

DEPARTMENT OF ENERGY
DELEGATION ORDER NO. S1-DEL-S2-2023
TO THE DEPUTY SECRETARY

1. DELEGATION. Under the authority vested in me as Secretary of Energy and pursuant to section 642 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7252), I delegate to the Deputy Secretary authority to take the following actions:
 - 1.1 Under section 202 of the Department of Energy Organization Act (42 U.S.C. 7132):
 - A. Exercise authority, direction, and control over the Administrator for Nuclear Security, and the National Nuclear Security Administration (NNSA), including, but not limited to, the issuance of regulations, directives, and policy that apply to the NNSA, and the authorities of the Secretary mentioned in sections 3203, 3213, 3242, 3243, and 3292 of the National Nuclear Security Administration Act (Public Law 106-65). This authority may not be redelegated.
 - B. As Chief Operating Officer, be responsible for corporate program integration, the integration of support activities with line programs, and review of all staff and support office policy and guidance that affect the field. This authority may not be redelegated.
 - C. Serve as Chair of the Credit Review Board. This authority may not be redelegated.
 - D. Serve as Chair of the Energy Systems Acquisition Advisory Board. This authority may not be redelegated.
 - 1.2 Under section 501 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7191) and the Regulatory Flexibility Act (Public Law 96-354, 5 U.S.C. 601 et seq.):
 - A. Under section 501(c) determine that strict compliance with section 501(b) of the Department of Energy Organization Act would be likely to cause serious harm or injury to the public health, safety, or welfare.
 - B. Waive the requirements of section 501(b) of the Department of Energy Organization Act after making the determination in paragraph 1.2.A of this Order.

- C. Determine that an emergency exists that necessitates waiving or delaying some or all of the requirements of section 2(a) of the Regulatory Flexibility Act (5 U.S.C. 603, 608).
 - D. Determine that an emergency exists that necessitates delaying the completion of the requirements of section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 604, 608).
 - E. Waive or delay the completion of some or all of the requirements of section 3(a) of the Regulatory Flexibility Act after making the determination in paragraph 1.2.C. of this Order (5 U.S.C. 603, 608).
 - F. Delay the completion of the requirements of section 3(a) of the Regulatory Flexibility Act, after making the determination in paragraph 1.2.E. of this Order, for a period of not more than 180 days after the date of publication of a final rule in the Federal Register (5 U.S.C. 604, 608).
 - G. The authority in paragraph 1.2 may not be redelegated.
- 1.3 Under section 501 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7191) and the Regulatory Flexibility Act (Public Law 96-354, 5 U.S.C. 601 et seq.):
- A. Certify, in accordance with section 3(a) of the Regulatory Flexibility Act, that a proposed or final rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)).
 - B. Consider as one rule a series of closely related rules for the purposes of the Regulatory Flexibility Act (5 U.S.C. 602, 603, 604, and 610).
 - C. Determine, in accordance with section 501(b)(1) of the Department of Energy Organization Act, that a proposed rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses (42 U.S.C. 7191(b)).
 - D. Determine, in accordance with section 501(b)(1) of the Department of Energy Organization Act, that a substantial issue of law or fact does not exist with respect to a proposed rule (42 U.S.C. 7191(b)).
 - E. The authority delegated by paragraph 1.3 may be redelegated in writing, consistent with the Department of Energy Organization Act and the National Nuclear Security Administration (NNSA) Act.

- 1.4 Under section 988 of the Energy Policy Act of 2005:
 - A. Approve requests for reduction or elimination of the cost sharing requirement for a research and development activity of an applied nature in accordance with section 988(b)(3);
 - B. Approve requests for reduction of the cost sharing requirement for the non-federal share of demonstration and commercial application activities in accordance with section 988(c)(2); and
 - C. Exclude research and development of a basic or fundamental nature from the cost sharing requirements, as described in section 988(b)(2).
- 1.5 In the event of the absence or disability of, or a vacancy in the offices of the Under Secretaries, pursuant to the authority found at 42 U.S.C. 2201(g), 42 U.S.C. 7256, initiate condemnation proceedings and execute declarations of taking, sign all correspondence and other documents in connection with such proceedings, and take all other necessary and appropriate actions to acquire, in connection with the Government's power of eminent domain, real or personal property or interests therein for the Department of Energy, including the NNSA. The authority to initiate condemnation proceedings and execute declarations of taking may not be redelegated.
- 1.6 Pursuant to subchapter III of the Energy Policy and Conservation Act of 1975, as amended, at 42 U.S.C. 6303(d)(2), perform all functions of the DOE Decision Maker as described in *DOE Procedures for Administrative Adjudication of Civil Penalty Actions*. This authority may not be further redelegated.
- 1.7 In reference to the sale or lease of real property at a Department of Energy defense nuclear facility, make the discretionary decision of whether to hold harmless and indemnify any eligible entity, pursuant to the conditions contained in 50 U.S.C. 2811. This authority may be exercised only after obtaining the concurrence of the General Counsel. This authority may be redelegated only to Department officials, who have been appointed by the President with the advice and consent of the Senate, who have oversight responsibilities for defense nuclear facilities, and may not be redelegated further.
- 1.8 Pursuant to 5 C.F.R. 430.311, render all final decisions on Performance Review Board recommendations pursuant to the performance of the Department's Senior Executive Service (SES) members. This delegation includes recommendations for SES performance ratings, recertification, bonuses, pay rate level adjustments, and related performance management policy changes.

- 1.9 Exercise general supervision over the functions of the Inspector General. This authority may not be redelegated.
- 1.10 On a nonexclusive basis, determine that an individual proposed for appointment to a position in Schedule C of the Excepted Service, as defined in 5 C.F.R. 213.3301 and 5 U.S.C. 2103, is qualified to perform the duties of the specific position for which he or she is proposed, when that individual does not meet general qualification requirements used to establish eligibility for such appointment.
- 1.11 Under sections 302(a) and 641-644 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7152 and 42 U.S.C. 7251-7254), on a nonexclusive basis, confirm, approve, and place into effect on an interim basis power and transmission rates for the Southeastern, Southwestern, and Western Area Power Administrations for such periods as the Deputy Secretary may provide. In addition, pursuant to sections 202 and 642 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7132, and 7252), exercise the authority vested in the Secretary with respect to the Southeastern, Southwestern, and Western Area Power Administrations, and the Bonneville Power Administration.
- 1.12 Under Part 708, title 10, Code of Federal Regulations (hereinafter Part 708), on a nonexclusive basis:
 - A. Upon the request of a party to a Part 708 proceeding for Secretarial review, review the appeal decisions by the Director of the Office of Hearing and Appeals in accordance with the provisions of sections 708.19 and 708.35; issue the final agency decision; and take or direct appropriate action, as provided in sections 708.19 and 708.35. This authority may not be redelegated.
 - B. Perform such other functions and take such other action provided in Part 708 to be performed or taken by the Secretary or designee, unless expressly delegated otherwise.
- 1.13 In reference to emergency authorities:
 - A. Order the temporary connections of facilities, during times of war or other emergency, for the generation or transmission of electric energy and such generation, delivery, interchange, or transmission of electric energy as in the Deputy Secretary's judgment will best meet the emergency and serve the public interest, pursuant to section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)); and order permanent connections of facilities for the transmission of electric energy in

interstate commerce as may be necessary or appropriate to meet an emergency requiring immediate action, pursuant to section 202(d) of the Federal Power Act (16 U.S.C. 824a(d)).

- B. Exercise, on a nonexclusive basis, all authority vested in the Secretary pursuant to section 215A of the Federal Power Act (16 U.S.C. 824o-1).
- C. Direct investigations regarding the generation, transmission, distribution, and sale of electric energy, however produced, throughout the United States and its possessions, including the generation, transmission, distribution, and sale of electric energy by any agency, authority or instrumentality of the United States, or of any State or municipality or other political subdivision of a State, pursuant to section 311 of the Federal Power Act (16 U.S.C. 825j), as the Deputy Secretary determines is necessary or appropriate to perform his/her emergency functions.
- D. Pursuant to Executive Order 12235, carry out the functions under sections 302 through 304(c) of the Natural Gas Policy Act of 1978 (Public Law 95-621, 15 U.S.C. 3362-3364(c)) and section 607 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617, as amended, 15 U.S.C. 717z), after consultation with the Assistant Secretary for Fossil Energy and with the heads of other Executive departments and agencies.
- E. Consult with the Assistant Secretary for Fossil Energy to provide energy emergency-related curtailment policy guidance, as necessary or appropriate, whenever the Assistant Secretary for Fossil Energy exercises authority under the Delegation of Authority to the Assistant Secretary for Fossil Energy to establish and review priorities for the curtailment of natural gas pursuant to the Natural Gas Act (Public Law 75-688, 15 U.S.C. 717 et seq.) and sections 401, 402, and 403(a) of the Natural Gas Policy Act of 1978 (Public Law 95-621, 15 U.S.C. 3391-3393(a)) and section 402(a)(1)(E) of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7172(a)(1)(E)); and request that the Assistant Secretary for Fossil Energy initiate proceedings to amend curtailment priorities as necessary or appropriate to facilitate emergency natural gas operational activities.
- F. Participate in any proceedings before the Federal Energy Regulatory Commission, pursuant to the provisions of section 405 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7175), or in any proceeding before any Federal or State agency or commission whenever such participation is related to the exercise of authority delegated to the Deputy Secretary.

- G. Exercise the authority of the Secretary, on a nonexclusive basis, to conduct emergency exchanges of petroleum products from the Strategic Petroleum Reserve pursuant to and consistent with sections 159 and 160 of the Energy Policy and Conservation Act (Public Law 94-163, 42 U.S.C. 6239 and 6240), and to conduct emergency exchanges of petroleum distillate from the Northeast Home Heating Oil Reserve pursuant to and consistent with section 182 of the Energy Policy and Conservation Act (Public Law 94-163, 42 U.S.C. 6250a).
 - H. Adopt rules, formulate and establish enforcement policy, initiate and conduct investigations, conduct conferences, administrative hearings and public hearings, prepare required reports, issue orders, and take such other action as may be necessary or appropriate to perform any of the functions in paragraph 1.12, subparagraphs A, C, D, E, and F. The authority to adopt rules may not be redelegated.
- 1.14 Exercise the authority under Section 643 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7253), in accordance with the restrictions contained therein, to establish, alter, consolidate or discontinue such organizational units or components within the Department as the Deputy Secretary may deem to be necessary or appropriate. This authority may not be redelegated.
 - 1.15 Approve the issuance of Department of Energy Directives, including but not limited to, Policies, Orders, Manuals and Notices. This authority may not be redelegated.
 - 1.16 Under 5 U.S.C. 4502, approve, on a nonexclusive basis, major Departmental honorary awards, except the Secretary's Award; approve cash awards in excess of those amounts authorized to be approved by Heads of Departmental Elements; and recommend to the Office of Personnel Management cash awards in excess of \$10,000. This authority may not be redelegated.
 - 1.17 Exercise all authorities vested in the Secretary of Energy under the Stevenson Wydler Technology Innovation Act of 1980 (Public Law 96-480), as amended by section 105(a) of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010 (Public Law 111-358) and section 401(b) of the American Innovation and Competitiveness Act (Public Law 114-329), as set forth in 15 U.S.C. 3719.
 - 1.18 Approve the detail of employees to assignments to the White House, Executive Office of the President, and congressional committees.

- 1.19 Under section 3174 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201, 42 U.S.C. 7274k), make a determination that an order relating to the execution of environmental restoration, waste management, or technology development activities at a defense nuclear facility, is necessary for the protection of human health and environment or safety, the fulfillment of current legal requirements, or the conduct of critical administrative functions.
- 1.20 Pursuant to section 301(g) of Title III of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94), or similar, relevant provisions in future appropriations acts, make the determination, on a case by case basis, that compliance with the three full business days advance notification to the Appropriations Committees of the United States House of Representatives and Senate would pose a substantial risk to human life, health, or safety and make the post-award notification to the Committees on Appropriations of the Senate and House of Representatives not later than five full business days after such award is made or letter issued.
- 1.21 Originally classify information as Top Secret, Secret, and Confidential (which also includes the authority to derivatively classify documents or material based on classification guides or source documents) as provided in section 1.3(c) of Executive Order 13526, as amended. This authority may not be redelegated.
- 1.22 Exercise the authority vested in the Secretary under section 145(b) of the Atomic Energy Act of 1954, as amended, including the authority to make determinations permitting an individual access to Restricted Data prior to completion of the background investigation required by section 145(b), if such access is clearly consistent with the national interest.
- 1.23 Under section 644 of the Department of Energy Organization Act (Public Law 95-91, 42 U.S.C. 7254), on a nonexclusive basis, exercise the authority vested in the Secretary to approve and issue all rulemakings and rule-related documents. Nothing in this delegation is intended to limit the authority delegated to other heads of Departmental elements to approve rulemaking and rule-related documents within their area of cognizance, as required or authorized by law.
- 1.24 Enter into, modify, or terminate participation agreements and associated implementation agreements for new or upgraded electric power transmission facilities and related facilities pursuant to Section 1222 of the Energy Policy Act of 2005 (Public Law 109-58, 42 U.S.C. 16421). This authority may not be further delegated.
- 1.25 Pursuant to 41 U.S.C. 1702(a), serve as the Chief Acquisition Officer (CAO). As CAO, advise and assist the Secretary and other agency officials to ensure that the

mission of the executive agency is achieved through the management of the agency's acquisition activities. As CAO, the Deputy Secretary is responsible for:

- A. Monitoring the performance of acquisition activities and acquisition programs of the executive agency, evaluating the performance of those programs on the basis of applicable performance measurements, and advising the head of the executive agency regarding the appropriate business strategy to achieve the mission of the executive agency;
- B. Increasing the use of full and open competition in the acquisition of property and services by the executive agency by establishing policies, procedures, and practices that ensure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Federal Government's requirements (including performance and delivery schedules) at the lowest cost or best value considering the nature of the property or service procured;
- C. Increasing appropriate use of performance-based contracting and performance specifications;
- D. Making acquisition decisions consistent with all applicable laws and establishing clear lines of authority, accountability, and responsibility for acquisition decision-making within the executive agency;
- E. Managing the direction of acquisition policy for the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency;
- F. Advising on the applicability of relevant policy on the contracts of the agency for overseas contingency operations and ensuring the compliance of the contracts and contracting activities of the agency with such policy;
- G. Developing and maintaining an acquisition career management program in the executive agency to ensure that there is an adequate professional workforce; and
- H. As part of the strategic planning and performance evaluation process required under 5 U.S.C. 306 and 31 U.S.C. sections 1105(a)(28), 1115, 1116, and 9703, assessing the requirements established for agency personnel regarding knowledge and skill in acquisition resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for acquisition management; developing strategies and specific plans for hiring, training, and professional development to rectify a deficiency in meeting those

requirements; and reporting to the head of the executive agency on the progress made in improving acquisition management capability.

Office of the Chief Human Capital Officer

- 1.26 Under 5 U.S.C. 7114 (c), approve all Federal labor management agreements, including employee negotiated agreements, renegotiations, supplements, and other related agreements.
- 1.27 Consult with and request determination of eligibility from the Office of Personnel Management for the employment of an individual who has been removed from another agency under 5 U.S.C. 7312.
- 1.28 Approve personnel actions involving positions at or below the GS-15 level or equivalent in the competitive and excepted service.
- 1.29 Approve personnel actions involving positions above the GS-15 level or equivalent not requiring Executive Resources Board approval.
- 1.30 Approve personnel actions relating to the appointment of experts and consultants pursuant to 5 U.S.C. 3109 (Schedule A hiring authority).
- 1.31 Establish rates of basic pay and premium pay for Dispatchers of the Southeastern Power Administration, Southwestern Power Administration, and Western Area Power Administration in accordance with the provisions of Title III of Public Law 99-141, the provisions of Title I of Public Law 100-71, and Public Law 116-94, Division C, Title III.
- 1.32 Approve, develop, and evaluate training and development programs and associated procedures pursuant to 5 U.S.C. Chapter 41 and 5 CFR Part 410. As set forth in 5 CFR 410.302(b)(1), this authority does not include authorizing training for officials appointed by the President.
- 1.33 Under 5 U.S.C. 2903, administer the oath of office and execute appointment affidavits for all appointments to DOE, including appointments in the National Nuclear Security Administration.
- 1.34 Under Public Law 101-12 (5 U.S.C. 3352), exercise the authority to give preference in transfers for employees who have had prohibited personnel actions taken against them.
- 1.35 Under Public Law 107-107 (5 U.S.C. 5547(b)), waive the biweekly limitation on General Schedule premium pay for emergency situations or work that is critical to the mission of DOE. If provided for by statute, waive the premium pay

limitations in 5 U.S.C. 5547 on total compensation for an employee who performs work while in an overseas location in direct support of, or directly related to, a military operation, including a contingency operation, or an operation in response to a national emergency declared by the President.

- 1.36 Approve dual compensation (salary off-set) waivers pursuant to section 1122 of the National Defense Authorization Act for Fiscal Year 2010, as amended by Public Law 111-84; October 28, 2009.
- 1.37 Pursuant to 5 U.S.C. 3307, approve exemptions to the maximum entry age, up to the age of 40, in cases where an organization can demonstrate critical needs or skill shortages, and grant exemptions to the mandatory separation age, up to the age of 60, for special cases in which continuation of the employee's services promotes the needs of the organization and clearly serves the public interest.
- 1.38 Pursuant to 5 U.S.C. 5753(a)(1)(B) and 5 CFR Part 575, request that the Office of Personnel Management approve a category of employees to be eligible for recruitment and relocation incentives for pay plans other than GS.
- 1.39 Pursuant to 5 U.S.C. 5754(a)(1)(B) and 5 CFR Part 575, request that the Office of Personnel Management approve a category of employees to be eligible for retention incentives for pay plans other than GS.
- 1.40 Pursuant to 5 U.S.C. 7906(b), provide for the assignment of a post-combat case coordinator in the case of any employee of the agency who suffers an injury or disability incurred, or an illness contracted, while in the performance of such employee's duties, as a result of a war-risk hazard or during or as a result of capture, detention, or other restraint by a hostile force or individual.
- 1.41 Pursuant to 5 U.S.C. 3307(e)(2)(A), in the case of the conversion of an agency function from performance by a contractor to performance by an employee of the agency, in consultation with the Director of the Office of Personnel Management, waive any maximum limit of age, determined or fixed for positions within the agency under 5 U.S.C. 3307(e)(1), if necessary in order to promote the recruitment or appointment of experienced personnel.
- 1.42 Pursuant to 5 CFR 352.306, provide recommendations to the Secretary of State to extend a detail beyond the five years allowed for details. In such instances, a detail may be extended for up to an additional three years if determined to be in the national interest. This authority may be delegated only to the Deputy Chief Human Capital Officer.

- 1.43 Pursuant to 5 CFR 352.308, authorize the transfer of an employee to an international organization for any period not to exceed five years, except that when the Secretary of State determines it to be in the national interest, a period of employment by transfer may be extended for up to an additional three years. This authority may be delegated only to the Deputy Chief Human Capital Officer.
- 1.44 Pursuant to 5 U.S.C. §§ 8336a(b)(1) and 8412a(b)(1), 5 CFR Parts 831 and 848, and the DOE Executive Resources Board Charter, concur on employees' requests to enter phased retirement status.
- 1.45 Under Public Law 117-58, determine there is a severe shortage of candidates or a critical hiring need for particular positions performing duties related to the Infrastructure Investment and Jobs Act, 2021. Upon such determination, recruit and directly appoint, from within funds provided by the Infrastructure Investment and Jobs Act, highly qualified individuals into the competitive service. Any action taken pursuant to this authority shall be consistent with the merit system principles of 5 U.S.C. § 2301, and shall comply with the public notice requirements of 5 U.S.C. § 3327. This authority does not apply to positions in the Excepted Service or the Senior Executive Service. This authority may only be redelegated to the Chief Human Capital Officer.
- 1.46 Pursuant to Executive Order 13833 and 5 CFR 337.204(d), determine there is a severe shortage of candidates, or a critical hiring need exists for Information Technology (IT) positions. Upon such determination, recruit and directly appoint IT positions classified in the general schedule (GS) 2210 occupational series to address hiring challenges beyond IT positions related to information security. Any action taken pursuant to this authority shall be consistent with the merit system principles of 5 U.S.C. § 2301, and shall comply with the public notice requirements of 5 U.S.C. § 3327. This authority does not apply to positions in the Excepted Service or the Senior Executive Service. This authority may only be redelegated to the Chief Human Capital Officer.

Office of the Chief Information Officer

- 1.47 Under section 5126 of Public Law 104-106, "Accountability," as amended (40 U.S.C. 11316), establish policies and procedures, in consultation with the Secretary of Energy and the Chief Financial Officer, to:
 - A. Ensure that accounting, financial, and asset management systems and other information systems of the Department of Energy are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the Department; and

- B. Ensure that financial and related program performance data are provided on a reliable, consistent, and timely basis to DOE financial management systems.

1.48 Under section 5123 of the Information Technology Management Reform Act of 1996, Public Law 104-106, "Performance and Results-Based Management," as amended (40 U.S.C. 11313), institutionalize performance and results-based management for information technology in coordination with the Senior Secretarial Officers of the Department of Energy (DOE or Department). In fulfilling this responsibility, the Deputy Secretary shall:

- A. Establish goals for improving the efficiency and effectiveness of DOE operations and, as appropriate, the delivery of services to the public through the effective use of information technology;
- B. Prepare an annual report on the progress in achieving the goals;
- C. Prepare, for issuance by me or by the Deputy Secretary, guidance in the form of directives (policy, orders, manuals, and guidelines) that:
 1. Provides guidelines for performance measurements for information technology used by, or to be acquired for, the Department that measure how effectively information technology supports programs of the Department;
 2. Where comparable processes exist in the public or private sectors, benchmarks DOE process performance against such processes to improve cost, speed, productivity, and quality of outputs and outcomes;
 3. Analyzes DOE missions and recommends revised DOE mission-related and administrative processes (business process reengineering) before making significant investments in information technology; and
 4. Ensures that the information security policies, procedures, and practices of DOE are adequate.

1.49 Under section 5122 of Public Law 104-106, "Capital Planning and Investment Control," as amended (40 U.S.C. 11312), design and implement, in coordination with DOE Chief Financial Officer, a process for maximizing the value and assessing and managing the risks of DOE information technology investments. The process shall:

- A. Provide for the selection of information technology investments to be made by the Department, the management of such investments, and the evaluation of the results of such investments;
 - B. Integrate the information technology investment process with the budget, financial, and program management decisions within the Department;
 - C. Establish minimum criteria to be applied in considering whether to undertake a particular information technology investment, including criteria related to the risk-adjusted return on investment and criteria for comparing and prioritizing alternative information technology investment projects;
 - D. Provide for identifying information technology investments that would result in shared benefits or costs for other Federal agencies or State or local governments; and
 - E. Provide the means for senior management of the Department to obtain timely information regarding the progress of an investment, including a system for measuring progress against planned major milestones, on an independently verifiable basis, in terms of cost, capability of the investment to meet specified requirements, timeliness and quality.
- 1.50 Under section 5124 of Public Law 104-106, "Acquisitions of Information Technology," as amended (40 U.S.C. 11314), acquire information technology as authorized by law and to enter into a contract that provides for multi-agency acquisitions of information technology and guidance issued by the Director of the Office of Management and Budget.
- 1.51 Under section 5127 of Public Law 104-106, "Significant Deviations," as amended (40 U.S.C. 11317), identify in the strategic information resources management plan, any major information technology acquisition program, or any phase or increment of such a program, that has significantly deviated from the cost, performance, or scheduled goals established for the program.
- 1.52 Under section 301(b) of Public Law 107-347, "Federal Information Security Management Act of 2002" (FISMA), as amended (44 U.S.C. 3554(a)(3)), ensure compliance with the requirements of FISMA, including:
- A. Designating a senior agency information security officer who shall carry out the Chief Information Officer's (CIO) responsibilities under FISMA; possess professional qualifications, including training and experience, required to administer the functions described in sub-sections B.-E. of

this section; have information security duties as that official's primary duty; and head an office with the mission and resources to assist in ensuring DOE compliance with this section;

- B. Developing and maintaining a DOE-wide information security program;
 - C. Developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under 44 U.S.C. 3553 and 40 U.S.C. 11331;
 - D. Training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and
 - E. Assisting senior DOE officials concerning their responsibilities to provide information security for the information and information systems that support the operations and assets under their control.
- 1.53 Under section 1062 of the National Security Intelligence Reform Act of 2004 (Public Law 108-458), as amended by section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53; 42 U.S.C. 2000ee-1), designate the Department's Privacy Act Officers.
- 1.54 Exercise the Secretary's authority to approve the use of persistent cookies for Department of Energy websites in accordance with guidance issued by the Office of Management and Budget.
- 1.55 Under 44 U.S.C. 3102, establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.

Office of Economic Impact and Diversity

- 1.56 In accordance with title IX of the Education Amendments of 1972 (20 U.S.C. 1682), annually conduct reviews of at least two recipients of grants awarded by the Department of Energy under the America Competes Act of 2007, Public Law 110-69).

Office of Environment, Health, Safety and Security

- 1.57 Act as the Senior Agency Official responsible for the direction and administration of the Department of Energy (DOE or Department) information security program pursuant to section 5.4(d) of Executive Order 13526 of December 29, 2009, "Classified National Security Information."

- 1.58 Establish controls to ensure that classified information is used, processed, stored, reproduced, transmitted, and destroyed only under conditions that will provide adequate protection and prevent access by unauthorized persons pursuant to Executive Order 13526, section 4.1(g). This authority may be delegated to the Director, Office of Environment, Health, Safety and Security; the Deputy Director for Security; the Director, Office of Headquarters Security Operations; or the Director, Office of Security.
- 1.59 Originally classify information as Top Secret, Secret, or Confidential as provided in section 1.3(c) of Executive Order 13526. This authority is also delegated to (or, in their absence, those persons acting in their stead):
- A. The Director, Office of Environment, Health, Safety, and Security;
 - B. The Deputy Director for Security; or
 - C. The Director, Office of Classification.

This authority may not be redelegated, with the exception of the authority to classify information originally as Secret or Confidential, which authority may be redelegated by the Director, Office of Environment, Health, Safety and Security, consistent with the terms of Executive Order 13526.

- 1.60 Exercise all other authorities vested in the Secretary under Executive Order 13526 and in any implementing directives issued pursuant to section 5.2(b)(1), except for:
- A. the authority specified in section 1.3(c)(2), pertaining to delegations of "Top Secret" original classification authority;
 - B. the authority specified in section 1.7(c)(1), pertaining to reclassification of information after it has been declassified and released to the public;
 - C. the authority specified in section 4.3(a) pertaining to the establishment of special access programs;
 - D. the authority specified in section 4.3(b)(4) requiring the annual review of each special access program to determine whether it continues to meet the requirements of the Executive Order;
 - E. any authority which has been or may be delegated to me by the Secretary of Defense in furtherance of the provisions of section 3.5(f) pertaining to the establishment of special procedures for systematic review for declassification of classified cryptologic information; and

- F. the authority specified in section 6.2(c) to request of the Attorney General an interpretation of the Executive Order with respect to any questions arising in the course of its administration.
- 1.61 Act as the Senior Agency Official responsible for the direction and administration of the DOE personnel security program pursuant to section 6.1(a) of Executive Order 12968 of August 2, 1995, "Access to Classified Information."
- 1.62 Act as the Senior Agency Official responsible for the direction and administration of the DOE implementation of and compliance with the National Industrial Security Program pursuant to section 203(a) of Executive Order 12829 of January 6, 1993, "National Industrial Security Program."
- 1.63 Exercise all authorities vested in the Secretary under section 145 of the Atomic Energy Act of 1954, as amended, including the authority to make determinations pursuant to section 145b permitting an individual access to Restricted Data prior to completion of the background investigation required by section 145b, if such access is clearly consistent with the national interest. This authority may be delegated to the Director, Office of Environment, Health, Safety and Security; the Deputy Director for Security; the Director, Office of Headquarters Security Operations; or the Director, Office of Security. This authority may not be redelegated.
- 1.64 Issue subpoenas in accordance with the provisions of section 161c of the Atomic Energy Act of 1954, as amended.
- 1.65 Classify, declassify, and transclassify Restricted Data; classify, declassify, and transclassify Formerly Restricted Data; and classify, declassify, and transclassify Transclassified Foreign Nuclear Information as provided in section 142 of the Atomic Energy Act of 1954, as amended, and section 3.3(g) of Executive Order 13526. This authority may be delegated to the Director, Office of Environment, Health, Safety and Security; the Deputy Director for Security; or the Director, Office of Classification. This authority may not be redelegated.
- 1.66 For Headquarters and all non-National Nuclear Security Administration Field activities, authorize Department employees and contractor employees to carry firearms and make arrests without warrant pursuant to section 161k of the Atomic Energy Act of 1954, as amended.
- 1.67 Make the final determination concerning appeals involving the denial of requests made under the Freedom of Information Act for classified information, or the denial of requests for information made under the Freedom of Information Act falling within the scope of section 148 of the Atomic Energy Act of 1954, as amended. The authority to make the initial denial of classified

information may be delegated to the Director, Office of Environment, Health, Safety and Security; the Deputy Director for Security; or the Director, Office of Classification.

Office of Hearings and Appeals

- 1.68 Issue orders with respect to applications for an adjustment (exception) to any rule, regulation or order having the applicability and effect of a rule issued under the Federal Energy Administration Act ("FEAA") (Public Law 93-275), as amended, the Emergency Petroleum Allocation Act of 1973 ("EPAA") (Public Law 93-159), as amended, the Energy Supply and Environmental Coordination Act of 1974 ("ESECA") (Public Law 93-319), as amended, the Energy Policy and Conservation Act ("EPCA") (Public Law 94-163), as amended, consistent with the other purposes of the relevant Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens.
- 1.69 Issue orders with respect to applications for exception or exemption to any rule, regulation or order having the applicability and effect of a rule issued under any statutory authority other than those listed above, vested in the Secretary, consistent with the other purposes of the relevant statutory authority, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens whenever such statutes or Departmental regulations provide for the issuance of such orders.
- 1.70 Issue appellate decisions as appropriate under the Freedom of Information Act (Public Law 89-487), as amended, the Privacy Act of 1974 (Public Law 93-579), as amended, the Nuclear Waste Policy Act of 1982 (Public Law 97-425), as amended, and the Energy Policy Act of 1992 (Public Law 102-486), as amended, consistent with the purposes of the relevant Act.
- 1.71 Pursuant to 42 U.S.C. 7194, issue decisions pursuant to regulations adopted by the Department of Energy with respect to the administrative appeal of any DOE order other than those appeals that are vested in or assigned to the Federal Energy Regulatory Commission (FERC).
- 1.72 Issue orders pursuant to Departmental procedures with respect to applications for modification or rescission of any DOE order.
- 1.73 Issue orders with respect to petitions for special redress, relief, or other extraordinary assistance.
- 1.74 Issue orders with respect to applications for stay of any order, rule, regulation, ruling or other generally applicable requirement as incident to the proceedings.

- 1.75 Issue decisions with respect to requests made by organizations for financial assistance to participate in any regulatory or adjudicatory proceeding other than a FERC matter.
- 1.76 Conduct adjudicatory proceedings and issue orders in any instance in which a statute vesting authority in the Secretary requires an adjudication or appellate procedure and express Departmental procedures do not specify the manner in which the statutory authority is to be exercised.
- 1.77 Develop and adopt Guidelines for the evaluation of matters within the jurisdiction of the Office of Hearings and Appeals.
- 1.78 Conduct investigatory and adjudicatory proceedings, and issue reports of investigation and initial and appellate agency decisions, pursuant to 10 C.F.R. Part 708, the "Criteria and Procedures for DOE Contractor Employee Protection Program," and make initial jurisdictional determinations, conduct investigatory proceedings, issue reports of investigation, and issue orders for remedial action pursuant to the "Whistleblower Protection Program" in section 3164 of the National Defense Authorization Act for Fiscal Year 2000. For purposes of this Delegation Order, proceedings arising under 10 C.F.R. 708 and section 3164 shall not be considered Federal employee personnel matters.
- 1.79 Conduct adjudicatory proceedings and issue opinions pursuant to 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." For purposes of this Delegation Order, proceedings arising under 10 C.F.R. Part 710 shall not be considered Federal employee matters.
- 1.80 Pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986 ("PODRA") (Public Law 99-509, 15 U.S.C 4501 et seq.), adopt and administer special refund procedures for adjudicating claims made by injured persons for restitution from any oil overcharge funds made available to the Department of Energy as a result of enforcement actions; in the course of administering the claims process, take any measures necessary or appropriate to reach equitable results in an expeditious manner.
- 1.81 When necessary and incidental to the exercise of the authority delegated hereby, request information, undertake investigations and conduct conferences, hearings or public hearings with respect to the functions delegated hereby; administer oaths and affirmations to any person, and suspend or disqualify any person appearing at such conferences or hearings; issue subpoenas and, if appropriate, direct that payment of witness fees and mileage be made to any witness appearing in response to such subpoenas.

- 1.82 Conduct such other proceedings and take such other action as the Secretary or his/her authorized delegate(s) may, from time to time, direct or authorize.
- 1.83 Sign documents (other than rulemaking) for publication in the Federal Register which are necessary and appropriate for the Director of the Office of Hearings and Appeals to perform his/her functions.

Office of International Affairs

- 1.84 Pursuant to sections 102(10) of the Department of Energy Organization Act (42 U.S.C. 7112(10)), and by sections 103(9) and 107(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5813(9) and 5817(a)), and sections 31 and 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2051 and 2201), the authority, on a nonexclusive basis, to:
 - A. Negotiate and sign agreements on behalf of the Department of Energy (DOE) with foreign governments, agencies of foreign governments, and intergovernmental organizations; and
 - B. Develop procedures for: management of DOE's international commitments; internal DOE and inter-agency coordination of proposed agreements; and review and assessment of the effectiveness of agreements concluded on behalf of, and other international commitments undertaken by, DOE.
 - C. The authority delegated in this paragraph shall be exercised subject to the following conditions: Consultation with the Department of State in accordance with the Case-Zablocki Act of 1972, 1 U.S.C. 112b, and the Department of State's implementing regulations at 22 C.F.R. Part 181; and Concurrence of the Office of the General Counsel both prior to transmitting a draft agreement to the Department of State for interagency review under its Circular 175 procedures, and before signature of an agreement.

Office of Management

- 1.85 Take all necessary actions to acquire, by purchase, lease, or otherwise, real property interests; take necessary additional action following the initiation of condemnation proceedings and the execution of declarations of taking; and exercise all authority of the Secretary regarding the management and disposal of Departmental real property. Any acceptance by donation of real property must be concurred on by the Department of Energy Office of the General Counsel.

- 1.86 Pursuant to section 103 of the Energy Policy and Conservation Act Amendments of 2000 (Public Law 106-469, 42 USC 6239(f)), in reference to the acquisition of easements for the Strategic Petroleum Reserve, acquire easements necessary for the construction and operation of the Strategic Petroleum Reserve, including the authority to acquire easements by condemnation, to exercise such authority as the Secretary has to condemn without prior negotiations, to execute all documents, including declarations of taking, in connection with such proceedings, and to exercise the Secretary's authority to take such other actions in connection with such proceedings as may be necessary and appropriate, subject to the following limitations:
- A. For acquisition of easements in conjunction with the construction of pipelines and service roads for the enhancement of petroleum distribution from the Bryan Mound, West Hackberry, Big Hill, and Bayou Choctaw storage facilities of the Strategic Petroleum Reserve, the purchase price, or the appraised value in the event of condemnation, of each tract to be acquired may not exceed \$2,000,000; and
 - B. For the acquisition of all other easements in conjunction with the Strategic Petroleum Reserve, the purchase price, or the appraised value in the event of condemnation, of each tract to be acquired may not exceed \$250,000.
- 1.87 Enter into, approve, administer, modify, close-out, terminate, and take such other actions as may be necessary and appropriate with respect to any procurement transaction binding the Department of Energy to the obligation and expenditure of public funds, without redelegation (42 U.S.C. 7254, 7256).
- 1.88 Enter into, approve, administer, modify, close-out, terminate and take such other actions as may be necessary and appropriate to acquire, manage, and dispose of personal property held by the Department for official use by its employees or contractors.
- 1.89 Serve as deciding official for all appeals from an initial challenge decision under the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270, 31 U.S.C. 501 note).
- 1.90 Administer the Departmental Directives System.
- 1.91 Pursuant to Public Law 114-185, 5 U.S.C. 552(j)(1), designate the Department's Chief Freedom of Information Act Officer.
- 1.92 Settle claims by employees for personal property losses as provided by 31 U.S.C. 3721.

- 1.93 On a nonexclusive basis, perform the role of Senior Procurement Executive (as defined by 41 U.S.C. 1702 and Executive Order No. 12931 "Federal Procurement Reform," October 13, 1994) for all Departmental elements, except the National Nuclear Security Administration and the Federal Energy Regulatory Commission. As the Senior Procurement Executive you have agency-wide responsibility and authority to: provide overall management direction of the Administration's procurement system; oversee development of procurement goals, guidelines, and innovation; measure and evaluate procurement office performance against stated goals; and enhance career development of the procurement workforce. As Senior Procurement Executive, you are authorized to approve justifications for other than full and open competition in the case of a contract for an amount exceeding \$50,000,000. (41 U.S.C. 3304).
- 1.94 Designate Contracting Officers (48 C.F.R. 1.601, 48 C.F.R. 1.603-1, 48 C.F.R. 901.601).
- 1.95 Designate a program manager to implement an electronic commerce capability for the Department who shall report directly to the Senior Procurement Executive (41 U.S.C. 4709).
- 1.96 Designate Heads of Contracting Activities, subject to such thresholds and other limitations as may be appropriate (48 C.F.R. 1.601, 48 C.F.R. 901.601).
- 1.97 Designate a Senior Competition Advocate to perform the duties required by the Competition in Contracting Act of 1984, Public Law 98-369. (41 U.S.C. 1705, 48 C.F.R. 6.501, 48 C.F.R. 906.501).
- 1.98 Designate Contracting Activity Competition Advocates to perform the duties required by the Competition in Contracting Act of 1984, Public Law 98-369. This authority may be redelegated no lower than the Heads of Contracting Activities. A Contracting Activity Competition Advocate shall be appointed for each installation that has been delegated contracting authority (41 U.S.C. 1705, 48 C.F.R. 6.501, 48 C.F.R. 906.501).
- 1.99 Assign contracting functions and responsibilities to another agency, and create Joint or combined offices with another agency to exercise acquisition functions (41 U.S.C. 3102, 48 C.F.R. 1.601, 48 C.F.R. 901.601).
- 1.100 Enter into, approve, administer, modify, close-out, terminate, and take such other actions as may be necessary and appropriate with respect to any procurement transaction binding the Department to the obligation and expenditure of public funds. Serve as Source Selection Authority (SSA) or appoint another individual to serve as SSA for a particular acquisition or group of acquisitions (48 C.F.R. 15.303).

- 1.101 Enter into, approve, administer, modify, close-out, terminate and take such other actions as may be necessary and appropriate with respect to any financial assistance agreement or similar transaction, whether or not binding DOE to the obligation and expenditure of public funds. Such action shall include the rendering of approvals, determinations, and decisions, except those required by law or regulation to be made by other authority. Serve as Selection Authority (SA) or appoint another individual to serve as SA for a particular financial assistance action or group of financial assistance actions.
- 1.102 Enter into, approve, administer, modify, close-out, terminate and take such other actions as may be necessary and appropriate with respect to any sales contract, reimbursable orders, or similar transaction, whether or not binding DOE to the obligation and expenditure of public funds. Such action shall include the rendering of approvals, determinations, and decisions, except those required by law or regulation to be made by other authority. Serve as Selection Authority (SA) or appoint another individual to serve as SA for a particular action or group of actions.
- 1.103 Approve extraordinary contractual actions, not to exceed \$70,000 to facilitate the national defense, pursuant to Public Law 85-804 and Executive Order No. 10789, as amended (48 C.F.R. 50.102-1).
- 1.104 Sign applications for permits to procure tax-free spirits from a distilled spirits plant for non-beverage purposes for use by the Department, as authorized by 26 U.S.C. 5271.
- 1.105 Exercise the authorities under sections 101(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2071(a)) delegated to the Secretary in Department of Commerce (DOC) Defense Priorities and Allocations System (DPAS) Delegation 2, as amended, contained in the DOC DPAS regulation at 15 C.F.R. Part 700; and the authorities under section 101(c)(2)(A) of the Defense Production Act of 1950 (50 U.S.C. 4511(c)(2)(A)), as delegated to the Secretary by section 203 of Executive Order No. 13603. The exercise of these authorities is subject to the concurrence of the Department's General Counsel.
- 1.106 Designate a task and delivery order ombudsman to perform the duties required by the Federal Acquisition Streamlining Act of 1994 (title I, section 1054(a) of Public Law 103-355, as amended by Public Law 110-181, 41 U.S.C. 4106).
- 1.107 Serve as my authorized representative to void and rescind contracts in relation to which there has been either:

- A. A final conviction for bribery, conflict of interest, disclosure or receipt of contractor bid or proposal information or source selection information in exchange for a thing of value or to give anyone a competitive advantage in the award of a Federal agency procurement; or
 - B. You have determined, as my designee, that contractor bid or proposal information or source selection information has been disclosed or received in exchange for a thing of value, or for the purpose of obtaining or giving anyone a competitive advantage in the award of a Federal Agency procurement (18 U.S.C. 218 and 41 U.S.C. 2105).
- 1.108 Enter into, administer, modify, closeout, terminate and take such other actions as may be necessary and appropriate with respect to any other transaction agreement, whether or not binding DOE to the obligation and expenditure of public funds. Such actions shall include the rendering of determinations and decisions, except those required by law or regulation to be made by other authority.
- 1.109 Enter into long-term utility contracts except area wide contracts, for total terms not to exceed ten (10) years, for all utility services; e.g., electric, natural gas, water, sewage, and steam, pursuant to Delegation of Authority to the Secretary of Energy from the General Services Administrator, reflected in 48 C.F.R. 41.103(b). (40 U.S.C. 501(b), 40 U.S.C. 121(d)).
- 1.110 Pursuant to section 301(b) of Title III of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94), or similar, relevant provisions in future appropriations acts, notify the Committees on Appropriations of the Senate and House of Representatives at least three full business days in advance of making a grant allocation, discretionary grant award, discretionary contract award, Other Transaction Agreement, issuing a letter of intent or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation, totaling in excess of \$1,000,000.
- 1.111 Consistent with the policy process set forth in the Memorandum on the Rulemaking Process issued to all Departmental elements by the Deputy Secretary on September 14, 2010, approve and issue all rulemaking and rule-related documents regarding Department acquisition and financial assistance regulations as required or authorized by applicable law. This includes in particular serving as my authorized representative to issue agency acquisition regulations that implement or supplement the Federal Acquisition Regulation (FAR) as provided for in 48 C.F.R. 1.301, and issuing agency regulations concerning financial assistance as provided in 2 C.F.R. Part 200. For those rules determined to be administrative/ informational or substantive/non-significant, the process involving the Regulatory Leadership Group described in the Deputy

Secretary's Memorandum dated September 14, 2010 shall not apply. The process involving Regulatory Leadership Group described in the Deputy Secretary's memorandum remains in effect for those rules determined to be significant or for which there is a DOE policy required. This authority does not include the authority to issue rule and rule-related documents for the Title XVII Loan Guarantee or Advanced Technology Vehicles Manufacturing Incentive Programs.

- 1.112 Make a determination to award a single source Blanket Purchase Agreement in excess of \$112M (48 C.F.R. 8.405-3(a)(3)(ii)).
- 1.113 Make a determination to award a single source task or delivery order contract in excess of \$112M (48 C.F.R. 16.504(c)(1)(ii)(D)), and notify Congress within 30 days after making a determination pursuant to 48 C.F.R. 16.504(c)(1)(ii)(D)(1)(iv).
- 1.114 This authority may be redelegated only to the Director for the Office of Acquisition Management.
- 1.115 Exercise the duties and responsibilities of the Secretary for authorizing and approving travel and establishing policies on behalf of the Secretary with respect to employees travel and relocation allowances under 5 U.S.C., Chapter 57, and the Federal Travel Regulation.
- 1.116 For all programs funded by Fossil Energy appropriations, exercise the authority of the Secretary of Energy to vest fee title or other property interests acquired in any entity, including the United States, pursuant to the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111-85), Title III, Department of Energy, Energy Programs, Fossil Energy Research and Development; Consolidated Appropriations Act, 2014 (Pub. L. 113-76, 42 U.S.C. 16291a), Title III, Department of Energy, Energy Programs, Fossil Energy Research and Development, or similar, relevant provisions in future appropriations acts; section 402(g) of Title IV of EPACT 2005 (Pub. L. 109-58, 42 U.S.C. 15962(g)); and the Department of the Interior and Related Agencies Appropriations Act, 1986 (Pub. L. 99-190, 42 U.S.C. 5903d), Title II, Department of Energy, Clean Coal Technology.

Office of Policy

- 1.117 Carry out the functions vested in the Secretary of Energy pursuant to Section 252 of the Energy Policy and Conservation Act, as amended (Public Law 94-163), including all functions under the "Voluntary Agreement and Plan of Action to Implement the International Energy Program," to prescribe by rule, standards, and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum may develop and carry

out voluntary agreements and plans of action which are required to implement the allocation and information provisions of the international energy program.

2. RESCISSION. Delegation Order No. S1-DEL-S2-2022 is hereby rescinded.
3. LIMITATION.
 - 3.1 In exercising the authority delegated in this Order, a delegate shall be governed by the rules and regulations of the Department of Energy and the policies and procedures prescribed by the Secretary.
 - 3.2 Nothing in this Order precludes the Secretary from exercising any of the authority delegated by this Order.
 - 3.3 Any amendments to this Order shall be made in consultation with the Department of Energy General Counsel.
4. AUTHORITY TO REDELEGATE.
 - 4.1 Except as expressly prohibited by law, regulation, or this Order, the Deputy Secretary may delegate this authority further, in whole or in part.
 - 4.2 Copies of redelegations and any subsequent redelegations shall be provided to the Office of Management, which manages the Secretarial Delegations of Authority system.
5. DURATION AND EFFECTIVE DATE.
 - 5.1 All actions pursuant to any authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order are ratified and remain in force as if taken under this Order, unless or until rescinded, amended or superseded.
 - 5.2 This Order is effective 06/26/2023.



Jennifer M. Granholm
Secretary of Energy