

ICE STANDARD OPERATING PROCEDURE

ICE WORKERS' COMPENSATION PROGRAM

Effective Date: November 4, 2014

Version: 1.0

Superseded: All previous policies, procedures, and any other guidance on workers' compensation issued by the former U.S. Customs Service, U.S. Immigration and Naturalization Service, or ICE or any of its Directorates and Program Offices prior to the effective date of this Directive.

AUTHORITY:

1. The Federal Employees' Compensation Act (FECA) as amended, 5 United States Code (U.S.C.), Chapter 81, February 5, 1993.
2. Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (Public Law (Pub. L.) 105-220), August 7, 1998.
3. 5 U.S.C. § 8104.
4. 18 U.S.C. § 287 and § 1001.
5. 5 Code of Regulations (C.F.R) Part 293, Subpart E, Personnel Records.
6. 20 Code of Federal Regulations (C.F.R.), Chapter 1, Part 10, Claims for Compensation Under the Federal Employees' Compensation Act.
7. United States Department of Labor (DOL), Office of Workers' Compensation Programs (OWCP), Division of Federal Employees' Compensation (DFEC), <http://www.dol.gov/owcp/dfec/>.

PURPOSE/SCOPE: This Standard Operating Procedure (SOP) establishes applicable procedures and requirements for the U.S. Immigration and Customs Enforcement (ICE) Workers' Compensation Program (WCP) as mandated by the ICE WCP Directive, number (TBD). This WCP SOP applies to all ICE federal employees in order to comply with statutory guidance found in provisions of FECA, as amended and extended (5 U.S.C. § 8101, et seq.).

DEFINITIONS: See Directive.

PROCEDURES: The following procedures should be followed to exercise the FECA authority whenever an ICE employee sustains a work-related injury or disease while in the performance of duty:

1. **Employee Reporting On-The-Job Injuries.** The following steps should be taken by an employee, whenever an employee sustains a traumatic injury, or incurs an employment

related occupational disease while in the performance of duty, including while on official travel or training:

- 1) Notify management (immediate supervisor and any other relevant management official) and the local WCP point of contact (POC) as soon as practicable.
- 2) Obtain medical treatment or first aid, even for minor injuries.
- 3) Submit a completed Form CA-1, "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation," or Form CA-2, "Notice of Occupational Disease and Claim for Compensation," to the supervisor using the Employees' Compensation Operations and Management Portal (ECOMP) available at the following link: (b)(7)(E)
- 4) Establish the basic elements for the claim.
- 5) Return to work as soon as the medical provider allows.
- 6) Submit Form CA-7, "Claim for Compensation," using ECOMP to the supervisor for benefit compensation.
- 7) Consult with the local WCP POC throughout the process.
- 8) Keep management abreast of medical status and leave plans, normally on a weekly/bi-weekly basis in accordance with timekeeping procedures or depending on the latest medical documentation.

2. Employee Job-Related Injury Disability Documentation and Reporting Requirements.

The employee must:

- 1) Complete the traumatic injury claim form (Form CA-1) using ECOMP within 30 calendar days of the injury to become eligible for continuation of pay (COP) and submit the form to the supervisor.
- 2) Advise the supervisor, WCP POC, and the timekeeper of his or her decision to request the use of COP if the circumstances meet the applicable criteria, leave, and/or leave without pay (LWOP) to cover any time loss. Complete the appropriate documentation in ICE's electronic time and attendance system (i.e., webTA) to cover the time away from the job. (webTA coding instructions: TC 67-OWCP Injury Leave = COP, TC 71-LWOP-w/OWCP (Injury) or LWOP-w/OWCP (Illness), and sick and/or annual leave.)
- 3) Have filed Form CA-1 using ECOMP within 30 days of the date of injury and must have begun losing time from work due to the traumatic injury within 45 days of the injury. Any COP used is a result of disability (inability to work) and/or the need for medical examination and/or treatment. Also, medical evidence must have been

submitted within 10 workdays of requesting COP to justify any COP usage (COP is only available for traumatic injuries).

- 4) Complete the occupational disease claim form (Form CA-2) using ECOMP for an occupational disease along with the applicable checklist (CA-35A – CA-35H) using the DOL's Web Enabled Electronic Document System and submit the form to the supervisor.
- 5) Submit Form CA-7 using ECOMP to request compensation for LWOP, leave buy back, other wage loss (i.e., employee accepted a lower-paying job offer as result of injury/illness), and schedule award. If time loss is intermittent, submit Form CA-7a, "Time Analysis Form" using ECOMP.
- 6) Submit Forms CA-7 and CA-7a using ECOMP and Form CA-7b, "Leave Buy Back (LBB) Worksheet/Certificate and Election" in paper form to buy back leave.

3. Supervisory Review and local WCP POC of Claimant Reporting Criteria. The claimant's supervisor and local WCP POC must review the claim form(s) to ensure compliance with the criteria outlined below:

- 1) Claimant's statement on Form CA-1 or CA-2 regarding when, where, and how the injury was sustained, must be clear and consistent.
- 2) Form CA-1 or Form CA-2 and any narrative statements should be reviewed for accuracy. Note: Clarification must be requested from the employee on any discrepancies in documentation; if any suspicious information or activity is noted, DOL must be so informed. Do not withhold forms for information and investigative practices.
- 3) All relevant documentation must be included in support of the applicable evidence checklist (CA-35A – CA-35H) if Form CA-2 is filed for a disease claim.
- 4) Any relevant discrepancies must be described on the Official Supervisor's Report portion of the Form CA-1 or CA-2 using ECOMP.
- 5) Additional efforts must be made to review the claimant's statement and those of any witnesses to verify or refute the validity of the claimant's history of injury/occupational disease and medical complaint. If any concerns are raised, the supervisor should submit a detailed statement using ECOMP in the uploaded documents section.
- 6) Forms CA-1 and CA-2 must be forwarded to the local WCP POC within 3 days after receipt from the employee using ECOMP. Form CA-7 must be forwarded to the local WCP POC within 2 days after receipt from the employee using ECOMP.
- 7) The "Employing Agency Portion" of Form CA-7 and any other relevant forms must be completed utilizing information and assistance from the claimant's timekeeper and the

designated ICE Office of Human Capital (OHC) POC at either OHC Dallas or OHC Laguna (for salary, benefits information, etc.).

- 8) The information provided on the OHC website at the link below provides information when a work-related injury or illness occurs (“Workers' Compensation: Top 9 Nine Things to Remember When a Work-Related Injury Occurs”)

(b)(7)(E)

Each employee filing a claim should be provided with a copy of the information located at the attached link or the link itself.

- 9) All claim forms must be submitted in a timely manner.

4. Medical Evidence and Supporting Documentation and Reporting Criteria.

- 1) The physician’s opinion shall be based on the history of the injury or occupational disease.
- 2) Any medical evidence and supporting documentation must include a history, diagnosis, prognosis, and treatment plan for OWCP’s purposes.
- 3) The medical report shall support total or partial disability and specify the exact limitations of the employee due to the injury or occupational disease (either disability from work or restriction of ability to work).
- 4) The physician shall know the employee’s job requirements in instances of partial disability or restriction from performing the full scope of usual duties by utilizing Form CA-17, “Duty Status Report.”
- 5) The physician shall present directly to the OWCP objective medical evidence to support the opinion given, when medically warranted, such as laboratory test results, etc., for OWCP purposes.
- 6) The physician shall give a rational explanation of the medical findings to explain why and how the medical impairment was thought to have been caused by the alleged injury or disease for OWCP purposes.
- 7) The physician’s opinion shall reflect the verbal complaints of the injured employee related to the alleged injury or disease for OWCP purposes.
- 8) The WCP POC uploads the medical information into ECOMP and ensures adequate protections are in place to safeguard the information consistent with the Privacy Act, Department of Homeland Security (DHS) and ICE privacy policies and guidance (e.g., limiting access only to those with an established need to know), and all other applicable laws governing the storage of employee medical information.
- 9) Employees may also upload medical information into ECOMP.

5. Scenarios Where Medical Evidence (Supporting Documentation) Must Be Provided. Supporting documentation (medical evidence), as applicable, **must** be provided if:

- 1) The employee is unable to return to work when COP ends.
- 2) The employee is unable to return to work and is not entitled to COP.
- 3) The employee's medical provider believes the injured employee will be disabled for a period of time that is longer than 45 calendar days. Note: The employee may submit Form CA-7 on the 40th day of the 45-day period to claim compensation. Also, at that time, the employee **must** provide a medical report from the medical provider, which reflects an inability to work at the end of the 45 days.
- 4) The employee's medical provider has specified any medical limitation or restrictions that result from the injury or disease. Note: This will assist the supervisor in making a determination concerning limited/light duty or an alternative position.
- 5) The employee has sustained an occupational disease. An employee may request leave and/or LWOP from his or her supervisor to cover time loss due to an occupational disease. Note: Form CA-7 may be filed for wage loss after the employee has requested LWOP to cover time loss due to the injury with supporting medical documentation, since COP is not authorized for occupational disease claims. The claim must be accepted by OWCP before the employee is entitled to compensation.
- 6) The employee submits a request for a leave buy back.
- 7) The employee submits a Form CA-7 for schedule award for permanent impairment.

6. Controversion. An effective controversion requires that the supervisor perform the following actions:

- 1) Submit to local WCP POC a concise, thorough, factual report including the rationale upon which the controversion is based. Submit this report within 10 working days of receiving the claim. Do not hold the claim form for submission of additional information.
- 2) Inform the employee that the claim is being controverted and provide the reason(s). Also, provide a copy of the controversion statement to the claimant.

7. Controversion of COP. A supervisor may controvert COP for the following reasons:

- 1) The disability is a result of an occupational disease or illness.

- 2) The employee falls within certain categories of volunteers, unpaid consultants, or contractors.
- 3) The employee is neither a citizen nor a resident of the United States or Canada (i.e., a foreign national employed outside of the United States or Canada).
- 4) The injury occurred off the employing agency's premises and the employee was not involved in official "off-premises" duties at the time.
- 5) The injury was caused by any or all of the following by the employee:
 - a) Willful misconduct;
 - b) Intended injury or death to self or another person; or
 - c) Intoxication was the proximate cause of the injury.
- 6) The injury was not reported on an approved form within 30 calendar days following the injury.
- 7) Work stoppage first occurred more than 45 calendar days following the injury.
- 8) The employee initially reported the injury after his or her employment was terminated.
- 9) The employee is enrolled in the Job Corps, Youth Conservation Corps, work-study programs, or other similar groups.

8. Termination/Stoppage of COP. A supervisor may stop COP for the following reasons:

- 1) When ICE has not received medical evidence that the employee has sustained a disabling traumatic injury within 10 workdays after the employee submits a claim for COP.
- 2) When ICE receives evidence from the attending physician that the employee is no longer disabled.
- 3) When ICE receives evidence that the attending physician has found the employee only partially disabled and the employee refuses to accept suitable work that has been offered by ICE. Under refusal to accept suitable work considerations, the following must have occurred:
 - a) To qualify as suitable work, the supervisor must have notified the employee *in writing* of the job duties, physical requirements, and the date the job was available.

- b) The work offered must not exceed physical limitations imposed by the attending physician.
 - c) The physician's documentation provided to the supervisor and the local WCP POC indicates that the work is suitable to the employee's physical limitations.
 - d) Written documentation of the limited/light duty assignment is required before OWCP will determine that the employee refused suitable work.
- 4) When the employee's scheduled period of employment expires, or employment is otherwise terminated, provided that the date of termination of employment is established prior to the date of injury. If termination of employment is a disciplinary action, COP may be stopped upon the termination of employment only if final written notice of termination of employment for cause was issued to the employee prior to the date on which the disability for work is claimed to have begun.
 - 5) When ICE receives notification from OWCP that pay should be terminated.
 - 6) When the employee refuses to submit to or obstructs an examination required by OWCP.

An employer cannot stop COP unless it does so for one of the nine reasons stated in Section 7 above. Where an employer stops COP, it must file a controversion with OWCP setting forth the basis on which it terminated COP no later than the effective date of the termination (of COP).

9. Formal Decisions by DOL Concerning COP Requiring Actions.

- 1) When ICE controverts and terminates pay and OWCP subsequently rules in favor of the claimant, ICE may be required to pay COP for up to 45 calendar days of disability.
- 2) When the claimant receives COP and the claim is later disallowed by OWCP, the claimant and ICE will be advised by OWCP that the COP be declared an overpayment. Arrangements must be made for the claimant to repay the amount of the overpayment to ICE, either by replacing his or her leave for the COP or, if there isn't any leave, monetary repayment. The local ICE WCP POC and supervisor in conjunction with the servicing payroll office initiate the repayment.

10. Employee Job-Related Death Documentation and Reporting Requirements.

- 1) **Notification.** The Director of ICE shall be notified of employee deaths that result from an injury in the performance of duty or instances of death after separation that is the result of an injury sustained in the line of duty.
- 2) **Death Gratuities.** The FECA Death Gratuity (established by the 2008 Defense Authorization Act) created a new benefit for beneficiaries of federal employees (and

employees of non-appropriated fund instrumentalities). This provision authorizes the DOL OWCP to pay up to \$100,000 to survivors of “an employee who dies of injuries incurred in connection with the employee’s service with an Armed Force in a contingency operation.” (5 U.S.C. § 8102a)

- 3) **Approval.** The Director of ICE shall review and approve requests for the Agency Death Gratuity in accordance with applicable laws, rules, regulations, DHS and ICE policies, and guidance on death gratuities.
- 4) **Survivor Benefits.** The survivors of a federal employee whose death is work-related are entitled to benefits in the form of compensation payments, funeral expenses, transportation expenses for the remains, if necessary, and payment for termination of the deceased’s status as a federal employee.
- 5) **Reporting Requirements.** For line of duty deaths, the supervisor of a deceased employee, or other authorized official of ICE, shall complete Form CA-6, “Official Superior’s Report of Employee’s Death,” and submit it to the local WCP POC. (Two certified copies of the death certificate are also required, requested by OHC Dallas or Laguna from the survivor(s), but the claim should not be held up if it’s not immediately available.) Form CA-5, “Claim for Compensation by Widow, Widower, and/or Children,” or CA-5b, “Claim for Compensation by Parents, Brothers, Sisters, Grandparents, or Grandchildren,” should be provided by the OHC Dallas or Laguna to the employee’s spouse or next of kin as part of the benefits package. OHC Dallas or Laguna will submit the documents to DOL OWCP.

11. Computer/Electronic Accommodations Program (CAP). Through the CAP, injured employees are able to return to work with the necessary equipment they need, as if they had not been injured, and at no cost to ICE. They can return because of accommodation solutions, which are available for the following areas: Blind/Low Vision, Cognitive, Dexterity, Communication Disabilities, and the Deaf/Hard of Hearing.

- 1) **Initial Process.** To comply with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (Pub.L. 105-220), August 7, 1998, ICE utilizes the National Defense Authorization Act of 2000, which grants CAP the authority to allow agencies in the Federal Government that have a Memorandum of Understanding (MOU) with CAP to procure assistive technology and services. DHS has an MOU with CAP. To access this service, employees and supervisors must first contact the ICE Reasonable Accommodations Program Coordinator in the ICE Office of Diversity and Civil Rights and then:
 - a) Obtain and complete a CAP Accommodation Request Form on-line at <http://cap.mil/PublicationForms/CAPforms.aspx> to request assistive technology;
 - b) Obtain supervisor’s approval online prior to submitting to CAP; and
 - c) Ensure that CAP confirms the request is approved.

- 2) **Secondary Steps.** The following processes are part of the CAP MOU:
 - a) CAP representatives will contact the employee if additional information or documentation is required. Employees with OWCP claims must provide their OWCP claim number along with a copy of their DOL acceptance letter.
 - b) Approved requests will be shipped directly to the requesting individual and become the property of ICE.
 - c) ICE shall maintain equipment when the initial warranty period expires.
- 3) **Follow-Up Steps When Orders Are Received Damaged or Not Working.** If an order arrives damaged or does not function, please keep all the materials with the equipment and immediately contact CAP customer service to assist in exchanging the equipment. Customer Service can be reached via email at (b)(7)(E)
- 4) **Additional Remedies for Repair and Maintenance.** CAP does not process requests for the repair or routine maintenance of accommodations; ICE should handle such requests internally through the Office of Chief Information Officer or contract a vendor through the Office of Acquisition to perform the necessary repairs. Some accommodations are under a manufacturer warranty while some software packages may have upgrades or patches available allowing for a return merchandise authorization or free download. If the product does come with a manufacturer warranty, the form provided must be completed and submitted to the manufacturer directly as soon as the product is received. Contact CAP customer service to determine if the accommodation is under a manufacturer warranty, eligible for a free upgrade, or to request a replacement.
- 5) **Transfers of Assistive Technology.** As mentioned above, when CAP purchases assistive technology for an employee, the equipment becomes the property of ICE. CAP is not in a position to dictate to agencies how they manage their equipment. Therefore, ICE has the freedom to decide whether or not the equipment should go with a separating employee. However, in an effort to be "green," CAP strongly encourages agencies to transfer their assistive technology with the employee when the employee goes to another federal agency. The equipment should stay within the federal government system. This reduces the timeframe for replacement of the equipment for the employee and reuses the technology to save federal funds.

12. Alternative Positions. When the employee's treating physician for the injury/ illness; the Department of Labor, OWCP; or the local ICE Directorate or Program Office WCP POC determines that the employee has reached maximum medical improvement (MMI) and there is no expectation that an injured employee shall ever return to his or her pre-injury job, the local ICE WCP POC will work with the employee, the employee's Program Office, and the Office of Human Capital to find a suitable job, subject to availability.

- 1) **Identifying Alternative Positions.** OHC will develop and maintain a resume database of employees who have been determined to be eligible for an alternative position.
 - a) When the employee has reached MMI and there is no expectation that an injured employee shall ever return to his or her pre-injury job, the employee's local Program Office WCP POC will obtain a current resume from the employee and forward it to the employee's HQ Program Office WCP POC for review and concurrence. Upon approval from the HQ Program Office WCP POC, the resume will be forwarded to OHC and then uploaded into the OHC resume database.
 - b) All ICE HQ WCP POCs will have access to the OHC resume database and will be required to monitor the database weekly for prospective job placement of injured employees. The POCs will liaise with local supervisors and the ICE service centers to maintain awareness of vacancies.
 - c) If a Program Office HQ WCP POC identifies an employee in the OHC resume database he or she believes qualifies for a vacancy in their Program Office, the HQ WCP POC will send the employee's resume and the position description to the appropriate OHC service center, which will then determine whether the employee meets the qualifications for placement in the open vacancy. Once the service center has determined that the employee is qualified for the open vacancy, the service center will contact the local Program Office WCP POC with instructions on how to make a job offer.
 - d) When a Program Office, in coordination with its Program Office HQ WCP POC, determines that none of the resumes in the OHC resume database qualify for their vacancy, the Program Office will note on the recruitment SF-52 that it had considered all valid placements prior to requesting public posting of the vacancy announcement.
 - e) When the employee is no longer eligible for an alternative position (i.e., received a different position, declined a suitable job offer, etc.), the HQ WCP POCs will ensure that the employee's resume is deactivated in the OHC resume database.
- 2) **Job Offer.** A job offer shall be made in writing and signed by the local management Directorate head (i.e., SAC, FOD, etc.) where the position is located. The Program Office will work in conjunction with the Program Office HQ WCP POC, a representative from the Program Office's OHC service center, and an employment law attorney from the Office of the Principal Legal Advisor (OPLA). The local Program Office WCP POC will send the original job offer to the employee and a copy to the OWCP district office handling the claim. The job offer must include:
 - a. The salary, hours of work, and name and contact information for the POC at the new job.

- b. A description of the duties to be performed, the physical requirements of the work, and any special workload demands or unusual working conditions.
 - c. The date the employee should report for duty.
 - d. The organizational and geographical location of the job.
 - e. A statement giving the employee 15 business days from the date of the letter to respond to the job offer.
 - f. A warning that not accepting the job offer or failing to respond could result in termination of benefits from DOL, OWCP, and removal from the Federal service.
- 3) **Medical Certification.** A copy of the above-stated job description and physical requirements may be certified by the individual's medical provider and/or independent medical examiner as appointed by OWCP as being suitable for the claimant.
- 4) **Negative Response.** If an employee rejects an offer or fails to respond within the required timeframe, the local Program Office WCP POC must make a request to DOL, OWCP for a suitability determination as soon as possible. The Program Office must hold the job offer open until DOL, OWCP makes a decision on the suitability of the job offer. The local Program Office WCP POC will be notified of OWCP's decision concerning the suitability determination in writing. If the job offer is suitable, OWCP will notify the employee in writing and advise that he or she is expected to accept the job or to show reasonable cause for refusal. DOL, OWCP will advise the employee that failure to accept the job or respond within 30 days will result in termination of compensation payments. At that time, the Program Office shall contact an employment law attorney in OPLA to assist with removing the employee from Federal Service. If the job offer is not suitable, the search for an alternative position will continue in accordance with the procedures above.

13. Rehabilitation Program. ICE will promote the provision of rehabilitation services to work related injured employees in order to help them overcome the effects of their injury or illness through an early return to suitable, gainful employment. Early intervention by rehabilitation professionals helps to shorten the disability period, reduce compensation costs, and promptly return injured workers to productive work. An employee with extended disability may be considered for rehabilitation services if requested by the medical provider, the employee, or the POC for ICE WCP. In addition, OWCP will routinely consider a case for rehabilitation services if ICE cannot reemploy the injured employee.

- 1) **Rehabilitation services conducted by OWCP may include the following:**
 - a) Translating employee abilities and skills into vocational objectives.
 - b) Evaluating an employee's physical capacities, and then matching the results with specific occupational requirements.

- c) Evaluating an employee's physical and intellectual capacities, vocational interests, and personality traits using standardized testing methodologies, and then matching this information with feasible occupations.
 - d) Compiling a detailed description of all job activities with special emphasis on physical requirements, then incorporating them into a job analysis that can help the treating physician and supervisor determine if a person can physically perform a particular job.
 - e) Restructuring work tasks to maximize productivity potential.
 - f) Formal classroom training in goal setting, job search techniques, resume writing, and interviewing skills.
- 2) Employees who receive rehabilitation services shall:
- a) Cooperate to the greatest extent possible in regard to completing evaluations and required tests.
 - b) Communicate with their supervisor regularly on the status of their medical condition.

14. Retention Rights. Under 5 U.S.C. § 8151, an employee who recovers within one year of starting compensation has mandatory rights to his or her old position or its equivalent regardless of whether he or she is on the agency rolls.

15. Evaluations. WCP evaluations are conducted based on budgetary considerations and involve program planning, program implementation, and program evaluation.

- 1) The ICE WC Program Manager shall submit a written report of the evaluation transmitted through the HCO to the head of each organization evaluated.
- 2) The Program Office heads are responsible for ensuring that a written response to the program evaluation is made through appropriate channels to the ICE WC Program Manager within 60 calendar days of receipt of the original evaluation report.
- 3) To ensure effectiveness and regulatory compliance, an ongoing review based on a multi-year cycle determined by a risk assessment will be executed by OHC. The method of the review will consist of an overall ICE-wide evaluation of procedural, program, and regulatory compliance with ICE and DHS Directives and federal regulations. This method may include observations, interviews, and document review techniques. Reports will be sent to the Chief Human Capital Officer, or his or her designee, upon request.

16. Evaluation Criteria. Generally, evaluations coordinated by the ICE WC Program Manager will involve, at a minimum, a review of the following:

- 1) Extent of management involvement.
- 2) Extent to which OWCP laws/regulations and ICE directives are followed.
- 3) Structure and effectiveness of responsibility, authority, and accountability to implement the program.
- 4) Technical skills of the local ICE WCP POC.
- 5) Identification of training needs and the process to satisfy those needs.
- 6) Adequacy of program information flow within the organization.

17. Training. ICE will actively support WCP training of employees, supervisors, managers, and local ICE WCP POCs. First-line supervisors will be trained at an ICE designated facility. The ICE OHC WCP can provide ad hoc training if funded by the Program in need of such training.

18. Categories of Training. Directorates and Program Office heads shall ensure that training, and reasonable funding thereto, are provided to the following categories of OWCP training, when applicable:

- 1) **Local ICE WCP POCs.** Each local ICE WCP POC shall take the Basic Compensation Specialist Workshop training provided by OWCP.
 - a) This training is a formal three-day session in a classroom setting.
 - b) It is recommended to be taken within 30 days of appointment as a local ICE WCP POC, subject to availability of training sessions at DOL.
 - c) Training emphasizes the skills needed to counsel injured employees, review claim forms for accuracy, document COP, and develop record-keeping systems.
- 2) **Annual ICE WCP Conference.** Coordinated by the ICE WC Program Manager, this conference is intended to provide updated information and techniques for local ICE WCP POCs. The conference is dependent upon funding availability.
- 3) **Supervisors and Managers.** Either the ICE OHC WCP or the local OWCP district office may provide OWCP training to supervisors. OWCP has a FECA Supervisor's Workshop tailored to meet the needs of the agency requesting training. The training covers such topics as limited/light duty and reemployment.

19. Penalties for Fraud. The ICE Table of Offenses and Penalties provides guidance to all ICE employees regarding unacceptable behavior and the consequences of such behavior.

20. Penalties that are pursuant to 20 C.F.R. § 10.23:

- 1) Any employee, beneficiary, official supervisor, representative, or other person who knowingly makes, or knowingly certifies to, any false statement, misrepresentation, concealment of fact, or any other act of fraud with respect to a claim under the FECA, or who knowingly accepts compensation to which that person is not entitled, is subject to criminal prosecution and may, under appropriate U.S. Criminal Code provisions (e.g., 18 U.S.C. § 287 and § 1001) be punished by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.
- 2) Any employee, beneficiary, official supervisor, representative, or other person who, with respect to a claim under the FECA, enters into any agreement, combination, or conspiracy to defraud the United States by obtaining, or aiding to obtain, the payment or allowance of any false, fictitious, or fraudulent claim is subject to criminal prosecution and may, under appropriate U.S. Criminal Code provisions; e.g., 18 U.S.C. § 286, be punished by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both.
- 3) Any person charged with the responsibility of making reports in connection with an injury who willfully fails, neglects or refuses to do so; induces, compels, or directs an injured employee to forego filing a claim; or willfully retains any notice, report or paper required in connection with an injury, is subject to a fine of not more than \$500 or imprisonment for not more than one year, or both.

RECORDKEEPING AND RELEASE OF INFORMATION: ICE shall establish and maintain files in accordance with general recordkeeping procedures, this SOP, and applicable laws, regulations, and records retention schedules.

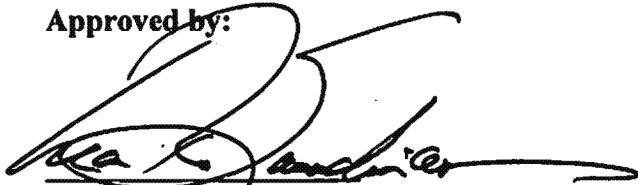
- 1) ICE Records: A notice of injury (without any medical expenses or time loss) is not required to be filed with OWCP, but is to be placed in the Employee Medical Folder located at OHC Laguna and OHC Dallas Service Centers and retained in accordance with the U.S. Office of Personnel Management regulations and the National Archives and Records Administration General Records Schedule, Transmittal No. 22, April 2010, governing disposal of the EMF.
- 2) DOL Records: Retention of OWCP records is in accordance with the OWCP Records Retirement Schedule. Hard copy originals of the CA-1 and CA-2 need to be kept indefinitely (or at least as long as the OWCP case records are maintained, which according to the retention notice in the systems notice for DOL/GOVT-1 provides that all “case files and automated data pertaining to a claim are destroyed 15 years after the case file has become inactive”). Also included are Forms CA-3 and CA-7. Documents in the OWCP Case file include: medical reports, copies of letters and decisions, and any other material which is part of the case file, regardless of its source. These documents should

be maintained in folders apart from the EMF or Official Personnel Folder, but such folders are not considered a "system of records" separate from the case file. Rather, they are considered an alternate location for the records, which remain under the jurisdiction of OWCP. Their retention and disposal are covered by the OWCP Records Retirement Schedule, which requires that case file material to be maintained for two years after case closure.

- 3) Requests for copies of OWCP records should be made directly to the OWCP servicing district office since it maintains ownership of the official records.
- 4) All tracking, handling and disclosures of OWCP information (to include forms, reports, communications, etc.) maintained by ICE must comply with applicable privacy laws, policies and guidance. See the *DHS Handbook for Safeguarding Sensitive Personally Identifiable Information at*

(b)(7)(E)

Approved by:



Alan R. Swendiman
Acting Human Capital Officer