



**State of Utah**  
GARY R HERBERT  
*Governor*  
SPENCER J. COX  
*Lieutenant Governor*

**Utah Labor Commission**

Jaceson Maughan  
*Commissioner*

**Occupational Safety and Health Division**

Cameron S. Ruppe  
*Director*

July 13, 2017

Via U.S. Mail and E-Mail

Gregory J. Baxter, Regional Administrator, Region VIII  
Occupational Safety and Health Administration  
Denver Regional Office  
Cesar E. Chavez Memorial Building  
1244 Speer Boulevard, Suite 551  
Denver, CO 80204

**Re: Response of the Utah Occupational Safety and Health Division to the FY 2016  
Follow-up Federal Annual Monitoring and Evaluation Report**

Dear Mr. Baxter

Thank you for the opportunity to participate in the FY 2016 Follow-up Federal Annual Monitoring and Evaluation ("Follow-up FAME") of the Utah Occupational Safety and Health (UOSH) Division state plan program. This letter will serve as UOSH's formal response to the specific findings and observations set forth in the Follow-up FAME.

The mission of UOSH is to help ensure a safe and healthy workplace for every worker in the State of Utah. UOSH has made significant improvements from the FY 2013 FAME, as evidenced by the results of the FY 2015 FAME, and continues to make improvements in accomplishing its mission. Notably, the FY 2013 FAME contained eleven findings and eleven observations. The FY 2015 FAME contained two findings and eight observations. The Follow-up FAME contains no new findings or observations and leaves open one finding and continues seven observations from the FY 2015 FAME. The open finding and continuing observations included in the Follow-up FAME are not the result of an on-site evaluation or an audit of any case files. These items are carried over from the FY 2015 FAME and need to be verified as corrected by federal auditors during the FY 2017 on-site audit which is anticipated to take place in the first or second quarter of FY 2018.

UOSH responds specifically as follows to the open finding in the Follow-up FAME:

*Finding FY2015-2 (currently FY 2016-2 and formerly FY 2014-8): The whistleblower program had significant programmatic deficiencies involving the receipt, processing, and disposition of whistleblower complaints.*

UOSH Response: Whistleblower case files were not evaluated as part of the Follow-up FAME. This finding is based on results of the FY 2015 FAME and is the exact same as Finding 13-08 in the FY 2013 FAME, containing almost verbatim language. UOSH disagrees with this finding and the implication that the UOSH Whistleblower program is in the same state it was in FY 2013. It is not. Significant updates and improvements have been made to the UOSH Whistleblower program. The first of which is that a Whistleblower Investigator position was created during FY 2015 which allowed one person to concentrate on and specialize exclusively in Whistleblower investigations. As a result of this, UOSH Whistleblower investigations are resolved in a timely manner and with a more uniform analysis and outcome.

During the FY 2015 evaluation, the federal auditors stated that there had been significant progress in the Whistleblower case investigations compared to previous audits. Also, the auditors indicated that UOSH had a better grasp on the main concepts involved in Whistleblower investigations and that the case files were well organized. The original draft of the FY 2015 FAME included several observations related to small aspects of some of the audited Whistleblower cases which were later combined into a finding in the final FY 2015 FAME. There was not a finding related to the Whistleblower program in the original draft of the FY 2015 FAME. Although UOSH agrees that improvements can be made to its Whistleblower program, the general statement made in the finding, which uses the same language as the FY 2013 FAME, is not accurate.

Regardless of the disagreement with the language in the finding, UOSH is committed to improving its Whistleblower program. UOSH has taken advantage of training opportunities at the OSHA Training Institute (OTI) for its Whistleblower Investigator and will continue to take advantage of training opportunities. Furthermore, UOSH will shortly have a finalized version of the Utah Whistleblower Manual. The Utah Whistleblower Manual will formalize UOSH's specific policies and procedures for the handling and investigating of all whistleblower complaints and cases.

The response to this finding and recommendation found in the Follow-up FAME will be summarized in the corrective action plan (CAP) which UOSH will provide by the required date of July 31, 2017.

UOSH responds generally as follows to the continuing observations in the Follow-up FAME:

Regarding the seven continuing observations set out in the Follow-up FAME, UOSH will continue to improve and adequately address each of the observations as necessary. UOSH completed its revision of the Field Operations Manual (FOM) earlier in FY2017. The majority of issues identified in the seven observations are addressed in the FOM or by use of the FOM. Each UOSH staff member was provided with hard copy of the FOM on February 16, 2017, and an electronic copy on February 23, 2017. UOSH staff has been using the revised FOM from the time it was issued on February 16, 2017. Additionally, specific training for UOSH staff has occurred relating to specific topics and issues found in the FOM.

UOSH requests that this letter be posted on OSHA's webpage in conjunction with the Follow-up FAME.

If you have any comments or concerns regarding this response or any UOSH matter, please feel free to contact me.

Sincerely,

Cameron Ruppe, Director  
Utah Occupational Safety and Health Division

cc: Jaceson Maughan, Utah Labor Commissioner