

DEPARTMENT OF INDUSTRIAL RELATIONS
Office of the Director
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Tel: (415) 703-5050 Fax: (415) 703-5059/8

MAILING ADDRESS:
P. O. Box 420603
San Francisco, CA 94142-0603



Ana J. Matosantos
Director
Department of Finance
915 L Street
Sacramento, CA 95814

Joint Legislative Budget Committee
1020 N Street, Room 553
Sacramento, California 95814
Attention: Ms. Peggy Collins

Joint Legislative Budget Committee Members:

Senator Mark Leno (Chair)
Senator Kevin de León
Senator Bill Emmerson
Senator Alex Padilla
Senator Richard Roth
Senator Mimi Walters
Senator Lois Wolk

Assemblymember Bob Blumenfield, (Vice Chair)
Assemblymember Rocky Chávez
Assemblymember Wesley Chesbro
Assemblymember Mike Gatto
Assemblymember Jeff Gorell
Assemblymember Diane L. Harkey
Assemblymember Reginald Byron Jones-Sawyer, Jr.
Assemblymember Holly J. Mitchell

Subject: Labor Enforcement Task Force Annual Report 2012

Pursuant to the Budget Act of 2012 (Assembly Bill 1464, Chapter 21, Statutes of 2012), the Department of Industrial Relations is pleased to report to the Director of Finance and the Joint Legislative Budget Committee on the accomplishments of the Labor Enforcement Task Force and its enforcement activities regarding labor, tax, and licensing law violators operating in the underground economy. This report is also available online at www.dir.ca.gov. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Christine Baker".

Christine Baker
Director

Attachment

LETF Annual Report

2012

DEPARTMENT OF INDUSTRIAL RELATIONS



TABLE OF CONTENTS

| | |
|--|----------|
| A. Targeting Methods – Value Added by the LETF | 1 |
| B. Enforcement – Value Added by the LETF | 2 |
| <i>Figure 1 – Industry Composition of Businesses Inspected by LETF Team.....</i> | <i>3</i> |
| Tables 1–6 Enforcement Results..... | 3 |
| <i>Table 1 – Cal/OSHA Results</i> | <i>3</i> |
| <i>Table 2 – DLSE Results.....</i> | <i>4</i> |
| <i>Table 3 – EDD Results</i> | <i>4</i> |
| <i>Table 4 – CSLB Results.....</i> | <i>5</i> |
| <i>Table 5 – BAR Results</i> | <i>5</i> |
| <i>Table 6 – BOE Results</i> | <i>5</i> |
| C. Education and Outreach..... | 5 |
| Table 7 – Education and Outreach Events..... | 5 |
| D. New Partnership..... | 6 |
| E. Recommended Changes to Statutes | 6 |
| F. Objectives for 2013..... | 6 |

LETF 2012 ANNUAL REPORT

This report is prepared pursuant to the Budget Act of 2012 (Assembly Bill 1464, Chapter 21, Statutes of 2012). The measure requires the Department of Industrial Relations to report to the Director of Finance and the Joint Legislative Budget Committee by March 1, 2013, and biennially thereafter, on the accomplishments of the Labor Enforcement Task Force and its enforcement activities regarding labor, tax, and licensing law violators operating in the underground economy.

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 where legitimate businesses can thrive, and support the collection of all California taxes, fees, and penalties due from employers.

Task force members include:

- Labor & Workforce Development Agency (LWDA)
- Department of Industrial Relations (DIR), including Division of Labor Standards Enforcement (DLSE) and Division of Occupational Safety and Health (DOSH)
- Employment Development Department (EDD)
- Contractors State Licensing Board (CSLB)
- California Department of Insurance (CDI)
- Board of Equalization (BOE)
- Bureau of Automotive Repair (BAR)
- State Attorney General and district attorneys throughout California
- Agricultural Labor Relations Board (ALRB)

Beginning January 2, 2012, the Department of Industrial Relations (DIR) assumed responsibility for administering the newly formed LETF. Executive and strategic operations teams were established to plan, evaluate, and monitor the program. In Spring 2012, DIR issued a status report describing LETF activities conducted January through March 2012. This report covers activities for calendar year 2012.

A. Targeting Methods – Value Added by the LETF

To target noncompliant employers, DIR continues to refine its methods, which are both data-driven (proactive) and complaint-driven (responsive).

LETF teams include inspection staff from DLSE, DOSH, EDD, and CSLB, as well as from other member agencies, depending on the industry. On every team, staff members from each agency develop potential targets through statistical reporting from their respective databases and other sources of information. Each agency on its own does not have access to the full range of data and other information that the LETF teams can access collectively:

- DLSE uses wage claims data, Bureau of Field Enforcement (BOFE) data, and contacts with local district attorneys and community-based organizations.
- DOSH 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 the Automated Collection Enhancement System (ACES) database that includes multiple databases, including tax and DMV records. Their data on taxpayers is 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 complaints and tips come in through a live hotline, answered between 8:00am and 5:00pm, and an LETF email address. Both are posted at the LETF website: <http://www.dir.ca.gov/letf/letf.html> DOSH frequently receives reports of unsafe working conditions and accidents, which also help identify potential targets.

Staff members create a profile for each potential target using available information posted at public websites. Lists of potential targets are then sent to EDD for screening to learn if the employer is registered with EDD and how many employees the employer has; the same lists are also sent to the Workers' Compensation Insurance Rating Bureau (WCIRB) to learn if the employer is insured.

After creating a target list, teams conduct physical surveillance to confirm the information obtained in the targeting process and gather additional information relevant to an inspection. Physical surveillance can include both visual examination from a distant location and on-site visiting of the premises where there are customers.

In January 2012, DIR held an LETF kick-off meeting with all staff from DLSE, DOSH, EDD, and CSLB to introduce the LETF program and present the targeting and enforcement protocols for the program. Ongoing refinement of the targeting strategy has incorporated seasonal trends and logistics, as well as industry prioritization based on California's workforce composition. In late May 2012, DIR hosted a two-day, all-staff training in Oakland to further train on the targeting methods. Performance of each team was then tracked to evaluate the impact of the training. The teams whose members followed the LETF targeting protocol closely were better able to identify noncompliant employers than other teams. To clarify the targeting methods, the written protocol was revised jointly by DIR management and LETF supervisors and staff. Management and peer training on the new protocol were conducted via video conference in November 2012. Training for all staff will now continue every quarter via video conference.

B. Enforcement – Value Added by the LETF

Working together, each LETF team has 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.
- DOSH has the authority to issue citations for serious, willful, and repeat violations. DOSH 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.
- CSLB is able to suspend contractors' licenses until the penalties issued by DLSE and EDD are paid. Penalties are far more likely to be paid promptly when the license is suspended until payment.

Because LETF inspection teams comprise members from multiple agencies, an LETF inspection has less impact on business operations of compliant employers than multiple inspections by the individual agencies. Yet when several agencies working together do find an egregious employer, the ensuing publicity has a deterrent effect that is much more powerful than if only a single agency were enforcing.

LETF teams continue to focus primarily on employers in the agricultural, automotive, construction, garment, and restaurant industries. Figure 1 shows the industry composition of inspected businesses:

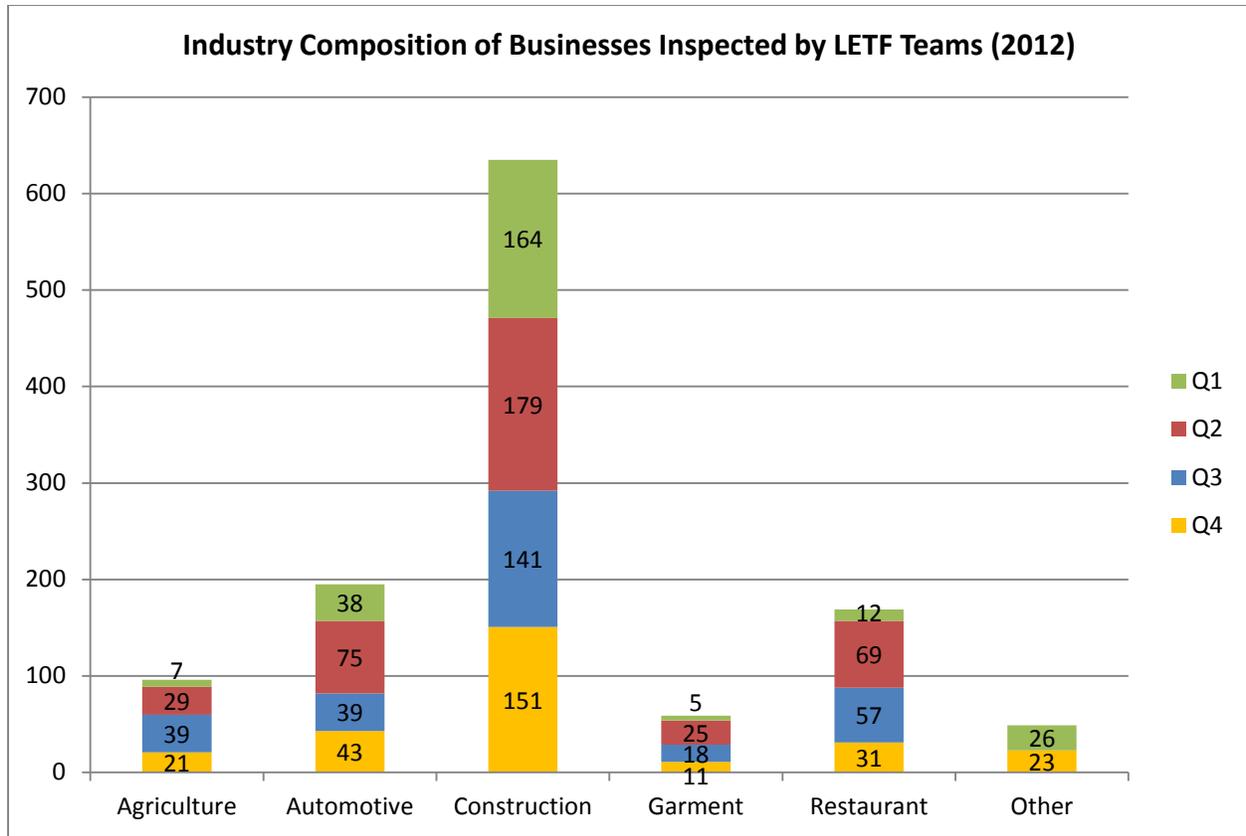


Figure 1. Industry Composition of Businesses Inspected by LETF Teams for 2012

Tables 1 – 6 show enforcement results in 2012 for six of the member agencies:

Table 1. Cal/OSHA Results

| | Q1 | Q2 | Q3 | Q4 | Total |
|---|-----------|-----------|-----------|-----------|-------------|
| Businesses Inspected | 191 | 214 | 165 | 195 | 765 |
| Businesses Out of Compliance | 151 | 159 | 120 | 161 | 591 |
| % Businesses Out of Compliance | 79% | 74% | 73% | 83% | 77% |
| Order Prohibiting Use (OPU) | 3 | 4 | 2 | 6 | 15 |
| Number of General Violations | 415 | 508 | 300 | 394 | 1,617 |
| Number of Serious Violations | 63 | 89 | 61 | 86 | 299 |
| Total Number of Violations | 478 | 597 | 361 | 480 | 1,916 |
| % of Total Violations That Were Serious | 13% | 15% | 17% | 18% | 16% |
| Initial Assessment Amounts | \$233,706 | \$337,672 | \$342,035 | \$351,970 | \$1,265,383 |

Table 2. DLSE Results

| | Q1 | Q2 | Q3 | Q4 | Total |
|--|-----------|-------------|-------------|-------------|--------------|
| Business Inspected | 170 | 313 | 289 | 227 | 999 |
| Businesses Out of Compliance | 76 | 164 | 134 | 99 | 473 |
| % Businesses Out of Compliance | 45% | 52% | 46% | 44% | 47% |
| Number of Workers' Compensation Insurance (WCI) Violations | 54 | 84 | 119 | 80 | 337 |
| Number of Child Labor Violations | 1 | 5 | 5 | 1 | 12 |
| Number of Deduction Statement Violations | 39 | 82 | 90 | 81 | 292 |
| Number of Minimum Wage Violations | 4 | 8 | 12 | 11 | 35 |
| Number of Overtime Violations | 2 | 8 | 10 | 13 | 33 |
| Number of Lactation Accommodation Violations | 0 | 0 | 0 | 0 | 0 |
| Number of Garment Violations | 2 | 11 | 12 | 7 | 32 |
| Number of Contractor's License (1021/1021.5) Violations | 3 | 3 | 12 | 10 | 28 |
| Number of Registration Violations | 2 | 7 | 5 | 3 | 17 |
| Total Number of Violations | 107 | 208 | 265 | 206 | 786 |
| Assessment Amount | \$849,891 | \$1,683,729 | \$2,592,420 | \$2,106,746 | \$7,232,786 |

Table 3. EDD Results

| | Q1 | Q2 | Q3 | Q4 | Total |
|---|--------------|--------------|--------------|--------------|---------------|
| Businesses Inspected | 224 | 422 | 240 | 241 | 1,127 |
| Businesses Out of Compliance (Referred for EDD Audit) | 117 | 100 | 139 | 152 | 508 |
| % Completed Audits | 52% | 23% | 57% | 63% | 45% |
| Estimated Unreported Wages | \$20,749,612 | \$22,398,342 | \$33,487,775 | \$25,712,615 | \$102,348,344 |
| Estimated Unreported Employees | 563 | 478 | 539 | 482 | 2,062 |
| Completed Audits | 55 | 39 | 55 | 24 | 173 |
| Payroll Tax Liability Change | \$1,670,650 | \$1,358,064 | \$3,031,083 | \$696,478 | \$6,756,275 |

Table 4. CSLB Results

| | Q1 | Q2 | Q3 | Q4 | Total |
|--------------------------------|-----------|-----------|-----------|-----------|--------------|
| Businesses Inspected | 142 | 164 | 143 | 158 | 607 |
| Businesses Out of Compliance | 88 | 99 | 50 | 32 | 269 |
| % Businesses Out of Compliance | 62% | 60% | 35% | 20% | 44% |
| Civil Penalties Assessed | \$77,800 | \$96,600 | \$124,500 | \$71,050 | \$369,950 |

Table 5. BAR Results

| | Q1 | Q2 | Q3 | Q4 | Total |
|--------------------------------|-----------|-----------|-----------|-----------|--------------|
| Businesses Inspected | 18 | 24 | 18 | 17 | 77 |
| Businesses Out of Compliance | 9 | 13 | 12 | 10 | 44 |
| % Businesses Out of Compliance | 50% | 54% | 67% | 59% | 57% |

Table 6. BOE Results

| | Q1 | Q2 | Q3 | Q4 | Total |
|--------------------------------|-----------|-----------|-----------|-----------|--------------|
| Businesses Inspected | 70 | 166 | 68 | 64 | 368 |
| Businesses Out of Compliance | 47 | 58 | 20 | 32 | 157 |
| % Businesses Out of Compliance | 67% | 35% | 29% | 50% | 43% |

C. Education and Outreach

In order to inform the public about the LETF, DIR staff have been featured guests on Spanish-speaking radio shows; they have also made public presentations and participated in television interviews, as listed in Table 7.

Table 7. Education and Outreach Events

| | Q1 | Q2 | Q3 | Q4 | Total |
|------------------------------|-----------|-----------|-----------|-----------|--------------|
| Spanish-Speaking Radio Shows | 10 | 11 | 11 | 5 | 37 |
| Public Presentations | 17 | 10 | 19 | 17 | 63 |
| Television Interviews | 3 | 1 | 0 | 0 | 4 |

DIR is currently designing and planning a statewide program that includes a multi-year contract with UC Berkeley, which has the following objectives:

- Design and produce new educational materials in coordination with other agencies in the LETF.
- Translate new educational materials into the languages commonly spoken by employers and employees in the underground economy.
- Notify organizations serving low-wage workers in each county or major city about the new websites and materials.
- Publicize media segments describing the campaign and successful enforcement actions via television, radio, movie theater screens, posters, blogs, email news releases, and newspapers, as well as social media such as Facebook and YouTube.

In addition, DIR communications staff will utilize web design expertise to ensure that appropriate LETF webpages appear in search engine results and users can effectively navigate LETF website information.

D. New Partnerships

On August 15, 2012, DIR held a day-long advisory committee meeting to invite members of the community to advise LETF staff on the most effective strategies in enforcement, education, and outreach and to work collaboratively in these areas. A total of 34 advisors attended the meeting, representing 29 community groups, legal-aid organizations, labor unions, and employers (mostly small businesses). The committee members discussed common violations in the underground economy, how the members hear about violations, why employers and workers operate in the underground economy, and what key strategies to use in order to combat these violations.

DIR is currently planning a series of smaller, roundtable meetings to follow up on strategies to address misclassification of employees as independent contractors, employers who cheat the workers' compensation system to the detriment of compliant employers, wage theft, retaliation, and information and data sharing.

E. Recommended Changes to Statutes

Recommended legislation to improve the operation of the LETF is currently in development.

F. Objectives for 2013

Objectives for 2013 include the following:

1. Increase outreach and education, as discussed in Section C above.
2. Conduct return visits to noncompliant employers to evaluate compliance.
3. Increase geographic coverage, depending on travel budget.
4. Increase referrals for inspections to be conducted by individual LETF partners and other agencies, as appropriate.
5. Evaluate LETF hotline usage and patterns in the types of problems reported.
6. Collect data on leads and other information received from community partners.