



**Evaluation of
The Office of Federal
Contract Compliance Programs'
Scheduling Procedures
(Supply & Service Reviews)**

U.S. Department of Labor
Office of Inspector General
Office of Analysis, Complaints and Evaluations

Report No. 2E-04-410-0001
March 31, 2000

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Executive Summary

The Office of Inspector General (OIG) conducted a review of methods and criteria used by the Office of Federal Contract Compliance Programs (OFCCP) for scheduling supply and service contractors for compliance evaluations, and the application of the agency's scheduling criteria.

Compliance evaluations are a vital tool used by OFCCP to ensure that federal contractors are complying with the equal employment opportunity and affirmative action obligations of their contracts.

Purpose

Our review focused on the following three questions: (1) whether the Equal Employment Data System (EEDS) list generates a statistically valid sample to select contractors for compliance review; (2) how OFCCP is using the EEDS to select contractors for compliance reviews; and, (3) whether OFCCP is uniformly applying the contractor selection process throughout the United States.

Findings and Recommendations

A. Validity of EEDS List

Finding: OFCCP uses a random sort rather than a sample to select contractors for compliance review.

Through 1997, OFCCP used a *sample* to generate its EEDS list. Since then, OFCCP changed its procedures and the EEDS list is now generated solely through a random *sort* of contractors selected based on their employment patterns of minorities and women.

During our interviews, we discovered that the EEDS is not an accurate representation of the Federal contractors throughout the United States. EEDS contains inaccurate and outdated EEO-1 data, e.g., companies that are not Federal contractors often report so incorrectly; and, *outdated* EEO-1 reports include contractors that have gone out of business, or those having contracts less than OFCCP's \$50,000 threshold.

Recommendation:

OFCCP should explore using other data available to the agency to verify contractor coverage. At a minimum, OFCCP should link the EEDS with more current

information regarding contractor coverage available through other mechanisms such as the Federal Procurement Data System (FPDS).

B. Selection of Contractors for Compliance Reviews

Finding: The EEDS list is distributed to district offices, who must then schedule contractors for compliance review in consecutive order.

Recommendation: There are no recommendations for this finding.

C. Contractor Selection Process

Finding: OFCCP's National Office does not have an internal monitoring system to determine District Offices' compliance with the contractor scheduling procedures.

As a result, we were unable to determine whether the contractor selection process was uniformly applied throughout the United States.

We believe that further review of OFCCP's uniform application of the scheduling procedures for supply and service contractors is needed. This can be accomplished through a future evaluation of OFCCP's internal monitoring process, including site visits as appropriate.

Recommendation:

OFCCP should develop and implement a system for National Office monitoring of its District Offices' compliance in scheduling of supply and service contractors for evaluations.

Agency Response and OIG Conclusion

The agency's response to the OIG's draft final report agreed with the proposed recommendations provided by OIG.

Our recommendations have been resolved pending receipt of documentation outlined in the report.

I. PURPOSE

The Office of Inspector General (OIG) conducted a review of methods and criteria used by the Office of Federal Contract Compliance Programs (OFCCP) for scheduling supply and service contractors for compliance evaluations. Compliance evaluations are a vital tool used by OFCCP to ensure that federal contractors are complying with the equal employment opportunity and affirmative action obligations of their contracts. While the number of federal contractors is very large, comprising approximately 92,500 non-construction establishments, limited resources allowed OFCCP to review only 2,588 (2.8%) supply and service contractors in fiscal year (FY) 1999. For these reasons, OFCCP has both a practical need and ethical responsibility to schedule compliance evaluations as objectively and efficiently as possible.

Our review focused on the following three questions: (1) whether the EEDS list generates a statistically valid sample to select contractors for compliance review; (2) how OFCCP is using the EEDS system to select contractors for compliance reviews; and, (3) whether OFCCP is uniformly applying the contractor selection process throughout the United States.

This review supports the Employment Standards Administration's and the Department of Labor's strategic goal number 3 - fostering equal opportunity workplaces.

II. BACKGROUND

OFCCP enforces Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), the Immigration Reform and Control Act of 1986 (IRCA), and Title I of the Americans with Disabilities Act of 1990 (ADA). (Reference Appendix A for information on each of OFCCP's enforcement laws.) These require that federal contractors take affirmative action to ensure that all individuals have an equal opportunity for employment, without regard to race, sex, ethnicity, national origin, religion, disability or as a Vietnam era or special disabled veteran.

There are 56 OFCCP District/Area Offices, organized into eight Regional Offices, located in Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Seattle, and San Francisco. The District/Area Offices conduct evaluations of the contractors within their geographic area to ensure compliance with OFCCP statutes and regulations. Only a small number of contractors within the overall contractor population in any given District can be reviewed, given the large number of contractors and OFCCP's relatively small size as an enforcement agency (743 total staff in FY 1999).

OFCCP has encountered criticism from the contractor community regarding the consistency and neutrality of their compliance evaluation scheduling practices. In some cases, such criticisms have been followed by litigation directly challenging OFCCP's scheduling practices and procedures. The uncertainty imposed by judicial challenges led OFCCP to request a formal legal review of its selection procedures for supply and service contractors by the Solicitor of Labor (SOL) in 1998. On August 1, 1998 the SOL provided OFCCP with specific legal guidance on how to formulate appropriate selection procedures for supply and service contractors. On October 28, 1998, the Deputy Assistant Secretary for ESA formally articulated policies and procedures for scheduling supply and service compliance evaluations during FY 1999, by issuing a memorandum to each OFCCP Regional Director.

III. METHODOLOGY

We focused on OFCCP's method for scheduling supply and service contractors. To determine the validity of the EEDS list and the selection of contractors for compliance review, we examined OFCCP's EEDS, which generates random lists of contractors eligible for compliance evaluations. To determine if the contractor selection process is uniformly applied throughout the United States, we examined the application of the selection criteria to verify if District Offices are complying with the procedures set forth by their National Office. This included an examination of whether OFCCP has an internal process to monitor its contractor selection system, in order to determine if District Offices are following established procedures. We visited two District Offices and conducted telephone interviews with seven others. Site visits included examination of data and interviews of supervisory and non-supervisory staff. We also conducted interviews of managerial staff from the OFCCP National Office.

The evaluation period covered FY 1999, using EEDS and tracking data from November 1, 1998, through September 30, 1999. November 1, 1998 was used as the beginning date to provide ample time for District Offices to receive their EEDS lists.

The evaluation was conducted in accordance with the *Quality Standards for Inspections* published by the President's Council on Integrity and Efficiency.

IV. FINDINGS AND RECOMMENDATIONS:

A. Validity of EEDS List

Finding: OFCCP uses a random *sort* rather than a *sample* to select contractors for compliance review. The outdated and otherwise inaccurate information it contains undermines its validity.

Through 1997, OFCCP used a *sample* to generate its EEDS list. This consisted of a random selection of a portion of all contractor establishments in EEDS, and “flagged” contractors selected based on their employment patterns of minorities and women. There was some flexibility in the contractors that were selected for compliance review because approximately 1 percent of the selections were from the random sample, 84 percent were from the flagged establishments and 15 percent were discretionary¹. Since then, OFCCP has changed its procedures and the EEDS list is now generated solely through a random *sort* of contractors selected based on their employment patterns of minorities and women.

OFCCP has access to two databases. One is the EEDS, that OFCCP has designated to be used to schedule contractors for compliance evaluations, and the other is the Federal Procurement Data System² (FPDS) which is a central repository for information on all Federal contracts. FPDS is limited because the database only covers contractors who have received the award (prime contractors) and does not include sub-contractors (contractors working for a prime contractor). Currently, OFCCP only uses EEDS.

EEDS is an automated system consisting of a list of contractor establishments selected because of their patterns of minority and female employment. The records in the EEDS database are generated from Employer Information Reports (EEO-1) that provide information on the demographic characteristics of supply and service contractors.

During our interviews, we discovered that the EEDS is not an accurate representation of the Federal contractors throughout the United States. EEDS contains inaccurate and outdated EEO-1 data, e.g., companies that are not Federal contractors often report so incorrectly; and, *outdated*

¹District Offices could select up to 15 percent of their supply and service compliance reviews from among contractors other than those flagged on the listing.

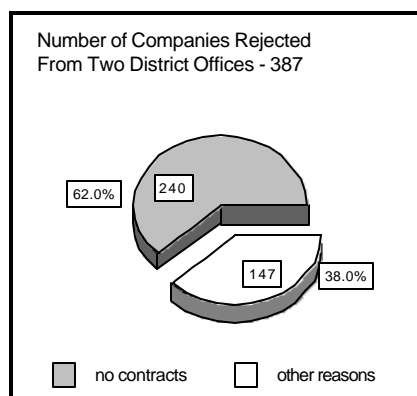
²The FPDS is maintained by the Federal Procurement Data Center housed in the General Services Administration.

EEO-1 reports include contractors that have gone out of business, or those having contracts less than OFCCP's \$50,000 threshold.

The EEDS list contains establishments who report themselves as Federal contractors but in fact are not. Perhaps this is because they are not aware of the status or obligations of a federal contractor. (Only contractors who self-report their status as a prime or sub-contractor via the EEO-1 reports are included in the EEDS database.) EEO-1 reports are filed with the Joint Reporting Committee (JRC)³. There may also be contractors who fail to report to the JRC, whether intentionally or unintentionally and may not be included on the EEDS lists, thus avoiding review.⁴

An additional problem concerns the age of EEO-1 reports, which negatively impacts the accuracy of EEDS listings. The FY 1999 EEDS list used for our evaluation was comprised of contractors who filed EEO-1 reports in 1997. The use of *outdated* EEO-1 reports to generate *current* EEDS listings undermines the validity of the list and creates problems for District personnel responsible for scheduling compliance evaluations. Interviewees consistently reported that an inordinate amount of time is wasted in verifying contract coverage because they are working with information that is at least two years old.

We found concrete examples of inaccuracies in EEDS listings during our visits to two District Offices. While reviewing the OFCCP *Contractor Non-Scheduling* forms used to document companies originally on the EEDS list, but ineligible for review, we found that 240 of the 387 non-scheduling forms showed "no evidence of a contract".⁵ Other related reasons documented on non-scheduling forms, which also



³The JRC was initially comprised of representatives from the Equal Employment Opportunity Commission (EEOC) and OFCCP. Presently, OFCCP is only a participatory of the committee.

⁴ If a contractor is caught not filing, or filing a false EEO-1 report, OFCCP can commence with an immediate compliance evaluation. However, as far as we can determine, there is no punitive penalty for failing to report to the JRC, and contractors who fail to file EEO-1 reports may successfully evade detection.

⁵ There are reasons other than lack of contracts as to why a company on the EEDS list may not be scheduled for a compliance evaluation. These include pending enforcement cases, ongoing consent decrees, work stoppages, or because compliance actions occurred within the prior 24 months. OFCCP cannot necessarily be expected to anticipate these scenarios, (they cannot be captured on EEO-1 forms).

highlight the issues of age and inaccuracy of EEO-1 data, include contractors that have gone out of business, or those having contracts less than OFCCP's \$50,000 threshold.

We conclude that information on federal contracts is so basic to the mission of OFCCP that EEDS should not be seriously flawed in this area.

Recommendation:

OFCCP should explore using other data available to the agency to verify contractor coverage. At a minimum, OFCCP should link the EEDS with more current information regarding contractor coverage available through other mechanisms such as the FPDS.

OFCCP Response to the Validity of EEDS List:

“OFCCP is aware of this issue and has actively pursued methods for receiving and utilizing complete information on jurisdiction. In December 1999, OFCCP formed a Jurisdiction Task Force composed of one person from each OFCCP region and two from the National Office. The purpose of this taskforce is threefold:

- First, the task force will gather all methods each region uses to establish jurisdiction. This information will be selectively consolidated and issued to the regions so that OFCCP will benefit from the identification and implementation of proven methods used to establish jurisdiction.*
- Second, the task force will develop processes to reduce the time devoted to the research of contract information necessary to establish contract coverage. One of the projects resulting from their work is the idea to use electronic contract data captured from an automated sort of the Federal Procurement Data System (FPDS) data. Other projects will deal with the issue of sub-contractor jurisdiction.*
- Third, the task force will continue to explore changes to and the improvement in the receipt of information obtained from the Joint Reporting Committee (JRC), and the Central Contractor Registration (CCR) administrator. This will enable OFCCP to improve its ability to establish jurisdiction in a timelier manner. OFCCP has no direct control over the data generated from the EEO-1 form as it receives this data from the JRC. Additionally, it*

does not have control over the Central Registry data; nonetheless, OFCCP will work with the CCR in order to gain contract information as soon as the contracts are registered in this system and match this data with the EEDS list.

OFCCP will actively pursue additional avenues for the early establishment of jurisdiction as resources permit. The task force will complete the first phase of work not later than April 2000. At least one additional task force project will begin during the third quarter of FY2000. Discussions with representatives from the CCR will begin not later than the fourth quarter of FY2000.”

OIG's Conclusion

We believe that the CCR is a viable source to collect information in conjunction with the Federal Procurement Data System (FPDS). Data entered into the FPDS is completed by each Federal agency's contracting official, whereas the CCR data is completed by contractors who wish to obtain Department of Defense⁶ contract awards—contracts will only be awarded to registered contractors.

During the exit conference, we were informed that the EEDS is tracked via EEO-1 numbers. Other databases, like the CCR and FPDS, are tracked via a Dun and Bradstreet number. These tracking differences create an incompatibility in linking with other databases. Since then, we have learned that the Joint Reporting Committee has revised its EEO-1⁷ report. Public Law 88-352, requires contractors to file an EEO-1 report on an annual basis. Item 3, Section C of the revised report, requires Federal contractors to include their Dun and Bradstreet number. Contractors who fail to complete the form will be penalized. (A copy of the front page of a current EEO-1 form is included as Appendix D.) We realize OFCCP will have to continue to search avenues to collect sub-contractor information. However, the EEDS list used by OFCCP to select contractors for compliance review will provide more accurate information since the Dun and Bradstreet Number is included in all three databases.

We concur with the agency's corrective actions and consider this recommendation to be resolved. The recommendation will be closed pending our receipt of documentation on the development and

⁶DoD is the largest purchaser of goods and services.

⁷JRC has received OMB approval on the 3/97 EEO-1 form through 2002. The following website can be used to obtain information on the EEO-1 reports: <http://www.mimdms.com>

implementation of using or linking to other data bases that improve the accuracy of contractor coverage.

Phase 1 - gather, consolidate and issue methods to establish jurisdiction: **May 31, 2000.**

Phase 2 - increase ability to establish jurisdiction: **August 31, 2000.**

Phase 3 - linking with databases (JRC, FPDS, CCR): **January 31, 2001.**

B. Selection of Contractors for Compliance Reviews

Finding: The EEDS list is distributed to district offices, who must then schedule contractors for compliance review in consecutive order.

After the EEDS list is sorted randomly, OFCCP's National Office separates the list into the six Regional Offices. The list is then distributed to each Regional Office, and subsequently to each District Office. Each District Office, as a matter of policy, must start with the first contractor establishment on its EEDS list and work down in consecutive order when scheduling establishments for routine compliance reviews. Because of the number of Federal contractors on the EEDS list, District Offices typically are not able to schedule them all for compliance reviews. The National Office has corrected this problem in the FY 2000 scheduling procedures by changing how compliance *checks* supplement compliance *reviews*. Implemented in 1998, a compliance check is a limited inspection of records to ensure the contractor has maintained them according to OFCCP regulations. Unlike compliance reviews that start with the *first* contractor on the *first* page of the EEDS list and work *down* consecutively, compliance checks are scheduled starting with the *last* contractor on the *last* page of the EEDS list and work *up* consecutively.

Recommendation: There are no recommendations for this finding.

C. Contractor Selection Process

Finding: OFCCP's National Office does not have an internal monitoring system to determine whether the contractor selection process was uniformly applied throughout the United States.

As a result, we were unable to determine whether the District Offices were in compliance with the contractor scheduling procedures. OFCCP has both a practical need and ethical responsibility to ensure that District Offices schedule compliance reviews as objectively and efficiently as possible. Internal monitoring of District Offices' compliance with OFCCP's procedures would be desirable to ensure that the procedures are implemented as planned and in the event these procedures are challenged in litigation.

Currently, the Regional Offices, and in some instances the National Office, conduct quality control audits on selected compliance reviews. The audit, however, does not examine the process as a whole.

We examined OFCCP's National Office database for evidence that the contractor selection process was uniformly applied throughout the United States. With the exception of one District Office, this analysis showed a wide deviation from the order in which contractors appeared on District Offices' EEDS lists. Initially, this led us to believe that District Offices were generally not adhering to proper scheduling procedures.

We continued our analysis by conducting field visits to two District Offices, as well as telephonic interviews with seven other District Offices, to test our preliminary findings. An examination of the information did not provide sufficient evidence to determine if contractor scheduling procedures were being applied uniformly but, more importantly, we found that OFCCP's National Office does not have an internal monitoring system to determine District Offices' compliance with the contractor scheduling procedures.

We believe that further review of OFCCP's uniform application of the scheduling procedures for supply and service contractors is needed. This can be accomplished through a future evaluation of OFCCP's internal monitoring process, including site visits as appropriate.

Recommendation:

OFCCP should develop and implement a system for National Office monitoring of its District Offices' compliance in scheduling of supply and service contractors for evaluations.

OFCCP Response to the Contractor Selection Process:

“We concur with this recommendation, but wish to point out that OFCCP has a decentralized organization wherein the District offices report to the Regional Office. OFCCP is addressing this issue through short and long-range strategies that will utilize technology and human resource driven options. This approach will couple related activities within the national office divisions to ensure ongoing monitoring of the selection and scheduling system. In the short-term, OFCCP will match EEO-1 numbers and the current EEDS list in order to ascertain gaps in scheduling and other status reports. Where discrepancies are found, the process will provide for national and regional office intervention to assure that reasons for non-selection are properly considered and documented. Moreover, the audit program, once instituted, will serve as a guide to the development of supplemental introduction and training. This automated list will be prepared one time each quarter beginning April 2000.

In the long term, OFCCP will merge the EEDS listing with the Case Management System (CMS) so that managers will be notified if scheduling takes place in a different sequence than anticipated by EEDS. This will provide more timely notice to OFCCP managers so that proper monitoring may occur. While there are legitimate reasons why companies are not scheduled exactly in the EEDS sequence, managers will be more aware of these occurrences throughout the year.”

OIG’s Conclusion

We concur with the corrective actions and consider this recommendation to be resolved. The recommendation will be closed pending our receipt of documentation on the development and implementation of a system for the National Office to monitor its District Offices’ compliance in scheduling supply and service contractors. Documentation for the following steps should be provided to this office by the dates specified:

Short term objective - matching EEO-1 numbers and the current EEDS list in order to ascertain gaps in scheduling and other status reports and discrepancies will be noted: **June 30, 2000.**

Long term objective - Merge the EEDS listing with CMS: **March 31, 2001.**

V. Summary of Recommendations

1. OFCCP should explore using other data available to the agency to verify contractor coverage. At a minimum, OFCCP should link the EEDS with

more current information regarding contractor coverage available through other mechanisms such as the FPDS.

2. OFCCP should develop and implement a system for National Office monitoring of its District Offices' compliance in scheduling of supply and service contractors for evaluations.

We appreciate the time and cooperation we received from OFCCP during this review. Please do not hesitate to address any questions you have concerning this report to Lynne Johnson at (202) 219-4497 ext. 103.

Contributors to this report:

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LAWS ENFORCED BY OFCCP

The Office of Federal Contract Compliance Programs enforces the following:

Executive Order 11246, as amended

This 35 year-old order, signed by President Lyndon B. Johnson, prohibits discrimination in hiring or employment decisions on the basis of race, color, gender, religion, and national origin. It applies to all nonexempt government contractors and subcontractors and federally assisted construction contracts and subcontracts in excess of \$10,000.

Under the Executive Order, contractors and subcontractors with a federal contract of \$50,000 or more, and 50 or more employees are required to develop a written affirmative action program that sets forth specific and result-oriented procedures to which a contractor commits itself to apply every good faith effort.

Section 503 of the Rehabilitation Act of 1973, as amended

Prohibits discrimination and requires affirmative action in all personnel practices for qualified individuals with disabilities. It applies to all firms that have a nonexempt Government contract or subcontract in excess of \$10,000. An affirmative action program is required.

38 USC 4212 - The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended

This prohibits discrimination and requires affirmative action in all personnel practices for special disabled veterans, Vietnam Era veterans, and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. It applies to all firms that have a nonexempt Government contract or subcontract of \$25,000 or more. An affirmative action program is required.

OFCCP Shares Enforcement Authority for the Following Regulations:

Immigration Reform and Control Act of 1986 (IRCA), as amended

Requires employers to maintain certain records pertaining to the citizenship status of new employees. These records are examined during the course of compliance reviews and complaint investigations. Results are reported to the Immigration and Naturalization Service.

Title I of the Americans with Disabilities Act of 1990 (ADA), as amended

When this new legislation became effective in July 1992, most qualified individuals with disabilities attained protection against employment discrimination through two federal non-discrimination statutes - the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

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GLOSSARY

- Contract:** Any “Government Contract” or, for the Executive Order, any “Federally Assisted Construction Contract.”
- Contractor:** Chapter 60 of the Equal Employment Opportunity regulations, states a prime or sub contractor falls under OFCCP jurisdiction if they have 50 employees or more **and** have a Federal contract, subcontract or purchase order amounting to \$50,000 or more; **or** serves as a depository of Government funds in any amount; **or** is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes.
- Dun's Number:** An identification number assigned to a business by Dun & Bradstreet (D&B).
- EEO-1 Report:** The Equal Employment Opportunity Employer Information Report (EEO-1): An annual report filed with the Joint Reporting Committee (composed of OFCCP and EEOC) by certain employers subject to the Executive Order or to Title VII of the Civil Rights Act of 1964, as amended. This report details the sex and race/ethnic composition of an employer's work force by job category. (Also termed Standard Form 100.)
- EEOC:** The U.S. Equal Employment Opportunity Commission (EEOC) was established by Title VII of the Civil Rights Act of 1964 and began operating on July 2, 1965. The EEOC enforces the principal federal statutes prohibiting employment discrimination.
- Establishment:** A facility or unit which produces goods or services. In most instances, the unit is a physically separate facility at a single location.
- Government Contract:** Any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services, or for the use of real or personal property, including lease agreements. The term “government contract” does not include (a) agreements in which the parties stand in the relationship of employer and employee and (b) Federally assisted contraction contracts.
- Supply and Service:** Chapter 60 of the Equal Employment Opportunity regulations, states, for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term “services”, as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance and fund depository.

Acronyms:

CFR	Code of Federal Regulations
CRIS	Compliance Review Information System
DOL	Department of Labor
EEO	Equal Employment Opportunity
EEDS	Equal Employment Data System
EEO-1	Equal Employment Opportunity, Employer Information Report
FPDC	Federal Procurement Data Center
FPDS	Federal Procurement Data System
GSA	General Services Administration
JRC	Joint Reporting Committee
OFCCP	Office of Federal Contract Compliance Programs
OIG	Office of Inspector General

Sample of Equal Employment Opportunity Employer Information Report EEO-1

- Joint Reporting Committee
- Equal Employment Opportunity Commission
- Office of Federal Contract Compliance Programs (Labor)

EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER INFORMATION REPORT EEO-1

Standard Form 100
(Rev. 5/77)
GSA GEN. REG. NO. 27
5010-104
5010-106
5010-108

SAMPLE

Section A—TYPE OF REPORT
Refer to instructions for number and types of reports to be filed.

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX).

(1) <input type="checkbox"/> Single-establishment Employer Report	Multi-establishment Employer: (2) <input type="checkbox"/> Consolidated Report (Required) (3) <input type="checkbox"/> Headquarters Unit Report (Required) (4) <input type="checkbox"/> Individual Establishment Report (submit one for each establishment with 50 or more employees) (5) <input type="checkbox"/> Special Report
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2. Total number of reports being filed by this company (Agency) (Consolidated Report only) _____

Section B—COMPANY INFORMATION (To be answered by all employers)

1. Parent Company					OFFICE USE ONLY
a. Name of parent company (owns or controls establishment in item 2) omit if same as label					
Address (Number and street)					
City or town	State	ZIP code		b.	
2. Establishment for which this report is filed (Omit if same as label)					d.
a. Name of establishment					
Address (Number and street)	City or Town	County	State	ZIP code	
b. Employer Identification No. (IRS 9-DIGIT TAX NUMBER)					e.
c. Was an EEO-1 report filed for this establishment last year? <input type="checkbox"/> Yes <input type="checkbox"/> No					f.

Section C—EMPLOYERS WHO ARE REQUIRED TO FILE (To be answered by all employers)

<input type="checkbox"/> Yes	<input type="checkbox"/> No	1. Does the entire company have at least 100 employees in the payroll period for which you are reporting?
<input type="checkbox"/> Yes	<input type="checkbox"/> No	2. Is your company affiliated through common ownership and/or centralized management with other entities in an enterprise with a total employment of 100 or more?
<input type="checkbox"/> Yes	<input type="checkbox"/> No	3. Does the company or any of its establishments (a) have 50 or more employees AND (b) is not exempt as provided by 41 CFR 60-1.5, AND either (1) is a prime government contractor or first-tier subcontractor, and has a contract, subcontract, or purchase order amounting to \$50,000 or more, or (2) serves as a depository of Government funds in any amount or is a financial institution which is an issuing and paying agent for U.S. Savings Bonds and Savings Notes?

If the response to question C-3 is yes, please enter your Dun and Bradstreet identification number (if you have one):

NOTE: If the answer is yes to questions 1, 2, or 3, complete the entire form, otherwise skip to Section G.

Agency's Response

U.S. Department of Labor

Employment Standards Administration
Office of Federal Contract
Compliance Programs
Washington, D.C. 20210



MAR 3 | 2000

MEMORANDUM FOR JOSE M. RALLS

Acting Assistant Inspector General
Office of Analysis, Complaints and Evaluations

THRU:

SHIRLEY J. WILCHER
Deputy Assistant Secretary

FROM:

BERNARD E. ANDERSON
Assistant Secretary

SUBJECT:

Evaluation of the Office of Federal Contract
Compliance Programs Scheduling Procedures
Report No 2E-04-410-0001

The subject report was forwarded from the Assistant Secretary to the Office of Federal Contract Compliance (OFCCP) for response. I appreciate the timeliness and professionalism of your staff members who conducted this review. OFCCP is aware of the major issues identified and is working to solve them at the earliest possible time. Each recommendation is addressed below with the action that will be taken and the approximate time frames for completion.

OFCCP Response to Findings and Recommendations

A. Validity of EEDS List

Finding: OFCCP uses a random sort rather than a sample to select contractors for compliance review.

Through 1997, OFCCP used a sample to generate its Equal Employment Data System (EEDS) list. Since then, OFCCP changed its procedures and the EEDS list is now generated solely through a random sort of contractors selected based on their employment patterns of minorities and women.

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During our interviews, we discovered that the EEDS is not an accurate representation of the Federal contractors throughout the United States. EEDS contains inaccurate and outdated EEO-1 data, e.g., companies that are not Federal contractors that have gone out of business, or those having contracts less than OFCCP's \$50,000 threshold.

Recommendation:

OFCCP should explore using other data available to the agency to verify contractor coverage. At a minimum, OFCCP should link the EEDS with more current information regarding contractor coverage available through other mechanisms such as the Federal Procurement Data System (FPDS).

OFCCP Reply:

OFCCP is aware of this issue and has actively pursued methods for receiving and utilizing complete information on jurisdiction. In December 1999, OFCCP formed a Jurisdiction Task Force composed of one person from each OFCCP region and two from the National Office. The purpose of this taskforce is threefold:

- First, the task force will gather all methods each region uses to establish jurisdiction. This information will be selectively consolidated and issued to the regions so that OFCCP will benefit from the identification and implementation of proven methods used to establish jurisdiction.
- Second, the task force will develop processes to reduce the time devoted to the research of contract information necessary to establish contract coverage. One of the projects resulting from their work is the idea to use electronic contract data captured from an automated sort of the Federal Procurement Data System (FPDS) data. Other projects will deal with the issue of sub-contractor jurisdiction.
- Third, the task force will continue to explore changes to and the improvement in the receipt of information obtained from the Joint Reporting Committee (JRC), and the Central Contractor Registration (CCR) administrator. This will enable OFCCP to improve its ability to establish jurisdiction in a timelier manner. OFCCP has no direct control over the data generated from the EEO-1 form as it receives this data from the JRC. Additionally, it does not have control over the Central Registry data; nonetheless, OFCCP will work with the CCR in order to gain contract information as soon as the contracts are registered in this system and match this data with the EEDS list.

OFCCP will actively pursue additional avenues for the early establishment of jurisdiction as resources permit. The task force will complete the first phase of work not later than April 2000. At least one additional task force project will begin during the third quarter of FY2000. Discussions with representatives from the CCR will begin not later than the fourth quarter of FY2000.

B. Contractor Selection Process

Finding: OFCCP's National Office does not have an internal monitoring system to determine if District Offices' compliance with the contractor selection process was uniformly applied throughout the United States.

We believe that further review of OFCCP's uniform application of the scheduling procedures for supply and service contractor is needed. This can be accomplished through a future evaluation of OFCCP's internal monitoring process, including site visits as appropriate.

Recommendation:

OFCCP should develop and implement a system for National Office monitoring of its District Offices' compliance in the scheduling of supply and service contractors for evaluations.

OFCCP Reply:

We concur with this recommendation, but wish to point out that OFCCP has a decentralized organization wherein the District Offices report to the Regional Offices. OFCCP is addressing this issue through short and long-range strategies that will utilize technology and human resource driven options. This approach will couple related activities within the national office divisions to ensure ongoing monitoring of the selection and scheduling system. In the short-term, OFCCP will match EEO-1 numbers and the current EEDS list in order to ascertain gaps in scheduling and other status reports. Where discrepancies are found, the process will provide for national and regional office intervention to assure that reasons for non-selection are properly considered and documented. Moreover, the audit program, once instituted, will serve as a guide to the development of supplemental introduction and training. This automated list will be prepared one time each quarter beginning April 2000.

In the long-term, OFCCP will merge the EEDS listing with Case Management System (CMS) so that managers will be notified if scheduling takes place in a different sequence than anticipated by EEDS. This will provide more timely notice to OFCCP managers so that proper monitoring may occur. While there are legitimate reasons why companies are not scheduled exactly in the EEDS sequence, managers will be more aware of these occurrences throughout the year.

Other comment(s):

We ask that the language in the report be amended. The language requiring amendment reads, "There are 56 OFCCP District/ Areas Offices organized into six Regional Offices located in New York, Philadelphia, Atlanta, Chicago, Dallas, and San Francisco...." Replace this language with, "There are 56 OFCCP District/ Area Offices organized into eight Regional Offices located in Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, San Francisco and Seattle.