

This is the Virgin Islands Formal Response, as submitted.

Provided is the VIDOSH's responses to the Enhance Fame Report. I will provide the signed document. Thanks for your assistance.

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Enforcement

Finding #1 In 36% of the complaint case files reviewed, all of the complaint items were not addressed in the inspection and/or were not opened in a timely manner

VIDOSH Response: The Director will ensure the CSHO's are trained on addressing all the items identified in the complaint process by the end of the 2nd Qtr of FY 2011. The procedures will instruct the CSHO's to document all aspects of the complaint in the case fill. The VIDOSH staff will adhere to the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). The creation of a VIDOSH Complaint Data E-tool will facilitate and enhanced collection of pertinent data during the complaint process. The staff was formally trained on the use of the E-Tool on 1st Qtr of FY 2011. This training ensured the proper measures are adhered to and will improve the case file documentation process. The Director and auditor will review case files to ensure the new procedures are adhered to.

Finding #2 In 42% of the cases reviewed, employer knowledge was not properly documented

VIDOSH Response: The VIDOSH Director will ensure the CSHO's and the staff are trained on the proper documentation procedures required to capture employer's knowledge by the end of the 2nd Qtr of FY 2011. The VIDOSH staff will also adhere to the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). The creation of the VIDOSH Complaint Data E-tool has facilitated and enhanced collection of pertinent data during the complaint process. This tool will ensure proper measure adhere to improve the case file documentation in the future.

Additionally, the utilization of a standardization inspection processed will be developed and implemented. The guidelines will reflect the required enforcement compliance directives. These guidelines will include standardized Opening and/or Closing Conference data and Interview data, employee exposure and employer knowledge. The forms will also document union's representative's involvement. These standardization inspection forms will be utilized by the CSHO's. Inspection activities pertaining to hazard recognition and compliance assessment will be documented by these forms. VIDOSH staff will be trained on all the new standardized system. The data points will be utilized by the director to assess effectiveness. The director and auditor will review case file to ensure the new procedures are adhered to.

Finding #3: In 57% of the cases reviewed, documentation of employee and/or union representative participation during the inspection was not present.

VIDOSH Response: VIDOSH has taken several measures to improve Union and Employee Representatives Involvement. The VIDOSH Director and the Department of Labor Commissioner will work on establishing a stakeholders meeting with the Public Sector Union leadership by the 3rd Qtr of FY 2011. Additionally, an Opening and Closing Conference Form will be utilized by the CSHO's to documents the union's representative's involvement during the inspection activities. The completion of the form will be completed by the 2nd Qtr of FY 2011.

A comprehensive contact/ mailing list with the Public Sector Union leadership contact information and organization mailing address was created. This tool is utilized for correspondence and notification. A revised VIDOSH Organizational brochure was created and includes a document that addresses Union and Employee Representative Involvement in several areas. The Brochure will be distributed employee representatives during enforcement consultation and outreach actives. VIDOSH completed these actions during the 1st Qtr of FY 2011.

Finding #4 Thirty-five cases underwent a comprehensive review, 20 (57%) of the case files lacked one or more of the following required documentation: employee interview notes, employee exposure and employer knowledge.

VIDOSH Response: The VIDOSH Director will ensure the staff is trained on the procedures to address and document employer and employee exposure and knowledge. The Field Operation Manual (FOM) File Review procedures were provided to the VIDOSH staff. The excerpt is utilized by the staff to ensure the correct case file documentation sequence. This standardized procedure ensures the case files are assembled correctly. The Staff has implemented these procedures.

Additionally, Director the technical auditor and shall review each case files for correctness during the review process. VIDOSH has created and standardized an Opening and Closing Conference Form. The form documents the union's representative's involvement during the inspection activities.

The VIDOSH Director will provide and ensure additional training to the staff to ensure the case files reflect the required documentation to cover employee and employer interview notes, employee exposure and employer knowledge by the 2nd Qtr of FY 2011.

Finding #5: In 75% of the cases reviewed, the violations were not classified correctly. All of the citations were classified as Medium/Lesser Serious citations with injury and illnesses ranging from cuts and bruises to death.

VIDOSH Response: By the 2nd Qtr of FY 2011 the Director will ensure the VIDOSH Staff is trained on the proper classification of citations. VIDOSH is developing standardized templates to assist in the inspection process. These templates will incorporate the CSHO's field notes. VIDOSH is in the process of developing inspection templates to provide the CSHO a systematic guideline for the inspector's inspections. The templates will address citation classifications recommendations. The CSHO inspectors will have additional log items such as photo logs. These customized forms will be completed by the 3rd Qtr of FY 2011.

Finding #6: Case files did not include adequate documentation to support employee and/or employer knowledge.

VIDOSH Response: The procedure to ensure adequate case file documentation reflecting employee exposure and knowledge will be enacted. VIDOSH will develop standardized inspection templates. These templates will incorporate used to capture the CSHO's field notes to include employee and/or employer knowledge. Customized Inspection templates will be created to address the operational agency categories i.e. Health Care, Education, Utilities and Infrastructure, Business & Administration offices, Emergency Responders and Law Enforcement Executive and Legislative Agencies.

The VIDOSH Director will ensure these customized forms are be completed and implemented completely by the 3rd Qtr of FY 2011.

Finding #7: There were no willful citations issued during FY 2009. VIDOSH inspects the same government agencies (but at different locations) throughout the year. For example, the VI Department of Education may receive a dozen or more inspections a year. Similar hazards are found during each inspection but these are never issued as repeat violations.

VIDOSH Response: The Director will ensure the CSHO's will review the agency's citation history and applicable case files prior to conducting inspection activities. The procedures will be part of the inspection preparation process. The VIDOSH staff will be trained and these actions will be enacted by the 2nd Qtr of FY 2011.

Finding #8: In 80% of the cases reviewed, adequate abatement was not received or documented in the case file.

VIDOSH Response: VIDOSH will utilize the following standard reports to track and monitor the abatement process: Outstanding Abatement, Open Inspection Report, and Violation Abatement Report. The Director will instruct the CSHO's to contact the employers whom fail to abate in a timely manner. Additionally VIDOSH will use project management techniques to ensure all facets of the abatement process are completed. The director will use the in house tools to identify notification and the completion of abatement actions.

The VIDOSH Director will ensure the staff is provided the additional training by 2nd Qtr of FY 2011. These procedures will encompass established policies and procedures

Finding #9: The overwhelming majority of cases do not go through a settlement process (i.e. informal conference, post contest meetings, etc. Case file reviews indicated that when informal conferences are held, there is poor documentation of the informal conference notes. An item was withdrawn during the conference and there was no justification as to the reason why.

VIDOSH Response: The VIDOSH Director will train the CSHO's on the correct documentation procedures to reflect accurate case file activities. The training will cover informal conference procedures, and informal conference notes.

The VIDOSH Director will ensure additional training is provided to the VIDOSH staff by the end of 2nd Qtr of FY 2011. These procedures will encompass established policies and procedures

Finding #10: Case File[s] involved with an informal conference had poor documentation of the information conference notes. An item was withdrawn during the conference and there was no justification as to the reason why.

VIDOSH Response: VIDOSH management and staff will review directives and procedures pertaining to the Informal Conferences with the revised FOM. The staff will document the applicable information in the Management Information System (MIS).

VIDOSH will take the precautionary step in following the FOM. The VIDOSH staff will ensure all case files are documented to reflect the actions/decisions accomplished at Informal Conferences. The MIS will reflect documentation in the case files. VIDOSH will assure employer and/or parties involved sign and receive the copies of the informal settlement agreements.

The VIDOSH Director will ensure the additional training is provided to the VIDOSH staff by the 2nd Qtr of FY 2011. These procedures will encompass established policies and procedures

Information Management

Finding #11: VIDOSH is not using IMIS management reports to identify discrepancies in data entries and updates, resulting in uncorrected rejects, outdated draft forms lack of abatement, citations not issued within six months, cases not closed in a timely fashion, and lack of employer responses to non-formal complaints.

VIDOSH Response: Beginning by the end of the 1st Qtr of FY, the VIDOSH Director will work with the technical auditor on a weekly basis. The VIDOSH staff will use IMIS Management reports as a tool to effectively manage both the program activities and the work assignment. These reports are Citation pending, Open Inspection, Unsatisfied, Violation Abatement Report, Employer Response to non formal complaints and rejects.

Finding #12: VIDOSH amended legislation provides authority for Failure-to-abate daily penalties.

VIDOSH Response: Beginning by the end of the 2nd Qtr FY2011, the VIDOSH director will examine all the outstanding existing failure to abate cases. Based on the severity of the penalties, VIDOSH will pursue the cases with the most severe penalties first. VIDOSH will exercise its statutory authority to access and collect fines when the employer fails to abate hazards.

By the end of the 2nd Qtr FY2011, VIDOSH will meet and confer with both the executive branch and legislative branch on a regular basis to address the unabated violations and

outstanding penalties. VIDOSH will convey the reasons why specific appropriation of funds is required to cover the penalties assessed for the public sector agencies failure to abate hazards.

For future cases beginning by the end of the 3rd Qtr FY2011, VIDOSH will provide the executive and legislative branches with quarterly reports identifying cases with penalties. VIDOSH anticipates periodic notification will allow both branches to budget for the penalties assessed. Additionally notification will also allow the executive branch to identify the agencies that consistently fail to adhere to safe practices.

Finding #13: VIDOSH submitted its original five-year strategic plan and corresponding annual performance plans in July 2005 but it was never fully implemented because of difficulties in establishing the requisite baseline to measure the performance of the program. An updated five-year strategic plan is being developed by VIDOSH and should be in place for FY 2011

VIDOSH Response: VIDOSH should establish a baseline in FY 2010 in the VIDOSH FY 2011-2016 Strategic Plan. The Strategic Goal #1.1: Improve the Workplace Safety and Health for all Public Employees in the U.S. Virgin Islands using Worker Compensation data by focusing on employers with a history of injury and illness related claims. The Performance Goals is to reduce the total number of worker compensation claims by 1% per year for a total of 5% for the five years compared to the baseline.

VIDOSH will collect and analyze Workers Compensation for the calendar years 2006, 2007, 2008, and 2009 from targeted Agencies/facilities. The average number of annual total Workers Compensation cases for the above years will be used as the baseline

The VIDOSH Director will work with the Workers Compensation to establish baseline by 2nd Qtr FY2011.

Finding #14: Submission of a draft version of revised State Plan Narrative was due on December 31, 2005. This document has not yet been received by OSHA but VIDOSH reports that it will be submitted to OSHA for approval by the end of FY 2010.

VIDOSH Response: The VIDOSH will strive to submit a completed draft of the State Plan Narrative by the end of the 3rd Qtr of FY 2011.

Finding #15: As required by its 2003 developmental plan, the Virgin Islands has not developed nor maintained a public sector consultation program that can provide no cost safety and health services to public sector employers.

VIDOSH Response: VIDOSH will establish a Public Sector Consultation Program by 4th Qtr of FY2011. The Virgin Islands Department of Labor and Region II need to have discussion to address the necessary parameters i.e. staffing, funding and training required for an operational Public Sector Consultation program. Additional staff and equipment are required.

The VIDOSH Director has selected the Consultant. The Consultant is awaiting mandatory OSHA training. By the end of the 2nd Qtr of FY2011, the Consultant is scheduled complete

the course # 1500. Additionally, the VIDOSH Director has establish communication with other Public Sector only State Plans shadow a state plan Consultant within Region II

Whistleblower

Finding #16 there is a lack of structure for processing 11(c) complaints including no knowledge of the appeals process and what happens to a merit case after the Final Investigative Report ("FIR") is submitted.

VIDOSH Response: VIDOSH previously had one Whistleblower trained CSHO. The Whistleblower trained CSHO resigned on or about July 2010 creating a vacancy. To date, a vacancy still exists. Prior Whistleblower training was provided to VIDOSH staff by Region II in February 2010. The Director and the Department of Labor is working with the Virgin Islands Department of Personnel to fill the vacant CSHO position. The current staff shortage and newly hired staff training requirements have impeded VIDOSH effort to establish an active Whistleblower Program. The VIDOSH Director will work with the Virgin Island's Attorney General's Office to create a structure for processing 11(c) complaints. The system will be utilized to process and tracking meritorious investigations.

The VIDOSH Director will work towards accomplishing these actions by 4th Qrt of FY2011.

Finding #17: VIDOSH Staff appeared to refer cases to Federal OSHA, PROSHA, and the U.S. Virgin Islands Department of Labor, Division of Labor Relations. Staff members understood that private Sector 11(c) complaints should be forwarded to Federal OSHA. Staff members stated that they contacted Federal OSHA Regional Supervisory Investigator for questions. One investigator has attended the Basic Discrimination Investigator's Course 1420 at OTI.

VIDOSH Response: VIDOSH previously had one Whistleblower trained CSHO. The Whistleblower trained CSHO resigned on or about July 2010 creating a vacancy. To date, a vacancy still exists. Prior Whistleblower training was provided to VIDOSH staff by Region II in February 2010. The Director and the Department of Labor is working with the Virgin Islands Department of Personnel to fill the vacant CSHO position. The current staff shortage and newly hired staff training requirements have impeded VIDOSH effort to establish an active Whistleblower Program. The VIDOSH Director will work with the Virgin Island's Attorney General's Office to create a structure for processing 11(c) complaints. The system will be utilized to process and tracking meritorious investigations.

The VIDOSH Director will work towards accomplishing these actions by 4th Qrt of FY2011.

Finding #18: Staff and investigator(s) have no access to IMIS Whistleblower Application. There is also no process for tracking case files.

VIDOSH Response: VIDOSH previously had one Whistleblower trained CSHO. The Whistleblower trained CSHO resigned on or about July 2010 creating a vacancy. To date, a vacancy still exists. Prior Whistleblower training was provided to VIDOSH staff by Region II in February 2010. The Director and the Department of Labor is working with the Virgin Islands Department of Personnel to fill the vacant CSHO position. The current staff shortage and newly hired staff training requirements have impeded VIDOSH effort to establish an active Whistleblower Program. The VIDOSH Director will work with the Virgin Island's Attorney General's Office to create a structure for processing 11(c) complaints. The system will be utilized to process and tracking meritorious investigations. Once a Whistleblower CSHO's is indentified and trained the CSHO's will be provide IMIS access to the Whistleblower Module.

VIDOSH has identified nine employees within the Virgin Islands Department of Labor to become familiar Whistleblower policies and procedures. Five of the nine employees will be trained upon availability of OTI Whistleblower training. An alternative if OTI training is unavailable in the near future or is not cost effective VIDOSH will request the National Office to provide onsite training.

The VIDOSH Director will work towards accomplishing these actions by 4th Qrt of FY2011.

Finding #19: VIDOSH's Discrimination Program currently not does not meet the § 1977.23 standards. In general, the VIDOSH discrimination program has not had any whistleblower cases since 1999, and is lacking the procedural knowledge, experience, and structure necessary to effectively execute investigations and meet program objectives.

VIDOSH Response: VIDOSH previously had one Whistleblower trained CSHO. The Whistleblower trained CSHO resigned on or about July 2010 creating a vacancy. To date, a vacancy still exists. Prior Whistleblower training was provided to VIDOSH staff by Region II in February 2010. The Director and the Department of Labor is working with the Virgin Islands Department of Personnel to fill the vacant CSHO position. The current staff shortage and newly hired staff training requirements have impeded VIDOSH effort to establish an active Whistleblower Program. The VIDOSH Director will work with the Virgin Island's Attorney General's Office to create a structure for processing 11(c) complaints. The system will be utilized to process and tracking meritorious investigations. Once the Whistleblower CSHO is indentified and trained the CSHO will be provide IMIS access to the Whistleblower Module.

VIDOSH has identified nine employees within the Virgin Islands Department of Labor to become familiar Whistleblower policies and procedures. Five of the nine employees will be trained upon availability of OTI Whistleblower training. An alternative if OTI training is unavailable in the near future or is not cost effective VIDOSH will request the National Office to provide onsite training.

VIDOSH will work with the Virgin Island's Attorney General's Office and the Department of Labor's Legal Counsel to create a clear path for settlement review and execution.

The VIDOSH Director will work towards accomplishing these actions by 4th Qrt of FY2011.

Finding #20: VIDOSH does not have templates for docket letters, FIRS, and other necessary investigative documents and correspondence.

VIDOSH Response: VIDOSH shall adopt the Federal Manual templates for all investigative documents, including but not limited to docket letters, FIR's and Secretary Findings.

The VIDOSH staff will follow the adopted 02-00-140 CPL standards (Complaint Policies and Procedures). Several controls measures have been created and put into place by VIDOSH. The creation of the VIDOSH Complaint Data E-tool has facilitated and enhanced collection of pertinent data during the complaint process. The staff will be formally trained on the use of the E-Tool during the weekly staff meeting

The utilization of standardization inspection processed will be developed and implemented. Inspection template will be creates to address the operational agency categories i.e. Health Care, Education, Utilities and Infrastructure, Business & Administration offices, Emergency Responders and Law Enforcement Executive and Legislative Agencies. The guidelines will reflect the required enforcement compliance directives. VIDOSH inspection guideline will include standardized Opening and/or Closing Conference data and Interview data, employee exposure and employer knowledge. The form will also document the union's representative's involvement during all inspection activities. These customized forms will be utilized by the CSHO's. Inspection activities pertaining to hazard recognition and compliance assessment will be document by these forms. VIDOSH staff will be trained on all the new standardized system. The data point will be used by the director to access effectiveness.

The VIDOSH Director will provide and ensure additional training is provided to the VIDOSH staff. These procedures will encompass established policies and procedures. The Director will ensure the staff utilizes the federal templates.

Finding #21: Four Federal standards were issued during FY 2009. VIDOSH responded with their intent to adopt for two of the four standards timely. VISOSH did not adopt any of the standards changes in a timely manner. (p.43)

VIDOSH Response: Beginning on or about 2nd Qrt of FY2011, VIDOSH management will ensure that the applicable standards are adopted within six months of publication. VIDOSH will continue to utilize its existing media accounts to disseminate federal standards.

VIDOSH will also utilize the Department of Labor's Public Information Officer to create Public Service announcements for each new federal standard. All current federal Program Changes will be adopted by the 2nd Qrt of FY2011.

Finding #22: VIDOSH does not have an 11(c) Health and Safety Poster, pamphlets, or fact sheet available for public sector agencies or complainants

VIDOSH Response: By the 3rd Qrt of FY2011. VIDOSH will create an 11(c) poster/fact sheet for the public sector by the second quarter FY 2011. The fact sheet will include the applicable 11C details. VIDOSH will produce the ad in both English and Spanish.

Finding #23 VI covers employers in water and wastewater treatment activities, subject to PSM standard. VIDOSH does not have adequate trained staff to deal with these worksites.

VIDOSH Response: VIDOSH will identify the required PSM training for water and waste water treatment activities. The Director will dedicate time for staff to review and discuss Directive Number 09-06 (CPL 02). VIDOSH will seek profession assistance from Region II to train the staff on the PSM.

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