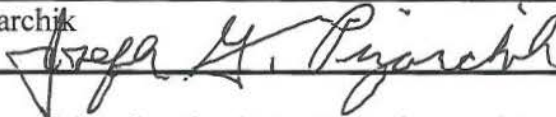
	U.S. DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Code: EEO-1
		Transmittal Number: 972
		Date: DEC -6 2012
Subject: EEO Complaints Settlement Authority		
Approval: Joseph G. Pizarchik		Title: Director



1. **Purpose.** The purpose of this directive is to ensure the consistent processing of EEO settlement agreements. This directive also provides the delegation of authority for approving all EEO settlement agreements.
2. **Summary of Changes.** This is a new directive.
3. **Definitions.**
 - a. Compensatory Damages are monetary awards for pecuniary and non-pecuniary losses that are alleged to be caused by discrimination.
 - b. Material Benefit may include, but is not limited to, such items as;
 - Promotion Training, if the training will qualify the employee for a non-competitive promotion.
 - A Senior Executive Service (SES) appointment; and,
 - Payment for relocation.
 - c. Non-pecuniary losses are intangible (non-monetary) injuries of emotional or physical harm including but not limited to;
 - Pain, suffering, and other negative impacts on health
 - Mental anguish, depression, and loss of enjoyment of life; and,
 - Injury to professional standing, character, or reputation.
 - d. Pecuniary losses are out-of-pocket expenses incurred such as, but not limited to;
 - Medical and psychiatric expenses; and,
 - Moving expenses.
4. **Policy.** The Department of Interior (DOI), Office of Civil Rights (OCR) issued Equal Opportunity Directive (EOD) 2003-05, "Settlement Agreements." The EOD stated that any agreement for a monetary award exceeding \$20,000 in back pay, interest, or damages, or \$20,000 in attorney's fees, or any combination of the two in excess of \$40,000 must be approved by the Director, OCR, prior to execution. The requirement reemphasizes the need for settlement

agreements based on known facts of the complaint and sound judgement, which should result in appropriate resolution of Equal Employment Opportunity (EEO) complaints.

Background. Settlement Agreements cannot exceed the relief that an aggrieved individual would otherwise receive in the U.S. District Court. The statutory cap for all compensatory damages awards is \$300,000 for employers employing 501 or more employees. Any agreement for a monetary award exceeding \$20,000 in back pay, interest, or damages, or \$20,000 in attorney's fees or any combination of the two in excess of \$40,000 must be approved by the Director/Deputy Director, and the Director, Departmental Office of Civil Rights¹. All requests for attorney fees must be submitted to the Office of the Solicitor for approval, prior to payment.

To ensure the consistent processing of EEO settlement agreements, the following delineates the Office of Surface Mining's (OSM) directive for approving all EEO settlement agreements. This delegation of authority pertains to EEO settlement agreements at both the pre-complaint and formal complaint stages of the complaints process. It also includes procedures for obtaining required approvals; and the final disposition of fully executed settlement agreements.

5. **Responsibilities.** The following positions are delegated authority to resolve EEO complaints and negotiate EEO settlement agreements as indicated.

a. Director/Deputy Director must approve all settlements valued in excess of \$20,000 (monetary payment or material benefit); and, shall resolve all EEO complaints naming an Assistant Director (AD), Regional Director (RD), and/or Staff Office Head as the alleged discriminating official.

b. Assistant Directors, Regional Directors and Staff Office Heads are delegated the full authority to resolve and settle EEO complaints, over which they have authority, valued at less than \$20,000.

This authority to resolve and settle EEO complaints cannot be redelegated.

6. **Procedures.**

Less Than \$20,000

a. The original copy of a fully executed settlement agreement, that is less than \$20,000, must be sent to the EEO Officer. The EEO Officer shall advise the Director/Deputy Director of the terms of the agreement. In addition, all implementation documents must be forwarded to OEO within thirty (30) calendar days of complying with terms of the agreement. These documents will be forwarded to OCR and maintained in the EEO Office for a minimum of one year.

Excess of \$20,000

¹ The Department's Director of Civil Rights signature acknowledges that he/she has reviewed the settlement agreement.

a. Once the terms of a settlement agreement are identified and the settlement agreement drafted, the Resolving Management Official (RMO) shall complete a *Settlement Justification Statement*. (see Attachment 1) Settlement agreements that include attorney's fees as part of the compensation package must receive approval from the Office of the Solicitor.² Therefore, an invoice for attorney's fees must be included in the *Settlement Justification Statement*.

b. The settlement agreement package shall be forwarded to OEO. OEO will ensure the review of the settlement agreement package by the Office of Human Resources, Division of Financial Management and the EEO Complaints Manager. Their review will ensure conformance with appropriate laws, regulations and procedures and resolve any issues prior to submission to the Director/Deputy Director for approval.

c. OEO shall shepherd the settlement agreement along with the *Settlement Justification Statement* for review and/or approval through the Director/Deputy Director's Office, Departmental Office of Civil Rights and Office of the Solicitor, as appropriate.

d. Following all reviews and approvals, OEO will return the settlement agreement to the RMO to obtain signatures required to execute the agreement.

e. Settlement agreements resulting from an Administrative Hearing are handled solely by the Office of the Solicitor. The Director/Deputy Director must approve all settlements valued in excess of \$20,000 (monetary payment or material benefit).

f. EEO settlements reached through the CONflict RESolution PLUS (CORE) program requires the mediator to ensure that the agreement is reviewed by the EEO Officer before it is signed and finalized by the parties. The Director/Deputy Director must approve all settlements valued in excess of \$20,000 (monetary payment or material benefit).

For all settlement agreements, the original copy of the fully executed settlement agreement and all implementation documents must be forwarded to OEO within thirty (30) calendar days of complying with all terms of the agreement. These documents will be forwarded to OCR and maintained in the EEO Office for a minimum of one year.

7. **Reporting Requirements.** None
8. **Effect on Other Documents.** None
9. **References.** Equal Opportunity Directive (EOD) 2003-05, Settlement Agreements.
10. **Effective Date.** Upon signature
11. **Distribution.** Electronically

² The amount of the settlement agreement attributed to attorney's fees should be included in the *Settlement Justification Statement*.

12. **Appendices.** Settlement Justification Statement

Contact: The Office of Surface Mining, Office for Equal Opportunity

SETTLEMENT JUSTIFICATION STATEMENT

A. Complainant/Aggrieved Name:

B. Organizational Unit: (Identify Region/Division/Office)

C. Identify Issues:

D. Identify Bases:

E. Compensatory Damages: (awarded to compensate the aggrieved for losses or suffering inflicted due to the discriminatory act or conduct)

F. Monetary Relief: (identify lump sum, back pay or other to include the amount)

G. Non-monetary Relief: (identify the terms of the non-monetary relief)

H. Justification for Settlement:

I. Settlement Terms Agreed Upon:

Signature: _____
(Resolving Management Official)

Date: _____

Director/Deputy Director: Concur: _____

Do Not Concur: _____

Date: _____