

**NWX-DOL ESA OFCCP**

**Moderator: Lisa Burns  
December 10, 2020  
1:00 pm CT**

Coordinator: At this time all participants are on listen-only mode. Today's conference is being recorded. If you have any objections you may disconnect at this time. And now I would like to turn the meeting over to Ms. Lisa Burns. You may begin.

Lisa Burns: Thank you Brittany. Welcome to OFCCP's Nondiscrimination Obligations of Federal Contractors and Subcontractors: Procedures to Resolve Potential Employment Discrimination final rule webinar. I'm Lisa Burns from the training branch.

During today's briefing our goal is to walk you through the final rule. We will refer to this as Resolution Procedures Final Rule. This should be a relatively short briefing. We'll be taking questions at the end of the call through the chat function, as well as feel free to submit your questions in the chat as we go.

There will be a five minute break before we begin addressing questions. So please do not disconnect during this period. We may not get through all questions today, but we will review all of the questions and update our frequently asked questions on the OFCCP website based on the type of questions we receive today.

Now I'd like to introduce Craig Leen, OFCCP Director, for some opening remarks.

Craig Leen: Thank you very much. It's a pleasure to be here today with all of you. I'm very excited to talk to you about this new rule, these new regulations. I am going to refer to them as the PDN rule, even though we'll refer to them by the longer name when we get into the specifics. But for purposes of my remarks I will call it the PDN rule.

OFCCP's compliance reviews are key to achieving OFCCP's critical mission. And what is the mission of our agency? It is a dedication to ensuring the full inclusion of all employees in employment and making sure that there is not discrimination based on protected classes, based on a protected class.

And it is through OFCCP's actions that we seek to increase diversity and increase inclusion within the federal contractor workforce. Making sure that people are being advanced on merit and merit alone, which is in the best interest of the country.

And I am very pleased because the PDN rule that we are discussing today builds on the work of prior administrations and in my view, is a very apolitical and bipartisan rule, a common sense rule and regulation that will be useful for the agency for years to come.

When I became OFCCP Director I was surprised that when I looked at the regulations relating to OFCCP, that there were not any regulations relating to preliminary determination notices, to notices of violation. And that there were some related to show cause notices but not very much.

And it was almost as if, at least if you looked at our regulations, that there - you had the initial scheduling of a review and then you had a period of time

that was largely left up to the custom of the agency over time, as to how we would handle those sorts of reviews.

And as someone that came from local government, you know, I was a city attorney, I'm a strong believer that it is important not to leave too much discretion in any government agency. And that's not just about federal agencies, that's at any level of government that what is best for both the agency and the regulated community, is to have a degree of certainty as to how a review will be conducted and the different stages of a review and what are the standards for those reviews?

And that's what provides in my view, a fair notice to the regulated community and supports the idea of rule of law. The idea that we can point to these regulations and if under the regulations the agency should take a certain action, then the agency takes that action. If under the regulations the agency should not take a certain action, then the agency does not take that action.

That is the benefit of regulations. It ensures rule of law and also ensures a more uniform approach through these reviews. So in my discussion today, I'm going to speak about 15 minutes total and then you're going to hear from OFCCP's wonderful career staff, who will tell you about the implementation of this rule.

But before they begin, I have seven principles I wanted to briefly discuss relating to this rule. And with each principle I have a tip. I have a tip for the regulated community, for stakeholders, for those who are listening.

So the first principle that I believe the PDN rule stands for is that the agency, OFCCP, will consider all factors that accompany uses to set pay or to conduct hiring. What does that mean? That means that the agency will allow the

business community to do business. We will respect your business judgment but of course there is a line.

If that business judgment is causing discrimination against a protected class then we will not. And of course we will require that to be remedied. The way we do this is by considering the factors that companies use to set pay in determining whether discrimination is occurring.

So in our regression analyses that we do under this rule and in OFCCP reviews in the future, we will generally consider all of the material factors that you use in setting pay or that you use in terms of minimum and preferred qualifications in deciding to hire someone. And we will control for those factors in our regressions as a general matter.

And there's always exceptions, although I will be clear, the exceptions are limited here. Really the only exception to when we would not consider a factor is - there's really two. One, when you don't keep records of those factors so it's not clear that you actually use them; and two, where it is clear that that factor is a discriminatory factor, what we call a tainted variable.

But we are not going to assume that any variable is tainted. We will test it. And we will be - engage in dialog with you. And the goal is to consider all the factors that you legitimately use in hiring or pay. What is the tip? Keep records. That's the tip. If you can keep records that show the factors that you use and you clearly delineate those in advance, that will be very helpful to you under this rule.

And OFCCP wants those records and will look at those records and will account for them. What's the second principle? Agency - OFCCP will prioritize holistic cases, strong cases. We have limited resources as an

agency. We want to make sure that when we spend taxpayer money, when we devote time of our precious human resources to a case, that we determine promptly whether it is a strong case or whether there is no case.

And if there is a strong case that we proceed with it vigorously. And that's what this rule does. It prioritizes holistic cases, cases that have both qualitative and quantitative evidence, statistical and practical significance. Now what is the tip related to this? The tip is grant the agency access.

One thing that you will see under the rule is that the more information you provide to us the better. Now does that mean that I support the agency sending you 30 supplemental information requests without any basis? No. Of course not. The transparency directive continues to apply.

The agency, if it's going to make a supplemental information request to a company, needs to have a basis for that. We don't want to waste people's time or money or resources. And we want to be targeted in focusing on discrimination, to make sure that we can eliminate that.

We do not want to do fishing expeditions and I'm not saying that we have. But I know that there has been criticism of the agency in the past, for making a number of information requests without providing a basis. I don't think, you know, over the past two years I have to tell you, I think our regions, our districts have done outstanding work providing a basis for those supplemental information requests.

So assuming that we're following the transparency directive, making reasonable information requests, you should provide us that information. Why? Because under the PDN rule, it's very clear that if you do not provide access to the agency then we can proceed on statistics alone. And if - the

rules has to be that way as a matter of common sense because this rule shows tremendous respect for the regulated community.

We meet you halfway but you have to meet us halfway too and provide us the information we're entitled to, to do our job as OFCCP, and to be able to evaluate you under this rule so that you can receive the benefit of it. But the only way to do that is if we receive the data that we ask for.

Now in prioritizing holistic cases, we want cases where there is both statistical significance and a gap. And a material gap in either pay or hiring that's something that we can correct and spend time on and fix and benefit workers. And we want qualitative and quantitative evidence because we don't want to only rely on the inference of discrimination that can be drawn from a statistical finding.

But to have a stronger case, we also want to have the qualitative evidence that brings those statistics to life. And so that is why we are prioritizing holistic cases. The third principle is that the agency will be basing its hiring, compensation and promotion review programs on the PDN rule. What do I mean by that?

Well there's been a lot in the news about the Oracle case and what are the implications of that for the agency? And as you all know, the agency decided not to appeal that case. Does that mean that the agency is not going to be continuing with its compensation reviews? Let me be very clear. The agency is continuing with its compensation reviews.

They are critical and important. And it is part of what is so special about OFCCP that is - it is seeking to ensure equity for all employees and nondiscrimination based on protected class. And that is something that is

necessary and bipartisan apolitical, and something that we must do as an agency.

What we will look to in that compensation program is the PDN rule. That is the regulation we have in place now. Remember, that regulation wasn't in place several years ago. It's in place now. And so that is what we are going to be applying in our compensation program. So full steam ahead. It's very - OFCCP does critical work. And we will continue to do that work. And I know you as a regulated community, expect us to do that work.

You just want to make sure we're doing it in a way that's clear and consistent with the regulations that we have promulgated. And we will do that. Principle 4 - fair notice and due process. One thing that I really like about the PDN rule and this also applied when we had the PDN directive, which was the precursor to the rule, is that OFCCP will provide you, the contractor community, the information that we find in our audit.

We will do that in a relatively early stage in the audit, at the preliminary findings stage. And then you will have an opportunity to provide a response that we can evaluate and then we can make a finding. The finding may be that there's a violation and thus we would - then we would issue a notice of violation. Or the finding may be that there's no discrimination and the new do not proceed past the PDN stage.

Or maybe something in the middle. It may be that there is a violation in our view, but it's not quite what we have said before. And because of the response you gave us it may mitigate the violation because we realized that the violation wasn't as significant as we thought in terms of its size, because of the information you provided.

So what is the tip? Please respond. Please respond. Use that time. We're giving you 30 days under the rule. That's an extension from before when it was 15 days. Please use that time and respond. It is to your benefit in my opinion.

Five, this rule provides for early resolution which means that if you have a company that there's an audit and we're nearing the preliminary determination stage and we share information with you and show you what we're finding and you are concerned and you want to fix it and you want to do the right thing and you want to do it right away assuming that you, you know, agree with our findings or even if you don't agree; you think that there are problem areas that need to be addressed, this rule gives you the opportunity to settle with us at that time, before a preliminary determination is made, when we've only identified a problem area.

And you can not only correct that you can also correct it corporate wide through our (ERCA) program. Now the rule does not expressly incorporate the (ERCA) program remains in a directive and this rule allows for early resolution. So please consider early resolution. It's a wonderful way to, in good faith, to show that you want to correct a problem that's been found.

And that's beneficial to workers because it gets in that remedy so much faster. Six - and so the tip there is please consider early resolution and please reach out to the agency if you'd like to do it. Six, mediation - this rule and its preamble, recognizes the importance of mediation and how that can lead to faster remedies.

Please consider mediation. That continues to be a priority of the agency and is something that I believe will continue to be a priority for years to come. And of course, the reason being that under the Administrative Procedure Act,

the ALJ process that we have does take time. It involves of course an ALJ proceeding then the ARB. It also involves federal court at times, if there's additional review.

So that can take a long time and that's not to the benefit of anyone. So we want to get remedies to workers quickly and we want to get matters resolved quickly. And I'm sure you do as well. Mediation is a good way to do that. And it's a final chance to do that before we refer the case to the Solicitor of Labor.

And finally, the 7th principle and many of you have heard me say this before, in my view and I understand, you know, my name's associated with this rule; I issued it as the Director; I'm very proud of the rule. I do believe it is the gold standard in this area for evaluating discrimination. I do believe that other federal, state and local agencies should look to this rule in evaluating discrimination.

And I want to thank - I want to thank the policy division at OFCCP, our attorneys at CRLM, Civil Rights Labor Management in the Solicitor of Labor's Office, and all of those who helped put this rule together, including all of the comments that we received that were so helpful in putting this rule together.

So I am done. Thank you everyone. Please enjoy the talk today. I'm going to stay on and listen as well. And I may be back during the Q&A. I wish everyone a wonderful day.

Lisa Burns: Thank you, Craig. Now I would like to introduce the presenters for today. We have Sarah Carson, OFCCP Senior Regulatory Analyst, and Christa

Henderson, Attorney from the Office of Solicitor, Civil Rights and Labor Management Division. Thank you.

Sarah Carson: Thanks, Lisa. We'll start with a brief overview of the regulation this final rule impacts. The final rule amends regulations implementing Executive Order 11246 Section 503 of the Rehabilitation Act of 1973 and the Vietnam Era Veterans Readjustment Assistance Act of 1974.

These laws require affirmative action and prohibit federal contractors from discriminating on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. Contractors are also prohibited from discrimination against applicants or employees because they inquire about, discuss, or disclose their compensation or that of others subject to certain limitations.

OFCCP recently began implementing Section 4 of Executive Order 13950 combating race and sex stereotyping, for federal contracts and subcontracts entered on or after November 21, 2020. Many of you are familiar with OFCCP's resolution procedures. However, here is a brief refresher.

OFCCP issues a predetermination notice or PDN, when a compliance evaluation results in sufficient evidence as specified in the final rule to support a finding of disparate treatment and/or disparate impact discrimination. The PDN provides OFCCP and the contractor, an opportunity to discuss the findings and seek resolution.

If a case does not resolve after a PDN is issued and the available evidence continues to support OFCCP's findings, OFCCP will issue a notice of violation or NOV. Both the PDN and NOV, require OFCCP to provide

sufficient evidence as described in the final rule to the contractor, in order to allow meaningful response.

The NOV must also address all relevant concerns and offenses raised by the contractor, in response to the PDN. The NOV also lays out the violations OFCCP has found and corrective action necessary for the contractor to come into compliance. Finally, there is a conciliation agreement.

This is a written agreement that formalizes the remedial actions necessary to correct material violations cited in the NOV when OFCCP determines settlement, as opposed to referral for enforcement, is appropriate.

So first of all, why did OFCCP issue this rule? OFCCP issued the final rule in part to codify the resolution procedures that have been included in the Federal Contract Compliance Manual or FCCM, since 1988. This is the primary document agency staff uses as the procedural framework for execution of quality and timely compliance evaluation and complaint investigation.

OFCCP received 34 comments during the notice and comment period, some of which supported the proposed rule and some of which opposed it. After careful consideration of the comments, OFCCP adopted the rule with some notable changes. We will discuss the notable changes shortly. The final rule is in effect today.

And now I'm going to turn it over to Christa, to talk a little bit more about the changes from the NPRM.

OFCCP has focused on clarity, efficiency and transparency under Director Leen. Over the past couple of years, the agency has expanded the additional

information and modeling data it provides to contractors when working to resolve potential violations.

In part, because of this increased transparency, OFCCP has posted record recovery for applicants and employees, in the past two fiscal years. The success of this transparent approach has encouraged the agency to provide more clarity on its resolutions' procedures, through this final rule.

Additionally, the codification of the early conciliation option in the rule improved efficiency by prioritizing the early resolution of cases. Increasing the clarity and transparency of OFCCP's resolution procedures, should result in quicker resolution of cases, allowing OFCCP to increase the volume of reviews.

The rule also lays out the resolution procedures and necessary evidence required to initiate those procedures. Critically, it establishes consistent parameters for preliminary findings and formal notices of discrimination violations, which provide contractors with more certainty as to OFCCP's operative standards for compliance evaluation.

The department issues this rule as an exercise of its enforcement discretion, to focus OFCCP's resources on those cases with the strongest evidence. This approach is neither compelled nor prohibited by Title VII and OFCCP case law. And now I'm going turn it over to Christa.

Christa Henderson: Thanks, Sarah. So as Sarah mentioned, there were several changes between the NPRM and what became the final rule. So we'll talk about those changes now. First, the final rule clarifies that the evidentiary standards OFCCP must meet in order to issue a PDN in a discrimination case, must also be met before issuing an NOV.

Second, OFCCP changed the terms that the final rule defines, from statistical evidence and non-statistical evidence, which were the terms in the proposed rule, to quantitative evidence and qualitative evidence. And provided further detail as to what those terms cover and require, to provide greater clarity as to the types of evidence that OFCCP collects, and how it uses the different types of evidence to support the issuance of pre-enforcement notices.

Third, the final rule further clarifies and distinguishes the evidence necessary for OFCCP to issue notices under disparate treatment and disparate impact theories of discrimination. In addition to the changes we just discussed, there are a few more that we'll go over now.

The NPRM proposed that OFCCP could issue PDNs when the disparity shown is three standard deviations or above, without requiring qualitative evidence or demonstrating the practical significance of the disparity. The final rule did not adopt that proposal and instead, lowers the statistical threshold for issuing notices to two standard deviations but generally requires qualitative evidence and a finding of practical significance.

Another clarification provided in the final rule requires that OFCCP must explain in detail, the basis for its findings in pre-enforcement notices, and obtain approval from the OFCCP Director or acting agency head, prior to issuing them.

Further, the rule provides that upon the contractor's request, OFCCP must provide the model and variables used in the agency's statistical analysis and an explanation for any variable that was proposed by the contractor and excluded from the statistical analysis.

And finally, the final rule extends the amount of time contractors have to respond to a PDN to 30 days with the possibility of an extension as opposed to the 15 days proposed in the NPRM in response to comments requesting more time to respond.

The rule establishes new evidentiary standards designed to ensure that OFCCP is pursuing resolution of cases with the strongest evidence. Generally, the three types of evidence listed on these next slides, are required prior to the issuance of a PDN or NOV. However, the final rule does include specific narrow exceptions in which some of these types of evidence may not be necessary in order for OFCCP to issue a notice. We'll address these specific exceptions later in the presentation.

First, we're going to talk about quantitative evidence. It refers to statistical or numerical evidence OFCCP uses to determine whether unlawful discrimination exists. As defined in the final rule, for statistical evidence, this includes analyses that control for major measurable parameters and variables used by the contractor and that find a disparity in selection of compensation rates that are statistically significant.

To be statistically significant, for the purposes of issuing a notice, the final rule provides that such evidence must demonstrate one, a standard deviation of two or more; two, a Z statistic of greater than two; or three, a probability value of less than 0.05.

The quantitative evidence definition in the final rule, also includes other types of quantitative analysis such as descriptive statistics or cohort analyses which are comparisons of similarly situated individuals or small groups of applicants or employees that are numerical in nature but do not necessarily use hypothesis testing techniques.

The final rule codifies a full definition of quantitative evidence as part of OFCCP's regulation or Executive Order 11246, Section 503, and VEVRAA. And now I'll turn it over to Sarah, to talk about qualitative evidence.

Sarah Carson: Next, the final rule also codifies a definition of qualitative evidence which includes but is not limited to, documents, testimony, interview statements, and other anecdotal evidence that OFCCP collects during compliance evaluations relevant to a finding of discrimination.

For example, testimony, interview statements or documents about bias statements, attitudes or asks based on membership in a protected class, would be included in this definition, as would similar evidence about individuals denied or given misleading or contradictory information about employment or compensation practices in circumstances suggesting discriminatory treatment based on a protected characteristic.

The final rule codifies a full definition of qualitative evidence as part of OFCCP's regulations for Executive Order 11246, Section 503, and VEVRAA. Next, we'll discuss practical significance. In a change from the proposed rule, the final rule generally requires OFCCP to make a finding of practical significance, in order to issue a PDN or an NOV.

OFCCP declined to define practical significance in the final rule because there is not a federal definition of the term in relevant scholarly literature. However, in equal employment opportunity context, practical significance refers to whether an observed disparity in employment opportunities or outcomes, reflects meaningful harm to the disfavored group.

OFCCP uses various measures of practical significance to evaluate the strength of potential discrimination findings. There is no single measure of practical significance applicable to all employment activity. Therefore, OFCCP utilizes a variety of measures dependent on the case at hand.

For more information on OFCCP's application of practical significance and measures it considers, see the frequently asked questions on OFCCP's website addressing this topic. And now I'm going to turn it back over to Christa to talk about the theories of determination.

Christa Henderson: Thanks. The final rule also clarifies the differences in the evidence necessary for the issuance of notices depending on the theory of discrimination present in the case. So now we'll discuss how the general evidentiary standards we discussed on the previous slide, are implemented on the theory of discrimination, including the specific exceptions.

Generally, in order to issue a notice in a case proceeding under disparate treatment theories, OFCCP must one, provide quantitative evidence as defined in the rule; two, demonstrate that the disparity is practically significant; and three, provide qualitative evidence as defined in the rule, that supports a finding that there was discriminatory intent causing disparate treatment.

Generally, in order to issue a notice in a case proceeding under a disparate impact theory, the final rule requires OFCCP to one, provide quantitative evidence as defined in the rule; two, demonstrate that the disparity is practically significant; and three, identify the specific policy or practice of the contractor causing the adverse impact.

However, OFCCP is not required to identify the specific policy or practice of the contractor causing the adverse impact if it can demonstrate that the

elements of the contractor selection procedure, are incapable of separation for the purposes of analysis.

We also want to highlight the specific exceptions provided in the final rule in which OFCCP may proceed to issuing a notice without all of the evidence generally required in disparate treatment cases. First, OFCCP may issue a resolution notice of the qualitative evidence by itself, is sufficient to support a preliminary finding of disparate treatment.

For example, OFCCP may find during a compliance review or a focused review that members of a protected group with superior qualifications, were denied selections that were awarded, to similarly situated members of another group with inferior qualification. Second, OFCCP may issue a resolution notice if the disparity between a favored and disfavored group is so extraordinarily compelling that by itself it supports a preliminary finding of disparate treatment.

For instance, in a famous Title VII case, *International Brotherhood of Teamsters v. United States*, a trucking company hired 57 White truckers in Atlanta, but no Black truckers, even though at the time Atlanta was 22% African American. And in Los Angeles the company hired 372 White truckers but only two black truckers. I'm sorry. That was my dog.

Finally, if there's quantitative evidence that is practically significant but the contractor has denied access to sources of qualitative evidence that may be relevant to a preliminary finding of disparate treatment, such as denying access to interview employees or failing to produce records the contractor is required to create and maintain, OFCCP may issue a pre-enforcement notice.

The early conciliation option provides contractors a way to bypass the PDN or NOV by entering directly into a conciliation agreement where there are preliminary findings of material violation regardless of whether those violations involve discrimination.

This process is voluntary and only the contractor may initiate it, though OFCCP may make contractors aware of the option. The final rule codifies the expedited resolution procedures to improve efficiency and prioritize early resolution of cases.

The agency has successfully implemented an early conciliation option outside of rulemaking. The Early Resolution Procedures program or ERP through directive 2019-02, Early Resolution Procedures effective since November 30, 2018, OFCCP created a mechanism to maximize its resources. The ERP program encourages contractors and OFCCP to work together to resolve violations.

The ERP is especially encouraged in situations where the contractor has multiple establishments with violations. Cases resolved through ERP skip the PDN and NOV stages and move right to the conciliation agreement. Since the implementation of the ERP program, OFCCP has executed 30 early resolution conciliation agreements securing \$48,210,501 in back pay as well as over \$6.3 million in future annual salary adjustments for the next five years, and 2071 job offers.

These agreements include ongoing monitoring of approximately 650,000 employees for the next five years. And I'll give it back over to Sarah, to give some additional information.

Sarah Carson: OFCCP provides multiple resource for additional information, including frequently asked questions. You may also wish to review the final rule itself, which has been published in the Federal Register. As always, you are also welcome to reach out to us through our Contact Us page on our Web page, which includes our help desk contact information, if you have further questions.

Lisa Burns: Thank you, Sarah and Christa. We hope this briefing successfully walked you through the resolution procedure's final rule. Now we're going to turn to some questions coming through the chat box. If you haven't already done so, please submit your questions through chat.

And as I mentioned at the beginning of this briefing, we will be taking a five minute break. So please do not disconnect. As we noted at the beginning as well, whatever questions we don't get through today, we still will review and update our frequently asked questions on our OFCCP website as according.

So please, again, do not disconnect. We will be taking a five minute break and then we'll come back and address the questions that we receive through chat. Thank you. Brittany.

Coordinator: Today's call will resume and now I would like to turn it back over to Ms. Lisa Burns. You may begin.

Lisa Burns: Thank you, Brittany. Okay. Welcome back everyone. Thanks for standing by. Before we start answering the questions, I would like to introduce Bob LaJeunesse, OFCCP Director of Enforcement; and Keir Bickerstaffe

Lisa Burns: OFCCP's Counsel for Interpretation and Advice, who will be assisting in answering some of these questions. So if I may start, our first question is, we're a federal contractor; does the rule change our obligation?

Sarah Carson: So the answer to that question is no, the rule does not alter a contractor's obligation. It just confirms the procedures and explains the standards that OFCCP uses, to resolve potential discrimination. But there are new compliance requirements.

Lisa Burns: Okay, great. Thank you. The next question we have - does the rule change our OFCCP resolved cases? I'm sorry. Does OF...

Sarah Carson: The answer to that...

Lisa Burns: Yes. Let me read it again. I'm sorry. Does this rule change how OFCCP resolves cases? Thank you.

Sarah Carson: No. The rule does not change how OFCCP approaches its resolution. The notices codified in the rule have been utilized by the agency since 1988. But what the rule does do is it provides clear evidentiary standards and guidelines, for the agency that are now transparent to the regulated community.

Lisa Burns: Great. Thank you. Okay. And we have another. Will OFCCP be updating the FCCM?

Sarah Carson: Yes. OFCCP will update the FCCM to incorporate the changes from the final rule.

Lisa Burns: Great. Thank you. Another question we have - does the final rule apply to audits opened but not closed, prior to the final rule date?

Keir Bickerstaffe: So this is Keir Bickerstaffe. The - so the effective - the effective date of the rule is today, December 10th. However, you know, OFCCP has been I think, proceeding with audits for some time now in much, you know, very much in line with the principles that are laid out in the final rule. So I'll let Craig speak further to that, if you'd like, Craig.

Craig Leen: Thank you, Keir. And I agree 100% with Keir. It does have an effective date of today. It applies to all ongoing audits going forward. But it's - I just want to be clear, we have been applying these principles just like Keir said, in the past.

This rule actually places in the CFR, a number of directives or at least regulations that are very similar to those directives, that we've issued over the past couple of years, including the transparency directive, the PDN directive, ERP, the Early Resolution Procedures, although as I mentioned earlier, it doesn't expressly incorporate that. But it does provide for early resolutions.

And so - and I've been very clear in public with my view that we're already applying these procedures and principles generally. But, you know, now we're definitely going to be looking at the specific wording in the rule and so that's what will be applied. And I hope that that provides the certainty to the regulated community that you were seeking.

And that is certainly our goal. And we believe that this is going to help us enforce equal employment opportunity obligations. And that is a very positive step for equal employment opportunity. And that's my opinion as the Director.

Lisa Burns: Great. Thank you. I don't see any more questions in chat. However, I would like to say I did put the FAQs on resolution procedures, the link in the chat. So you can please take - you can please get that from the chat. And also we will be posting the recording, the transcript, and the slides, on our website.

So give us maybe a week to do that and all of those things will be posted to our website.

Keir Bickerstaffe: Lisa, this is Keir if I can just interrupt for a second.

Lisa Burns: Sure.

Keir Bickerstaffe: We did get one other question that came...

Lisa Burns: Okay.

Keir Bickerstaffe: Through that was - it's kind of a long, detailed question. But the upshot of it was, you know, would this change the process for filing complaints under VEVRAA or 503 or any of the rule - of the, you know, the regulations that OFCCP enforces? And the answer is no. This rule doesn't have any effect on the process for filing complaints to the agency or the timeframes for filing those complaints.

Craig Leen: Yes, and this is Craig. I'd like to add one more thing to my prior response, because I was thinking about well what, you know, the question, what was the question getting at? Like what might be the concern? And so I think I know what it may be.

So if we've already just hypothetically, issued a PDN in a case, prior to the PDN rule under the old directive, that PDN remains in place. We're not going

to be going back to the beginning of an audit and redoing it, for example, under the rule.

But when I say - when Keir and I both said that it's been applied, we've been applying these principles already to that PDN and to an NOV that may have been issued. So just be aware of that. Number two, going forward - so let's say you have a case and a PDN's been issued in your case prior to the rule, and now we're at the stage of issuing an NOV potentially or show cause notice, we're going to apply the rule to that notice of violation or show cause notice.

So anything we issue going forward will be based on the rule. So I hope that that clarifies that point for everyone.

Lisa Burns: Great. Thank you. I want to make sure I didn't miss any questions in the chat. Did any of the panelists see any other questions?

Tina Williams: Hi Lisa. This is Tina here. Good afternoon everyone. I know how excited you are to always hear from us. I do want to just provide a little bit more information about the content that you've heard today. I want to clarify that the information will be posted both the presentation and the recording and transcript, will be posted to our site in a week's time.

We can also provide you with a link to the FAQs. I believe that Lisa is posting those to the chat room now. And we can provide anything else that you may need in the interim. So if you find that you need something almost immediate, prior to the posting, please feel free to reach out either to our help desk, or you can contact me directly.

Most of you know how to get in touch with me. But I will give you my email. It's Williams.Tina.T as in Tom at DOL.gov. And if you have some sort of burning question or desire to discuss something that you haven't brought through the chat room, please don't hesitate to contact me directly and I will be sure to get a response to you.

And again, all of the information discussed today will be provided to you and posted to our website.

Lisa Burns: Thank you, Tina. I did post all the additional information from the slide, all the websites where you can access, to the chat just now. So thank you. I don't see any more questions in chat.

Thank you for participating today. Thank you for logging in. And have a great day. Thank you.

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