

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) 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.

#### § 7104. Federal Labor Relations Authority

(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority. The Chairman is the chief executive and administrative officer of the Authority.

(c) A member of the Authority shall be appointed for a term of 5 years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. The term of any member shall not expire before the earlier of—

- (1) the date on which the member's successor takes office, or
- (2) the last day of the Congress beginning after the date on which the member's term of office would (but for this paragraph) expire.

(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

(f)(1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel may be removed at any time by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

(2) The General Counsel may—

- (A) investigate alleged unfair labor practices under this chapter,
- (B) file and prosecute complaints under this chapter, and
- (C) exercise such other powers of the Authority as the Authority may prescribe.

(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

(Added Pub. L. 95-454, title VII, §701, Oct. 13, 1978, 92 Stat. 1196; amended Pub. L. 98-224, §3, Mar. 2, 1984, 98 Stat. 47.)

#### AMENDMENTS

1984—Subsec. (b). Pub. L. 98-224, §3(a), inserted provision directing that Chairman be chief executive and administrative officer.

Subsec. (c). Pub. L. 98-224, §3(b), substituted provision that a member of Authority be appointed for a term of 5 years and an individual chosen to fill a vacancy be appointed for unexpired term of member replaced for provision that one original member of Authority be appointed for a term of 1 year, one for a term of 3 years, and Chairman for a term of 5 years, and thereafter each member be appointed for a term of 5 years.

#### EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsection (e) of this section relating to transmittal to Congress of an annual report on cases heard and decisions rendered, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 171 of House Document No. 103-7.

#### DELEGATION OF CERTAIN REPORTING AUTHORITY

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 74935, provided:

Memorandum for the Chairman of the Federal Labor Relations Authority

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to the member who has been designated by the President as Chairman the functions conferred upon the President by 5 U.S.C. 7104(e) to provide the specified report to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

#### § 7105. Powers and duties of the Authority

(a)(1) The Authority shall provide leadership in establishing policies and guidance relating to matters under this chapter, and, except as otherwise provided, shall be responsible for carrying out the purpose of this chapter.

(2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority—

(A) determine the appropriateness of units for labor organization representation under section 7112 of this title;

(B) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provisions of section 7111 of this title relating to the accords of exclusive recognition to labor organizations;

(C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;

(D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;

(E) resolves issues relating to the duty to bargain in good faith under section 7117(c) of this title;

(F) prescribe criteria relating to the granting of consultation rights with respect to conditions of employment under section 7117(d) of this title;

(G) conduct hearings and resolve complaints of unfair labor practices under section 7118 of this title;

(H) resolve exceptions to arbitrator's awards under section 7122 of this title; and

(I) take such other actions as are necessary and appropriate to effectively administer the provisions of this chapter.

(b) The Authority shall adopt an official seal which shall be judicially noticed.

(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions. The Authority may delegate to officers and employees appointed under this subsection authority to perform such duties and make such expenditures as may be necessary.

(e)(1) The Authority may delegate to any regional director its authority under this chapter—

(A) to determine whether a group of employees is an appropriate unit;

(B) to conduct investigations and to provide for hearings;

(C) to determine whether a question of representation exists and to direct an election; and

(D) to supervise or conduct secret ballot elections and certify the results thereof.

(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

(f) If the Authority delegates any authority to any regional director or administrative law judge to take any action pursuant to subsection (e) of this section, the Authority may, upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not undertake to grant review of the action under this subsection within 60 days after the later of—

(1) the date of the action; or

(2) the date of the filing of any application under this subsection for review of the action;

the action shall become the action of the Authority at the end of such 60-day period.

(g) In order to carry out its functions under this chapter, the Authority may—

(1) hold hearings;

(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in section 7132 of this title; and

(3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.

(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

(i) In the exercise of the functions of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

(Added Pub. L. 95-454, title VII, §701, Oct. 13, 1978, 92 Stat. 1196.)

#### EFFECTIVE DATE

Section effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as an Effective Date of 1978 Amendment note under section 1101 of this title.

#### PARTIAL SUSPENSION OF FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

Subsec. (a)(2)(D), (E), (G), and (H) of this section suspended with respect to any matter which substantially impairs the implementation by the United States Forces of any treaty or agreement, including any minutes or understandings thereto, between the United States and the Government of the host nation, see section 1(a) of Ex. Ord. No. 12391, Nov. 4, 1982, 47 F.R. 50457, set out as a note under section 7103 of this title.

#### § 7106. Management rights

(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency—

(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

(2) in accordance with applicable laws—

(A) to hire, assign, direct, layoff, and retain employees in the agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;

(B) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;

(C) with respect to filling positions, to make selections for appointments from—

(i) among properly ranked and certified candidates for promotion; or

(ii) any other appropriate source; and

(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.