

Executive Order 13533—Providing an Order of Succession Within the Department of Defense

March 1, 2010

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, as amended, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

Section 1. Order of Succession.

(a) Subject to the provisions of section 2 of this order, the following officials of the Department of Defense, 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 in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the office of the Secretary, until such time as the Secretary is able to perform the functions and duties of that office:

- (1) Deputy Secretary of Defense;
- (2) Secretary of the Army;
- (3) Secretary of the Navy;
- (4) Secretary of the Air Force;
- (5) Under Secretary of Defense for Acquisition, Technology, and Logistics;
- (6) Under Secretary of Defense for Policy;
- (7) Under Secretary of Defense (Comptroller);
- (8) Under Secretary of Defense for Personnel and Readiness;
- (9) Under Secretary of Defense for Intelligence;
- (10) Deputy Chief Management Officer, Department of Defense;
- (11) Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics;
- (12) Principal Deputy Under Secretary of Defense for Policy;
- (13) Principal Deputy Under Secretary of Defense (Comptroller);
- (14) Principal Deputy Under Secretary of Defense for Personnel and Readiness;
- (15) Principal Deputy Under Secretary of Defense for Intelligence;
- (16) Director of Defense Research and Engineering;
- (17) General Counsel of the Department of Defense, the Assistant Secretaries of Defense, the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, the Director of Operational Test and Evaluation, the Director of Operational Energy Plans and Programs, and the Director of Cost Assessment and Program Evaluation;
- (18) Under Secretaries of the Army, the Navy, and the Air Force; and

(19) Assistant Secretaries of the Army, the Navy, and the Air Force, and General Counsels of the Army, the Navy, and the Air Force.

(b) Precedence among officers designated within the same paragraph of subsection (a) shall be determined by the order in which they have been appointed to such office. Where officers designated within the same paragraph of subsection (a) have the same appointment date, precedence shall be determined by the order in which they have taken the oath to serve in that office.

Sec. 2. Exceptions.

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this order.

(b) No individual listed in section 1 shall act as Secretary unless that individual was appointed by the President, by and with the advice and consent of the Senate, and that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998, as amended.

(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. 3. Revocation. Executive Order 13394 of December 22, 2005 (Providing An Order of Succession Within the Department of Defense), is hereby revoked.

Sec. 4. Judicial Review. This order 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, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

The White House,
March 1, 2010.

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NOTE: This proclamation was published in the *Federal Register* on March 5.

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