

United States Senate

WASHINGTON, DC 20510

July 25, 2008

The Honorable Elaine L. Chao
Secretary
United States Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Madame Secretary:

I am writing to express serious concerns regarding recent reports that the U.S. Department of Labor is not fulfilling its mission to prevent and remedy violations of federal minimum wage and overtime laws. It is important that the Department put procedures into place that will lead to improvements in the enforcement of workers' rights. This is the core mission of the Department and failing to adequately enforce the Fair Labor Standards Act (FLSA) is unacceptable.

Most recently, two Government Accountability Office (GAO) reports shed light on serious problems at the Wage and Hour Division (WHD). One report addressed the overall effectiveness of the Division's enforcement procedures, finding that WHD is not adequately assuring employer compliance. It found that the WHD did not effectively take advantage of available information and tools in planning and conducting its compliance activities; failed to use key data on complaints and input from external groups – such as employer and worker advocacy organizations – to inform its planning process. This report also found that WHD focused on the same four industries from 1997 to 2007, despite information from its own commissioned studies that there were other low-wage industries that had equally high rates of potential wage and hour violations. Finally, the GAO concluded that the agency does not sufficiently leverage its existing tools and partnerships to encourage employers to comply with the law.

Another GAO report found alarming lapses in the Department's handling of individual worker complaints. GAO found frequent instances where WHD: (1) inappropriately rejected complaints based on incorrect information provided by employers; (2) failed to make adequate attempts to locate employers; (3) did not thoroughly investigate and resolve complaints, and (4) delayed initiating investigations for excessive periods of time.

Last week, Acting Administrator of WHD Alexander Passantino, whose nomination is pending in the Senate, testified before the House Education and Labor Committee that GAO was categorically wrong in all of its major findings. I would like to know whether you agree with Mr. Passantino's categorical rejection of GAO's findings and recommendations.

If so, I would appreciate a detailed response explaining the basis on which you have rejected the conclusions of GAO, an independent agency whose mission is to help improve the performance and accountability of the federal government for the benefit of the American people.

If in fact you disagree with Mr. Passantino, I would like you to explain specifically what steps you plan to take to address the shortcomings in the process that the report raises.

GAO's conclusions about how the Department exercises its responsibilities to working Americans raise serious, but addressable, issues. Fixing these problems may require bipartisan cooperation, or in some cases additional funding, but other needed reforms are in the sole discretion of the Department, and can be instituted unilaterally.

I understand that the Congressional committees of jurisdiction will be sending the Department detailed questions in conjunction with both the House hearing and Mr. Passantino's nomination. I look forward to your responses to those questions, as well as to this communication. I further hope that you will direct the Acting Administrator to revisit his recent statement and commit to reforming the Wage and Hour Division for the benefit all workers. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barack Obama', with a long horizontal stroke extending to the right.

Barack Obama
United States Senator