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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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<http://help.senate.gov>

October 5, 2006

The Honorable Elaine L. Chao
Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Dear Secretary Chao:

We're writing to express our serious concern about reported violations of wage and hour laws and health and safety standards in the Gulf Coast region. Hardworking men and women are being exploited, and we would urge the Department to immediately review work conditions in the area and take significant action to protect workers from further abuse.

Individuals and civic organizations on the ground in the Gulf Coast region have reported widespread abuse of workers in the reconstruction effort. A recent survey found that 60% of workers interviewed had been subject to violations of the wage and hour laws. Among the abuses reported are:

- Failure to award compensation for hours worked and failure to pay overtime rates to workers who are required to work overtime.
- Workers being subjected to hazardous work conditions without the benefit of basic safety measures, personal protective equipment, or workplace safety training.
- Employers threatening retaliation against workers who speak up.

We're concerned that the Department has not taken sufficient steps to increase its presence in the region or apply effective enforcement activities. For example, the Department's reliance on temporary detailees to the New Orleans office and its lack of bilingual investigators have greatly hampered enforcement efforts. In the investigation of a complaint against Paul Davis National, for example, it is our understanding that many complainants were never interviewed or were not interviewed in their native language. The Department then asked complainants to sign a settlement agreement that was written in English and Spanish, even though the complainants spoke only Portuguese. Similarly, in a complaint against ITT, it has been reported to us that the Department's investigator failed to speak to one of the Spanish-speaking complainants prior to making a determination on his overtime claim.

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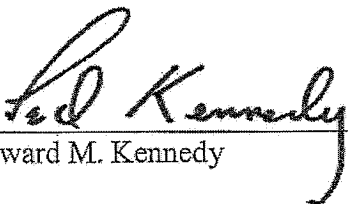
In addition, we understand that many of the reconstruction workers and contractors are not aware of employees' rights under the Fair Labor Standards Act and the Occupational Safety and Health Act, because the Department's outreach efforts have not reached many workers.

To aid us in assessing the Department's progress in addressing the abuses faced by Gulf Coast reconstruction workers, we would greatly appreciate your providing us with the information requested in the attachment to this letter. In addition, we request that you make available for a meeting Victoria Lipnic, Assistant Secretary for Employment Standards, and Ed Foulke, Jr., Assistant Secretary for Occupational Safety and Health, to discuss the Department's activities in the Gulf Coast region. We will be in touch with the Department's Congressional Affairs office to schedule such a meeting.

The people of the Gulf Coast have suffered enough. We urge you to strengthen the Department's enforcement activities and bring much needed justice to the hardworking men and women rebuilding New Orleans and the Gulf Coast.

Thank you for your consideration of these important issues.

Sincerely,


Edward M. Kennedy


Mary I. Landrieu

Honorable Elaine Chao
October 5, 2006

ATTACHMENT – Request for Information

A. Wage and Hour Division Resources

1. The number of wage and hour investigators assigned to the New Orleans office prior to September 2005 and the number currently assigned to the New Orleans office.
2. The number of wage and hour investigators assigned to the other offices servicing the Gulf Coast region prior to September 2005 and the number currently assigned to those offices.
3. A description of any plans to use any increase in the Department's budget to increase the number of wage and hour investigators assigned to the New Orleans office or other offices servicing the Gulf Coast region.
4. The number of bilingual investigators currently assigned to those offices and whether they are fluent in the following languages: Spanish, Vietnamese, Portuguese, Chinese or Korean.
5. Whether the Department has reassigned any criminal investigators to New Orleans or the Gulf Coast region to conduct investigations of civil wage and hour violations.
6. Whether the Department has reassigned any wage and hour investigators to the New Orleans or other Gulf Coast offices for periods of longer than two weeks.

B. OSHA Resources

1. The number of OSHA inspectors assigned to the Baton Rouge office prior to September 2005 and the number currently assigned to the Baton Rouge OSHA office.
2. The number of bilingual OSHA inspectors currently assigned to the Baton Rouge office.
3. Whether OSHA inspectors from offices other than the Baton Rouge office are investigating workplaces in the Gulf Coast Region and, if so, how many and from which offices.
4. The number of OSH Act inspections conducted in New Orleans and the Gulf Coast region since September 2005, the number of inspections conducted in response to a complaint, and the number of violations found since September 2005.
5. A description of any efforts the Department has undertaken to ensure that employees are receiving appropriate workplace safety protections, including personal protective equipment.

C. Department Enforcement Activities

1. The number of complaints of violations of the Fair Labor Standards Act received in the New Orleans and other Gulf Coast region offices since September 2005, the number of those complaints investigated, the resolution, if any, of those investigations, the amount of back wages sought in those complaints, the amount of back wages collected, and a description of the litigation resulting from any of those complaints.

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2. A description of the Department's efforts to make public the number of investigations pursued and the amount of back wages collected from violations in New Orleans and the Gulf Coast region.

D. Outreach and Communications

1. A description of the procedures in place in the New Orleans and other offices servicing the Gulf Coast region for communicating with complainants outside of normal business hours.
2. A description of any efforts by the Department to inform employees of their rights under the FLSA and the OSH Act and the means by which they can report violations of those rights.
3. Whether the Department is holding outreach meetings in locations other than at the Good News Camp in Park City, Louisiana.
4. A description of the procedures used by the Department to keep in contact with complainants and their representatives.

E. Interaction with Immigration and Customs Enforcement

1. The number of complaints the Department has received from workers employed under H-2B visas about the unavailability of work.
2. A description of any memoranda of understanding or other procedures initiated to ensure that Immigration and Customs Enforcement personnel do not pursue enforcement activities that interfere with on-going labor disputes.
3. Actions undertaken by the Department to ensure that Immigration and Customs Enforcement employees do not pose as representatives of the Department while engaged in enforcement activities.
4. A description of the procedures that the Department uses or any agreements reached with Immigration and Customs Enforcement to ensure that undocumented workers can file wage and hour complaints prior to being deported.

F. Contracting Issues

1. Whether the Department has sought debarment of, or the withholding of funds from, any contractors for failing to comply with the Davis-Bacon Act or the Service Contract Act.
2. Whether the Department requires all prime contractors to disclose to federal contracting agencies the names and contact information for all levels of subcontractors working on each contract.