

FY 2014 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report

The Hawaii Occupational Safety and Health Division (HIOSH)



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I. Executive Summary

A. State Plan Activities, Themes, and Progress

The purpose of this report is to assess the Hawaii Occupational Safety and Health (HIOSH) Division's activities for Fiscal Year (FY) 2014 and its progress in resolving outstanding recommendations from the FY 2013 Federal Annual Monitoring and Evaluation Report (FAME). The HIOSH Division is part of the Department of Labor and Industrial Relations (DLIR), and is the agency responsible for protecting workers from health and safety hazards on the job in Hawaii's workplaces.

During FY 2014, HIOSH continued with concurrent jurisdiction in general industry with the Occupational Safety and Health Administration (OSHA) as defined by the Occupational Status Agreement (OSA). According to the OSA, the two agencies shared enforcement responsibilities described in an addendum outlining milestones for regaining final approval status. As part of the second year of the agreement, HIOSH had enforcement authority over construction, transportation, warehousing, manufacturing (except refineries), state and local government, and employment discrimination complaints under section 396-8(e) of the Hawaii Revised Statutes. OSHA conducted inspections in General Industry, excluding warehouse, transportation, and manufacturing. OSHA provided HIOSH training in leadership, grant writing, and the OSHA Information System (OIS). OSHA also provided support by conducting inspections and providing on the job training to HIOSH enforcement safety and health officers and supervisors.

At the conclusion of FY 2014, HIOSH regained the remainder of the general industry enforcement authority. OSHA retains authority over refineries and other private sector facilities covered by the process safety management standard 29 CFR 1910.119.

Little progress was made toward addressing the FY 2013 findings and observations, since only three of the 16 findings were completed and two of the observations were converted into new findings for FY 2014. It also appears that findings are being carried over from year to year. For example, citation lapse time continues to be high, abatement verification is below the review level, and submittal of reports and adoption of standards and Federal Program changes are not timely. In addition, three of the findings related to the performance of the whistleblower program were first identified in the FY 2011 FAME and are still not resolved.

Although there was progress made toward addressing the corrective action items in the area of abatement verification, only 80% of the serious, willful and repeat violations were verified as abated. The inspection in-compliance rate is roughly half the national average and indicates the capability of the agency to identify hazards. In addition, HIOSH met or exceeded a majority of their Annual Performance Goals.

B. State Plan Introduction

The Hawaii State Plan was administered by HIOSH under the DLIR. Dwight Y. Takamine, Director of DLIR, was the State Plan Designee and Diantha M. Goo was the HIOSH Administrator. At the end of FY 2014, David Ige was elected as the new governor and selected Linda Chu Takayama to replace Mr. Takamine. Ms. Takayama was confirmed as the Director of the Department of Labor and Industrial Relations on April 29, 2015.

HIOSH is comprised of two major sections: The Occupational Safety and Health (OSH) division manages the Hawaii Occupational Safety and Health Law, and the Boiler and Elevator Safety division administers the Hawaii Boiler and Elevator Safety Law. The Boiler and Elevator Safety division was not part of the OSHA grant. The OSH division is comprised of the Administration and Technical Support, Occupational Safety, Occupational Health, and Consultation and Training Branches.

The final grant base award to fund the program was \$2,914,000 (\$1,457,000 federal and \$1,457,000 state funds). The closeout financial report showed final actual program costs used were \$2,847,635 which resulted in a lapse of \$33,182 in federal funds. The grant provided funding for full time staff comprised of four managers, nine occupational safety and health compliance officers, nine environmental health specialists, one public sector safety and health consultant, four clerical staff members, and one program specialist. HIOSH has a benchmark of 18 compliance officers. Two of these benchmark positions as well as the public sector consultant continued to be vacant since FY 2013. Staff turnover continues to be a challenge for HIOSH, and results in a perpetually new, inexperienced enforcement team.

Public sector consultation was provided under the 23(g) grant and private sector consultation was provided under the 21(d) cooperative agreement. The private sector consultation performance results were covered in the FY 2014 Regional Annual Consultation Evaluation Report (RACER).

C. Data and Methodology

Information and data referenced in this report were derived from the computerized State Activity Mandated Measures (SAMMs) dated January 19, 2015, Hawaii's FY 2014 State OSHA Annual Report (SOAR), the Bureau of Labor Statistics (BLS) data, the FY 2014 23(g) grant, Complaint About State Program Administration (CASPA) investigations, and OSHA's Integrated Management Information System (IMIS) reports. The review of the State Plan included information from the four quarterly meetings with the state during the period of review. In addition, the Annual Performance Plan and Five-year Strategic Plan results were referenced.

OSHA conducted an on-site enforcement case file review to verify abatement of one (Corrective Action Plan (CAP) finding and one observation. Thirteen case files were randomly selected to address the following items: 1) ensuring that the case files include union letter correspondence and 2) ensuring that the case files include correspondence to the victim's family. Ten cases were

reviewed for union letter correspondence and three cases were reviewed for the victim's letter correspondence.

OSHA conducted an off-site discrimination case file review. The off-site review of ten randomly selected closed cases was conducted to determine status of CAP items related to the discrimination program.

D. Findings and Observations

OSHA identified 13 findings (ten continued and three new), and four observations (one continued and three new) for FY 2014. Three of the 16 findings from FY 2013 were completed, two were converted to observations, two were combined into one observation (FY 2013-02 and FY 2013-03), and one finding (FY 2013-05) was divided into two separate findings (FY 2014-05 and FY 2014-06). In addition, Findings FY 2013-08 and FY 2013-15 have been rewritten for FY 2014 to be more accurate.

Two observations (FY 2013-OB-01 and FY 2013-OB-03), were elevated to FY 2014 findings. Only one observation (FY 2013-02) was closed. Details on the findings and observations are provided in section III of this report. Appendix A describes new and continued findings and recommendations. Appendix B describes new observations and the observations subject to continued monitoring. Appendix C describes the status of each FY 2013 finding in detail.

II. Assessment of State Plan Performance

A. Major New Issues

There was one new finding and two observations that were converted to findings.

The review of the SAMM data shows that the average number of days to initiate an on-site complaint inspection was 12.95 days. This was significantly higher than the referenced standard of seven days. Details on the finding are provided in Section C.

The enforcement case file review led to a determination that there were deficiencies in the documentation to victim's family after a fatality. Three of three cases reviewed were missing documentation to victim's family. This resulted in the observation being elevated to a new finding.

The Voluntary Protection Program (VPP) is not being administered effectively. A lack of VPP activity, an observation noted during the FY 2013 FAME, has now been elevated to a finding due to the continued lack of activity.

B. Assessment of State Plan Progress in Achieving Annual Performance Goals

This is the fourth year of the Five-year Strategic Plan. The FY 2014 Annual Performance Plan was developed and submitted as part of the State Plan's grant application for federal funds.

Five-year Strategic Goal 1: Reduce the number of workplace injuries and illnesses in construction, general industry, and government by focusing on industries with the highest rate of reported injury/illness cases.

Annual Performance Goal 1.1: Reduce the number of injuries in the Specialty Trade Contractors industry by 1% (The 2010 baseline is 900 reported cases).

- Conduct 200 inspections with NAICS code 238.
- Issue 200 violations.
- Abate 200 violations.
- Remove 1,500 workers from risk.
- 864 cases of injuries (1% reduction every year for 4 years) in the Specialty Trade Contractors industry.

Results:

- Conducted 216 inspections.
- Issued 676 violations.
- Abated 676 violations.
- Removed 1,862 workers from risk.
- 600 reported cases of injuries in the Specialty Trade Contractors industry (2012 BLS data).

Assessment:

This inspection goal was exceeded as 216 inspections were conducted, 676 violations were identified and abated, and 1,862 workers were removed from the hazardous conditions. The injuries in the specialty trade construction have decreased 33% from the baseline year of 2010 (900 cases) to 600 cases reported in 2012. Data is not yet available for FY 2014.

Annual Performance Goal 1.2: Reduce the number of injuries in the transportation and warehousing industry by 1% (The 2010 baseline is 1,500 cases).

- Conduct 50 inspections with NAICS code 48-49.
- Issue 50 violations.
- Abate 50 violations.
- Remove 700 workers from risk.
- 1,440 cases of injuries (1% reduction every year for 4 years) in the transportation and warehousing industry.

Results:

- Conducted 23 inspections.
- Issued 69 violations.
- Abated 69 violations.
- Removed 1,436 workers from risk.
- 1,300 reported cases of injuries in the transportation and warehousing industry (2012 BLS data).

Assessment:

The inspection goal was not met for activities in transportation and warehousing. Only 23 inspections from the goal of 50 were completed. However, a large number of violations were issued on these inspections. There were 69 violations cited that required employers to correct the hazards identified. The injuries in the transportation and warehousing industry have decreased 13% from the baseline year of 2010 (1500 cases) to 1300 cases reported in 2012. Data is not yet available for FY 2014.

Annual Performance Goal 1.3: Reduce the number of injuries in the manufacturing industry by 1% (The 2010 baseline is 700 cases).

- Conduct 20 inspections with NAICS code 30-33.
- Issue 20 violations.
- Abate 20 violations.
- Remove 280 workers from risk.
- 672 cases of injuries (1% reduction every year for 4 years) in the manufacturing industry.

Results:

- Conducted 63 inspections.
- Issued 210 violations.
- Abated 210 violations.
- Removed 1,596 workers from risk.
- 700 reported cases of injuries in the manufacturing industry (2012 BLS data).

Assessment:

The inspection goal was exceeded as 63 inspections were conducted, 210 violations were issued and abated, and 1,596 workers were removed from the hazardous conditions. However, the goal was not met for decreasing reported injury cases. The number of injury cases in the manufacturing industry for 2012 remained at 700, which is the same number of injury cases for the baseline year of 2010. Data was not shared during 2013 and is not yet available for FY 2014.

Annual Performance Goal 1.4: Reduce the number of injuries in state and local government by 1%. Reduce the number of injuries within local government by 1%. (The 2010 baseline is 2800 cases).

- Conduct 35 inspections for state and local government.
- Issue 35 violations.
- Abate 35 violations.
- Remove 1,000 workers from risk.
- 2,600 cases of injuries in the state and local government industry.

Results:

- Conducted 34 inspections.
- Issued 119 violations.
- Abated 119 violations.
- Removed 6,028 workers from risk.
- 3,200 reported cases of injuries for state and local government (2012 BLS data).

Assessment:

While the inspection goal for the public sector was nearly met and many violations were issued beyond what was projected, there was a substantial rise in injuries and illnesses in this area. The injuries in the state and local government have increased 14% from the baseline year of 2010 (2800 cases) to 3200 cases reported in 2012. Data is not yet available for FY 2014.

Five-year Strategic Goal 2: Reduce the number of fatalities associated with the leading causes of workplace death in construction, transportation and warehousing and in manufacturing by 50%.

Annual Performance Goal 2: Reduce the number of fatalities associated with the leading causes of workplace deaths in construction, transportation and warehousing, and manufacturing by 10%, (The 2008 baseline is 6 fatalities).

- Conduct 300 inspections.
- Issue 300 violations.
- Abate 300 violations.
- Remove 8,000 workers from risk.

Results:

- Conducted 456 inspections.
- Issued 1,174 violations.
- Abated 1,174 violations.
- Removed 6,092 workers from risk.

Assessment:

The inspection goal was exceeded as 456 inspections were conducted, 1,174 violations were issued and abated, and 6,092 workers were removed from the hazardous condition. The number of fatalities increased from the baseline year of 2008 (6 cases) to 8 cases reported in FY 2014.

C. Highlights from the State Activity Mandated Measures (SAMM)

SAMM 1: The average number of days to respond to a complaint was 12.95 days compared to the referenced standard of 7 days.

Finding FY 2014-01: The average number of days to initiate an on-site complaint inspection was 12.95 days, which was significantly higher than the referenced standard of seven days.

Recommendation FY 2014-01: Ensure complaint inspections are assigned and conducted within the referenced standard.

SAMM 6: This indicator had noticeably improved. HIOSH improved the abatement verification of S/W/R violations from less than 20% to more than 80%.

SAMM 20: The in-compliance rate decreased to less than 17% in safety cases and to less than 17% in health cases, compared to the national average of 31% for safety cases and 36% for health cases. The inspection in-compliance rate is roughly half the national average and indicates the capability of the agency to identify hazards.

For a complete list of SAMM results, reference Appendix D.

III. Assessment of State Plan Corrective Actions

In FY 2014 Follow-up FAME report contains 13 findings (one new and three from FY 2013 observations) and four observations (one continued and three new from FY 2013 findings). In FY 2013, HIOSH had 16 findings and four observations addressed through the Corrective Action Plan (CAP). Three of the 16 findings were completed, two were converted to observations, two more were combined and converted into an observation, and nine are still open. One of the four FY 2013 observations was closed, two were converted to findings, and one is still continued.

Finding FY 2013-01: Lapse time for safety and health case files were significantly higher than the reference standard of seven days.

Recommendation FY 2013-01: Review the case file management process to identify and eliminate bottlenecks or other inefficiencies.

Status: Open.

Although there was a small improvement in lapse time, it was still higher than the referenced standard. The lapse time for safety cases improved to 68 days compared to the national average of 44 days. The lapse time for health cases improved to 76 days compared to the national average of 53 days. Branch Managers have been directed to use the Citations Pending report to track lapse time.

Finding FY 2013-02: Abatement verification of serious, willful, and repeat (S/W/R) violations was significantly lower than the referenced standard of 100%.

Recommendation FY 2013-02: Ensure verification of abatement is completed.

Status: Combined with FY 2013-03 and converted to an observation.

The abatement verification of S/W/R violations has improved from less than 20% to more than 80%. This was accomplished by running reports, by contacting employers for abatement, and conducting follow-up inspections. This was verified through SAMM data.

Finding FY 2013-03: Over 80% of S/W/R violations were not verified timely.

Recommendation FY 2013-03: Utilize IMIS reports to track abatement and, per 29 Code of Federal Regulations (CFR) 1903.19, issue “Failure to Abate” citations to employers when appropriate.

Status: Combined with FY 2013-02 and converted to an observation.

Reports are now being used to track abatement and employers are contacted as needed to verify abatement. These actions have resulted in the timely verification of 80% of cases with S/W/R violations and by conducting follow-up inspections. Five “Failure to Abate” citations were issued. S/W/R not verified timely improved to less than 20%. This was verified through SAMM data.

Finding FY 2013-04: Union involvement in inspection activity either was not happening consistently or was not adequately documented.

Recommendation FY 2013-04: Ensure that unions are provided copies of citations and participation or declination of participation is done and clearly indicated in the case file.

Status: Completed.

The staff was retrained and provided an additional tracking coversheet in the case file. The union involvement process had improved and it was documented in the case file. This was verified with on-site case file review.

Finding FY 2013-05: Standards and Federal Program Changes have not been adopted in a timely manner.

Recommendation FY 2013-05: Ensure standards and Federal Program Changes are responded to and adopted within the required timeframes.

Status: Open.

There was no improvement in this finding. The finding has been reworded for clarification purposes and was converted into two new findings FY 2014-05 and FY 2014-06.

Finding FY 2013-06: Whistleblower data was neither accurately nor timely entered into web-IMIS, as requested in Discrimination Investigation Manual (DIM) Chapters 2(III) and (5V).

Recommendation FY 2013-06: HIOSH should follow its own procedures to ensure that whistleblower information is accurately and timely entered into web-IMIS.

Status: Open.

In ten of ten cases reviewed, whistleblower data appears to have been entered accurately. However, six of the ten cases reviewed were docketed by HIOSH between two to five months after they were filed. In one instance, the case was not docketed until after HIOSH approved it for dismissal.

Finding FY 2013-07: Nexus was not properly investigated, as required in the DIM Chapter 3(V) (A-J), resulting in discrimination Final Investigation Reports that were incomplete and contained inconclusive analysis.

Recommendation FY 2013-07: HIOSH should follow its own procedures by investigating whether there is a casual 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 final Reports of Investigation (previously referred to as a Final Investigation Report) as they relate to the four elements of the violation.

Status: Open.

Five of the ten cases reviewed required investigation and analysis of nexus. Three of those five cases failed to properly investigate and analyze nexus, resulting in three Reports of Investigation that were incomplete and contained an inconclusive or simply conclusory analysis.

Finding FY 2013-08: HIOSH's process of issuing merit determinations without the state litigating the matter does not support enforcement as required in WIM Chapter 4(IV)(6) and 4(VII).

Recommendation FY2013-08: HIOSH has no procedures to support cases deemed meritorious and should develop such a process which could include litigating the claim in State Plan court or representing the agency in front of the HLRB.

Status: Open.

Discussion concerning this finding uncovered that while the correct process was being followed, that process was not written in the HIOSH Whistleblower Manual. This finding and recommendation will be updated in Appendix A to appropriately describe the problem and corrected action needed.

Finding FY 2013-09: All four elements for investigating a discrimination complaint – protected activity, employer knowledge, adverse action, and nexus- were not properly analyzed, as required by DIM Chapter 5 (IV)(D)(11).

Recommendation FY 2013-09: HIOSH should follow its own procedures to ensure that protected activity, employer knowledge, adverse action, and nexus are properly analyzed.

Status: Open.

Five of the ten cases reviewed required analysis of all four elements of a prima facie complaint. Three of the cases reviewed failed to properly address nexus, one of the cases failed to properly analyze protected activity, and another failed to properly analyze adverse action.

Finding FY 2013-10: A discussion of the evidence as it relates to the allegations and conclusions was not in the Final Investigation Report, as required by DIM Chapter 5(IV)(C and D).

Recommendation FY 2013-10: HIOSH should follow its own procedures to ensure that the Final Reports discuss whether evidence supports the allegations and conclusions.

Status: Completed.

In all but one of the cases reviewed, the Reports of Investigation (previously referred to as a Final Investigation Report) included, where appropriate, a discussion of the evidence as it related to the allegations and conclusions. One out of 10 case files reviewed was missing a discussion of the evidence. This was an anomaly and the finding was deemed completed.

Finding FY 2013-11: Methods used for targeting high hazard industries were not documented and did not demonstrate that it met legal requirements and specific neutral criteria.

Recommendation FY 2013-11: Develop and document defensible targeting methods and programs that meet the legal requirement that demonstrate sites are selected according to an administrative plan containing specific neutral criteria, such as selection, scheduling cycles, criteria for deletion or addition of sites, and frequency of selection.

Status: Converted to an Observation.

The method for targeting high hazard industries was through the use of workers compensation data. However, the method must be in writing in the Field Operations Manual, and include a method to evaluate it. This was converted to an observation because there is a verbal targeting system in place.

Finding FY 2013-12: CASPAs are not responded to in a timely manner.

Recommendation FY 2013-12: Ensure that CASPAs are formally responded to by the due date.

Status: Converted to an Observation.

There were no CASPAs filed in FY 2014. Since there was no way to assess this finding and not enough data to complete, it is being converted to an observation for continued monitoring.

Finding FY 2013-13: The Consultation Program was not pro-actively promoted to public sector employers.

Recommendation FY 2013-13: Develop Consultation Program promotional strategies that target public sector employers.

Status: Open.

There was no promotion of the public sector Consultation Program this fiscal year.

Finding FY 2013-14: Public sector consultation visits were conducted by consultants that were 100% funded by the 21(d) Cooperative Agreement.

Recommendation FY 2013-14: Ensure the appropriate grant fund is charged for public sector on-site consultation visits.

Status: Open.

There was no improvement with this finding. This was most likely due to the lack of a manager in the 21(d) program.

Finding FY 2013-15: Grant documents were not submitted on time and were not submitted to the regional office for review.

Recommendation FY 2013-15: Adhere to the provided timeframes for grant submittal so that problems and issues with the grants can be addressed before they are entered into the system.

Status: Open.

The draft FY 2015 grant application was due to Area Office on June 30, 2014. An extension was granted to July 15, 2014. The draft was submitted on August 4, 2014, and needed corrections. Corrections had to be made after submission to grants.gov. This finding was misleading and has been reworded in Appendix A.

Finding FY 2013-16: The SOAR was not completed and submitted in a timely manner and in accordance with the State Plan Policies and Procedures Manual.

Recommendation FY 2013-16: Adhere to the provided timeframes for report submission.

Status: Completed.

The FY 2014 SOAR was submitted to OSHA in a timely manner.

Observation FY 2013-01: Involvement of the victim's family was not adequately documented.

Federal Monitoring Plan FY 2013-01: Follow up during quarterly meetings to ensure adequate documentation of contact with the victim's family is in the case file.

Status: This observation is being converted to a finding.

The on-site case file review revealed that contact with the victim's family was still not documented.

Observation FY 2013-02: The current state travel policy prevents compliance staff from responding to fatalities and imminent danger on the islands without compliance staff within one day.

Federal Monitoring Plan FY 2013-02: Continue to follow-up with the Program Administrator on the progress of changing the current policy or finding a workable solution.

Status: Closed.

The State business office agreed to allow pre-approval for emergency type travel situations for compliance staff.

Observation FY 2013-03: The VPP is not an active, viable program and has minimal activity.

Federal Monitoring Plan FY2013-03: OSHA will work with the State Plan to develop their VPP participants by monitoring and providing guidance and resource documents as needed.

Status: This observation is being converted to a finding.

The VPP is not being administered effectively.

Observation FY 2013-04: HIOSH does not have a method to track the current status of their budget.

Federal Monitoring Plan FY 2013-04: Continue to follow-up with the State Plan during quarterly meetings to ensure funds are properly managed.

Status: Continued.

OSHA will continue to monitor the budget draw-downs during the next fiscal year.

**Appendix A – New and Continued Findings and Recommendations
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FY 2014-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
FY 2014-01	The average number of days to initiate an on-site complaint inspection was 12.95 days which was significantly higher than the referenced standard of seven days.	Ensure complaint inspections are assigned and conducted within the referenced standard.	New Finding
FY 2014-02	Involvement of the victim’s family was not adequately documented.	Ensure that victim’s family letters are sent, including the initial and the closing letter, as per the Hawaii’s Guidelines on Occupational Safety and Health, Page 317, <i>Fatality Inspection Procedures</i> .	FY2013-OB-01
FY 2014-03	The VPP is not being administered effectively.	Administer the VPP program effectively.	FY2013-OB-03
FY 2014-04	Lapse time for safety and health cases were significantly higher than the referenced standard.	Review the case file management process to identify inefficiencies and streamline the process. (Case file management includes on-site inspection, case file development, and case file review process.)	FY2013-01 FY2012-05
FY 2014-05	Standards have not been adopted in a timely manner.	Ensure standards are responded to and adopted within the required timeframes.	FY2013-05 FY2012-09 FY2011-18 FY2011-19
FY 2014-06	Federal program changes have not been adopted in a timely manner.	Ensure Federal Program Changes are responded to and adopted within the required timeframes.	FY2013-05 FY2012-09 FY2011-18 FY2011-19
FY 2014-07	Whistleblower data was neither accurately nor timely entered into web-IMIS, as required in DIM Chapters 2 (III) and 5 (V).	HIOSH should follow its own procedures to ensure that whistleblower information is accurately and timely entered into web-IMIS.	FY2013-06 FY2012-12 FY2011-22
FY 2014-08	Nexus was not properly investigated, as required in the DIM Chapter 3 (V) (A-J), resulting in discrimination Final Investigation reports that were incomplete and contained inconclusive analysis.	HIOSH should follow its own procedures by investigating whether there is a casual 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 Final Investigation Report as they relate to the four elements of the violation.	FY2013-07 FY2012-11 FY2011-22

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FY 2014-09	Verbal procedures were not documented in the DIM, which are equivalent to WIM Chapter 4(IV)(6), to refer meritorious cases to the state Attorney General’s Office for review prior to litigating a claim on behalf of HIOSH.	Document the written procedures in the DIM, which are equivalent to WIM Chapter 4(IV)(6), that ensure meritorious cases are formally referred to the Attorney General’s Office for review prior to litigating a claim on behalf of HIOSH.	FY2013-08
FY 2014-10	All four elements for investigating a discrimination complaint – protected activity, employer knowledge, adverse action, and nexus – were not properly analyzed, as required by DIM Chapter 5 (IV) (D) (11).	HIOSH should follow its own procedures to ensure that protected activity, employer knowledge, adverse action, and nexus are properly analyzed.	FY2013-09 FY2012-11 FY2011-21
FY 2014-11	The consultation program was not pro-actively promoted to public sector employers.	Develop consultation program promotional strategies that target public sector employers.	FY2013-13 FY2012-10
FY 2014-12	Public sector consultation visits were conducted by consultants that were 100% funded by the 21(d) Cooperative Agreement.	Ensure the appropriate grant fund is charged for public sector on-site consultation visits.	FY2013-14
FY 2014-13	Grant documents were not submitted to OSHA in time for regional review.	Adhere to the provided timeframes for grant submittal so that problems and issues with the grants can be addressed before they are entered into the system	FY2013-15

**Appendix B – Observations Subject to New and Continued Monitoring
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Observation # FY 2014-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
	FY 2013-OB-01	Involvement of the victim’s family is not adequately documented.	Follow up during quarterly meetings to ensure adequate documentation of contact with the victim’s family is in the case file.	Converted to a Finding
	FY 2013-OB-02	The current state travel policy prevents compliance staff from responding to fatalities and imminent danger timely on the islands without compliance staff.	Continue to follow-up with the State Department of Labor and Industrial Relations staff on the progress of changing the current policy or finding a workaround solution.	Closed
	FY 2013-OB-03	VPP is not an active, viable program and has minimal activity.	OSHA will work with the State Plan to develop their VPP participants by monitoring and providing guidance and resource documents as needed.	Converted to a Finding
FY 2014-OB-01	FY 2013-OB-04	There is no method to track the current status of their budget.	Monitor during quarterly meetings to ensure funds are properly managed. Monitor the budget draw-downs during the next fiscal year.	Continued
FY 2014-OB-02	FY 2013-02 FY 2013-03	Ensure that verification of abatement is completed in a timely manner.	Monitor during quarterly meetings through SAMM and OIS data.	New
FY 2014-OB-03	FY 2013-11	Methods for targeting high hazard industries for inspections and evaluating that targeting program were not documented in an approved FOM.	Monitor the development of a documented targeting and evaluation process.	New
FY 2014-OB-04	FY 2013-12	CASPAs are not formally responded to in a timely manner.	Monitor that CASPAs are responded to in a timely manner.	New

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FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2013-01	Lapse time for safety and health case files were significantly higher than the reference standard.	Review the case file management process to identify and eliminate bottlenecks or other inefficiencies.	The lapse time for safety cases was 68 days compared to the national average of 44 days. The lapse time for health cases was 76 days compared to the national average of 53 days. Branch Managers have been directed to use the Citations Pending report to track lapse time.	Not Completed	Open (1/15/2015)
FY 2013-02	Abatement verification of serious, willful and repeat (S/W/R) violations was significantly lower than the reference standard.	Ensure verification of abatement is completed.	The abatement verification of S/W/R violations was more than 80%. This was accomplished by running the <i>Violation Abatement</i> report, by contacting employers for abatement, and conducting follow-up inspections.	Not Completed	Combined with FY 2013-03 and converted to an Observation (1/15/2015)
FY 2013-03	Over 80% of S/W/R violations were not verified timely.	Utilize IMIS reports to track abatement and, per 29 Code of Federal Regulations (CFR) 1903.19, issue “Failure to Abate” citations to employers when appropriate.	This is Finding FY 2013-02 stated a different way.	Not Completed	Combined with FY 2013-02 and converted to an Observation (1/15/2015)
FY 2013-04	Union involvement in	Ensure that unions are provided	The staff was retrained and	10/1/2014	Completed

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	inspection activity either was not happening consistently or was not adequately documented.	copies of citations and participation or declination of participation is done and clearly indicated in the case file.	provided an additional tracking coversheet in the case file. The union involvement process had improved and it was documented in the case file. This was verified with on-site case file review.		
FY 2013-05	Standards and Federal Program Changes have not been adopted in a timely manner.	Ensure standards and Federal Program Changes are responded to and adopted within the required timeframes.	There was no improvement in this finding. The finding has been reworded for clarification purposes and was converted into two new findings FY 2014-05 and FY 2014-06.	Not Completed	Open (1/15/2015)
FY 2013-06	Whistleblower data was neither accurately nor timely entered into web-IMIS, as requested in DIM Chapters 2(III) and (5V).	HIOSH should follow its own procedures to ensure that whistleblower information is accurately and timely entered into web-IMIS.	In ten of ten cases reviewed, whistleblower data was entered accurately. However, six of the ten cases reviewed were docketed by HIOSH between two to five months after they were filed.	Not Completed	Open (3/6/2015)
FY 2013-07	Nexus was not properly investigated, as required in the DIM Chapter 3(V) (A-J), resulting in discrimination Final Investigation Reports that were incomplete and contained inconclusive analysis.	HIOSH should follow its own procedures by investigating whether there is a casual 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 Final Investigation Report as they relate to the four elements of the violation.	HIOSH should follow its own procedures by investigating whether there is a casual 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 final Reports of Investigation (previously referred to as a Final Investigation Report) as they relate to the four elements of the violation.	Not Completed	Open (3/6/2015)
FY 2013-08	HIOSH's process of issuing merit determinations without	HIOSH has no procedures to support cases deemed meritorious and should develop	The process was not written in the HIOSH Whistleblower Manual. This finding and recommendation	Not Completed	Open (3/6/2015)

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	the state litigating the matter does not support enforcement as required in WIM Chapter 4(IV)(6) and 4(VII).	such a process which could include litigating the claim in State Plan court or representing the agency in front of the HLRB.	will be updated in Appendix A to appropriately describe the problem and corrected action needed.		
FY 2013-09	All four elements for investigating a discrimination complaint – protected activity, employer knowledge, adverse action, and nexus- were not properly analyzed, as required by DIM Chapter 5 (IV)(D)(11).	HIOSH should follow its own procedures to ensure that protected activity, employer knowledge, adverse action, and nexus are properly analyzed.	Five of the ten cases reviewed required analysis of all four elements of a prima facie complaint. Three of the cases reviewed failed to properly address nexus, one of the cases failed to properly analyze protected activity, and another failed to properly analyze adverse action.	Not Completed	Open (3/6/2015)
FY 2013-10	A discussion of the evidence as it relates to the allegations and conclusions was not in the final reports, as required by DIM Chapter 5(IV)(C and D).	HIOSH should follow its own procedures to ensure that the Final Reports discuss whether evidence supports the allegations and conclusions.	In all but one of the cases reviewed, the Reports of Investigation included a discussion of the evidence as it related to the allegations and conclusions. One out of 10 case files reviewed was missing a discussion of the evidence. This was an anomaly and the finding was deemed completed.	3/6/2015	Completed
FY 2013-11	Methods used for targeting high hazard industries for inspections were not documented and did	Develop and document defensible targeting methods and programs that meet the legal requirement that demonstrate sites are selected	The method for targeting high hazard industries was through the use of workers compensation data. However, the method must be in writing in the Field Operations		Converted to an Observation (1/15/2015)

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	not demonstrate that it met legal requirements and specific neutral criteria.	according to an administrative plan containing specific neutral criteria such as selection, scheduling cycles, criteria for deletion or addition of sites, and frequency of selection.	Manual, and include a method to evaluate it. This was converted to an observation because there is a verbal targeting system in place.		
FY 2013-12	CASPAs are not responded to in a timely manner.	Ensure that CASPAs are formally responded to by the due date.	There were no CASPAs filed in FY 2014. Since there was no way to assess this finding and not enough data to complete, it is being converted to an observation for continued monitoring.		Converted to an Observation (1/15/2015)
FY 2013-13	The Consultation Program was not pro-actively promoted to public sector employers.	Develop Consultation Program promotional strategies that target public sector employers.	There was no promotion of the public sector Consultation Program this fiscal year.	Not Completed	Open (1/15/2015)
FY 2013-14	Public sector consultation visits were conducted by consultants that were 100% funded by the 21(d) Cooperative Agreement.	Ensure the appropriate grant fund is charged for public sector on-site consultation visits.	There was no improvement with this finding. This was most likely due to the lack of a manager in the 21(d) program.	Not Completed	Open (1/15/2015)
FY 2013-15	Grant documents were not submitted on time and were not submitted to the Regional Office for review.	Adhere to the provided timeframes for grant submittal so that problems and issues with the grants can be addressed before they are entered into the system.	The draft FY 2015 grant application was due to Area Office on June 30, 2014. An extension was granted to July 15, 2014. The draft was submitted on August 4, 2014, and needed corrections.	Not Completed	Open (1/15/2015)

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			Corrections had to be made after submission to grants.gov. This finding was misleading and has been reworded in Appendix A.		
FY 2013-16	SOAR was not completed and submitted in a timely manner and in accordance with the State Plan Policies and Procedures Manual.	Adhere to the provided timeframes for report submission.	The FY 2014 SOAR was submitted to OSHA in a timely manner.	12/15/15	Completed

Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

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OSHA is in the process of moving operations from a legacy data system (NCR) to a modern data system (OIS). During FY 2014, federal OSHA case files were captured on OIS, while most State Plan case files continued to be processed through NCR. Hawaii opened 522 enforcement inspections in FY 2014. Of those, 522 inspections were captured in NCR, while 0 were captured in OIS. The SAMM Report, which is native to IMIS (a system that generates reports from the NCR), is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA's ability to combine the data.

For FY14 we will use a format very similar to the one used for FY13. Below is an explanation of which data OSHA was able to use when calculating each metric.

- a. Measures 1 & 2 will use State Plan data for FY14 as captured in NCR and compared to the State Plan's negotiated number. Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- b. Measures 20a-b, 23, and 24 will use State Plan data for FY14 as captured in NCR and compared to the historical FY2011 national average (FY09-11). Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- c. Measures 5, 9, 11, 17, 19, 21, and 25 will use State Plan data for FY14 as tabulated manually to include both OIS and NCR data and compared to the fixed/negotiated/national numbers associated with them.
- d. Measures 13, 14 and 16 will be extracted from NCR (OIS conversion should not impact). National data will be pulled from WebIMIS for FY12-14.
- e. Measures 18a-e will use State Plan data for FY14 as captured in NCR. Any data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR. Much like FY13, no national data will be available for comparison.
- f. Measure 22 will be excluded from the report (other than as a placeholder to demonstrate that it is one of the agreed upon metrics, but not one we can currently generate).
- g. Measure 4 will use State Plan data for FY 14 as captured in NCR.

Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report
FY 2014 Hawaii Occupational Safety and Health State Plan Follow-up FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Hawaii			FY 2014	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	12.95	7	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
2	Average number of work days to initiate complaint investigations	0.82	2	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
4	Percent of complaints and referrals responded to within 1 work day (imminent danger)	100.0%	100%	State Plan data taken directly from SAMM report generated through IMIS.
5	Number of denials where entry not obtained	0	0	State Plan data taken directly from SAMM report generated through IMIS and Open Inspection OIS report.
9a	Average number of violations per inspection with violations by violation type	2.28	SWR: 1.99	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2012-2014.
9b	Average number of violations per inspection with violations by violation type	1.13	Other: 1.22	

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11	Percent of total inspections in the public sector	6.32%	5.11%	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS. The reference/standard is derived from the FY 14 grant application.
13	Percent of 11c Investigations completed within 90 calendar days	17%	100%	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from web-IMIS for FY 2012-2014.
14	Percent of 11c complaints that are meritorious	11.11%	24.8% meritorious	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from web-IMIS for FY 2012-2014.
16	Average number of calendar days to complete an 11c investigation	159 Days	90 Days	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from web-IMIS for FY 2012-2014.
17	Planned vs. actual inspections - safety/health	379/143	315/135	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; the reference standard number is taken from the FY 2014 grant application. The reference/standard is a negotiated number for each State Plan.
18a	Average current serious penalty - 1 -25 Employees	988.26		State Plan data taken directly from SAMM report generated through IMIS.
18b	Average current serious penalty - 26-100 Employees	1463.79		
18c	Average current serious penalty - 101-250 Employees	1458.05		
18d	Average current serious penalty - 251+ Employees	2756.05		

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18e	Average current serious penalty - Total 1 - 250+ Employees	1183.79		
19	Percent of enforcement presence	2.00%	National Average 1.51%	Data is pulled and manually calculated based on FY 2014 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.
20a	20a) Percent In Compliance – Safety	16.62%	Safety - 29.1%	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2014 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
20b	20b) Percent In Compliance – Health	16.26%	Health - 34.1%	
21	Percent of fatalities responded to in 1 work day	87%	100%	State Plan data is manually pulled directly from IMIS for FY 2013.
22	Open, Non-Contested Cases with Abatement Incomplete > 60 Days	n/a		Data not available.
23a	Average Lapse Time - Safety	68.16 Days	43.4 Days	State Plan 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 federal OSHA for FY 2009-2011.
23b	Average Lapse Time - Health	76.38 Days	57.05 Days	

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24	Percent penalty retained	78.32%	66%	State Plan 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 federal OSHA for FY 2009-2011.
25	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State Plan data taken from SAMM report generated through IMIS and the Inspection where Workers Involved report generated in OIS.