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CONGRESS OF THE UNITED STATES  
HOUSE OF REPRESENTATIVES

The Honorable Alexander Acosta  
Secretary  
The Department of Labor  
200 Constitution Ave N.W.  
Washington, D.C. 20210

July 10, 2018

Dear Secretary Acosta:

I write to express my concerns about the decline in enforcement activity and high number of unfilled inspection officer positions within the Department of Labor's (the Department) Occupational Safety and Health Administration (OSHA). The Department's negligence regarding basic workplace safety is detrimental not only to our economy, but to the lives and well-being of the American workforce.

As you know, over 5,000 people died from workplace injuries in 2016. This figure represents an alarming 7 percent increase from 2015 and is the highest since 2008.<sup>1</sup> Not only does workplace death and injury cause emotional and financial harm to working families, it harms the American economy. According to the 2017 Liberty Mutual Insurance Workplace Safety Index, workplace injuries that cause employees to be out of work for six or more days cost U.S. businesses nearly \$60 billion in 2014.<sup>2</sup> In 2015 alone, estimates suggest there were 99 million production days lost due to job-related injuries. These numbers do not account for long-term costs associated with chronic conditions or permanent disability incurred while working.<sup>3</sup>

Work-related injury and death are largely preventable. Almost 2.9 million workers reported a serious occupational injury in 2016. Yet, the Department has done little to address the high number of injuries and increase in workplace fatalities and prevent additional harm to families and our economy. Despite the increased rate of workplace deaths, over the course of recent years the Department has seen a decline in Enforcement Units (EU). Enforcement Units indicate the duration, depth, and complexity of each inspection. In FY 2016, enforcement units measured a total of 42,900 EU. However, in FY 2017, there was a total of 41,829 EU. That is a reduction of 1,071 EU.<sup>4</sup> This decline has only continued to accelerate. Within the first five months of FY 2018, enforcement activity is down by a total of 1,163 EU. Additionally, the number of federal OSHA inspectors has declined to 764 as of January 2018, down from

<sup>1</sup> <https://www.bls.gov/news.release/pdf/cfoi.pdf>

<sup>2</sup> "The Most Serious Workplace Injuries Cost U.S. Companies \$59.9 Billion Per Year, According to 2017 Liberty Mutual Workplace Safety Index," last modified January 19, 2017 <https://www.libertymutualgroup.com/about-liberty-mutual-site/news-site/Pages/2017-Liberty-Mutual-Workplace-Safety-Index.aspx>

<sup>3</sup> "The Health and Safety of America's Workers Is at Risk," last modified April 27, 2018

<https://blogs.scientificamerican.com/observations/the-health-and-safety-of-americas-workers-is-at-risk/>

<sup>4</sup> "OSHA Enforcement Activity Declines Under the Trump Administration," last modified June, 2018, <http://www.nelp.org/content/uploads/OSHA-Enforcement-Activity-Declines-Under-Trump-Administration.pdf>

814 in January 2017.<sup>5</sup> This is only enough inspectors to inspect workplaces once every 158 years. As you know, inspectors are necessary to identify workplace hazards, investigate employee complaints, and document violations. These alarming cutbacks in enforcement personnel and activity speak to not only a decrease in enforcement units, but also a decline in the quality and thoroughness of inspections completed.

With regard to inspections that do occur, proper penalties are not being imposed to ensure basic workplace safety regulations are being followed. Most notably, enforcement penalties are not being enforced to anywhere near their intended extent. As you know, the Department announced an increase in penalties starting in FY 2017.<sup>6</sup> These increases appear to be toothless, as penalties are often much lower. The average penalty for a serious violation in FY 2017 was \$3,553. Worker death cases have a median penalty of \$7,500 with minimal criminal prosecution.<sup>7</sup>

These cutbacks are not excusable as an attempt to reduce bureaucratic inefficiencies. The high number of workplace injuries and the significant increase in workplace fatalities demonstrates the need for the Department to dedicate the proper resources to OSHA's efforts. As such, I request a response to the following questions:

1. How many inspectors has the Department on-boarded since January 1, 2018? Please list all on-boarded inspectors by region and whether or not they are a supervisory inspector or non-supervisory inspector.
2. How many inspectors have separated from the Department since January 1, 2018? Please list all separated inspectors by region and whether or not they were a supervisory inspector or non-supervisory inspector.
3. After the federal hiring freeze was lifted, why did the Department not hire inspectors? Who in the Department, other agencies, and the White House was part of that decision-making process? Please provide copies of emails, and any other communications related to this decision.
4. Will the Department commit to on-boarding inspectors for all vacant positions within OSHA? If so, what date does the Department expect to have those positions filled? If not, please detail your decision to leave inspector positions vacant? Please provide copies of emails, and any other communications related to this decision.
5. Why has enforcement activity, specifically the number of enforcement units, declined in FY 2017 (as compared to FY 2016, the first year this metric was in place), and declined so rapidly in the first five months of FY 2018?
6. For FY 2016, 2017 and for the first 6 months of FY 2018, please provide a monthly breakdown of the number of EUs assigned to inspections, involving the hazards of workplace violence, heat, ergonomics, chemical exposures and process safety management. How many of the above

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<sup>5</sup> "Death on the Job: The Toll of Neglect," last modified April 26, 2018, <https://aflcio.org/reports/death-job-toll-neglect-2018>

<sup>6</sup> <https://www.osha.gov/news/newsreleases/national/06302016>

<sup>7</sup> "Death on the Job: The Toll of Neglect," last modified April 26, 2018, <https://aflcio.org/reports/death-job-toll-neglect-2018>

inspections resulted in citations? Please include this data on citations by fiscal year and by category of hazard (as listed above in first sentence of #6).

7. Please provide the number of inspections that resulted in no citations in FY 2016, FY 2017, and data to date in FY 2018.
8. Given the increase in workplace deaths since 2015 and the high number of workplace injuries, and that OSHA has again received data from the OSHA 300 summary<sup>8</sup> from targeted high hazard industries; will the Department reinstate site specific targeting? Currently, how are you targeting the most dangerous workplaces? Please provide all documents related to the metrics and processes the Department currently uses to target high-risk workplaces.
9. If the Department is not reinstating site-specific targeting, what organizations, agencies, White House officials, or private-sector companies were involved in that decision? Please provide copies of emails, and any other communications related to this decision.
10. What are the standards used to determine the size of civil penalties? What steps has the Department taken to ensure enforcement of penalties? Who is involved in developing these processes? Please provide copies of emails, and any other communications related to this process.
11. How have reporting and enforcement of penalties changed since December 2016? Please provide any reports, emails, and communications related to these changes.

Thank you for your time and attention to this matter. If you have any questions, please contact Lindsay Owens on my staff. I look forward to hearing from you by July 24, 2018.

Sincerely,



Keith Ellison  
Member of Congress

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<sup>8</sup> “OSHA Injury and Illness Recordkeeping and Reporting Requirements,” <https://www.osha.gov/recordkeeping/>