



**LHWCA BULLETIN NO. 22-03**

**Issue Date: November 8, 2022**

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**Subject:** Rescission/withdrawal of Delegation of Authority to Administer Certain Duties under the Act from the Secretary of Labor, Director, Office of Workers' Compensation Programs (OWCP) and Division of Federal Employees', Longshore and Harbor Workers' Compensation (DFELHWC) Director to the District Director (DD).

**References:** Authority for this bulletin is in the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. § 939(a), the Code of Federal Regulations at 20 C.F.R. § 701.201, and the Longshore Procedure Manual at [PM Chapter 4-0400](#).

**Purpose:** To revise Longshore Procedure Manual Chapter 4-0400, Delegation of Authority to Administer Certain Duties under the Act from the Secretary of Labor, Director, OWCP and DFELHWC Director to the District Director. Specifically, the Procedure Manual is hereby revised at 4-0400(5)(7) to rescind and withdraw from the District Director authority to enter into agreements to commit the expenditure of Special Fund assets in Section 18(b) cases by either accepting liability for the Fund to pay compensation to a claimant or to contribute to a Section 8(i) settlement, without regard to dollar amount.

**Background:**

On December 1, 2020, Chapter 4-0400 of the Procedure Manual was amended to address in greater detail the delegation to administer certain duties under the Act from the Secretary of Labor, Director, OWCP, and DFELHWC Director to the District Director. Among the various enumerated authorities that were delegated to the District Directors was authority to commit Special Fund assets in Section 18(b) cases, including in Section 8(i) settlement agreements, in amounts up to \$300,000. Previously, District Directors referred all matters with respect to obligating Special Fund assets in Section 18(b) cases to the National Office for review and approval.

**Action:**

This bulletin limits the delegation of authority to commit Special Fund assets in Section 18(b) cases to the Deputy Director for Longshore Claims or if the Deputy Director is unavailable to the Director of DFELHWC or Director of OWCP. Thus, this bulletin reinstates the requirement that District Directors obtain approval of the Deputy Director for Longshore Claims, or if the Deputy Director is unavailable, the Director of DFELHWC or Director of OWCP, to commit Special Fund assets in Section 18(b) cases as outlined in [PM Chapter 6-0202\(7\)](#). The Secretary's authority is delegated only to the Director, OWCP, Director, DFELHWC, and Deputy Director for Longshore Claims. To effectuate this change, this bulletin updates current Procedure Manual Chapter 4-0400(5)(7) by deleting the sentence which presently states that "Where an E/C is on the

National Office list of accepted insolvent entities, the DD may enter an agreement to settle a claim pursuant to Section 8(i), issue a compensation order approving settlement, and obligate payment under Sections 18(b) and/or 32(a) up to \$300,000 without National Office approval.” Upon the effective date of this bulletin, that sentence is repealed and the approval of the Deputy Director for Longshore Claims or if the Deputy Director is unavailable to the Director of DFELHWC or Director of OWCP is required to commit Special Fund assets to pay compensation in any Section 18(b) case. Further, Procedure Manual Chapter 4-0400 is revised by deleting under Exhibit 1: Quick Reference Signature Authority, the entry for District Directors: Special Fund—Obligate Payment NO Insolvent E/C list 18(b) & 32(a) and Special Fund—Settlements up to \$300,000.

Nothing in this bulletin or the Procedure Manual does anything to disturb the authority of the District Directors to approve section 8(i) settlement agreements, as set forth in Section 908(i) of the statute and 20 C.F.R. §§ 702.241 -.243 of the regulations, including authority to approve section 8(i) settlement agreements entered into by the Special Fund. Rather, the bulletin clarifies who may commit Special Fund assets to be paid out in compensation orders or settlement agreements in Section 18(b) cases.

**Applicability**: Claimants under the LHWCA and its extensions, their representatives; Employers and Carriers under the LHWCA and its extensions, their representatives; All Contract and Federal Staff for the Division of Federal Employees, Longshore and Harbor Workers’ Compensation (DFELHWC).

**Disposition**: This Bulletin is to be retained until the DFELHWC Procedure Manual has been updated.

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