



Federal Register

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Part III

Department of Labor

Secretary's Order 11-2006; Notice

DEPARTMENT OF LABOR**Office of the Secretary****[Secretary's Order 11-2006]****Legislative Clearance Process;
Drafting Legislative Proposals**

1. *Purpose and Scope.* The purpose of this Secretary's Order is to delegate authorities and responsibilities within the Department of Labor for preparation and clearance of legislative comments and legislative proposals.

2. *Authorities and Reference.* This Order is issued under the authority of 5 U.S.C. 301 (Departmental Regulations); 29 U.S.C. 551 (Establishment of Department; Secretary; Seal); and Reorganization Plan No. 6 of 1950 (5 U.S.C. Appendix 1).

3. *Background.* The Department of Labor (DOL) is requested to comment on many legislative proposals and related matters by the Office of Management and Budget (OMB) and Congressional committees. The Solicitor of Labor is responsible for legal review of all legislative matters. Related to these legal responsibilities and at the direction of the Secretary, the Office of the Solicitor also obtains and coordinates the views of the DOL offices and agencies on legislative matters. In this connection, the Solicitor has delegated to the Associate Solicitor for Legal Counsel the responsibility of serving as Legislative Liaison Officer with OMB in carrying out the Department's responsibilities under OMB Circular A-19. This Order sets forth the procedures to be followed to ensure full consideration of legislative proposals affecting the Department, and to secure appropriate clearance before the Department's views are officially communicated.

The Department of Labor is also charged with the development and submission of proposed legislation related to its mission and statutory duties. This Order also sets forth the responsibilities of DOL agencies for the drafting of legislation and the processes for clearing such draft legislation.

Only the Secretary of Labor may authorize the expression of views of the Department, or any component thereof, on legislative proposals or the transmittal of draft legislation. Pursuant to Secretary's Order 7-89, the Assistant Secretary for Congressional and Intergovernmental Affairs is delegated authority and assigned responsibility for maintaining the Department's relationship with the Congress, legislative planning and action on the President's initiatives and other legislative matters affecting the Department, and coordinating the

transmittal of information to the Congress.

4. *Legislative Reports—Delegation of Authorities and Assignment of Responsibilities.*

A. *The Solicitor.*

(1) As the initial step in the preparation of the Department's views on legislative proposals, the Office of the Solicitor will expeditiously transmit the proposals and supporting materials for comment to all DOL Agencies and Offices impacted by the proposals, in addition to Office of Congressional and Intergovernmental Affairs and Office of the Assistant Secretary for Policy (OASP). The legislative proposals and supporting materials will be sent to individuals designated by Assistant Secretaries and Agency/Office heads. The Office of the Solicitor will determine deadlines for response. Because of time constraints imposed by OMB or the Congress, these deadlines will frequently be very short.

(2) It is important that these deadlines be strictly adhered to in order to permit timely preparation of draft Departmental views. Accordingly, when a deadline for comments is not met by an Agency or Office, it may be necessary for the draft views to be sent forward without an Agency's or Office's views.

(3) Once the Office of the Solicitor receives the views of the affected Agencies and Offices, it will prepare the draft Departmental views. These views may be in written or oral form, as appropriate. The draft views will be circulated to all affected Agencies and Offices in addition to OCLIA and OASP. The Assistant Secretary for Congressional and Intergovernmental Affairs, the Assistant Secretary for Policy, and the Solicitor of Labor shall also review all Departmental views.

(4) Following the clearance of the draft views by the affected Agencies, Offices, and above-referenced officials, the Office of the Solicitor will present the draft views to the Office of the Secretary in the manner specified by that Office.

(a) If an affected Agency or Office does not provide input within the specified time, the Office of the Solicitor may use its discretion to proceed without this input, but shall note the absence of the Agency's input in presenting the draft views to the Office of the Secretary.

(b) If there are differences among the agencies on the draft views, the Office of the Solicitor will endeavor to reconcile them with appropriate involvement by the Office of the Assistant Secretary for Congressional and Intergovernmental Affairs and the Office of the Assistant Secretary for

Policy. In the event that differences remain, these shall be presented to the Office of the Secretary.

(5) Once the Office of the Secretary approves the draft views, the Office of the Solicitor shall transmit them to OMB.

(6) The Office of the Solicitor, in its role as Legislative Liaison Officer to OMB, shall have the responsibility for receiving any passback from OMB and coordinating the resolution of any outstanding issues with affected DOL agencies.

(7) Following receipt of OMB clearance, the Office of the Solicitor shall make appropriate arrangements for the actual communication of the Department's views.

(8) The Office of the Solicitor will establish a procedure to monitor the progress of legislative reports (i.e., the official views of the Administration as developed by the foregoing process) and will keep each Agency and Office informed as to the time limits that must be met.

B. *Assistant Secretary for Congressional and Intergovernmental Affairs.* The Assistant Secretary for Congressional and Intergovernmental Affairs has been delegated authority and assigned responsibility for maintaining the Department's relationship with the Congress, legislative planning and action on the President's legislative initiatives and other legislative matters affecting the Department, and coordinating communications with Congress, including communications initiated by Congress. No other Agency or Office may communicate views to the Congress on legislative matters without the approval of the Assistant Secretary.

C. *Assistant Secretaries and Agency Heads.* Each Agency and Office shall assure the availability of officials authorized to comment on legislative proposals and clear reports at all times during business hours. For this purpose, each Agency and Office Head shall provide a list of persons in addition to himself who has been delegated such authority. This list shall be transmitted to the Solicitor.

5. *Preparation of Legislation—Delegation of Authorities and Assignment of Responsibilities.*

A. Before any substantial expenditure of time or resources in the development of any legislative proposal, the head of the Agency or Office advancing the proposal shall notify the Assistant Secretary for Policy, the Assistant Secretary for Congressional and Intergovernmental Affairs, and the Solicitor of Labor with respect to the nature of the legislation that will be proposed.

B. The Assistant Secretary for Policy will inform the Agency or Office Head whether consideration of the proposal by the Policy Planning Board (PPB) is necessary. (Please see Secretary's Order 3-2002 (Policy Planning Board).

C. Following a decision as to the applicability of PPB procedures, the proposing Agency or Office will contact the Office of the Solicitor to determine whether additional internal clearance, consistent with Section 4 of this Order, is necessary. The Office of the Solicitor shall also ensure that the proposed legislation is accompanied by appropriate supporting documentation, such as section-by-section analyses and transmittal letters ("transmittal package").

D. The Office of the Assistant Secretary for Policy and/or the Office of the Solicitor shall present the cleared legislative proposal and transmittal package to the Office of the Secretary of Labor for review and Departmental approval.

E. If the Office of the Secretary approves the proposed legislation and transmittal package, the Office of the Solicitor will submit these items to OMB in accordance with OMB Circular A-19.

F. The Office of the Solicitor shall have the responsibility of receiving any passback from OMB and coordinating the resolution of any outstanding issues with the affected DOL Agencies or Offices.

G. Following receipt of OMB clearance, the Office of the Solicitor will work with the Office of Congressional and Intergovernmental Affairs and the Office of the Secretary to arrange for formal transmittal of the draft legislation and supporting documents to the Congress.

6. *Directives Affected.*

A. This Order repeals Secretary's Order 26-1972 ("Deadlines on Legislative Comments—Sign-off Authority for Legislative Comments—Drafting Legislative Proposals").

B. This Order does not affect the responsibilities of the Assistant Secretary for Congressional and Intergovernmental Affairs or the Assistant Secretary for Public Affairs under Secretary's Order 7-89.

C. This Order does not affect the authorities or responsibilities of the Office of Inspector General (OIG) under the Inspector General Act of 1978, as amended, or under Secretary's Order 04-2006 (February 21, 2006).

D. This Order does not affect the authorities or responsibilities of the EEOICPA Ombudsman under the Energy Employees Occupational Illness Compensation Program Act or under Secretary's Order 1-2005.

7. *Effective Date.* This Order is effective immediately.

Dated: October 2, 2006.

Elaine L. Chao,

Secretary of Labor.

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