



COLORADO
Department of
Labor and Employment

Executive Director's Office
633 17th Street, Suite 1200
Denver, CO 80202-3660

November 1, 2019

Chair, Joint Budget Committee
State Capitol Building
Denver, CO 80203

Dear JBC Chair,

Please find attached the annual submission for the request for information pursuant to SB 19-207 for the Colorado Department of Labor and Employment, Division of Labor Standards and Statistics.

Sincerely,

A handwritten signature in black ink, appearing to be 'Joe M. Barela', written over a horizontal line.

Joe M. Barela
Executive Director

Cc: Amanda Bickel, JBC Staff

2. Colorado Department of Labor and Employment, Division of Labor Standards and Statistics, Labor Standards, Program Costs - The appropriation in this line item includes \$250,000 General Fund added for the purpose [of] increasing on-site auditing of construction sites and ensuring compliance with existing statutory and regulatory requirements for labor standards at those sites. The Department is requested to submit a report by November 1, 2019, on its plans for using these funds and the anticipated impact of the additional resources.

This report responds to the General Assembly's Request for Information regarding the \$250,000 appropriated to the Division of Labor Standards and Statistics ("DLSS") to create a direct investigations program that could find and redress under-reported wage violations, with construction site investigations and audits an area of particular interest. This report describes DLSS's plans for using these funds and the anticipated impact of the additional resources.

DLSS Use of the Appropriated Funds

In early 2019, using existing resources, DLSS created a four-person "Direct Investigations" program, to investigate wage violations in the absence of an individual worker complaint, in order (a) to improve compliance in sectors in which workers may lack practical ability to file complaints, and (b) to target DLSS staffing resources to potentially employer-wide or industry-wide problems, so that one investigation can increase compliance for many, not just for one worker. The program was initially designed to conduct paper-intensive investigations, focused on specific industries, including but not limited to construction -- but with little focus on on-site investigations due to a lack of resources. In April 2019, Direct Investigations had to divert some staff back to DLSS's core Claims Investigation team, which investigates and decides claims filed by individual workers, in order to support the Claims Investigation's statutory mandate to investigate and decide every individual claim filed with DLSS.

With the recent \$250,000 appropriation that started July 1, 2019, DLSS has already been able to expand the Direct Investigations team. With the combination of new hiring and resource reallocation, the six-person Direct Investigations team now consists of four investigators, one senior investigator, and one manager, with plans to add an additional member in early 2020. DLSS started the hiring process in May 2019 and procured new investigators who started in July and August. The new investigators are still being trained, but by September, each already had begun at least 1-2 strategic investigations of systemic violations of Colorado wage law.

The Direct Investigations team has scheduled at least two construction site visits for October, and plans to continue to conduct them regularly, and more frequently thereafter. Using existing resources, DLSS is purchasing supplies to ensure investigators' safety, such as personal protective equipment, as well as transportable office equipment needed to conduct on-site investigations, such as laptops, portable scanners, and audio recorders.

DLSS has already cultivated relationships with organizations that can provide investigation leads and witnesses, such as the Southwest Regional Council of Carpenters, Towards Justice, and El Centro Humanitario. DLSS is continuing to cultivate new relationships with more community organizations, to reach more workers who may suffer misclassification or wage theft.

With its additional funding, DLSS is exploring opportunities to conduct coordinated and/or joint investigations with internal divisions in the Department of Labor and Employment, specifically Unemployment Insurance and Workers' Compensation, which have leads on misclassifications in construction and elsewhere. DLSS is also exploring contacts with local district attorneys, police departments, other states' wage divisions, and the United States Department of Labor.

Anticipated Impact of Additional Appropriated Funds

Thanks to the funds, the Direct Investigations program has a dedicated team for strategic investigations and resources for major investigations -- both onsite and paper-intensive audits that could unearth widespread violations. DLSS aims for the visibility and regularity of investigations not only to help individual workers, but also to deter subcontractors with unlawful practices that disadvantage law-abiding competitors, as well as general contractors who, intentionally or not, may reward non-law-abiding subcontractors by hiring the lowest bidders. Once an investigation is complete, and a citation is issued, Direct Investigations will make violations public, furthering this deterrent effect and helping law-abiding businesses avoid becoming embroiled with known violators who not only mistreat workers, but may prove unreliable business partners.

DLSS plans to set an aggressive baseline for the Direct Investigations program's effectiveness with its FY 2019-20 results, and to outperform itself each year thereafter.

