RESOLVING CONCERNS WITH LEGAL REVIEWS

1. REVIEW TYPES.

The Office of the General Counsel of the Department of Defense (OGC) does two official legal reviews during the issuance process: legal objection review (LOR) and legal sufficiency review (LSR). Both reviews are done through the DoD Issuances Portal System, and your focal point[1] posts the necessary material.

2. LOR.

a. Do I have to get an LOR?

No, an LOR isn't mandatory unless your OSD Component requires it or your issuance either requires publication in the Federal Register or was identified during precoordination as perhaps having Federal Register-related concerns; check with your focal point.

b. I've asked for an LOR but the suspense date has passed with no response. What do I do?

(1) **If you don't have to have an LOR**, your focal point can contact the Portal administrator to cancel the review in progress. If you do this, please be sure to let OGC know it's been cancelled.

(2) **If you must have an LOR**, contact your focal point for help. Your focal point will contact OGC. Your Component needs to continually engage with OGC to get this done. Discussions should go from your focal point to the primary focal point and beyond that to your Component leadership if necessary. If your leadership is unable to get the LOR, contact the Performance Improvement Officer and Director of Administration and Management for help.

c. OGC completed the LOR and said my issuance is legally objectionable. What do I do?

Work with the lawyer who completed the review to resolve the problem. Once that's done, contact us via the Directives Division Issuance Compliance Team Lead at whs.mc-alex.esd.mbx.dod-directives-senior-editor@mail.mil. Another precoordination review may be needed depending on how much of the document has changed. Once we clear it, you'll need to send the new version of the issuance to your focal point, who will send it to the Portal for a second LOR.

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[1] In this document "your focal point" refers to the alternate focal point for your Component. The alternate focal point will engage the primary focal point as necessary.

d. OGC completed the LOR and said my issuance is not legally objectionable "subject to the changes made." What do I do?

Look at the changes carefully. If you have no issues with them, go ahead and make them and move forward. If there are changes that you don't agree with or that are contrary to issuance standards, contact the lawyer who completed your review to discuss. Your compliance analyst will be available to join you in any discussion regarding issuance standards. Once you have reached an agreement, be sure to ask the lawyer for an email confirming that OGC agrees with the compromise. However, don't wait for that email if there's too much of a delay. OGC will get a chance to look at the issuance again in LSR. If you get the agreement, be sure to send a copy to us via the Directives Division mailbox at whs.mc-alex.esd.mbx.dod-directives@mail.mil for the archival record.

3. LSR.

a. Do I have to get an LSR?

Yes. You can't get the issuance signed without an LSR.

b. I've asked for an LSR but the suspense date has passed with no response. What do I do?

Contact your focal point for help. Your focal point will contact OGC. Your Component needs to continually engage with OGC to get this done. Discussions should go from your focal point to the primary focal point and beyond that to your Component leadership if necessary. If your leadership is unable to get the LSR, contact the Performance Improvement Officer and Director of Administration and Management for help.

c. OGC completed the LSR and said my issuance is not legally sufficient. What do I do?

Work with the lawyer who completed the review to resolve the problem. Once that's done, contact us via the Directives Division Issuance Compliance Team Lead at whs.mc-alex.esd.mbx.dod-directives-senior-editor@mail.mil; another presignature review or even recoordination may be needed depending on how much of the document has changed. Once we clear it, you'll need to send the new version of the issuance to your focal point, who will send it to the Portal for a second LSR.

d. OGC completed the LSR and said my issuance is legally sufficient "subject to the changes made." What do I do?

Look at the changes carefully. If you have no issues with them, go ahead and make them and move forward. If there are changes that you don't agree with or that are contrary to issuance standards, contact the lawyer who completed your review to discuss. Your compliance analyst will be available to join you in any discussion regarding issuance standards. Once you have reached an agreement, be sure to ask the lawyer for an email confirming that OGC agrees with

the compromise. Be sure to send a copy to us via the Directives Division mailbox at whs.mc-alex.esd.mbx.dod-directives@mail.mil for the archival record.

4. UNOFFICIAL LEGAL REVIEWS.

a. As you're developing the issuance, it's a good idea to ask your OSD Component's legal staff to review it. This may help you avoid problems during the LOR and LSR. This should be a part of your internal coordination process before sending it to us for precoordination review, but we don't require it.

b. As DoD Components post comments to the Portal during formal coordination, you may need help to adjudicate comments that deal with legal issues (e.g., proper citation of law, comments that the issuance violates law). If you need help:

(1) Contact your OSD Component's legal staff;

(2) If you got an LOR, e-mail the OGC lawyer who did that review; or

(3) If you didn't get an LOR and you don't have a legal staff in your OSD Component (or you don't know who they are), contact your focal point for help. Your focal point and OGC will work together to get a lawyer to help you.

c. You'll need to give the lawyer a copy of the draft issuance and DD Form 818-1, and clearly identify the comments needing review by stating the appropriate DD Form 818-1 comment number(s).

d. You should continue to collaborate with the lawyer throughout the formal coordination period as necessary. This review may help you avoid problems during the LSR, but we don't require it.