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Attention: Peggy Collins

## Joint Legislative Budget Committee Members:

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Subject: Labor Enforcement Task Force Report to the Legislature

Pursuant to the Budget Act of 2012 (Assembly Bill 1464, Chapter 21, Statutes of 2012), the Department of Industrial Relations (DIR) is pleased to report to the Director of Finance and the Joint Legislative Budget Committee on the accomplishments of the Labor Enforcement Task Force (LETF). This report covers activity from 2012, 2013, 2014, 2015, and 2016, and it is also available online at [www.dir.ca.gov/letf](http://www.dir.ca.gov/letf).

The LETF mission is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers; to create an environment in which legitimate businesses can thrive; and to support the collection of all California taxes, fees, and penalties due from employers. The LETF uses both data-driven and complaint-driven methods to target noncompliant employers. Staff from the Labor Commissioner's Office, Cal/OSHA, EDD, CSLB, and other partner agencies coordinate to identify bad actors, share information, and conduct joint enforcement. Each agency on its own does not have access to the full range of data and other information that the LETF teams can access through cooperation.

This collaborative enforcement approach has clear benefits. LETF joint inspections have found consistently high rates of noncompliance. In 2016 LETF found that an average of 91% of employers inspected each month were out of compliance with at least one LETF partner agency.

LETF is committed to education and outreach to ensure that employers know their responsibilities and workers know their rights. To this end, LETF has produced educational materials for both employers and workers. LETF and its partners have participated in a various outreach events, including workshops to educate workers and seminars to engage with employer groups and industry associations.

Increased coordination across agencies and data sharing as permitted by law will enhance overall response time, eliminate activity overlap, refine targeting, and enable performance monitoring for ongoing evaluation. DIR looks forward to increased collaboration and enhanced effectiveness through the LETF and related enforcement efforts. If you have any questions, please do not hesitate to contact me.

Sincerely,

/S/Christine Baker

Christine Baker  
Director



**LETF Five-Year Report (2012-2016)  
to the California Legislature**

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## LETF Five-Year REPORT (2012-2016)

The mission of the Labor Enforcement Task Force (LETF) is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers, create an environment in which legitimate businesses can thrive, and support the collection of all California taxes, fees, and penalties due from employers. Task force members include the following:

- Labor & Workforce Development Agency (LWDA)
- Department of Industrial Relations (DIR), including Division of Labor Standards Enforcement (DLSE) and the Division of Occupational Safety and Health (Cal/OSHA)
- Employment Development Department (EDD)
- Contractors State License Board (CSLB)
- California Department of Insurance (CDI)
- Board of Equalization (BOE)
- Bureau of Automotive Repair (BAR)
- Alcoholic Beverage Control (ABC)
- State Attorney General and district attorneys throughout California

Beginning in January 2012, DIR assumed responsibility for administering the newly formed LETF. Executive and strategic operations teams were established to plan, evaluate, and monitor the program. This report covers activities for calendar years 2012, 2013, 2014, 2015, and 2016.

### **A. Targeting Methods: Value Added by the LETF**

LETF is tasked with ensuring efficacy, resource maximization, and the avoidance of overlap in agency enforcement. Targeted inspections are the most effective approach for meeting these central objectives. To accurately target noncompliant businesses, DIR continually refines its methods, which are both data driven (proactive) and complaint driven (responsive).

LETF teams include different strategic combinations of inspection staff from the member agencies listed above, depending on the industry. On its own, each agency does not have access to the full range of data and other information that the LETF teams can access collectively:

- DLSE uses wage claim data, Bureau of Field Enforcement (BOFE) data, and contacts with local district attorneys and community-based organizations.
- Cal/OSHA uses contacts with the local Agricultural Commissioner's office, the local US Department of Agriculture's office, and community-based organizations.
- EDD uses complaint data and their Automated Collection Enhancement System (ACES) that includes multiple databases, including tax and DMV records. Their data on taxpayers are protected by federal privacy laws.
- CSLB uses complaint data, licensing data, and contacts with industry partners.

In addition, DIR receives complaints and tips submitted directly by the public to identify potential targets. The public may report through the LETF hotline, the LETF online referral form, or the LETF email

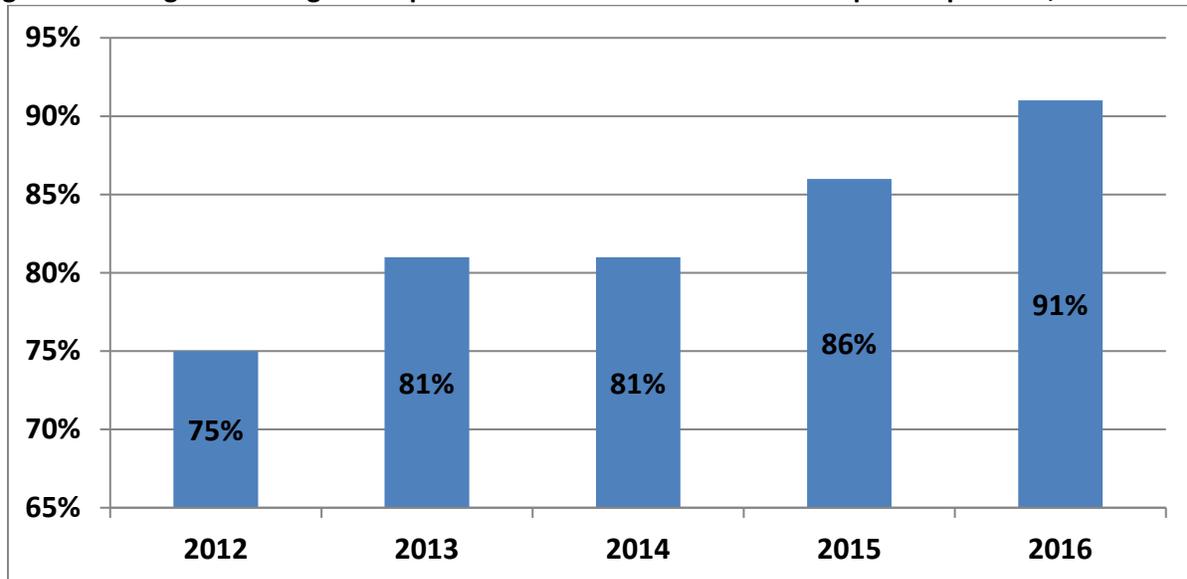
address, as provided online at <http://www.dir.ca.gov/letf>.

LETF targeting protocol involves a multiphase process that all inspectors follow. Teams identify potential targets and conduct research to develop a business profile. Lists of potential targets are sent to EDD for screening to learn if the employer is registered with EDD and to determine how many employees the employer has reported. The target lists are screened through the Workers' Compensation Insurance Rating Bureau (WCIRB) to determine if the employer is adequately insured. In addition, LETF screens business names using other agency databases to match on a variety of fields that may indicate areas of noncompliance. The results are added to the business profile and used to prepare inspectors for joint enforcement action.

Prior to the joint inspections, teams conduct physical surveillance to confirm the information obtained in the targeting process and gather additional information. Physical surveillance can include both visual examination from a distant location and on-site visits to the premises.

As illustrated in Figure 1, LETF continues to improve the effectiveness of targeted joint enforcement by focusing on inspecting noncompliant businesses. In 2016 LETF found that an average 91% of businesses inspected each month were out of compliance by at least one LETF partner agency. This percentage has steadily increased since LETF's inception in 2012 demonstrating the efficacy of targeted, joint inspections. Figure 1 shows results only from LETF joint targeted inspections and does not reflect an upward trend in noncompliance in the overall business community.

**Figure 1: Average Percentage of Inspected Businesses Found out of Compliance per Year, 2012–2016**



## B. Joint Enforcement Activity: Value Added by the LETF

Working together with combined authority, LETF teams have access to a fuller range of enforcement tools than does each agency on its own:

- DLSE has the authority under Labor Code section 90 to access all places of employment. Other LETF partners do not have this full authority. DLSE may also issue stop orders requiring employers to cease illegal operations immediately.
- Cal/OSHA has the authority to issue citations for serious, willful, and repeat (SWR) violations. Cal/OSHA may also issue an order prohibiting use where a condition or practice exists that creates an imminent hazard to the safety and health of employees.
- EDD has authority under Section 1092 of the California Unemployment Insurance Code to require employers to provide records for inspection at any time during the employing unit's business hours.
- CSLB is able to suspend contractors' licenses until penalties issued by DLSE and state payroll taxes, penalties, and interest due to EDD are paid or formal arrangements have been made to pay off the liability due in installments. Penalties are far more likely to be paid promptly when the license is suspended until payment is made.

Joint enforcement has two key comparative advantages for the business community. First, because LETF inspection teams comprise members from multiple agencies, one LETF inspection has less impact on business operations than multiple separate inspections by the individual agencies. Second, when several agencies, working together, find egregious employer misconduct, the ensuing publicity has a deterrent effect that is much more powerful than that of a single agency's enforcement.

Tables 1–6 show enforcement results by year for all the member agencies:

**Table 1. Cal/OSHA Results**

	2012	2013	2014	2015	2016*	Total
Businesses Inspected	765	946	794	850	813	4,168
% Businesses Out of Compliance	77%	78%	86%	89%	93%	84%
Order Prohibiting Use (OPU)	15	14	12	26	44	111
Total Number of Violations	1,916	2,674	2,779	3,157	2,736	13,262
% of Total Violations That Were Serious	16%	16%	30%	15%	15%	18%
% of Programmed Inspections w/SWR Violations	20%	29%	29%	37%	40%	31%
Initial Assessment Amounts	\$1,265,383	\$1,721,643	\$1,317,020	\$2,450,633	\$2,472,166	\$9,226,845

\*Totals for 2016 do not reflect information for 212 inspections that are still pending citation issuance.

**Table 2. DLSE Results**

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
Business Inspected	999	1,145	714	844	804	4,506
Businesses Out of Compliance	473	643	410	471	414	2,411
% Businesses Out of Compliance	47%	56%	57%	56%	51%	54%
Number of Workers' Compensation Insurance Violations	337	476	285	356	297	1,751
Number of Child Labor Violations	12	8	11	6	10	47
Number of Deduction Statement Violations	292	315	212	237	205	1,261
Number of Minimum Wage Violations	35	44	24	29	34	166
Number of Overtime Violations	33	65	29	32	31	190
Number of Garment Violations	32	32	29	31	26	150
Number of Contractor's License (1021/1021.5) Violations	28	66	44	32	17	187
Number of Garment Registration Violations	15	30	18	31	34	128
Number of Car Wash Registration Violations	2	2	11	25	34	74
Number of Rest Period Violations	0	5	3	2	3	13
Number of Meal Period Violations	0	4	6	1	5	16
Number of Split Shift Violations	0	2	7	7	3	19
Number of Misclassification Violations	0	1	0	0	0	1
Number of Unlicensed Farm Labor Contractor (1683) Violations	0	0	1	0	0	1
Total Number of Violations	786	1,050	680	789	699	4,004
Assessment Amount	\$7,232,786	\$9,346,759	\$5,784,431	\$7,369,656	\$5,605,370	\$35,339,002

**Table 3. EDD Results**

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
Businesses Inspected	1,127	1,069	823	905	881	4,805
% of Audit Referrals*	45%	66%	68%	50%	62%	58%
Estimated Unreported Wages**	\$102,348,344	\$197,129,983	\$113,554,258	\$110,546,059	\$169,289,090	\$692,867,734
Estimated Unreported Employees	2,062	3,953	2,895	2,484	3,145	14,539
Completed Audits	173	214	504	440	381	1,712
Audit Liability Change	\$6,756,275	\$6,414,504	\$12,473,729	\$11,935,391	\$12,016,208	\$49,596,107

\*Based on Closed LETF Cases. \*\*Closed LETF Leads.

**Table 4. CSLB Results**

	<b>2012*</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
Businesses Inspected	607	583	410	516	326	2,442
% Businesses Out of Compliance	44%	36%	30%	41%	31%	37%
Civil Penalties Assessed	\$369,950	\$438,650	\$412,000	\$141,400	\$108,300	\$1,470,300

\*Totals for 2012 followed different methodology than totals for the other years, which both reflect joint inspection results when CSLB partnered with at least one other LETF enforcement partner.

**Table 5. BAR Results**

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
Businesses Inspected	77	77	53	64	138	409
% Businesses Out of Compliance	57%	45%	62%	17%	17%	36%

**Table 6. BOE Results**

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>Total</b>
Businesses Inspected	368	336	112	166	208	1,190
% Businesses Out of Compliance	43%	33%	53%	31%	26%	36%

**C. Education and Outreach**

LETf uses multiple education and outreach methods to ensure that employers know their responsibilities and workers know their rights.

LETf initiated a statewide program in collaboration with UC Berkeley to achieve the following:

- Design and produce effective educational materials for workers and employers in coordination with other agencies
- Translate educational materials into the languages commonly spoken by employers and employees in specific low-wage industries across California
- Inform and train local and regional organizations serving low-wage workers using enhanced materials and industry-specific information
- Publicize the campaign and enforcement efforts via speaking engagements, press releases, website features, television, radio, email news releases, and newspapers, as well as social media, such as Facebook and Twitter.

LETf educational materials inform workers of their rights and help employers understand their responsibilities. The booklet “All Workers Have Rights in California” is available in English, Spanish, Chinese, Korean, and Vietnamese and covers topics such as minimum wages and overtime, rest and meal breaks, workplace safety and health, and benefits for those injured or unemployed. LETf has also produced fact sheets to help employers understand and follow labor, licensing, and payroll tax laws. The fact sheets have been designed for employers in specific industries, including agriculture, automotive, construction, garment, landscaping, and restaurants.

Printable and mobile versions of these materials for workers and employers are now available. The mobile versions are readable on smartphones and mobile devices. All the LETf educational materials are available at the LETf website:

[http://www.dir.ca.gov/letf/Information\\_for\\_workers\\_and\\_employers.html](http://www.dir.ca.gov/letf/Information_for_workers_and_employers.html).

LETf and its partners are involved in a wide range of outreach and educational events. Partners from UC Berkeley and community-based-organizations hold regular workshops and training sessions to educate unrepresented workers in the underground economy on their rights. LETf representatives from multiple partner agencies participated in 16 events in 2016 hosted by industry associations and employer groups.

At these events, LETF representatives answered questions from employers, explained the widespread impact of the underground economy, and provided guidance on how employers can comply with labor, health and safety, licensing, and payroll tax laws.

DIR is making continuous improvements to the LETF website, including translating the website into Spanish at [www.dir.ca.gov/letf/Spanish/LETF.html](http://www.dir.ca.gov/letf/Spanish/LETF.html) and launching the LETF online form <https://www.dir.ca.gov/LETF/Referral/LETFReferral.asp>. The public can now use this online form, available in English and Spanish, to report leads to LETF on activity in the underground economy.

## **D. Partnerships**

### **The LETF/JESF Collaborative Enforcement Partnership**

To help combat California's underground economy and protect workers' rights, the Department of Industrial Relations (DIR) and the Employment Development Department (EDD) have joined efforts through their respective enforcement programs, namely, the Labor Enforcement Task Force (LETF) and the Joint Enforcement Strike Force (JESF), to coordinate activity and share effective strategies.

The LETF/JESF Collaborative Enforcement Partnership merges best practices based on a wide range of experiences and innovation. The joint effort draws upon both program's respective strengths through training, refinement of targeting methods, and strategic planning. While LETF and JESF remain under the guidance of their respective agencies, enforcement coordination has allowed a streamlining of administration to leverage resources and mitigate overlap. The results include broader statewide operations, stronger communications, and knowledgeable, cross-trained staff.

DIR hosted the third annual LETF/JESF joint training session in 2016; investigators and supervisors from around the state came together to share best practices on joint enforcement operations. Additionally, in 2016, DIR hosted a series of webinar training sessions for LETF and JESF staff.

### *Operation Underground*

On May 18, 2016, LETF and JESF participated in "Operation Underground," a statewide outreach and enforcement effort led by the California Department of Insurance (CDI) to target the underground economy. LETF and JESF teams inspected 19 businesses and assessed approximately \$80,000 in fines as a result of this one-day operation. LETF Cal/OSHA inspectors issued one Order Prohibiting Use (OPU) for an unguarded wood-chipping machine at a trimming operation. After the OPU has been issued, the equipment or machinery cannot be used again until the hazards have been abated and Cal/OSHA has given its approval. LETF and JESF DLSE inspectors issued three stop orders to employers that had no workers' compensation insurance for their employees. For more information on Operation Underground, please see the press release on the CDI website: <http://www.insurance.ca.gov/0400-news/0100-press-releases/2016/release049-16.cfm>.

## **E. Recommended Changes to Statutes**

Though LETF does not currently have any active plans for legislation, Task Force partners are continuously looking for ways to improve effectiveness and interagency collaboration.

## **F. Objectives for 2017**

Objectives for 2017 include the following:

- 1. Expand outreach and education**, as discussed in section C above. LETF will continue to work with partners to raise awareness among vulnerable workers in the underground economy about their rights. Additionally, LETF seeks to promote compliance by partnering with employer groups and educating employers from multiple industries of their responsibilities.
- 2. Use data matching to prioritize incoming leads and tips.** LETF will continue to refine data matching techniques and targeting protocols in order to streamline interagency collaboration, target the most egregious violators, and maximize resources.
- 3. Increase engagement with community partners.** The underground economy is complex and constantly changing. Engagement with partners is essential for LETF to understand and combat this multi-faceted issue. LETF looks to strengthen existing partnerships, as discussed in section D above, and develop new ones with community partners such as worker advocates, employer groups and union representatives.