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Part III

Department of Labor

**Office of the Secretary; Secretary's Order
3-2008; Delegation of Authorities and
Assignment of Responsibilities to the
Chief Human Capital Officer and Others;
Notice**

DEPARTMENT OF LABOR**Office of the Secretary****Secretary's Order 3–2008; Delegation of Authorities and Assignment of Responsibilities to the Chief Human Capital Officer and Others**

1. *Purpose.* To delegate authority and assign responsibilities for implementation of the Chief Human Capital Officers Act and to consolidate the delegations of authority and assignments that incorporate all human resources management functions that address selecting, developing, training, and managing a high-quality, productive workforce.

2. *Directives Affected.*

A. This Order repeals and supersedes the following Secretary's Orders: 16–1976 (personnel), 11–1978 (internal labor-management), 2–1994 (retirement coverage for law enforcement officers), the exception clause to Section 5(B)(4) of 01–2004 (internal EEO program) and 15–2006 (individuals and veterans with disabilities) which assign human resources management functions to the Assistant Secretary for Administration and Management (ASAM).

B. All Secretary's Orders and other DOL documents (including policies and directives) that reference Secretary's Orders 16–1976, 11–1978, 2–1994, and 15–2006 shall be construed as amended to refer to this Order instead.

C. Delegations or transfers of authority made by the ASAM pursuant to Secretary's Orders 16–1976, 11–1978, 2–1994, and 15–2006, including without limitation all delegations and transfers of authority made through Manual 4 ("Personnel Management") of the Department of Labor Manual Series (DLMS) and the Department of Labor Personnel Regulations (DPR) will continue in effect unless and until modified or terminated by the CHCO pursuant to the proper exercise of authorities and responsibilities duly assigned by law or delegated by the Secretary to the CHCO.

D. Except as otherwise provided in this Order, all other Orders, instructions, directives, and memoranda of the Secretary of Labor and other departmental officials, or portions thereof, are superseded to the extent they are inconsistent with this Order.

3. *Authority.* This Order is issued pursuant to the following authorities: Act of March 4, 1913 (37 Stat. 736, 29 U.S.C. 551); 5 U.S.C. 301; Section 12, Act of August 2, 1946 (60 Stat. 809, 5 U.S.C. 302(b)); Section 01.3 of Executive Order 9830 (3 CFR, 1943–48 Comp. p.606); Reorganization Plan No. 6 of

1950 (64 Stat. 1263); 5 U.S.C. 3111; Public Law 105–270, the Federal Activities Inventory Reform Act of 1998; the Chief Human Capital Officers Act of 2002, 5 U.S.C. 1401–1402; the Rehabilitation Act of 1973 (Pub. L. 93–112, Title V, Sections 501 and 504), as amended (Pub. L. 93–516); the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (Pub. L. 93–508); 5 U.S.C. 720; 5 U.S.C. 7201; 38 U.S.C. 4214; 29 U.S.C. 791; Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. 4212, as amended; the Equal Employment Opportunity Commission's Management Directive 715; the Civil Service Reform Act, Pub. L. 95–454, including the Federal Service Labor-Management Relations Act; 5 U.S.C. 8331(2); such additional Federal acts that from time to time may assign to the Secretary or the Department duties and responsibilities similar to those listed above, as directed by the Secretary.

4. *Background.* The Chief Human Capital Officers Act of 2002 (the CHCO Act) was enacted as part of the Homeland Security Act of 2002 (Pub. L. 107–296, section 1301 *et seq.*) on November 25, 2002. The CHCO Act requires the Department to establish the position of Chief Human Capital Officer to advise and assist the Secretary and other Departmental officials in carrying out the Department's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles; to implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the Department; and to carry out such functions as the primary duty of the Chief Human Capital Officer. This Order consolidates, delegates, and assigns authority and responsibilities for human capital functions within the Department of Labor to the Chief Human Capital Officer and other Department officials consistent with the CHCO Act.

5. *Establishment of the Chief Human Capital Officer (CHCO).* The CHCO Act established the position of Chief Human Capital Officer. The CHCO reports directly to the Secretary and Deputy Secretary of Labor and shall have human capital management as his or her primary duty.

6. *Establishment and Designation of the Deputy Chief Human Capital Officer (Deputy CHCO).* There is established within the Department of Labor the position of Deputy Chief Human Capital Officer, who shall be designated by the CHCO. The Deputy CHCO shall report to the CHCO and shall be delegated such authority and assigned such

responsibility as may be assigned by the CHCO from time to time.

7. *Delegation of Authorities and Assignment of Responsibilities to the CHCO.***A. Human Capital Management.**

(1) The CHCO will have the following authorities and responsibilities that are assigned to the CHCO by the CHCO Act:

(a) Advising and assisting the Secretary and other agency officials in carrying out the Department's responsibilities for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

(b) Implementing the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the Department;

(c) Setting the workforce development strategy of the Department;

(d) Assessing workforce characteristics and future needs based on the Department's mission and strategic plan;

(e) Aligning the Department's human resources policies and programs with the Department's mission, strategic goals, and performance outcomes;

(f) Developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

(g) Identifying best practices and benchmarking studies;

(h) Applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth;

(i) Attending and participating in the Chief Human Capital Officers' Council; and

(j) In furtherance of the human capital management authorities assigned to the CHCO herein, the CHCO may access all records, reports, audits, reviews, documents, papers, recommendations, or other material that are the property of the Department or are available to the Department and relate to programs and operations with respect to which the CHCO has responsibilities, and request from any Federal, state, or local governmental entity such information or assistance as may be necessary for carrying out the CHCO's duties and responsibilities pursuant to the CHCO Act.

(2) Subject to the Reservations of Authority in paragraph 10 of this Order, and to the extent that they are not otherwise assigned to the CHCO by the CHCO Act or by law to another official, the CHCO is hereby delegated all authority and assigned all responsibility

vested in the Secretary for human capital management within the Department of Labor, including, without limitation, the following:

(a) Executing personnel, classification, and position management actions;

(b) Recruiting, examining, and selecting candidates for positions within the Department, in full conformity with applicable laws and regulations;

(c) Establishing and administering the Department's performance management and awards systems;

(d) Establishing and administering programs for pay, benefits, and programs for improving the quality of work life for DOL employees;

(e) Coordinating with the Chief Acquisition Officer with respect to the Department's responsibilities under Public Law 105-270, the Federal Activities Inventory Reform Act of 1998 (FAIR Act), so as to ensure all necessary and appropriate planning and implementation of human capital management activities;

(f) Reviewing periodically the adequacy of DOL and agency succession directives; and

(g) Establishing and implementing a system of metrics for assessing the management of human capital within the Department.

B. Internal Labor-Management Relations Program. It is the policy of the Department of Labor to administer its internal program of labor-management relations in accordance with applicable statutes, regulations, executive orders, and departmental policy. Accordingly, and subject to the Reservations of Authority in paragraph 10 of this Order, the CHCO is hereby delegated authority and assigned responsibility for the development, administration, coordination, and management of the Department's internal labor-management relations program, including, without limitation, the following:

(1) Acting as the Department's representative in dealing with all exclusive unions representing Department of Labor employees, except in dealings between the Office of Labor Management Standards (OLMS) and National Union of Labor Investigators (NULI), which shall be the responsibility of the Assistant Secretary for Employment Standards (ASES), in coordination with the CHCO;

(2) Establishing, in consultation with DOL Agencies, a Chief Negotiator and management negotiating team reflecting Agency representation of the bargaining unit for which term collective bargaining agreements are to be negotiated. The Chief Negotiator and

team shall actively participate in the preparation for and conduct of the bargaining, including mediation and any dealings that come before the Federal Service Impasses Panel. With respect to the OLMS/NULI bargaining relationship, the bargaining team specified herein shall be constituted by the ASES and include a representative of the CHCO;

(3) Subject to applicable laws, rules, and regulations, negotiating, signing, interpreting, and administering all collective bargaining agreements covering Department employees, including any supplements, amendments, corrections, alterations, substitutions, and/or changes thereto, except that with respect to the OLMS/NULI bargaining relationship this authority is delegated to the ASES;

(4) Approving all Agency-negotiated supplemental agreements covering the respective agency's employees, subject to applicable laws, rules, and regulations, except that with respect to the OLMS/NULI bargaining relationship this authority is delegated to the ASES, who shall consult with the CHCO;

(5) Issuing interpretations of all collective bargaining agreements covering Department employees (after coordination with the Office of the Solicitor on any associated legal determinations, as appropriate), except as relates to the OLMS/NULI collective bargaining agreement which shall be interpreted by the ASES in coordination with the CHCO;

(6) In coordination with representatives of appropriate DOL Agency Heads, establishing and developing the Department's positions on bargaining unit determinations, unfair labor practice cases, and arbitration cases, except that with respect to the OLMS/NULI bargaining relationship this authority is delegated to the ASES. For litigation matters, the CHCO or his or her designee shall utilize the legal services of the Office of the Solicitor to represent the Department in bargaining unit determinations; unfair labor practice proceedings; and appeals of arbitration decisions; and shall coordinate with the Office of Solicitor on the responsibility of representing the Department in arbitration proceedings. In litigation matters where the Solicitor is representing the Department, the Solicitor, after consultation with the CHCO or the ASES, as applicable, shall be responsible for determining the Department's legal positions.

(7) Advising Agency Heads on final step grievances arising from negotiated grievance procedures at the last step prior to arbitration; determining

whether a dispute arising out of a collective bargaining agreement covering Department employees shall be submitted to binding arbitration; and developing the Department's strategy for those arbitration proceedings conducted by the CHCO or his or her designee(s). In arbitration proceedings conducted by the Office of the Solicitor, the Solicitor of Labor shall develop the strategy in coordination with the CHCO or his or her designee(s);

(8) Developing the primary Departmental internal labor-management relations training program and conducting it in conjunction with Agency/Regional labor relations officers and training personnel;

(9) Evaluating management's internal labor relations activities in the Agencies and regions and providing periodic reports to top management; and

(10) Developing and maintaining systems of intra-management consultation and communication on internal labor-management relations, providing, as necessary and appropriate, assistance and advice to managers and supervisors at all levels of the Department.

C. Law Enforcement Retirement Matters. Except as reserved to the Secretary (for decisions relating to individuals within the Office of the Inspector General), the CHCO is delegated authority and assigned responsibility for making coverage decisions under 5 U.S.C. 8331(20) and 5 U.S.C. 8401(17), in accordance with applicable regulations.

D. Employment of Individuals with Disabilities, Including Disabled Veterans, and Special Employment Programs. Consistent with the CHCO's overall human capital management authorities and responsibilities, the CHCO shall advise and assist the Secretary and the ASAM on human capital management matters pertaining to the Department's programs for employment of individuals with disabilities, including disabled veterans, and the Department's Special Employment programs.

E. Other Duties. The CHCO will perform such additional duties as may be assigned to the CHCO by applicable law or regulation or by the Secretary from time to time.

8. Other Delegations of Authority and Assignments of Responsibility.

A. The Assistant Secretary for Administration and Management (ASAM) is delegated authority and assigned responsibility for the following:

(1) *Employment of Individuals with Disabilities, Including Disabled Veterans.* It is the policy of the

Department to encourage the use of Government-wide special hiring authorities, as provided for by the U.S. Office of Personnel Management, including without limitation Schedule A hiring authority, to employ and advance in employment qualified persons with disabilities, including veterans. The Department shall also ensure that the accommodation needs of these employees are met so that they may have equal access to the privileges and benefits of the workplace. Accordingly, subject to the Reservations of Authority in paragraph 10 of this Order, the ASAM is hereby delegated authority and assigned responsibility for:

(a) Administering the Department's programs for employment of qualified individuals with disabilities, including veterans with disabilities;

(b) Issuing Departmental directives in support of these programs; and

(c) Overseeing the fulfillment of Agency responsibilities for effective implementation of DOL policies concerning the employment of qualified persons with disabilities, including veterans with disabilities, except processing requests for reasonable accommodation by employees and applicants with disabilities as well as administrative complaint processing for alleged discrimination on the basis of disability pursuant to the Rehabilitation Act of 1973, as amended, and 29 CFR part 1614 (EEOC Complaint Procedures Regulations).

(2) *Special Employment Programs.*

(a) Providing effective leadership in the implementation of special employment programs, such as the Federal Women's Program, the Hispanic Employment Program, and the Disability Employment Program, and appointing Departmental managers for special emphasis programs; and

(b) Preparing Employment Program Reports as may be required by the Office of Personnel Management (OPM), including the Department's Disabled Veterans Affirmative Action Program (DVAAP) Plan, the Federal Equal Employment Opportunity Recruitment Program (FEORP) Plan, and the Affirmative Employment Program (AEP) Plan for Individuals with Disabilities, and making recommendations to Agency Heads for any necessary modifications prior to preparing and forwarding the Departmental plan to the Secretary of Labor for transmittal to OPM.

(3) Consultation on Human Resources Matters. The ASAM shall advise, cooperate, and consult with the CHCO, as appropriate, on all matters relating to or affecting the Department's human

capital management, including without limitation, the human capital management of the Department's programs relating to employment of individuals with disabilities, including disabled veterans, and the Department's special employment programs.

B. The *Assistant Secretary for Employment Standards (ASES)* is delegated authority and assigned responsibility for administering the internal labor-management relations program as it applies to the Office of Labor Management Standards (OLMS), and its bargaining relationship with the National Union of Labor Investigators (NULI), as and to the extent set forth in paragraph 7(B).

C. *Agency Heads* are delegated authority and assigned responsibility as set forth below:

(1) *Human Capital Management.* Each Agency Head is responsible for:

(a) Cooperating, consulting, advising, and assisting the CHCO in fulfilling the responsibilities set forth in paragraph 7(A) of this Order; and

(b) Exercising such authorities and responsibilities for the conduct of personnel management activities within the Agency as are delegated to the Agency Head by the CHCO in accordance with merit system principles and all applicable laws, regulations, and Departmental policies.

(2) *Employment of Individuals with Disabilities, Including Disabled Veterans.* Each Agency Head will promote maximum employment opportunities for qualified individuals with disabilities, including qualified veterans with disabilities, by:

(a) Effectuating affirmative employment initiatives in their respective agencies;

(b) Submitting statistical, evaluative, and narrative reports to the ASAM in support of all mandated reports;

(c) Supporting and implementing Department policies concerning the employment of qualified individuals with disabilities, including qualified veterans with disabilities, including, without limitation:

(i) Issuing policy directives to managers and supervisors expressing strong support for the employment of qualified individuals with disabilities, including qualified veterans with disabilities; and

(ii) Conducting recruitment activities through their servicing Human Resources Offices to locate qualified individuals with disabilities and qualified veterans with disabilities.

(3) *Internal Labor-Management Relations.* Agency Heads are responsible for:

(a) Implementing uniformly the Department's internal labor-management relations program throughout each such official's respective Agency;

(b) Ensuring that collective bargaining agreements are observed;

(c) Ensuring that supervisors and managers discharge their labor-management responsibilities constructively;

(d) Providing information to the Office of the CHCO on the nature of problem areas requiring policy development or interpretation;

(e) Formulating proposals for consultation and contract negotiations; and

(f) Participating, through their designees, in the contract negotiation process.

(4) *Law Enforcement Retirement Matters.* Agency Heads are responsible for reviewing agency positions for potential coverage under the law enforcement retirement system and for presenting such coverage decisions to the CHCO for determination.

D. *The Solicitor of Labor.* The Solicitor of Labor is delegated authority and assigned responsibility for providing legal advice and counsel to the Department and agencies relating to the administration and implementation of this Order and the statutory provisions, regulations, and Executive Orders listed above, including without limitation, providing counsel to the Secretary, CHCO, Deputy CHCO, ASAM, Agency Heads, managers, and supervisors.

The Solicitor of Labor shall have responsibility for legal advice and assistance through opinions and interpretations of applicable laws and regulations. The bringing of legal proceedings under the authorities cited herein, the representation of the Department, the Secretary, and other officials of the Department of Labor, and determinations of whether such proceedings or representations are appropriate in a given case, are delegated exclusively to the Solicitor, except for internal labor-management relations proceedings before an arbitrator, for which the responsibility for representing the Department will be coordinated with the CHCO or his or her designee(s).

9. *Redelegation.* All of the authorities delegated herein may be redelegated with the knowledge and approval of all responsible parties and to the extent permitted by law.

10. *Reservations of Authority.*

A. The Secretary of Labor retains all authorities delegated herein and has the final authority for all internal labor-

management relations within the Department; such authority includes, without limitation, the establishment of negotiation parameters with respect to labor-management relations.

B. The submission of reports and recommendations to the President and Congress concerning the administration of statutory or administrative provisions is reserved to the Secretary of Labor.

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 4-2006 (February 21, 2006).

D. This Order does not affect the authorities and responsibilities of the Chief Financial Officer under the Chief Financial Officers Act of 1990, Secretary's Order 14-2006 (June 20,

2006), Secretary's Order 1-97 (January 10, 1997), or Secretary's Order 1-92 (March 11, 1992).

E. The Secretary retains the authority to make coverage decisions under 5 U.S.C. 8331(20) and 5 U.S.C. 8401(17), in accordance with regulations at 5 CFR 831.901-911 and 5 CFR 842.801-809 (law enforcement retirement) for individuals requesting coverage for positions within the Office of the Inspector General, or for the Inspector General's request for position-based coverage for positions within the Office of the Inspector General.

F. The Secretary retains the sole authority to grant exemptions to the mandatory retirement provisions of 5 U.S.C. 8335(b) and 8425 pertaining to the mandatory retirement of law enforcement officers.

G. The Secretary retains all authority concerning personnel actions involving Senior Executive Service (SES) and Senior Level (SL) positions and employees within the Department, except that the authority to approve the voluntary reassignment of SES and SL employees within the Department is delegated to the CHCO with the concurrence of the Agency Head(s) involved.

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

Dated: July 8, 2008.

Elaine L. Chao,

Secretary of Labor.

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