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Via [dolstratplan@dol.gov](mailto:dolstratplan@dol.gov)

Thank you for the opportunity to submit comments on the Department of Labor’s (DOL) Draft Strategic Plan for Fiscal Years 2018-2022.<sup>1</sup> The Plan presents Labor Secretary Alexander Acosta’s vision for the DOL over the next four years, including how subdivisions within the Department will achieve its goals and objectives.

The DOL’s plan stresses the need for evidenced-based policymaking as a means to improve the agency’s decision and rulemaking process, internal evaluation of programs, and enforcement.

Increasing the amount of available evidence help agencies make better decisions. For an agency to make informed decisions that ensure the best outcomes for the public, it is necessary to continually assess the effectiveness of programs and policies, use the best available research, and collect new data to fill information gaps.

In an effort to increase the use of evidence-based policymaking, the DOL’s Strategic Plan outlines a number of existing efforts to utilize evidence to inform its policy and decision-making. Future areas of original research are also discussed.

This is an encouraging development. However, before exploring new data collection efforts, data analysis, or improvements to existing methods, the DOL must perform tasks mandated by statute. The Fair Labor Standards Act (FLSA) Section 204(d) requires the Labor Secretary to submit a biennial report to Congress that studies wage and hour provisions established by the FLSA and present recommendations to prevent curtailment of employment opportunities.<sup>2</sup>

In that report, the Labor Secretary is required to evaluate and appraise the effects of minimum wage and overtime requirements by taking into account the ability of employers to absorb increased costs and other factors like changes in productivity and cost of living. The Secretary must also examine how to increase employment opportunities for groups with historically high levels of unemployment—including minorities, youth, and the elderly, as well as other groups.

The production of this report to Congress would provide new research and assist with the agency’s goal of increasing the use of evidence-based policymaking. In-depth study and original data on these issues is necessary to ensure that future DOL regulations do not curtail employment, and to provide a better understanding of which current policies put jobs at risk. FLSA Section 204(d) requires the Department to do this. It appears the DOL has failed repeatedly to produce this statutorily required report.

If, as it appears, the DOL has not recently met the requirement to submit a biennial report to Congress on how to prevent job loss, it is time to begin. Resuming the production of this report is urgent. The DOL is in the midst of making changes to overtime requirements, a policy which the statute directs the Labor Secretary to evaluate, appraise, and report on. Any changes to overtime requirements can impact the employment situations of millions of individuals and potentially raise costs on employers, which may lead to loss of employment.

Prior to starting the rulemaking process on changes to overtime requirements, the DOL needs to evaluate and appraise the effect of overtime requirements, as directed by the FLSA, as part of its biennial report to Congress. Performing such an in-depth study on the economic impact of overtime requirements is a necessity for the DOL to achieve its objective of engaging in evidence-based policymaking; it also fulfills a statutory requirement.

The study to Congress on preventing curtailment of employment and evaluation of wage and hour requirements are mandated by statute and must be produced. Meeting statutory requirements should be a part of any DOL Strategic Plan.

Respectfully submitted,

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<sup>1</sup> Department of Labor, Office of the Assistant Secretary for Administration and Management; Request for Comments on the Draft DOL FY 2018–2022 Strategic Plan; Notice, 82 FR 51646, November 7, 2017, <https://www.gpo.gov/fdsys/pkg/FR-2017-11-07/pdf/2017-24212.pdf>.

<sup>2</sup> 29 U.S.C. 204(d), <https://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>.