



Federal Register

**Wednesday,
July 9, 2003**

Part II

Department of Labor

**Order of Succession to the Secretary of
Labor and Continuity of Executive
Direction; Notice**

DEPARTMENT OF LABOR**Office of the Secretary****[Secretary's Order 4-2003]****Order of Succession to the Secretary of Labor and Continuity of Executive Direction**

1. *Purpose.* To provide for succession to act as Secretary of Labor in case of death or resignation of the Secretary, or if the Secretary is otherwise unable to perform the functions and duties of the office, including in case of absence or sickness; to provide lines of succession for executive continuity within the Department and its Agencies during vacancies arising in a period of national emergency or in the course of business; and to identify the first assistant to those officers of the Department whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate.

2. *Authority and Directives Affected.* This Order is issued pursuant to Executive Order 13245, the Federal Vacancies Reform Act of 1998 (the FVRA) (codified generally at 5 U.S.C. 3345, *et seq.*); the Act of March 4, 1913, as amended; the Act of April 17, 1946; Reorganization Plan No. 6 of 1950; Reorganization Plan No. 1 of 1958; Reorganization Plan No. 1 of 1973; Federal Civil Defense Act of 1950; Disaster Relief Act of 1974; Executive Order 12656; and Executive Order 12148.

Secretary's Order 2-2001 is canceled. All agency delegations in conflict with this Order and its Attachment are hereby superseded.

3. *Background.* Following the 1998 enactment of the Federal Vacancies Reform Act, the order of succession of officers to act as Secretary of Labor in periods of vacancy was determined by Secretary's Order 2-2001 which was issued under Executive Order 10513 (January 19, 1954). On December 18, 2001, Executive Order 13245 provided a new order of succession to the position of Secretary of Labor.

4. *Order of Succession.* In accordance with Executive Order 13245 and the FVRA, in case of absence, sickness, resignation, or death and during periods of national emergency, the functions and duties of the officers of the Department of Labor and their respective responsibilities for operational management will be performed in an acting capacity by the incumbents of the positions designated in the following orders of succession:

a. To the Secretary of Labor

- (1) Deputy Secretary of Labor;

- (2) Solicitor of Labor;
- (3) Assistant Secretary of Labor in charge of Administration and Management;

- (4) Assistant Secretary of Labor in charge of Policy;

- (5) Assistant Secretary of Labor in charge of Congressional and Intergovernmental Affairs;

- (6) Assistant Secretary of Labor in charge of the Employment and Training Administration;

- (7) Assistant Secretary of Labor in charge of the Employment Standards Administration;

- (8) Assistant Secretary of Labor in charge of the Employee Benefits Security Administration;

- (9) Assistant Secretary of Labor for Occupational Safety and Health;

- (10) Assistant Secretary of Labor for Mine Safety and Health;

- (11) Assistant Secretary of Labor in charge of the Office of Public Affairs;

- (12) Assistant Secretary of Labor for Veterans Employment and Training; and

- (13) Assistant Secretary of Labor in charge of the Office of Disability Employment Policy.

However, no individual who is serving in an acting capacity in any of the above positions shall act as Secretary pursuant to this Order.

b. To All Other PAS Positions and Heads of Other Principal Organizational Units

(1) There are offices and agencies within the Department of Labor headed by officers whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate (PAS). In the event of a vacancy in any of these PAS positions, the FVRA provides that except in certain narrow circumstances, the "first assistant [to the PAS position] shall perform the functions and duties of the [PAS position] temporarily in an acting capacity" (subject to certain time limitations), unless and until the President makes an alternative designation under the FVRA. The functions and duties of the PAS officers of the Department and the operational management of the respective agency will be performed by the incumbent first assistant to the PAS position, as designated in the Memorandum attached to this Order.

(2) In the event that (a) there is a vacancy in the position of the first assistant, or (b) the first assistant position is occupied by a person who is statutorily barred from serving as an acting officer, the operational management of the agency headed by the PAS shall be performed by the person whose designation closest

follows that of the first assistant, unless and until the President makes an alternative designation under the FVRA. However, the "functions and duties" of the PAS may not be performed by any person other than the person serving in an acting capacity (or, in the absence of an acting officer, by the Secretary pursuant to the FVRA). The "functions and duties" are those non-delegable responsibilities (a) established by law (statute or regulation); and (b) required to be performed by, and only by, the PAS.

(3) The Memorandum described in Section 3(b)(1) above, shall include succession to the heads of other Departmental organizational units that report to the Secretary.

(4) Nothing in this Order or the Memorandum shall: (1) Be construed to override the provisions in the FVRA with respect to the Inspector General or the Chief Financial Officer (5 U.S.C. 3348(e)); or (2) limit the Secretary's authority to reassign functions or duties of officers unless otherwise precluded by law or regulation.

(5) That Memorandum shall be published in the **Federal Register** and codified in the Department of Labor Manual Series. It is also subject to periodic revision by the Secretary, as necessary, and is effective on the date indicated above.

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

Dated: June 30, 2003.

Elaine L. Chao,
Secretary of Labor.

Attachment—Memorandum for DOL Executive Staff

June 30, 2003.

From: Elaine L. Chao

Subject: To Provide for the Order of Succession for Executive Continuity

This memorandum is issued pursuant to Secretary's Order 4-2003 and the authorities cited therein, in order to provide lines of succession in case of absence, sickness, resignation, or death of agency heads and during periods of national emergency declared by the President and to provide for ongoing operational management of agency programs and personnel.

Functions and duties and ongoing operational management responsibilities of the officers of the Department whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate (PAS), will be performed in an acting capacity by the below designated "first assistants," unless and until the President makes an alternative designation under the Federal Vacancies Reform Act of 1998 (FVRA).¹ Functions and

¹ The first assistants are designated in the list that follows as the position designated immediately below the PAS or non-PAS agency head position title.

duties are those non-delegable responsibilities established by law (statute or regulation) and required to be performed by, and only by, the PAS.

In the event that the first assistant does not serve or is barred from serving, unless and until the President makes an alternative designation under the FVRA, the person whose designation closest follows that of the first assistant shall perform the operational management of the agency. However, the functions and duties of the PAS may not be performed by any person other than the person serving in an acting capacity, in accord with FVRA (or, in the absence of an acting officer, by the Secretary pursuant to the FVRA).

The Office of the Chief Information Officer and the Bureau of International Labor Affairs, which are not covered by the statute, (because they are not headed by PAS positions) are included in this memorandum for the purpose of consolidating the presentation of the Department's program for establishing orderly internal succession in the event of vacancies.

This memorandum supersedes all prior inconsistent agency delegations. Agency Heads shall assure that agency delegations, position descriptions, and other pertinent documents are maintained consistently with the designations provided below. Any modifications to the Order of Succession specified in this memorandum are solely reserved to the Secretary.

This memorandum shall be published in the **Federal Register** and codified in the Department of Labor Manual Series. This memorandum is subject to periodic revision by the Secretary, as necessary, and is effective on the date indicated above.

Designation of Agency First Assistant¹ and Order of Succession

A. PAS Positions Under the Secretary of Labor

Deputy Secretary of Labor:

Designation to be made by Presidential direction, as provided in 5 U.S.C. § 3345.

Solicitor of Labor:

Deputy Solicitor for National Operations
Deputy Solicitor for Planning and Coordination

¹The first assistants are designated in italic font immediately below the PAS or Non-PAS position title.

Deputy Solicitor for Regional Operations
Assistant Secretary for Administration and Management:

Deputy Assistant Secretary for Operations
Deputy Assistant Secretary for Budget and Strategic and Performance Planning
Deputy Assistant Secretary for Security and Emergency Management
*Assistant Secretary for the Employee Benefits Security Administration:*²
Deputy Assistant Secretary for Policy
Deputy Assistant Secretary for Program Operations

Assistant Secretary for the Employment Standards Administration:
Administrator of the Wage and Hour Division
Deputy Assistant Secretary
Deputy Assistant Secretary for Federal Contract Compliance
Deputy Assistant Secretary for Labor-Management Programs
Director, Office of Workers' Compensation Programs

Assistant Secretary for the Employment and Training Administration:
*Deputy Assistant Secretary*³
Deputy Assistant Secretary
Deputy Assistant Secretary

Assistant Secretary for the Mine Safety and Health Administration:

Deputy Assistant Secretary for Policy
Deputy Assistant Secretary for Operations

Assistant Secretary for the Occupational Safety and Health Administration:

*Deputy Assistant Secretary*⁴
Deputy Assistant Secretary

Assistant Secretary for the Office of the Assistant Secretary for Policy:

*Deputy Assistant Secretary*⁵

²Described as Assistant Secretary of Labor in charge of the Pension and Welfare Benefits Administration in Executive Order 13245. This agency was renamed Employee Benefits Security Administration in Secretary's Order 1-2003.

³This Deputy Assistant Secretary position is responsible for the formulation of policies and development of multi-year goals, objectives and strategies, among other responsibilities.

⁴This Deputy Assistant Secretary position is responsible for Congressional and intergovernmental liaison activity, among other responsibilities.

⁵This Deputy Assistant Secretary serves as liaison to the Executive Office of the President to

Deputy Assistant Secretary for Regulatory Economics and Economic Policy Analysis
Assistant Secretary for the Office of Congressional and Intergovernmental Affairs:
Deputy Assistant Secretary for Congressional Affairs
Deputy Assistant Secretary for Intergovernmental Affairs
Assistant Secretary for the Office of Disability Employment Policy:
Deputy Assistant Secretary
Director, Office of Operations
Assistant Secretary for the Office of Public Affairs:

Deputy Assistant Secretary
Assistant Secretary for the Veterans' Employment and Training Service:
Deputy Assistant Secretary
Director for Operations and Programs
Director of Resource Management
Director of the Women's Bureau:

*Deputy Director*⁶
Administrator of the Wage and Hour Division:
Deputy Wage and Hour Administrator
Commissioner of the Bureau of Labor Statistics:

Deputy Commissioner
Chief Financial Officer:
Deputy Chief Financial Officer
Inspector General:
Deputy Inspector General

B. Non-PAS Agency Head Positions

Deputy Under Secretary for International Affairs of the Bureau of International Labor Affairs:

Associate Deputy Under Secretary for Policy
Associate Deputy Under Secretary and Director of International Economic Affairs
Chief Information Officer:

Deputy Chief Information Officer

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assure Departmental policies, goals, objectives and strategies reflect the Administration's positions.

⁶This position is first assistant, pursuant to 29 U.S.C. 14.