMM FY 2013 report indicated the percent of programmed safety inspections with serious, willful, or repeat violations was 59%. The percent of programmed health inspections with serious, willful, or repeat violations was 45%. There were no

unclassified violations. Citations were issued to employers in 139 inspection case files that were reviewed. Ninety-nine of those inspections were targeted inspections that contained violations of which 85% of the targeted inspections contained serious, willful, or repeat violations.

The average of 84.8% serious, willful, repeat violation rate across seven LEPs for targeted inspections is a very strong indicator that Iowa OSHA's targeting program is highly effective at targeting the highest hazard workplaces. The targeting LEPs employed to achieve this result are Amputations, Asbestos, Hexavalent Chromium, Fall, Grain, Scaffold, and Zip Code Construction.

**SAMM #9 Average Number of Violations per Inspection with Violations by Violation Type – SWRU/Other**

The SAMM FY 2013 report indicated the average number of violations per inspection with serious/willful/repeat violations was 2.32 and for other than serious was 0.6. A total of 195 case files were reviewed. Of the 195 cases, a total of 364 violations were issued in 139 case files. 281 were serious/willful/repeat violations. The average number of violations per inspection with serious/willful/repeat violations was 2.02.

**SAMM #10 Average Initial Penalty per Serious Violation (Private Sector Only) (Informational purposes only)**

The SAMM FY 2013 report indicated the average initial penalty per serious violation was \$1,298.48 for private sector only.

**SAMM #11 Percent of Total Inspections in the Public Sector**

The SAMM FY 2013 report indicated the percent of total inspections conducted in the public sector over the three year moving average was 1.97%. This was less than the 2% Iowa moving average for three years.

Of the 195 inspection files evaluated, eight were identified as public sector inspections of which seven or 87.5% had violations issued. Of the seven public sector inspections with violations, 72% had serious/willful/repeat violations issued and 14% had other than serious violations.

**SAMM #12 Average lapse time from receipt of Contest to first level decision (Informational purposes only)**

The SAMM FY 2013 report indicated the average lapse time was 169.0 from receipt of Contest to first level decision. This was less than the three-year national average of 210.7 days.

**SAMM #13 Percent of 11c Investigations Completed within 90 Calendar Days**

The SAMM FY 2013 report indicated Iowa OSHA resolved 45 Whistleblower Protection Program (WPP) investigation cases during FY 2013. Of those cases, 60% were completed within the statutory 90-day completion period.

**SAMM #14 Percent of 11c Complaints that are Meritorious**

The SAMM FY 2013 report indicated Iowa OSHA resolved 45 WPP investigation cases during FY 2013. Of those investigations, 10 of the 45 cases (22%) were deemed meritorious. The merit case goal was 24.8%.

**SAMM #15 Percent of Meritorious 11c Complaints that are Settled (Informational purposes only)**

Iowa OSHA resolved 45 WPP investigation cases during FY 2013. Of the 10 cases that were deemed meritorious, eight cases or 80% of the cases were settled. The remaining two are still pending settlement. The merit case settlement goal was 89.4%.

**SAMM #16 Average Number of Calendar Days to Complete an 11c Investigation**

The SAMM FY 2013 report indicated Iowa OSHA's average number of days to complete a case was 91. The completion goal was 90 days.

**SAMM #17 Planned vs. Actual Inspections – Safety/Health**

The SAMM FY 2013 report indicated Iowa OSHA completed 744 Safety inspections and 223 Health inspections. Iowa OSHA projected 1,020 enforcement inspections.

**SAMM #18 Average current serious penalty (total and by size of employer)**

The SAMM FY 2013 report indicated a total average penalty of \$758.10 dollars.

**SAMM #19 Percent of Enforcement Presence**

The SAMM FY 2013 report indicated 1.53% of enforcement presence based on number of inspections averaged over three years.

**SAMM #20 In Compliance Measure – Safety/Health**

The SAMM FY 2013 report indicated an average of 29.82 % of safety inspections over three years were in-compliance. It also indicated an average of 31.22% of health inspections over three years were in-compliance.

**SAMM #21 Percent of Fatalities Responded to in One Work Day**

The SAMM FY 2013 report indicated 77% of fatalities were responded to within one day. Of the 22 fatality inspections in FY 2013, five case files were evaluated. Of these five cases, 100% were responded to within one day.

**SAMM #22 Open, Non-contested Cases with Abatement Incomplete > 60 Calendar Days**

The SAMM FY 2013 report indicated 12 non-contested cases with abatement incomplete periods greater than 60 days.

**SAMM #23 Average Lapse Time – Safety/Health (Three-Year Data)**

The SAMM FY 2013 report indicated average lapse time for safety inspections from open date to issue date was 29.31 days.

The SAMM FY 2013 report indicated average lapse time for health inspections from open date to issue date was 39.24 days.

**SAMM #24 Percent Penalty Retained**

The SAMM FY 2013 report indicated that 55.51% of penalties were retained.

**SAMM #25 Worker Involvement (Percent of Initial Inspections with Worker Walk-around Representation or Worker Interview)**

The SAMM FY 2013 report indicated workers were represented in the initial walk around 100% of the time. Of the 195 inspections that were reviewed, workers were interviewed in 174 (90%) of the inspection case files. These interviews were documented in 165 (95%) of the case files. Of the 195 inspections that were reviewed, a union was represented in 30 (15%) of the inspections. Of these 30 inspections, the union representatives were involved in the opening and walk around 63% of the time. The union participated in the closing conference in 70% of the inspection case files.

**B. Findings and Recommendations Summary**

**1. Safety and Health Program Evaluation Findings and Recommendations**

**Finding #13-1:** In accordance with the Iowa FOM, non-formal complainants when identified must be notified of the results of the investigation. In 24 of the non-formal complaints reviewed where the complainant was known, 13 (54%) of the complainants were notified of the results of the non-formal complaint investigation. In 11 cases (46%) there was no documentation in the non-formal complaint file or in IMIS showing that the complainant was notified of the non-formal complaint investigation results.

**Recommendation #13-1:** The State Plan needs to take action to ensure that a response is provided to all known complainants with responses documented in the non-formal complaint file in accordance with the Iowa FOM.

**2. Whistleblower Protection Program Audit Findings and Recommendations**

**Finding #13-2:** In accordance with Iowa Whistleblower Manual there must be a complete analysis of the respondent's defense. The investigator did not adequately analyze respondent's defense in the analysis section of the Report of Investigation (ROI). This finding was present in all eight of the non-merit determinations that were reviewed by the audit team.

**Recommendation #13-2:** Ensure ROI complies with the Iowa Whistleblower Manual by stating whether the respondent's defense is a pretext for retaliation. (Please see Chapter V, Section IV., pg. 5-5 of the Whistleblower Manual.)

### 3. Safety and Health Program Evaluation Observations

**Observation #13-1:** Iowa OSHA does not have a provision to obtain MAOs for VPP evaluations as prescribed by CSP 03-01-003.

**Recommendation #13-1:** The Region will monitor Iowa OSHA's policy to seek access on a case-by-case basis to determine if they are consistently able to gain access to medical records necessary to complete an effective VPP onsite evaluation.

**Observation #13-2:** Twelve of 23 (52%) of zip codes targeted inspections reviewed were coded as programmed other instead of programmed planned.

**Recommendation #13-2:** The Region will monitor whether improper coding leads to the inability to accurately determine the effectiveness of targeting efforts within OSHA.

## C. State Plan Performance Overview

### 1. Enforcement

#### a) Complaints

During FY 2013 Iowa OSHA averaged 4.45 days to initiate a formal complaint inspection. This was an 18% increase from FY 2012 but within the benchmark of five days.

Twenty-one complaint inspections were reviewed. Of these complaints, the average number of days to initiate a formal complaint was 4.29. In 86% of these inspections, all complaint items were addressed appropriately.

The SAMM report for FY 2013 indicated that Iowa OSHA initiated 100% of its non-formal complaint investigations within one day.

Iowa OSHA's procedure is as follows: When complaints are received and have complainant contact information, the complainants are contacted to confirm the basis of the complaint and to establish that the complaint is to be handled as non-formal. Complainants are given the option to receive a response as to the findings via telephone, email, or letter mail. The Iowa OSHA phone and fax duty officer stated that most of the complainants who wanted a response preferred a telephone response. The non-formal complaint files are kept in alphabetical order. Complaints are noted to indicate if an email or phone response was sent. It was also noted when the complainant was not contacted.

Anonymous complaints do not have a response as no contact information was provided. A complainant that is a current worker or a worker representative is advised of the employer's response as well as the complainant's rights to dispute that response and, if the alleged hazard persists, of the right to request an inspection. An inspection may be scheduled in accordance with Iowa OSHA's

FOM Chapter 9 Complaint and Referral Processing Section C., Criteria Warranting an Inspection. When Iowa OSHA receives an adequate response from the employer and the complainant does not dispute or object to the response, an on-site inspection normally will not be conducted.

During the onsite evaluation, 77 non-formal complaints were reviewed. Fifty-three (69%) of the 77 did not contain contact information for the complainant and were assumed anonymous. Of the remaining 24 complaints, a response to the complainant was noted in 13 (54%) of them. In 11 (46%) of them, there was no letter, e-mail, notation of a telephone call, or IMIS entry showing that the complainant was provided a response.

An IMIS micro to host internal scan report of 546 complaints received during FY 2013 dated February 11, 2014 was reviewed. The report contained 410 complaints that were coded non-formally. Of the 410, eight were inspected and the remaining 402 were non-formally investigated. The report revealed that of the 402, there were not any dates in the IMIS date field where dates are to be entered to show when complainants were given notification of the employer's response to the non-formal complaint. Additionally, because no complaints were coded with the N-11-LOGXXXXXX (X = Electronic Complaint Number Optional Information Coding), the 193 electronic complaints that were received, could not be tracked in IMIS.

OSHA received a total of 40 complaints which were transferred to Iowa OSHA for processing. Of these complaints, four were determined to be non-jurisdictional or not containing enough information to determine if a safety or health hazard existed. The remaining 36 were determined to contain safety or health issues. Of these 36, 14 were not recorded on the IMIS micro to host internal scan report of complaints received during FY 2013.

Additionally, of these 14 that did not appear on the Micro to Host report, five contained the complainant's name, address, and telephone number, to which a response of any investigation conducted, could be sent. Of the remaining 22, 12 were coded non-formal. Two of these contained the complainant's name, address, and telephone number but did not contain the appropriate dates in the IMIS date field indicating notification to complainants of the employer's response.

The SAMM Report for FY 2013 indicated that Iowa OSHA notified complainants within 20 workdays of citation issuance or 30 work days of closing conference without citations 94% of the time. While the standard is 100.0% of the time, this equates to eight complainants out of 131 not being notified within the time frame.

During the onsite evaluation, 21 formal complaint inspection files were evaluated. Nineteen complaints (91%) of the case files had documentation of notification of inspection results to the complainant, or their union representative. Fourteen (70%) of the complainants were notified in a timely manner in accordance with

the SAMM. Of the 21 formal complaints, 43% were from union representatives.

A review of the IMIS data was conducted of the 136 complaints coded as formal on the report. Of the 136 formal complaints, 101 (74%) of the complaints contained a date in the IMIS date field where dates are to be entered to show when complainants were given notification of the inspection results. Of 34 complaints that did not show a notification date in the IMIS report, 13 were shown to still be open complaints.

**b) Fatalities**

There were 22 Iowa OSHA fatalities in FY 2013 and one catastrophe that did not result in a fatality. This was a 25% increase from the number that occurred in FY 2012. Of the 22 fatalities, 21 were investigated and one was a “No Inspection” due to a jurisdictional issue.

Five fatality investigation cases were reviewed. One case file was noted as a “No Inspection.” Upon review, it was determined that the business was a farm operation with fewer than 10 workers and Iowa OSHA determined it non-jurisdictional due to the Appropriations Act. One case file was contested and settled. No cases were evaluated for criminal referral. The IMMLANG was noted in 100% of the inspection case files. The OSHA-36 fatality notification report was completed, filed, and appropriately distributed in 100% of the cases. At the completion of the investigations, the OSHA-170 Investigation Report was completed in 100% of the cases investigated. The evaluation revealed that Iowa OSHA timely and thoroughly investigated each case and properly affected all required IMIS coding.

**c) Targeting and Programmed Inspections**

Iowa OSHA conducted a total 967 inspections during FY 2013. Six-hundred and thirty of the 967 inspections were programmed inspections. Iowa OSHA used the OSHA site-specific targeting (SST) program for general industry inspections. As in previous years, the Iowa specific data that was collected through the OSHA Data Initiative (ODI) Program for the previous year identified the facilities to be targeted for inspection. The University of Tennessee reports were again used for Iowa OSHA programmed construction inspections. Inspections regarding fall hazards in construction and amputations in general industry continued to be the majority of programmed inspections and resulting citations under LEPs.

The changes in Iowa OSHA enforcement targeting programs in the past several years have improved Iowa OSHA's inspection performance. However, the staff reductions caused by sequestration negatively impacted the number of inspections that were completed in FY 2013. There were 1.93 citations issued for alleged violations per inspection, as opposed to the two citations per inspection estimated in the FY-2013 Annual Plan. However, the LEP inspections were effective in identifying Iowa's more hazardous workplaces.

**d) Citations and Penalties**

Citations were issued to employers in 139 of the 195 inspection case files that were evaluated. One hundred nineteen case files or 86% contained serious, willful, or repeat violations. Iowa OSHA had no significant enforcement inspection in FY 2013.

**e) Abatement**

The SAMM FY 2013 report indicated that the percent of S/W/R violations verified as abated was 99% for private industry and 93% for public entities. Of the 195 inspections evaluated, citations were issued to employers in 139 inspections. Of these 139 inspections, 126 inspections (91%) had requested abatement. Of these 126 inspections, abatement was verified in 115 (92%) of the case files.

**f) Worker and Union Involvement**

The SAMM FY 2013 report indicated workers were represented in the initial walk around 100% of the time. Of the 195 inspections that were reviewed, workers were interviewed in 174 (90%) of the cases. These interviews were documented in 165 (95%) of the case files. Of the 195 files that were reviewed, a union was represented in 30 (15%) of the inspections. Of these 30 inspections, the union representatives were involved in the opening and walk around 63% of the time. The union participated in the closing conference 70% of the time.

**2. Review Procedures**

**a) Informal Conferences**

Of the 195 inspections that were reviewed, 70 cases were settled during Informal Settlement Conferences. Alleged violations were either vacated, or reclassified in 50% of the cases where informal settlement conferences were held with the employer. Penalties were reduced in 85.7% of the cases during the informal conferences. In 67 of the 70 case files, or 95.7%, the changes were made in accordance with the Field Operations Manual (FOM).

**b) Formal Review of Citations**

Of the 195 inspections that were reviewed, seven cases were contested and formally settled. Alleged violations either were vacated or reclassified in 28.6% of the cases. Penalties were reduced in 85.7%. All or 100% of the contested cases were properly and timely filed.

**3. Standards and Federal Program Changes (FPCs) and Adoption**

**a) Standards Adoption**

Iowa OSHA usually adopts standards with minimal or no modifications. The following standards were adopted in FY 2013:

- 1) PPE Head Protection in 1910, 1915, 1917, 1918, and 1926 standards. The State Plan responded on 02/13/2013 that they will adopt identical effective 06/05/2013.
- 2) Cranes and Derricks in Underground Construction and Demolition 1926. The State Plan responded on 04/26/2013 that they will adopt identical effective 11/06/2013.

**b) OSHA/State Plan-Initiated Changes**

Iowa OSHA usually adopts Federal Program Changes with minimal or no modifications. In FY 2013, they took the following actions related to program changes:

- 1) Section 11(c) Appeals Program Directive Number CPL-02-03-004 (Adoption not required).

The State Plan responded on 12/4/2012 that they would not adopt per the following: “After reviewing our current 11 (c) policy Iowa feels our existing appeal process is as effective as the federal program. Chapter 4 of our 11 (c) Field Investigation Manual under Case Disposition States under I., Scope: This Chapter sets forth the policies and procedures for arriving at a determination on the merits of a whistleblower case; policies regarding withdrawal, settlement, dismissal, postponement, deferrals, appeals, and litigation; adequacy of remedies; and agency tracking procedures for timely completion of cases.”

- 2) Inspection and Citation Guidance for Roadway and Highway Work Zones Directive Number CPL-02-01-054  
The State Plan responded on 12/13/2012 that they would adopt identical effective 4/1/2013.
- 3) Site-Specific Targeting 2012 SST-12 Directive CPL-02-13-01  
The State Plan responded on 3/5/2013 that they would adopt identical effective 3/11/2013.
- 4) Occupational Exposure to Isocyanates Directive CPL-03-00-17  
The State Plan responded on 8/20/2013 that they would adopt identical effective 9/30/2013.
- 5) Construction Scheduling Directive CPL-02-00-155  
The State Plan responded on 11/5/2013 that they would adopt identical effective 12/2/2013.

**4. Variances**

There were no permanent or temporary variances granted during FY 2013.

## **5. Public Employee Program**

The percent of total inspections conducted in the public sector over the three year moving average was 1.97%. This was less than the 2% national average for three years. Eight files that were evaluated were identified as public inspections and 87.5% contained violations.

## **6. Discrimination Program**

For FY 2013, 45 cases were docketed and 45 cases were closed. Of the 45 that were closed, 34 were FY 2013 cases and 11 were FY 2012 cases that had been carried over to FY 2013. At the conclusion of FY 2013, 11 cases from FY 2013 remained open. At the time of the evaluation, only four remained open.

### **a) SAMM Data**

- 1) Percentage of cases completed in 90 days.  
Goal: 100%  
Actual: 27/45 cases, or 60%, were completed in 90 days.
- 2) Percentage of merit cases.  
Goal: 24.8%  
Actual: 10/45 cases, or 22.2%, received a merit determination.
- 3) Percentage of merit cases settled.  
Goal: 89.4%  
Actual: 8/10 cases, or 80%, were settled. (The other two are still pending.)
- 4) Average number of days to complete a case.  
Goal: 90 days  
Actual: 91 days.

### **b) Other Data**

In addition, the following was noted for FY 2013:

- 1) Thirty-two of the 45 cases that were closed were dismissed.
- 2) Six cases were administratively closed.
- 3) Three cases were withdrawn.
- 4) Three cases were dual filed with OSHA.
- 5) One case determination was appealed. The appeal was handled by the attorney assigned to the discrimination program, thereby ensuring that the review was independent of the initial investigative process. In this particular case, the initial determination was upheld.
- 6) There were no CASPAs filed regarding the Discrimination Program.

### **c) Observations**

A total of eight items were listed as Findings/Recommendations in the FY 2012 FAME Report for the Iowa State Plan CAP. The FY 2013 audit found that those items were all successfully completed.

## **7. Special Study – State Plan Targeting Programs**

The purpose of the Special Evaluation Study is to evaluate the State Plans' targeting programs. The special study contains two components: an analysis of how the State

Plan develops a targeting program and an analysis of how the State Plan evaluates the effectiveness of its program. The findings of the study can be found in the responses Region VII staff reported in the separate template provided by the National Office.

**8. Complaints About State Program Administration (CASPA's)**

In FY 2013, Region VII received one CASPA. CASPA # 2013-21 alleged that Iowa OSHA failed to complete a thorough investigation of a formal complaint filed with the State Plan by the CASPA complainant. The initial telephone complaint was received in the Kansas City Regional Office on 10/04/2012. A follow-up written complaint was received in the Des Moines Area Office on 10/10/2012. The CASPA was thoroughly investigated by the Des Moines Area Office and found that Iowa OSHA followed their policies and procedures during the inspection of the formal complaint. A closing letter was sent to the Deputy Labor Commissioner/IOSH Administrator on 11/26/2012.

**9. Voluntary Compliance Program**

Iowa OSHA's written policies and procedures for voluntary and cooperative programs are substantially the same as OSHA's. The federal directives for the Voluntary Protection (VPP) and the Safety and Health Achievement Recognition Program (SHARP) programs were adopted for use in VPP and SHARP. Iowa OSHA published its own instruction for its partnership program, which is substantially similar to the federal partnership directive and appropriately provides exemptions and other enforcement incentives. There were no changes made to the State Plan's voluntary and cooperative programs during FY 2013.

**a) Voluntary Protection Program**

Iowa OSHA's VPP provides worker safety and health protection for 14,850 workers. Ten files (23%) of its active 44 voluntary protection program case files were randomly selected and comprehensively reviewed in accordance with Cooperative and State Programs (CSP) 03-01-003. The file review revealed that although Iowa OSHA adopted the CSP, its organizational alignment is different than OSHA's Regional and National Offices organizational alignments which prevents it from fully implementing all aspects of the CSP.

One observation is the implementation of the medical access order (MAO) requirement of the CSP which requires the VPP manager or team leader to obtain a MAO and direct the VPP applicant or participant to post the MAO in a prominent place at the worksite for at least 15 working days prior to the onsite evaluation. Iowa OSHA does not have an office of occupational medicine, does not have a medical records officer, and does not have a system to obtain MAOs if needed.

29 CFR 1913.10 - Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records exempts OSHA compliance personnel from needing an access order to review records required by 29 CFR 1904, worker exposure records, biological monitoring records treated by 29 CFR 1910.1020, or

by specific occupational safety and health standards, all of which fall into the category of general information reviewed during a VPP evaluation.

When access to medical information is needed beyond what 29 CFR 1910.13 provides, Iowa OSHA's procedure is to personally obtain consent from each worker for access to medical information as needed. Additionally, Iowa OSHA's FOM states that Compliance Safety and Health Officers (CSHOs) may ask legal staff for medical release forms for workers to sign if it is necessary to receive medical information from third party sources. Although there were no revealed cases requiring access beyond the 29 CFR 1910.13 provisions, the method of obtaining access only through each worker's personal consent does not comport with obtaining broad access as required by the CSP when medical information is retained by an employer beyond an worker's tenure with the employer. 29 CFR 1913.10 provides for access without a MAO so long as the need does not arise to review medical information during the VPP evaluation process that is not covered under its provisions and the access need does not apply to workers no longer with the employer, in which case personal consent cannot be obtained. There were no cases that required access beyond the 29 CFR 1910.13 provisions.

**b) Partnerships**

Iowa OSHA's partnerships are managed under IOSH Instruction IACSP 03-02-002, effective date July 1, 2005. The previous OSHA Instruction 03-02-002, effective date February 10, 2005, did not require state adoption but required state intent. Federal OSHA's partnerships are currently managed under OSHA Instruction CSP 03-02-003 effective date November 06, 2013, which does not require state adoption or intent. Iowa OSHA's partnerships remained constant throughout the fiscal year with an average of 12 active partnerships per quarter covering approximately 4,135 workers without suffering any serious injuries or fatalities.

The compliance assistant who is the primary partnership manager is responsible for signed partnership documents, evaluations, and performing monthly jobsite walkthroughs of each site with the site's general and subcontractor representatives. Upon accomplishing the walkthroughs, hazards, and other issues identified during the walkthroughs were used to develop focused training for workers across Iowa OSHA's partnership spectrum. During FY 2013, six partnerships were closed out and eight new partnerships were established. Iowa OSHA managed its program in accordance with its Instruction and retained a strong and valuable strategic partnership program.

**c) Alliances**

Iowa OSHA had three active alliances during FY 2013, which included the Renewable Fuels Association, the City of Cedar Rapids, and Worksafe. The project manager for Consultation and Education along with the compliance assistant managed Iowa OSHA's alliance goals to meet FY 2013's desired outcome. The Renewable Fuels Association Alliance was renewed in August of

2012 and alliance members met every other month for training on safety and health topics pertinent to the industry. The compliance assistant primarily works with the City of Cedar Rapids Alliance in information sharing and lessons learned from the demolition, renovation, and construction of new buildings as part of the FEMA flood recovery projects. The Worksafe Alliance with the Master Builders of Iowa was signed in August of 2012. This alliance recognizes, promotes, and trains on best safety practices on construction sites and facilities in the state of Iowa.

#### **10. Public Sector On-site Consultation Program**

Iowa OSHA conducted 25 public sector consultation visits, primarily in state parks. These visits identified 189 serious hazards and all hazards were corrected within the required time frame. With the identified hazards and timely corrections, Iowa OSHA met its visitation goal and exceeded its identified hazard goal as stated in its FY 2013 grant application. The number of public sector visits increased from its FY2007 baseline of 21 visits and 57 hazards corrected.

#### **11. State Plan Administration**

##### **a) Training**

Iowa OSHA adopted the CSHO training directive TED 01-00-018 on January 1, 2009. The Public Service Executive 2 supervisors developed protocols to track individual training. The consultation project manager and administrative assistant 2 work with the Consultation and Education staff to track the individual training protocols for the field staff working on compliance assistance and 21(d) programs. Although Iowa OSHA faces challenges in providing training to its staff, it has made an effort to ensure available training funds are spent to benefit as many people as possible. After all core courses are attended, Iowa OSHA has tried to bring as many courses as possible to the state so all inspectors and consultants can be trained at once. Additionally, Iowa OSHA has virtually eliminated travel to conferences and meetings to ensure funding availability for all required training.

##### **b) Funding**

Iowa OSHA's 23(g) Grant for October 1, 2012 to September 30, 2013 had a federal base award of \$2,066,500 with a state match of \$2,066,500, as well as a state overmatch of \$497,450. The total recipient share was \$2,563,950 and the total program cost was \$4,630,450. Prior to sequestration Iowa was overmatching \$497,450 (2.2%) state money. The grant reduction of \$86,200 due to sequestration then required Iowa to overmatch state funds by \$669,850. The final closeout report for the FY 2013 23(g) grant had a total of \$659,752 in state money overmatch. Additional costs for the fiscal year that were paid out after the final closeout report were charged to 100% state funds.

Iowa OSHA's 21(d) consultation program cooperative agreement for October 1, 2012 to September 30, 2013 had a federal base award of \$753,000 with a state match of \$82,574, as well as a state overmatch of \$94,528. The total recipient

share was \$177,102 and the total program cost was \$930,102. The grant reduction of \$33,500 due to sequestration then required Iowa to overmatch state funds by \$130,626. The final closeout report for the FY 2013 21(d) agreement had a total of \$135,921 in state overmatch.

Iowa OSHA has struggled with operating the program within the current level of federal and state funding over the past several years. The current level of funding has not allowed Iowa OSHA to keep up with cost of living increases. Staff collective bargaining contracts from 2011 to 2013 accounted for 2%, 1%, and 2% respectively of its funding in salary increases. As in previous fiscal years, these cost of living increases have been made up with overmatching state money. Other cost of living expenses include the increased cost of travel for field staff, including per diem and the increased indirect charges for services provided by both Iowa Workforce Development and State of Iowa staff.

The most serious effect with the sequestration reductions given to Iowa OSHA was to its OSHA Data Initiative cooperative agreement. The agreement for October 1, 2012 to September 30, 2013 had a federal base award of \$73,439. The sequestration reduction of \$41,539 reduced that program by 59.28% and suspended all data collection activity. Additionally, the reduction effectively eliminated the funding for the Data Initiative staff without notice. Iowa OSHA is gravely concerned about its funding, especially in light of no state overmatching of the FY 2014 23(g) grant.

**c) Staffing**

The enforcement program is benchmarked for 16 Safety Compliance Officers and 13 Health Compliance Officers and is currently staffed with 11 Safety Compliance Officers and 10 Health Compliance Officers. Iowa OSHA's complete staffing consists of 44 full time personnel.

**d) Information Management**

Iowa OSHA uses OSHA's Integrated Management Information System (IMIS) to manage its enforcement activity. Additionally, it uses IMIS reports to monitor its enforcement progress.

**e) State Internal Evaluation Program (SIEP) Report**

Iowa OSHA internally evaluates its program throughout the year on a quarterly basis and incorporates the evaluated results in its State OSHA Annual Report (SOAR).

## **IV. Assessment of State Plan Progress in Achieving Annual Performance Goals**

During FY 2013, Iowa OSHA was in the fifth year of its current Five-Year Strategic Plan. Iowa continued to achieve the goals set in the performance plan.

## **A. Performance Goal One**

### **1. Goal**

Increase the percentage of employers who participate in Iowa OSHA outreach and voluntary compliance programs.

### **2. Result**

Iowa promoted programmatic and systematic approaches to safety and health programs in the workplace. Iowa achieved this goal by increasing program participation in VPP by three employers to a total of 44. Eight new partnerships were developed. There was no increase in School-to-Work activities.

The total number of one-on-one outreach contacts made through compliance assistance efforts totaled 16,318. In response to the OSHA emphasis on falls in construction, Iowa OSHA focused additional time to outreach for fall protection in construction, particularly in the residential construction sector. Iowa OSHA relied heavily on Iowa's bilingual Hispanics to disseminate information as part of its Hispanic outreach mission, thus also allowing them to reach the Spanish-speaking population.

Iowa Consultation and Education supported Local Emphasis Programs (LEPs) and National Emphasis Programs (NEPs) focusing on Nursing and Residential Care facilities, Grain Bin Safety, and Construction. Staff participated in the Governor's Safety Conference and the Iowa Illinois Safety Council Conference.

## **B. Performance Goal Two**

### **1. Goal**

Secure public confidence through excellence in the development and delivery of Iowa OSHA programs and services.

### **2. Result**

The Iowa OSHA leadership team continued weekly to discuss safety and health issues as well as direct intervention activities. The team reviewed statistics of inspections, especially those relative to emphasis programs, to determine program effectiveness. These reviews also included direct information from the inspectors regarding their inspection activity. Employer feedback during activities such as informal settlement conferences was also monitored by the leadership team.

Iowa OSHA continued to work with the Iowa Division of Worker's Compensation. Iowa Workforce Development continued development of a database that will provide more detailed event information.

Iowa OSHA, in collaboration with Iowa Workforce Development Employer's Councils of Iowa, scheduled six construction and 12 general industry, 10-hour training sessions with a total of 431 participants. These training sessions were widely publicized to reach companies and individuals in need of this training.

Although Iowa OSHA did not implement any new LEPs, it did begin implementing the NEP for primary metals during FY 2013. Iowa OSHA did research successful LEPs in other states and OSHA Regions for opportunities for targeting programs that would apply to Iowa's industries. There were 665 inspections for Iowa OSHA safety LEPs and 83 inspections for health LEPs.

Iowa OSHA LEP	Number of Inspections	Number of Citations
Amputations	198	558
Asbestos	77	154
Hexavalent Chromium	6	29
Fall	243	398
Grain	20	73
Scaffold	98	164
Zip Code Construction	106	195

Iowa OSHA will continue to monitor progress toward reducing injuries and illnesses by tracking the effectiveness of direct interventions and cooperative programs.

### C. Performance Goal Three

#### 1. Goal

Reduce injuries, illnesses, and fatalities by 5% as listed below.

#### 2. Result

Fatalities, injuries, and illnesses are indicators that Iowa OSHA attempts to directly measure this performance goal. There was an overall decrease in the number of fatalities by 5% to 21. General industry fatalities decreased by 20% with a total of 12. Construction fatalities increased by 27% for a total of nine. BLS data is used to track non-fatal injury rates. The non-fatal injury and illness rate declined 23.73%. The general industry rate declined 30% and the construction industry rate declined 24%.

### V. Other Special Measures of Effectiveness and Areas of Note

None

**Appendix A – New and Continued Findings and Recommendations**  
**FY 2013 Comprehensive FAME Report**

FY-Rec #	Finding	Recommendation
13-1	In accordance with the Iowa Field Operations Manual (FOM), non-formal complainants (when identified) must be notified of the results of the investigation. In 24 of the non-formal complaints where the complainant was known (51%) of the complainants were notified of the results. In 11 cases (45.8%) there was no documentation with the non-formal complaint file, or in IMIS, that the complainant was notified of the result.	The State Plan needs to take action to ensure that a response to all known complainants is clearly documented in the non-formal complaint file in accordance with the Iowa FOM.
13-2	In accordance with IOWA Whistleblower Manual, there must be a complete analysis of the respondent's defense. The investigator did not adequately analyze the respondent's defense in the analysis section of the Report of Investigation (ROI). This finding was present in all eight of the non-merit determinations that were reviewed by the audit team.	Ensure ROI complies with the IOWA Whistleblower Manual by stating whether the respondent's defense is a pretext for retaliation.

**Appendix B – Observations Subject to Continued Monitoring**  
**FY 2013 Comprehensive FAME Report**

Observation # [FY13-OB #]	Observation # [FY12-OB #]	Observation	Federal Monitoring Plan
13-1		Iowa OSHA does not have a provision to obtain MAOs for VPP evaluations as prescribed by CSP 03-01-003.	The Region will monitor Iowa OSHA's policy to seek access on a case-by-case basis to determine if they are consistently able to gain access to medical records necessary to complete an effective VPP onsite evaluation.
13-2		Twelve of 23 (52%) zip codes targeted inspections reviewed were coded as programmed other instead of programmed planned.	The Region will monitor whether improper coding leads to the inability to accurately determine the effectiveness of targeting efforts within OSHA.

**Appendix C - Status of FY 2012 Findings and Recommendations**  
**FY 2013 Comprehensive FAME Report**

FY 2012 and Related Rec #s	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status
12-1	Six of 42 11(c) complaints (14%) were meritorious (61% of the 3-year national average or 23%). The standard is +/- 20% of the 3-year national average. (SAMM 14)	Attempt voluntary, early resolution of each 11(c) complaint in a process that is conducted in a neutral, collaborative manner with both complainant and respondent.	The Iowa OSHA discrimination team has reviewed the criteria for a meritorious case and will ensure that these criteria are carefully applied as cases are reviewed in the future. Each element for a meritorious case will be documented in the discrimination case files.	Verified January 2014	Completed
12-2 (Formerly 11-2)	Inspection case files did not routinely utilize a case file diary.	Recommend all case files utilize a case file diary in accordance with the Field Operations Manual, Chapter 5, Section X. Ensure the diary is utilized by supervisors, compliance officers, and administrative personnel to note the inspection activities during and after the inspection.	The Iowa OSHA staff has been reviewing enforcement inspection case files to ensure the diary form is included in the file in accordance with the Field Operations Manual, Chapter 5, Section X. Inspection case files are available for review upon request. Iowa OSHA requests a list of any case files that are reviewed and found without diary forms.	Verified January 2014	Completed
12-3 (Formerly 11-4)	Adequate investigation of a whistleblower complaint was not conducted in that both the complainant's allegation(s) and the respondent's proffered non-retaliatory reason(s) for the alleged adverse action were not fully tested before reaching a determination in the case. This deficiency was noted in one of the 30 investigations reviewed.	The investigator must ensure that every effort is made to test and weigh all of the evidence before reaching a determination and avoid shutting down an investigation before sufficient documentation has been collected and all relevant witnesses have been interviewed. (Manual, Section 3-1)	The Iowa OSHA 11(c) Discrimination Investigation Team has reviewed the Iowa Whistleblower Investigations Manual Chapter 3, Section II and will ensure the four investigative elements are addressed and included in the case file.	Verified January 2014	Completed

**Appendix C - Status of FY 2012 Findings and Recommendations**  
**FY 2013 Comprehensive FAME Report**

12-4 (Formerly 11-5)	Adequate evaluation of the elements of a work refusal was not performed during the investigation of a whistleblower complaint. This deficiency was noted in both of the work refusals reviewed.	The investigator must conduct a thorough evaluation of all the elements of a work refusal in order to determine if a valid work refusal complaint has been filed. (Manual, Sections 3-5 to 3-12 & 7-4)	The investigator has reviewed the elements for work refusals in the Iowa Whistleblower Investigations Manual Chapter 7-3 and on <a href="http://www.osha.gov/as/opa/worker/refuse.html">www.osha.gov/as/opa/worker/refuse.html</a> and will document those elements in future cases.	Verified January 2014	Completed
12-5 (Formerly 11-6)	Documentation of the investigator's assessment of the settlement agreement and the withdrawal request were not present in the case file. This deficiency was noted in all four of the settled cases and two of the withdrawal cases reviewed.	The investigator must document in the ROI an analysis of the content of the settlement agreement to describe the relief obtained and the withdrawal request to ensure the withdrawal was submitted voluntarily. (Manual, Section 4-2, 5-6 & Chapter 6)	The investigator has reviewed the elements to assess settlement agreements and document withdrawal requests in the Iowa Whistleblower Investigations Manual Chapters 4-2, 3 and 6 and will document those elements in future cases.	Verified January 2014	Completed
12-6 (Formerly 11-7)	Documentation of the testing of the respondent's defense to determine if it is believable or a pretext was not present in the case file. This deficiency was noted in all of the thirty cases reviewed.	The investigator must add a Respondent Defense discussion to an analysis section of the ROI. (Manual, Section 5-13)	The investigator has reviewed the required documentation to test the respondent's defense in the Iowa Whistleblower Investigations Manual Chapter 5-2 and will document those elements in future cases.	Verified January 2014	Completed
12-7 (Formerly 11-8)	Closing letters to complainants did not utilize OSHA's Secretary's Findings template and did not fully explain the reason for the dismissal. This deficiency was noted in 21 of the 22 dismissal cases reviewed.	Draft closing letters to complainants utilizing OSHA's Secretary's Findings template in order to adequately inform the parties of the outcome of the investigation by succinctly documenting the factual findings as well as Iowa OSHA's analysis of the elements of a violation. (Manual, Section 5-6 to 5-11)	The investigator has modified the OSHA Secretary's Findings template to fully explain the reason for dismissal in the Iowa OSHA complainant closing letter per the Iowa Whistleblower Investigations Manual Chapter 3, pages 13 and 14.	Verified January 2014	Completed

**Appendix C - Status of FY 2012 Findings and Recommendations**  
**FY 2013 Comprehensive FAME Report**

12-8 (Formerly 11-9)	Appropriate entry of administratively closed 11(c) complaints in IMIS was not accomplished. This deficiency was noted in one of the four screened out cases reviewed.	Select the proper reason for closure when entering codes for administratively-closed complaints in IMIS. (Manual, Section 2-3)	The investigator has reviewed the criteria to administratively close complaints per the Iowa Whistleblower Investigations Manual Chapter 5-1 and enters the appropriate codes in IMIS as the complaints come in.	Verified January 2014	Completed
12-9 (Formerly 11-11)	Although the investigator attended the two-week OTI 1420 whistleblower course, adequate whistleblower training has not been provided to other IOSH staff members and stakeholders. REPEAT Finding – This is #09-12 in the FY 2009 Audit.	Provide internal whistleblower training to the new duty officer and other key stakeholders within the IOSH facility, such as front-line staff that are responsible for transferring incoming phone calls. Accomplish training for the IOSH Discrimination Program supervisor by enrolling in the OSHA Training Institute Course #1420 Basic Whistleblower Investigations – 11(c) in FY12 or FY13.	The investigator attended the OSHA Region VII Whistleblower Update Training in September 2013. Internal whistleblower training will also be conducted as appropriate to Iowa OSHA staff including any updated procedures.	Verified January 2014	Completed

## Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report FY 2013 Comprehensive FAME Report

OSHA is in the process of moving operations from a legacy data system (IMIS) to a modern data system (OIS). During FY 2013, OSHA case files were captured on OIS, while State Plan case files continue to be processed through IMIS. The SAMM, which is native to IMIS, is not able to access data in OIS, which impacts OSHA's ability to process SAMM standards pinned to national averages (the collective experience of State Plans and OSHA). As a result, OSHA has not been able to provide an accurate reference standard for SAMM 18, which has experienced fluctuation in recent years due to changes in OSHA's penalty calculation formula. Additionally, OSHA is including FY 2011 national averages (collective experiences of State Plan and OSHA from FY 2009-2011) as reference data for SAMM 20, 23 and 24. OSHA believes these metrics are relatively stable year-over-year, and while not exact calculations of FY 2013 national averages, they should provide an approximate reference standard acceptable for the FY 2013 evaluation. Finally, while SAMM 22 was an agreed upon metric for FY 2013, OSHA was unable to implement the metric in the IMIS system. OSHA expects to be able to implement SAMM 22 upon the State Plan's migration into OIS.

U.S. Department of Labor				
Occupational Safety and Health Administration State Activity Mandated Measures (SAMMs)				
State: Iowa			FY 2013	
SAMM Number	SAMM Name	State Plan Data	Reference/ Standard	Notes
<b>1</b>	Average number of work days to initiate complaint inspections	4.45	(Negotiated fixed number for each state) - 5	State data taken directly from SAMM report generated through IMIS.
<b>2</b>	Average number of work days to initiate complaint investigations	0.4	(Negotiated fixed number for each state) - 1	State data taken directly from SAMM report generated through IMIS.
<b>4</b>	Percent of complaints and referrals responded to within 1 work day (imminent danger)	0%	100%	State data taken directly from SAMM report generated through IMIS.
<b>5</b>	Number of denials where entry not obtained	1	0	State data taken directly from SAMM report generated through IMIS.
<b>9a</b>	Average number of violations per inspection with violations by violation type	2.32	SWR: 2.04	State data taken directly from SAMM report generated through IMIS;
<b>9a</b>	Average number of violations per inspection with violations by violation type	2.32	SWR: 2.04	national data was manually calculated from data pulled from both IMIS and OIS

**Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report**  
**FY 2013 Comprehensive FAME Report**

				for FY 2011-2013.
<b>11</b>	Percent of total inspections in the public sector	1.97	(Negotiated fixed number for each state) - 2.2%	State data taken directly from SAMM report generated through IMIS.
<b>13</b>	Percent of 11c Investigations completed within 90 calendar days	60	100%	State data taken directly from SAMM report generated through IMIS.
<b>14</b>	Percent of 11c complaints that are meritorious	22.22	24.8% meritorious	State data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2011-2013.
<b>16</b>	Average number of calendar days to complete an 11c investigation	91.22	90 Days	State data taken directly from SAMM report generated through IMIS.
<b>17</b>	Planned vs. actual inspections - safety/health	744/223	(Negotiated fixed number for each state) - 1020/210	State data taken directly from SAMM report generated through IMIS; the reference standard number is taken from the FY 2013 grant application.
<b>18a</b>	Average current serious penalty - 1 -25 Employees	a. 434.89		State data taken directly from SAMM report generated through IMIS; national data is not available.
<b>18b</b>	Average current serious penalty - 26-100 Employees	b. 657.93		
<b>18c</b>	Average current serious penalty - 101-250 Employees	c. 679.54		
<b>18d</b>	Average current serious penalty - 251+ Employees	d. 1344.45		
<b>18e</b>	Average current serious penalty - Total 1 - 250+ Employees	e. 758.10		
<b>19</b>	Percent of enforcement presence	1.53%	National Average 1.5%	Data is pulled and manually calculated based on FY 2013 data currently available in IMIS and County

**Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report**  
**FY 2013 Comprehensive FAME Report**

				Business Pattern data pulled from the US Census Bureau.
<b>20a</b>	20a) Percent In Compliance – Safety	Safety - 29.82	Safety - 29.1	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and OSHA for FY 2009-2011.
<b>20b</b>	20b) Percent In Compliance – Health	Health - 31.22	Health - 34.1	
<b>21</b>	Percent of fatalities responded to in 1 work day	77%	100%	State data is manually pulled directly from IMIS for FY 2013
<b>22</b>	Open, Non-Contested Cases with Abatement Incomplete > 60 Days	12	(Negotiated fixed number for each state) - 5.	State data taken directly from SAMM report generated through IMIS; the reference standard number was negotiated based on IMIS Inspection Reports.
<b>23a</b>	Average Lapse Time - Safety	29.31	43.4	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and OSHA for FY 2009-2011.
<b>23b</b>	Average Lapse Time - Health	39.24	57.05	
<b>24</b>	Percent penalty retained	55.51	66	State data taken directly from SAMM

**Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report**  
**FY 2013 Comprehensive FAME Report**

				report generated through IMIS; current national data is not available. Ref. data is based on the FY 2011 national average which draws from the collective experience of State Plans and OSHA for FY 2009-2011.
<b>25</b>	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State data taken directly from SAMM report generated through IMIS.