



TRANSMITTAL

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

Number: 76 Date: March 26, 1984 OFCCP Order No. ADM 85-1/JUR

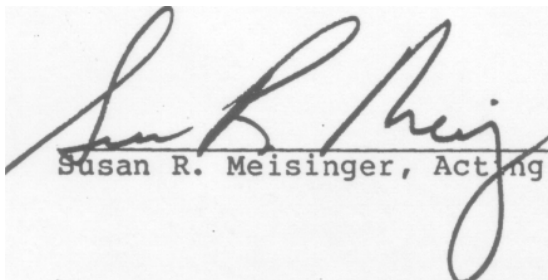
1. **SUBJECT:** Status of Federal Reserve Banks under OFCCP

2. **PURPOSE:** To inform the regions that Federal Reserve Banks are Federal entities and as such are not subject to the provisions of any programs administered by OFCCP.

3. **DISTRIBUTION:** R, S, T, X

4. **FILING INSTRUCTIONS:** Remove transmittal.
File Directive in Binder II after Tab 600.

5. **OBSOLETE DATA:** None


Susan R. Meisinger, Acting Director

MAR 26 1985
Date

NOTE: At the time of issue this directive was numbered OFCCP ORDER NO. 610a4.

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

OFCCP Order No. ADM 85-1/JUR
(formerly 610a4)

1. **SUBJECT**: Status of Federal Reserve Banks under OFCCP

2. **PURPOSE**: To inform OFCCP staff that Federal Reserve Banks are Federal entities and as such are not Federal contractors under the programs administered by OFCCP.

3. **ORIGINATOR**: Division of Program Policy, Branch of Regulations and Procedures

4. **BACKGROUND**: The question of the status of Federal Reserve Banks arose because several Federal Reserve Banks appear on OFCCP EEDS listings, and, in one instance, a compliance review of a Federal Reserve Bank was scheduled. The Federal Reserve Bank asserted that OFCCP lacked jurisdiction because the Bank is an instrumentality of the United States Government.

For purposes of programs administered by OFCCP, Federal Reserve Banks are to be treated as Federal entities and thus not Federal contractors. This determination is limited to OFCCP and is not intended to be conclusive as to the status of the Federal Reserve Banks under any other civil rights statutes.

The majority of Federal and state courts in which the status of the Federal Reserve Banks has been raised have been persuaded that the governmental functions performed by the banks make them Federal entities.

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As explained by the First Circuit in Federal Reserve Bank of Boston v. Commissioner of Corporations and Taxation of the Commonwealth of Massachusetts, 499 F. 2d (1979):

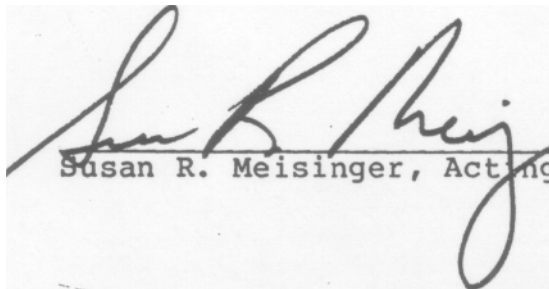
There are twelve [Federal Reserve] Banks in the nation.... They were created and are operated in furtherance of the national fiscal policy. They are not operated for the profit of shareholders, and do not provide ordinary commercial banking services; their stockholders, the member banks, lack the powers and rights customarily vested in shareholders of a private corporation. Federal Reserve Banks act as depositories for money held in the United States Treasury and as fiscal and monetary agents of the United States. 12 U.S.C. 391. They hold the legal reserves of members (sic) banks, issue currency, facilitate check clearance and collection, and have supervisory duties as to member banks. They also provide important services for the Treasury with respect to the public debt and the issuance, handling and redemption of Government securities. The limited income generated is used to pay expenses and dividends limited to 6 percent. Any remaining earnings are paid into the surplus fund, 12 U.S.C. 289, where they may be used by the United States Treasury to supplement the gold reserve. Should a Federal Reserve Bank go into liquidation, any surplus becomes the property of the United States, 12 U.S.C. 290.

Since a contractor is a person holding a Government contract and the definition of "person" does not include Federal entities, Federal entities cannot be classified as Government contractors. Thus, since Federal Reserve Banks are Federal entities, they cannot be considered to be Federal contractors.

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5. **POLICY:** Federal Reserve Banks will not be scheduled for compliance reviews. Federal Reserve Banks listings on current EEDS should be disregarded until they can be omitted from the next EEDS issuance.

6. **DISTRIBUTION:** R, S, T, X


Susan R. Meisinger, Acting Director

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