

Executive Order 13394 of December 22, 2005

Providing an Order of Succession Within the Department of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et. seq.*, it is hereby ordered as follows:

Section 1. Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of the Secretary of Defense (Secretary) during any period when the Secretary has died, resigned, or is otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. Order of Succession.

- (a) Deputy Secretary of Defense;
- (b) Under Secretary of Defense for Intelligence;
- (c) Under Secretary of Defense for Policy;
- (d) Under Secretary of Defense for Acquisition, Technology, and Logistics;
- (e) Secretary of the Army;
- (f) Secretary of the Air Force;
- (g) Secretary of the Navy;
- (h) Under Secretary of Defense for Personnel and Readiness and the Under Secretary of Defense (Comptroller);
- (i) Deputy Under Secretary of Defense for Acquisition and Technology, Deputy Under Secretary of Defense for Policy, and Deputy Under Secretary of Defense for Personnel and Readiness;
- (j) General Counsel of the Department of Defense, the Assistant Secretaries of Defense, and the Director of Operational Test and Evaluation;
- (k) Deputy Under Secretary of Defense for Logistics and Material Readiness and the Director of Defense Research and Engineering;
- (l) Under Secretaries of the Army, the Navy, and the Air Force; and
- (m) Assistant Secretaries of the Army, the Navy, and the Air Force, and General Counsels of the Army, the Navy, and the Air Force.

Sec. 3. Exceptions. (a) No individual who is serving in an office listed in section 2(a)–(m) in an acting capacity shall act as Secretary pursuant to this order.

(b) Precedence among officers designated within the same subsection of section 2 of this order shall be determined by the order in which they have been appointed to such office by the President. Where officers designated within the same subsection of section 2 of this order are appointed on the same date, precedence will be determined by the order in which they have taken the oath to serve in that office.

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(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Secretary.

Sec. 4. *Judicial Review.* This order is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

Sec. 5. *Revocation.* Executive Order No. 13000 of April 24, 1996, and the President's memorandum of June 2, 2005, entitled: "Order of Succession of Officers to Act as Secretary of Defense," are hereby revoked.

GEORGE W. BUSH

The White House,
December 22, 2005.