



TRANSMITTAL

**U.S. DEPARTMENT OF LABOR
Employment Standards Administration
Office of Federal Contract Compliance Programs
Washington, D.C. 20210**

NUMBER: 194

DATE: Nov. 21, 1994

FCCM Notice/CH 6

1. **SUBJECT:** Revision of Letters Forwarding a Complaint to the Contractor
2. **PURPOSE:** To incorporate in the letter used to forward a complaint to the contractor information and requirements pertaining to the Immigration Reform and Control Act of 1986 (IRCA) which is currently contained in a separate letter sent to the contractor.
3. **BACKGROUND:** OFCCP has received a Reinvention Proposal which recommends that the current IRCA letter sent to contractors with the letter forwarding a complaint be eliminated by incorporating its contents into the forwarding letter. This recommendation has been accepted and is being implemented by this notice.
4. **INSTRUCTIONS:** From Manual Chapter 6 (a) remove pages 6-17 and 6-18 and substitute attached pages 6-17 and 6-18; (b) remove 6-29 and 6-30 and substitute attached pages 6-29 and 6-30.

No changes have been made to page 6-30. The right marginal line indicates the change made by the revision.
5. **OBSOLETE DATA:** Pages 6-17, 6-18, and 6-29 issued in the May 1993 version of the FCCM.
6. **ATTACHMENT:** Pages 6-17, 6-18, 6-29 and 6-30.
7. **DISTRIBUTION:** A, B, C
8. **EXPIRATION DATE:** This notice expires when implemented and may be discarded or retained for reference, at your option.

(signed) Shirley Wilcher

11-21-94

SHIRLEY J. WILCHER
Deputy Assistant Secretary

DATE

DO/AO LETTER TO CONTRACTOR FORWARDING
SECTION 503/38 U.S.C. 4212 EMPLOYEE COMPLAINT

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Dear (name of contractor):

This is to notify you that the Office of Federal Contract Compliance Programs (OFCCP) has received a complaint (copy enclosed) filed under the provisions of (*Section 503 of the Rehabilitation Act of 1973, as amended*)(*the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212*).

This Office has been assigned this complaint for investigation under the Act and OFCCP's regulations (41 CFR Part 60-741/60-250, copy enclosed), which require that Federal contractors and sub-contractors with a contract (in excess of \$10,000 or more) take affirmative action to employ and advance in employment (*qualified individuals with disabilities*)(*qualified special disabled and Vietnam Era veterans*).

As required by our regulations, please retain full and accurate records relevant to this complaint and ensure that there is no retaliation against the complainant (41 CFR 60-741.51 and .52/60-250.51 and .52). Also, our regulations require that the complaint and all actions taken with regard to it shall be kept confidential (41 CFR 60-741.26/60-250.26).

You are offered the opportunity by our regulations to attempt to resolve this complaint under an internal review procedure [41 CFR 60-741.26(b)/60-250.26(b)]. If you have such a procedure and wish to use it, please immediately notify us in writing and we will defer scheduling an investigation for sixty (60) days.

If you are successful in internally resolving the complaint to the satisfaction of the complainant, we will need verification from the complainant. However, OFCCP reserves the option to conduct its own investigation if, in its judgment, the circumstances warrant. If you do not intend to attempt to resolve this complaint internally, please notify us of this within ten (10) days. In this instance, we will schedule the complaint for investigation. During an investigation we may examine your current Affirmative Action Program required under 41 CFR 60-741.5/60-250.5.

This letter is neither a prejudgment of the issues nor an indication that your company has violated any law, but is rather an effort to resolve this matter as expeditiously as possible.

The complaint investigation will also include a review of your Immigration and Naturalization Service I-9 Forms. You are to make available for inspection the I-9 Forms for each eligible employee. We are requesting that you transmit to us a list of all your employees hired after November 7, 1986, or since the last inspection of the I-9 Forms for which you were found to be in compliance. That list should include the termination dates of the aforementioned hires that are no longer employed at your establishment. This list may be a seniority list or a copy of a list used for other Government agencies; e.g., a workers' compensation list or a list used to make quarterly social security payments to Internal Revenue Service. We also request that you provide information on when the last I-9 inspection was performed, and by which Government agency. This letter provides you with three (3) business days advance notice of the I-9 inspection as required by law.

During the onsite phase of the investigation, we will need to have available copies of I-9 forms for:

- (1) All employees, both current and former, hired within the last three years; and
- (2) Any former employees hired more than three years ago (but after November 6, 1986) who terminated within the past year.

You should also have available documentation; e.g., payroll records, sufficient to identify all employees for whom I-9 Forms are required.

Please contact (AOD/FOD/EOS name) at (telephone #) if you have any questions.

Sincerely,

AOD/FOD

Enclosures: 1. Complaint of (name) (CAS #)
 2. Regulations

If you do not wish to make such an attempt or are unsuccessful in doing so, you may wish to send us a statement of position or evidence concerning the complaint. Any such material submitted would be included in the case file, and would be considered when the complaint is investigated. Please note that during such an investigation, we may need to examine your current Affirmative Action Program required under 41 CFR (60-741.5) (60-250.5) (Part 60-2).

The complaint investigation will also include a review of your Immigration and Naturalization Service I-9 Forms. You are to make available for inspection the I-9 Forms for each eligible employee. We are requesting that you transmit to us a list of all your employees hired after November 7, 1986, or since the last inspection of the I-9 Forms for which you were found to be in compliance. That list should include the termination dates of the aforementioned hires that are no longer employed at your establishment. This list may be a seniority list or a copy of a list used for other Government agencies; e.g., a workers' compensation list, a list used to make quarterly social security payments to the Internal Revenue Service, etc. We also request that you provide information on when the last I-9 inspection was performed, and by which Government agency. This letter provides you with three (3) business days advance notice of the I-9 inspection as required by law.

During the onsite phase of the investigation we will need to have available copies of I-9 Forms for:

- (1) All employees, both current and former, hired within the last three years; and
- (2) Any former employees hired more than three years ago (but after November 6, 1986) who terminated within the past year.

You should also have available documentation; e.g., payroll records, sufficient to identify all employees for whom I-9 Forms are required.

Should you have any questions, you may contact (DD/ADD/CO) at (telephone #).

Sincerely,

AOD/FOD

Enclosure: 1. Complaint of (name of complainant) (CAS #)
 2. Regulations

DO/AO LETTER ACKNOWLEDGING RECEIPT OF EXECUTIVE ORDER/
NON-EMPLOYEE SECTION 503/38 U.S.C. 4212 COMPLAINT

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Re: Complaint against (name of company) (CAS #)

Dear (name of complainant):

This is to acknowledge receipt of your complaint against the above contractor which has been assigned to this Office for investigation.

We have notified the contractor of your complaint, provided it a copy, and suggested that it might wish to attempt to resolve the complaint. We have also informed the contractor that our regulations require that all relevant records be retained, that there is to be no retaliation against you, and that this matter is to be treated as confidential.

If the contractor and you are able to resolve your complaint to your satisfaction, please let us know immediately, preferably in writing. In the meanwhile, we will schedule your complaint for investigation.

Please be sure to keep us advised of any change in your address or telephone number. If you have any questions, you may contact (AOD/FOD/EOS name) at (telephone #).

Sincerely,

AOD/FOD