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*Office of the Commissioner*

August 6, 2014

Robert Kulick, Regional Administrator Occupational Safety and Health Administration  
201 Varick Street  
New York, NY 10014

Dear Mr. Kulick,

Below is the Virgin Islands Division Occupational Safety and Health (VIDOSH) response to the FY2013 Enhanced Federal Annual Monitoring and Evaluation (EFAME) Report. The said report was reviewed and the response is in compliance with the directive to provide comments on the final Enhanced FAME by close of business August 6, 2014.

The Enhanced FAME report has established a history and description of the Virgin Islands state-plan-program. It is only appropriate for the Virgin Islands to give an operational overview of the Virgin Islands public sector state plan enforcement and consultation program for Federal Fiscal Year 2013. The Virgin Islands Division of Occupational Safety and Health (VIDOSH) has continuously forged forward to make improvements. Since 2010 VIDOSH's actions have corrected many legacy limiting factors while continuously working in providing an *"As Effective As"* program.

VIDOSH experiences several inhibiting factors during its day-to-day operations. These said limiting factors have been identified by the Virgin Islands Government of the Virgin Islands, Department of Labor, the Region 2 State Plan Office and/or the OSHA National Office.

- Virgin Islands Government Financial Crisis
- Insufficient Federal Funding
- Virgin Islands Government Hiring Freeze
- Vacant VIDOSH Positions
- Personnel Turnover And OSHA Mandatory Training Requirements For New Employees
- EFAME Reports Cycle
- Legacy NCR System And Computer Equipment Repair And Serviceability

**"Labor Works...Let Labor Work For You."**

VIDOSH successfully increased the total number of inspections during FY2013 while also improving in other areas. VIDOSH successfully completed fifty five inspections (24 Safety and 31 Health inspections) during FY2013. The FY2013 inspection target was calculated taking into consideration VIDOSH's then on-hand staffing—two Compliance Safety and Health Officers (CSHOs). The said inspection target of fifty five inspections was addressed at length with the VIDOL Senior leadership, Region 2 State Plan Office and the OSHA National Office in length during phone conversations and/or schedule telephonic meetings. The VIDOSH FY2013 inspections were accomplished using the utilization of an inspection schedule, availability of qualified on-hand CSHOs. VIDOSH yielded an improvement of 145% increase above the FY 2012 number of inspections.

Inspection Summary Report									
User Name:					Time of printing: Mon Aug 4 18:35:12 20				
INSPECTION SUMMARY On file: 2505 2505 Report: 2.2%									
Insp Conducted: 55 ( Attempted: 55 )					Violations Issued: 196				
Safety 24 43.6%		Health 31 56.4%		Private Ownership			Inspection Percentages		
Unprogrammed		Local 48 87.3%		State 7 12.7%			Without Violations 9.1%		
Fat/Cat 1 1.8%		Compl 5 9.1%		Federal			S,W,R Violations 85.5%		
Ref'l		Monitor		Planned 48 87.3%			Contested		
Vari'nc		Upg Rel 1 1.8%		Prg Rel			Violation Types		
Other		Other		Other			Other 37 18.9%		
Migr'n't		Union 38 69.1%		Compr 48 87.3%			Serious 138 70.4%		
N/Union 17 30.9%		Record 1 1.8%		Partial 6 10.9%			Willful		
Manufacturing		Construction 20 36.4%		Record 1 1.8%			Repeat 21 10.7%		
Maritime		Health PG 23 41.8%		Safety PG			Post Settle		
							Instances 415		
							Total Penalty \$ 7000.00		
							FTA's		
							Total FTA Penalty \$ 0.00		
Inspection Summary Limitation Selections									
1 CSHO Id's		2 Job Titles		3 Date Restrictions		Begin		End	
				Opening Conference Date		10/01/12		09/30/13	
				Closing Conference Date					
				Date of Denial					
				Citation Issuance Date					
				4 Category		5 Type: Unprogrammed		Programmed Other	

MANDATED ACTIVITIES						
ACTIVITY	PROGRAM ACTIVITY		GOAL		ACTUAL	
	PROJECTIONS		FY 13		FY 13	
	SAFETY	HEALTH	SAFETY	HEALTH	GOAL	ACTUAL
<u>ENFORCEMENT</u>						
PUBLIC SECTOR	55	25	24(*)	31(*)	80	55
INSPECTIONS						
<u>CONSULTATION</u>						
PUBLIC SECTOR	8	2	0	0	10	0
CONSULTATION						

Note: (\*) = Program Activity Projection actual not met due to loss of staff

The lapse time to accomplish issuance of several FY2013 cases was impacted by the unforeseen incident of the inoperative NCR system. With the aging NCR system, we were faced with an on-going challenge of the system being nonoperational. The availability and installation of repair parts contributed to its operational delays. During one said incident the NCR system was inoperable for 45 days. This unpredicted condition was communicated to the Region 2 State Plan Office. The inability of VIDOSH to utilize the NCR computer system during the said period of time negatively impacted the VIDOSH's citation lapse time for both safety and health case files.

The VIDOSH team has continued to make it a top priority to fill its vacant positions. The VIDOL Commissioner has worked with the Virgin Islands Office of the Governor to fill the critical positions needed for VIDOSH to remain a viable public sector program. VIDOSH is in the final stages of completing the personnel actions to fill one more of the previously vacant positions, the public sector consultant. The newly hired, safety CSHO has received the formal OSHA training from the OSHA Training Institute (OTI), as well as on the job training. The newly hired employee has contributed to the improvement of the division's objectives and operational capabilities. Additionally, VIDOSH continues to provide outreach and educational activities to the public sector stakeholders.

To date, VIDOSH has closed one hundred plus case files. VIDOSH completed these achievements by utilizing the recommendations and strategies from the Region 2 State Plan Office and VIDOL Senior leadership. These accomplishments were included in the VIDOL's annual Virgin Islands Governors report and in the VIDOL budget hearing before the 30<sup>th</sup> Legislature.

VIDOSH continues to improve the relationship between the stakeholders and VIDOSH. Several of the implemented procedures have benefited both VIDOSH and the OSHA organization. It continues to do its due diligence in communicating and involving the public sector stakeholders. Many of the stakeholders attended the VIDOSH training seminars addressing OSHA responsibilities and rights. Even when the OSHA auditors reinterviewed one of the two previously interviewed union leaders, favorable information was provided. VIDOSH contacted 100% of the Public Sector only labor unions identified on the Virgin Islands Public Employment Relations Board official labor union contact listing, extending a formal invitation to the public sector OSHA Record Keeping Seminar. The seminar information was disseminated in the local newspapers, VIDOL Facebook page, VIDOL website, and public sector email listings.

VIDOSH conducted offsite staff training to address matters within the FY 2012 EFAME report and Operation performance. The offsite training yielded the following:

- VIDOSH created a Territorial Duty Officer (TDO) to address the public sector complaints. The role of the TDO is to work hand-in-hand with the VIDOSH director to ensure complaint procedures are in compliance with Field Operational Manual (FOM)
- VIDOSH addressed improvements in the CSHO case file documentation i.e. employee interviews, inspection notes and other applicable OSHA documentation.
- VIDOSH addressed the utilization of enforcement strategies such as follow-up inspections to resolve unabated hazards.
- VIDOSH developed a method to provide electronic "**Failure-to- Abate**" notification to the Department /Agency heads.
- VIDOSH addressed the issuance of citations to include the notification of the stakeholders
- VIDOSH addressed measures to produce the CSHO case file issuances rate below the national averages.

Furthermore, several stakeholders contacted VIDOSH during the occurrences of a past odor release at the St Croix Department of Education's Central High School. As a result, the Governor ordered the formulation of a multi-agency task force including VIDOSH. VIDOSH provided vital support to protect the public/private employees and the citizens of the Virgin Islands. It was instrumental in initially identifying hydrogen sulfide (H<sub>2</sub>S) and potentially other reduced sulfur compounds as the potential sources of the chemicals that likely caused the odor and the severe physical symptoms. In some areas the task-force observed strong odors and detected elevated H<sub>2</sub>S levels (> 50 ppb) inside portions of some public sector facilities less than 1000 feet for the school.

The training that the members of the VIDOSH team received during the OSHA Training Institution 40-Hour HAZWOPER practical accident exercise provided first hand results thereby saving lives. VIDOSH interacted with the stakeholders by gathering the symptoms of impacted public sector employees; VIDOSH was able to narrow down a possible 467 possible chemical sources down to 17 chemicals. VIDOSH provided the real time applicable data to the multi-agency task force--resulting in critical lifesaving information need to made critical action decisions (i.e. Protective Personal Equipment requirements; evacuation distances; maximum detectable level thresholds, symptoms and NFPA 704 data). This level of support provided by VIDOSH in its utilization of the Wireless Information System For Emergency (WISER) iPhone iOS application during a VITEMA incident was a first-to-date.

VIDOSH has been very involved with organizational goal setting and taking action in providing a viable public sector only state plan program. Despite the limited funding and staffing challenges, VIDOSH continues to proactively address the findings and/or implement the recommendations identified in the 2013 EFAME Report. The ongoing positive working relationship with the Region 2 leadership facilitates our commitment of VIDOSH being a model public sector state plan program in preventing workplace injuries, illnesses, and fatalities. VIDOSH appreciates this opportunity to respond to the EFAME. If you have any questions please do not hesitate to contact me.

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