



Labor Standards Enforcement and Low-Wage Immigrants: Creating an Effective Enforcement System

Donald Kerwin
MPI Vice President for Programs

About MPI

MPI is an independent, nonpartisan, nonprofit think tank dedicated to the study of the movement of people worldwide.

Labor Standards Enforcement (LSE): Why a Particular Priority Now?

- Businesses cutting costs
- 8 million unauthorized workers
- Federal and state budget crisis
- Cost of LSE, compared to immigration enforcement
- FY 2010 appropriations: WHD, OSHA and NLRB, \$1.1 billion; DHS' two immigration enforcement agencies, \$17 billion.

Strengthening the Underlying Laws

Extend core protections to employees who are now exempt or otherwise are not substantially afforded them.

Strengthen penalties so they meaningfully deter violations.

Toll of statute of limitation periods upon the filing of complaints.

Grant DOL administrative authority to order payment of back wages, liquidated damages, and civil monetary penalties.

Leveraging State Enforcement Resources and Expertise

- State resources, expertise, and coverage
- Need for WHD office of federal/state labor standards to:
 - (1) survey states on their LSE enforcement resources, priorities, and activities;
 - (2) share information on federal and state research and strategies; and
 - (3) facilitate information-sharing among states.

Identifying Employers that Violate Labor and Immigration Laws

- Matching employers that substantially violate labor laws and those that violate employer verification (immigration) laws
- Otherwise identifying problem industries and firms.

The Goal of Labor Standards Enforcement

- Limited enforcement resources and broad jurisdiction
- Deterring violations and ensuring widespread compliance.
- Traditional enforcement metrics: do they increase compliance?

Traditional Enforcement Metrics

WHD Enforcement Metrics, FY 1997-2010

	Back Wages Collected, All Acts Enforced by WHD (Not Inflation Adjusted)	Employees Receiving Back Wages, All Acts Enforced by WHD	Complaints Registered All Acts	Concluded Cases All Acts	WHD-Initiated Enforcement Actions All Acts	Enforcement Hours All Acts	Fair Labor Standards Act Registered (Concluded) Cases ¹	Civil Money Penalties Assessed, All Acts Enforced by WHD	WHD Investigators at End of Fiscal Year
FY 2010	\$176,005,043	209,814	31,824	26,486	4,579	1,066,188	20,182	\$7,574,953	1,035
FY 2009	\$172,615,125	219,759	26,311	24,922	5,826	879,626	19,155	\$10,525,617	894
FY 2008	\$185,287,827	228,645	23,845	28,242	6,868	882,419	21,375	\$9,935,111	731
FY 2007	\$220,613,703	341,624	24,950	30,467	7,094	899,406	23,576	\$10,255,735	732
FY 2006	\$171,955,533	246,874	26,256	31,987	7,250	951,971	25,603	\$7,879,529	751
FY 2005	\$166,005,014	241,379	30,375	34,858	7,891	969,776	29,473	\$10,541,997	773
FY 2004	\$196,664,146	288,296	31,786	37,842	8,845	1,000,739	31,448	\$8,865,725	788
FY 2003	\$212,537,554	342,358	31,123	39,425	10,534	1,032,879	32,591	\$9,974,537	850
FY 2002	\$175,640,492	263,593	31,413	40,264	10,342	1,070,600	33,154	\$9,397,213	898
FY 2001	\$131,954,657	216,647	29,085	38,051	11,669	998,937	31,772	\$11,978,461	945
FY 2000	\$163,601,821	257,326	34,113	44,002	12,095	968,350	37,432	\$10,567,305	949
FY 1999	\$131,735,341	259,870	43,286	48,441	13,502	982,332	35,940	\$9,259,131	938
FY 1998	\$163,953,081	252,247	36,892	50,344	14,660	909,616	43,057	\$9,947,063	942
FY 1997	\$96,719,108	189,244	37,025	42,275	11,619	740,643	35,940	\$10,448,778	942

Note: Data from FY1997 through 1999 are not comparable to more recent data because of a change in the agency's data management system. FLSA Registered Cases are those investigations or conciliations in which the FLSA is the primary Act investigated or conciliated. WHD checks for FLSA violations in many investigations registered under different Acts. Source: USDOL, WHD, January 2011.

Learning from the Past (and Present): Enforcement Philosophies, Strategies, Practices

- Clinton Administration (1993-2001)
- Bush Administration (2001-2009)
- Obama Administration (2009 – present)
- Best and Promising Practices

Characteristics of an Effective System of LSE

- Need for status-blind coverage and enforcement
- Addressing employee misclassification

Additional Concerns

- Will rigorous LSE lead to growth of the informal economy?
- What impact will increased LSE have on illegal employment and migration?



For More Information

Michelle Mittelstadt

MPI Director of Communications

mmittelstadt@migrationpolicy.org

T: (202) 266-1910

www.migrationpolicy.org