



**State of Utah**  
GARY R HERBERT  
*Governor*  
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*Lieutenant Governor*

**Labor Commission**  
JACSON R. MAUGHAN  
*Commissioner*

**Occupational Safety and  
Health Division**  
CAMERON S. RUPPE  
*Director*

July 31, 2018

Via U.S. Mail and E-Mail

Rita M. Lucero, Acting 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 2017  
Comprehensive Federal Annual Monitoring and Evaluation Report**

Dear Ms. Lucero,

Thank you for the opportunity to participate in the FY 2017 Federal Annual Monitoring and Evaluation (FAME) of the Utah Occupational Safety and Health (UOSH) Division of the Utah Labor Commission. This letter will serve as UOSH's formal response to the specific findings and observations set forth in the FY 2017 FAME.

The mission of UOSH is to help ensure a safe and healthy workplace for every worker in the State of Utah. To this end, UOSH has worked diligently to correct findings in previous FAMEs and to improve its internal processes. With the implementation of the UOSH Field Operations Manual (FOM) in March of 2017, and the UOSH Whistleblower Manual in October 2017, many of the issues identified in the FY 2017 FAME have been or are in the process of being corrected. The FY 2015 FAME contained two findings and eight observations while the current FAME contains only one finding and five observations. UOSH has made significant improvements, as evidenced by the results of the FY 2017 FAME, and will continue to make improvements in accomplishing its mission.

UOSH responds specifically as follows to the finding in the FY 2017 FAME:

*Finding FY 2017-1: In FY 2017, it was determined that UOSH may be identifying and addressing all potential apparent violations when closing cases (eight of 80 or 10% of cases), verifying adequate evidence to support violations (10 of 37 or 27% of cases), and justifying the severity and probability of the violations (eight of 39 or 21% of cases).*

UOSH Response: It is assumed that the verbiage in this finding was meant to say, "...may not be identifying..." as is stated in the Corrective Action Plan for the same finding. During internal discussions after the FY 2017 FAME was completed, it was agreed by UOSH management that the items listed in the finding can all be improved. Procedures for all of these items were implemented with the release of the FOM, and have been a focus of training for compliance officers. The difficulty in documenting "apparent violations" that were not cited remains, but overall, it was agreed that this has improved with the implementation of the FOM, and will continue to improve going forward.

The FY 2017 FAME included three continued observations related to the Compliance program and two new observations specific to the Whistleblower program. Through the implementation of the FOM and the Whistleblower Manual, UOSH believes that many of these issues have already been, or will be resolved as training on these procedures continues. However, the statement made in the explanation of FY 2017-OB-5 regarding the redaction of information as would be required if documents were released under the Freedom of Information Act (FOIA), is not applicable. The State of Utah is required to release documents in accordance to Utah Code Ann. §63G-2-101 *et seq.*, the Government Records Access and Management Act (GRAMA), and any retaliation that may result from the release of such information is prohibited under the Utah Occupational Safety and Health Act.

In addition to the implementation of both the FOM and Whistleblower Manual, consistency in management for both programs has been key to the improvement UOSH has seen. The Whistleblower Investigator position was filled with a well-qualified, professional candidate in September 2016, and has remained stable since that time. Furthermore, the use of the State Internal Evaluation Plan (SIEP) has allowed UOSH to identify areas of concern in its program and make the necessary corrections to move the program forward.

The response to the findings and recommendations found in the FY 2017 FAME will be summarized in the corrective action plan (CAP) which UOSH will provide in conjunction with this response on July 31, 2018.

UOSH requests that this letter be posted on OSHA's webpage in conjunction with the FY 2017 FAME.

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

Sincerely,

Jaceson R. Maughan, Commissioner  
Utah Labor Commission