

OFCCP Invites Contractors to Submit “Burning Questions”

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Quick Hit: OFCCP is [inviting](#) contractor stakeholders, and their legal counsel, to submit “Burning Question[s]” to its Help Desk that the agency can answer in forthcoming Opinion Letters.

Key Takeaways: OFCCP’s invitation is its first public step towards implementing [Directive 2019-03](#) (“the Directive”) which outlined the agency’s plan to enhance the utility of its existing Help Desk and to introduce Opinion Letters. This initiative is aimed at providing more guidance to federal contractors, who have long complained (with good reason) of the dearth of OFCCP compliance resources. It remains to be seen, however, whether the agency’s implementation of Opinion Letters will act as a salve or an irritant to the lack of compliance guidance plaguing the contractor community; contractors are hoping for clear, concise, and unambiguous answers to practical questions and not vague assertions that amplify the difficulties of compliance. Either way, contractors will need to stay on top of the Opinion Letters and Help Desk guidance in order to understand OFCCP’s views on compliance.

Another issue that remains to be seen is whether contractors will take advantage of the opinion letter service. Many contractors believe that contacting the OFCCP can lead to being singled out for a compliance evaluation – a view OFCCP has stated repeatedly is at odds with reality. Even so, in order to submit a question to the Help Desk or for an Opinion Letter, contractors will have to submit, at the very least, zip code information as well as either an email or phone contact number. This may dissuade contractors from submitting requests. One way for contractors to address such concerns will be to have counsel submit the questions on their behalf without revealing the identity of the client.

More Detail: As we previously [reported](#), OFCCP issued Directive 2019-03 in November 2018 with the goal of enhancing compliance assistance. The Directive, among other things, outlines the agency’s intention to implement the use of Opinion Letters to assist stakeholders in responding to fact specific compliance situations. By soliciting questions from contractors, OFCCP appears to be gearing up to implement this program.

The request for “Burning Question[s]” provides several avenues for contractors to submit issues to be addressed through Opinion Letters. Contractors are advised to utilize the [Help Desk Portal](#), submit a question via email to OFCCPOpinionLetters@dol.gov, **or directly mail suggested topics to:**

U.S. Department of Labor
Office of Federal Contract Compliance Programs
ATTN: Division of Policy and Program Development
200 Constitution Avenue, NW
Suite C-3325
Washington, D.C. 20210

Those who submit questions will be asked to provide certain location and contact information, but OFCCP states that identities of the requesting parties will not be included in their published responses. The request further notes that Opinion Letters will address issues only after obtaining the “consent of the submitter.”

Given that OFCCP hopes to target legal issues or fact-specific scenarios common to the contractor community, and has warned that it will consider a contractor’s compliance with an Opinion Letter when determining whether to issue a citation, members of the contractor community are well advised to keep up to date with the Opinion Letters as they are published.

For a more detailed review of the Help Desk and Opinion Letter Directive, see our previous reporting on the subject [here](#). We will continue to advise our readers of developments on this and other OFCCP initiatives.

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