



TRANSMITTAL

**U.S. DEPARTMENT OF LABOR  
Employment Standards Administration  
Office of Federal Contract  
Compliance Programs**

---

Number: 136

Date: May 18, 1990

ADM 90-2/COMPL

---

1. **SUBJECT:** Establishing Jurisdiction Over an Employer Against Whom a Complaint is Filed
2. **PURPOSE:** To update and replace OFCCP Order No. ADM 83-9/COMPL (formerly OFCCP Order No. 630a4, March 3, 1983, same subject), which established practices and procedures for determining coverage over a contractor against whom a complaint is filed
3. **DISTRIBUTION:** A, B
4. **FILING INSTRUCTIONS:** File in Administrative Binder under COMPL. Remove ADM 83-9/COMPL.
5. **OBSOLETE DATA:** OFCCP Order No. ADM 83-9/COMPL (formerly OFCCP Order No. 630a4, March 3 1983).

(Signed) Cari Dominguez  
CARI M. DOMINGUEZ  
Director

May 18, 1990  
DATE

**U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS  
WASHINGTON, D.C. 20210**

**OFCCP Order No. ADM Notice/Other**

1. **SUBJECT**: Establishing Jurisdiction Over an Employer Against Whom a Complaint is Filed
  
2. **PURPOSE**: To update and replace OFCCP Order No. ADM 83-9/COMPL (formerly OFCCP Order No. 630a4, March 3, 1983, same subject), which established practices and procedures for determining coverage over a contractor against whom a complaint is filed. This order reflect changes in practices and procedures since the issuance of ADM 83-9/COMPL.
  
3. **ORIGINATOR**: Division of Policy, Planning and Review, Branch of Policy
  
4. **BACKGROUND**: Establishing contract coverage (jurisdiction) over an employer against whom a complaint has been filed is an essential element of the pre-investigation process conducted at the Regional Office (RO). For complaints retained by OFCCP filed under Executive Order 11246, as amended, there must be a contract in excess of \$10,000; for complaints filed under Section 503 of the Rehabilitation Act of 1973, as amended, there must be a contract of \$2500 or more; and for complaints filed under the Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. 2012, there must be a contract of \$10,000 or more. With regard to all three programs, the action being complained of must have taken place during a period in which there was an active contract of the requisite amount.

In the past, the OFCCP National Office (NO), through its Branch of Procurement Coordination, provided contract information to the ROs for use in establishing jurisdiction over employers against whom a complaint had been filed. As a result of organizational restructuring at the OFCCP NO, that branch no longer exists. Consequently, the responsibility for determining contract coverage has devolved upon the ROs.

**OFCCP Order No. ADM 90-2/COMPL**

To assist the ROs in determining contract coverage, OFCCP has developed an automated system which provides specific contract information from the Federal Procurement Data System (FPDS). The information available from the automated system is described in detail in OFCCP Order No. ADM 89-3/DEL and the User's Manual attached to the order. This system is the primary source in information for establishing contract coverage by the ROs. In addition, ROs have available EEO-1 data which may help in determining contract coverage.

5. **PROCEDURES:** Regional Offices will document contract coverage in the complaint file before sending the file to a District Office for investigation. Such documentation will be based on the following procedures:
  - (a) Thoroughly review the FPDS data to determine if the employer is listed as having a contract. The FPDS data contain contract award information for the entire country; therefore, they can also be used to identify establishments of a parent company in other geographical locations which may have contract work. References such as the Directory of Corporate Affiliations can be used to identify other parts of a parent company.
  - (b) If the FPDS data fail to identify a contract, the EEO-1 data may be useful inasmuch as they reflect what employers have reported on their EEO-1 submission. Check the response on the "contractor status" item in field 25; a "y" indicates that the company or any of its establishments responded affirmatively to the question whether they had a government contract. By itself, this information does not meet the contract coverage requirement of this directive. However, it does provide a rationale for continuing to attempt to identify a specific contract.
  - (c) Another source of information is Federal contracting agencies which logically might use the employer's product or service. Such agencies should be contacted by telephone for assistance in identifying a contract award.

**OFCCP Order No. ADM 90-2/COMPL**

- (d) If none of the above prove successful in identifying a contract, the RD should consider the appropriateness of contacting the complainant to determine if he/she has knowledge of the company's dealings with the Federal government.
- (e) As a last resort, after contacting the Division of Program Operations, the employer may be contacted to determine coverage.
- (f) If, through the above steps, jurisdiction cannot be established, the complaint will be closed using the appropriate attached letter. If, following closure, the RO learns of coverage, the RD may reopen the complaint, maintaining the original filing date.

6. **ATTACHMENTS:**

- 1. Letter Closing Section 503 Complaint For Lack of Jurisdiction Over the Employer
- 2. Letter Closing 38 U.S.C. 2012 Complaint For Lack of Jurisdiction Over the Employer
- 3. Letter Closing Executive Order Complaint For Lack of Jurisdiction Over the Employer

7. **OBSOLETE DATA:** OFCCP Order No. ADM 83-9/COMPL, formerly OFCCP Order No. 630a4, March 3, 1983.

8. **DISTRIBUTION:** A, B, C

(Signed) Cari Dominguez  
CARI M. DOMINGUEZ  
Director

May 18, 1990  
DATE