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COMMITTEE ON  
EDUCATION AND THE WORKFORCE  
U.S. HOUSE OF REPRESENTATIVES  
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August 20, 2024

The Honorable Julie Su  
Acting Secretary of Labor  
U.S. Department of Labor  
200 Constitution Ave., NW  
Washington, DC 20210

Dear Acting Secretary Su:

As part of our ongoing examination of both the resurgence of oppressive child labor and the implementation by the Occupational Safety and Health Administration (OSHA) of the *Occupational Safety and Health Act of 1970* (OSH Act), we write to inquire about allegations in recent news reports involving state agencies funded pursuant to the OSH Act and the tools available to the Department of Labor (DOL) to ensure that such funds are used properly.

The OSH Act establishes an innovative scheme of cooperative federalism to set and enforce workplace standards.<sup>1</sup> At its heart is OSHA, the DOL agency charged with promulgating standards to prevent occupational illness and injury and enforcing them in private sector workplaces. States may assume that responsibility within their borders upon OSHA approval of a plan by the state to enforce workplace health and safety standards.<sup>2</sup> The critical factor in OSHA approval of a state plan is whether the state has a program of standards and enforcement that is “*at least as effective* in providing safe and healthful employment and places of employment” as OSHA’s own program.<sup>3</sup>

One enforcement tool is particularly important in this arrangement: surprise inspections. This tool is so valuable for federal OSHA enforcement that anyone giving impermissible advance notice of an inspection can be fined and imprisoned.<sup>4</sup> Moreover, no state plan can be approved unless the state likewise prohibits advance notice of inspections.<sup>5</sup>

Accordingly, we were concerned by recent news reports raising questions about employers in two plan states possibly receiving advance notice of inspections. First, according to news reports

<sup>1</sup> Pub. L. No. 91-596, 84 Stat. 1590 (1970).

<sup>2</sup> *Id.* § 18(b)-(c).

<sup>3</sup> *Id.* § 18(c)(2) (emphasis added).

<sup>4</sup> *Id.* § 17(f).

<sup>5</sup> *Id.* § 18(c)(3).

from a recent legislative hearing in California, state lawmakers heard multiple allegations from farmworkers and their advocates that the state’s OSHA plan agency, known as Cal/OSHA, may be providing advance notice of inspections to employers:

Multiple workers and advocates also spoke of what appeared to be a widespread belief that Cal/OSHA staff who act on worker complaints will warn employers when they’re coming for an inspection, allowing supervisors to correct or clean up worksites. Generally inspectors are trained not to give such advance notice, and doing so would violate state labor law, acting [Cal/OSHA] chief Debra Lee told the committee.

Cristina Gonzalez, a Madera farmworker who picks figs, testified that last August a foreman told workers to spend the first two hours of the next workday picking up trash and cleaning the bathrooms in advance of an inspection.

“To me, that’s not right,” she said. “It’s an injustice, and the reality is they tricked us.”

Later in the hearing, Lee said that [Cal/OSHA] plans to start a unit focused on safety in agricultural work, with a hotline in multiple languages for workers and advocates to report violations. She said she was “very concerned” to hear inspectors might be informing employers of upcoming inspections and said[,] “[W]e would want to know about that to take appropriate action.”<sup>6</sup>

The second account comes from a series of reports in the *New York Times* about the resurgence of child labor. Focusing on migrant children disabled and killed in unlawful construction employment, the reporters interviewed an employer who apparently admitted violations of not only federal child labor rules but also OSHA standards that are notionally enforced by South Carolina’s state plan agency:

Itzel Sánchez, the crew boss, says she hires underage workers because she doesn’t like to turn away children who are in need.

They are also much cheaper to employ.

Ms. Sánchez says helmets and harnesses are too cumbersome. If she hears inspectors are coming, the crew runs to the equipment trailer....

Ms. Sánchez does not worry about getting in trouble for hiring minors. She said workplace inspectors do not often come around.

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<sup>6</sup> Jeanne Kuang, *Is California’s Workplace Safety Agency Protecting Farmworkers? Legislators Want to Know*, CALMATTERS (Feb. 7, 2024), <https://calmatters.org/politics/capitol/2024/02/california-farmworkers-safety/>.

“They only visit certain neighborhoods, and sometimes they let you know when they’re going to show up,” she said.<sup>7</sup>

This account is particularly alarming. State plan agencies receive millions of dollars in federal matching funds, for a total of \$120 million in Fiscal Year 2024. If the employer in this news account is to be believed, this story raises questions not only about South Carolina’s compliance with the OSH Act’s requirements for state plan enforcement but also about the possibility of federal funds being used to help employers evade detection for child labor trafficking and oppressive child labor violations.

In furtherance of our ongoing exploration of legislative options to address child labor and unsafe workplaces, we request your responses by no later than September 20, 2024 to the following:

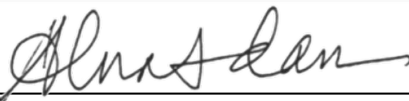
1. If DOL became aware of credible allegations that one or more OSHA officials provided prohibited advance notice of inspections to an outside party, how would DOL address such allegations?
2. If a state plan agency became aware of credible allegations that one or more state officials provided prohibited advance notice of inspections to an outside party, what kinds of responses should the state plan agency take in order to remain compliant with the OSH Act’s requirement for state plans to be at least as effective as the federal program?
3. If officials of a state plan agency routinely provide advance notice of inspections to employers without consequence, would OSHA determine that the plan is compliant with the OSH Act?
4. What challenges does DOL face when attempting to monitor and enforce state plans’ compliance with the OSH Act?
5. Is it an appropriate use of federal funds for a state plan agency to enable an employer to evade detection for child labor trafficking or oppressive child labor violations? If the answer is no, to what extent does DOL have sufficient tools to address such an improper use of federal funds?

Please send all official correspondence and information related to these requests to the Committee’s Democratic staff at Eleazar.Padilla@mail.house.gov. If DOL has any questions about how to comply with a request, please contact Bob Shull at Robert.Shull@mail.house.gov.

Sincerely,



**ROBERT C. “BOBBY” SCOTT**  
Ranking Member



**ALMA S. ADAMS, Ph.D.**  
Ranking Member  
Subcommittee on Workforce Protections

<sup>7</sup> Hannah Dreier *et al.*, *Children Risk Their Lives Building America’s Roofs*, N.Y. TIMES (Dec. 14, 2023), <https://www.nytimes.com/interactive/2023/12/14/us/roofing-children-immigrants.html>.