

OFCCP Issues “Town Hall Action Plan” Announcing Three Initiatives

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On May 1, 2018, the OFCCP issued a Town Hall Action Plan ([the “Plan”](#)). The Plan is the result of OFCCP’s “town hall meetings” held in late [2017 and early 2018](#) , which were conducted in order to address the findings of the [Government Accounting Office’s September 2016 review of the agency](#) . The Plan identifies “three general areas of focus: training, communication, and trust,” which OFCCP plans to achieve through three initiatives: (1) reviewing and enhancing contractor compliance assistance materials; (2) assessing and improving the quality of contractor and compliance officer training and education; and (3) increasing transparency and communication with the contractor community.

A review of the initiatives show that they are aimed at standardizing OFCCP processes, providing useful compliance tools to contractors, and improving transparency in the compliance evaluation process. Details on each are summarized below.

Review and Enhance Contractor Compliance Assistance

The Plan recognizes that OFCCP’s existing technical assistance guides are “outdated.” As such, OFCCP plans to create “three comprehensive technical guides” to replace its outdated resources: a Supply & Service Technical Assistance Guide; a Construction Technical Assistance Guide; and an Academic Institutions Technical Assistance Guide. OFCCP intends for the new guides to be user-friendly compliance resources for contractor personnel.

In addition, as part of this initiative, OFCCP will be redesigning its webpage, updating the New and Small Federal Contractors Assistance Guide, developing new infographics on the internet applicant definition, recordkeeping, and posting and notice requirements, and updating the “OFCCP At A Glance” brochure.

Finally, OFCCP will develop a recognition program to “recognize publicly one or more sound and successful equal employment opportunity and nondiscrimination compliance programs.”

Assess and Improve the Quality of Contractor and Compliance Officer Training and Education

The Plan implicitly recognizes what has been a common criticism of OFCCP – inconsistent enforcement by OFCCP’s compliance officers. OFCCP announced a plan to improve the quality of compliance officer training and education. This initiative will include a review of the existing training program, assessing current OFCCP’s staff members’ skills and addressing gaps, standardizing training materials, adopting a competency model that clearly identifies the skills, knowledge and abilities all compliance officers should possess, and creating and implementing a plan of action for seeking third party accreditation for OFCCP’s national office training program.

OFCCP notes that by improving training, contractors should see improved compliance assistance from the agency. In addition, OFCCP anticipates that this initiative will result in an improvement in the quality and timeliness of compliance evaluations.

Increase Transparency and Communication

OFCCP noted that a “common thread” in the town hall meetings was contractors’ desire to have written expectations during compliance evaluations to ensure transparency and consistency. OFCCP apparently agrees, and will create a written guide to the compliance evaluation process for contractors. OFCCP states that such a document will “enhance communications between contractors and OFCCP, improve transparency in OFCCP’s work, and begin to address trust issues.”

As part of this initiative, OFCCP will develop policy guidance that will increase transparency around issues such as OFCCP's identification of indicators of violations, the basis for its requests for supplemental data, and how to conduct a "meaningful compensation self-assessment." OFCCP will also develop a document titled "What Contractors Can Expect," which it characterizes as a "Bill of Rights" styled document providing contractors with OFCCP principles contractors can "expect to exist during an engagement with OFCCP." The document will address matters such as timeliness, accuracy, communication, confidentiality, and professionalism.

The Plan states that the desire for increased transparency and communication led the agency to require last [month](#) that Predetermination Notices ("PDNs") be issued to contractors before any Notices of Violation may be issued. In describing the new policy, the Plan emphasizes that it is also intended to ensure uniformity, noting that "[r]egional discretion is no longer permitted and the national office will review all PDNs to ensure appropriate consistency and uniformity."

Finally, OFCCP promises to use online tools to increase communication with contractors.

Other Projects

The Plan also shares that the OFCCP is contemplating reviving its ombudsman program. Such a program would provide the agency with an impartial and independent perspective on issues such as communication and trust issues.

The Plan also notes that OFCCP will encourage the use of apprenticeship programs by contractors to "create a pipeline of diverse and qualified talent." The Plan notes that such programs can not only address contractors' outreach, recruitment and equal employment opportunity commitments, but can also address the need to train skilled workers. The Plan does not state how the agency will encourage the use of apprenticeship programs.

Key Takeaways

More than a year into the Trump Administration, the Plan provides more evidence that the OFCCP is planning significant changes. Although the Plan does not itself represent any concrete change, it does reflect that the OFCCP is interested in improving relations with government contractors. By producing a list of key deliverables developed out of the town hall meetings, OFCCP has signaled that it is listening to contractor concerns and plans to act upon them.

The Plan provides contractors with a way to gauge whether this new approach represents just talk or true change. Although the devil is in the details, if the Plan is realized, contractors should experience more transparency and fairness in their interactions with OFCCP, and more helpful compliance guidance.

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