



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 8, 2007

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter, dated May 2, 2007, which pertained to an order by the Attorney General that delegated authorities relating to certain personnel matters to the Chief of Staff and the White House Liaison. We are sending similar letters to the other Members who joined in your request to us.

Enclosed are documents responsive to your request. We are continuing to review and search for other documents responsive to your request.

Please do not hesitate to contact this office if you would like additional assistance relating to this matter.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Hertling".

Richard A. Hertling
Principal Deputy Assistant Attorney General

Enclosures

cc: The Honorable Arlen Specter
Ranking Minority Member



Office of the Attorney General
Washington, D.C.

ORDER NO. 2808-2006

**DELEGATION OF CERTAIN PERSONNEL AUTHORITIES TO THE
CHIEF OF STAFF TO THE ATTORNEY GENERAL AND THE
WHITE HOUSE LIAISON OF THE DEPARTMENT OF JUSTICE**

By virtue of the authority vested in me as Attorney General of the United States, I hereby delegate to the Chief of Staff to the Attorney General and to the White House Liaison of the Department of Justice the authority, with the approval of the Attorney General, to take final action in matters pertaining to the appointment, employment, pay, separation, and general administration of:

- (1) employees in the Offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General;
- (2) employees in the Department of Justice appointed to a Schedule C position established under 5 C.F.R. Part 213, or to a position which meets the same criteria as a Schedule C position; and
- (3) Any Senior Executive Service position in the Department of Justice in which the incumbent serves under other than a career appointment.

Under authority of this delegation, any proposed appointments or removals of personnel who are "inferior officers" within the meaning of Excepting Clause of the Constitution shall be

INTERNAL ORDER -- NOT PUBLISHED IN F.R.

ROUTING AND TRANSMITTAL SLIP

Date
02-24-2006

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Rosemary Hart, OLC		
2. Monica Goodling, OAG		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

PLEASE EXPEDITE THIS PACKAGE

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post) Office of the Assistant Attorney General for Administration	Room No. - Bldg. 1111, Main
	Phone No. (202) 514-3101



U.S. Department of Justice

Office of Legal Counsel

Office of the Assistant Attorney General

Washington, D.C. 20530

February 28, 2006

MEMORANDUM FOR ALBERTO R. GONZALES
ATTORNEY GENERAL

Re: Proposed Attorney General Order Delegating
Authority to Take Certain Personnel Actions

ACTION MEMORANDUM

The attached proposed Attorney General Order was submitted by the Assistant Attorney General for Administration to this Office for review as to form and legality.

The proposed Order would delegate to the Chief of Staff of the Attorney General and to the White House Liaison of the Department of Justice the authority, with the approval of the Attorney General, to take final action in matters pertaining to the appointment, employment, pay, separation, and general administration of employees in the Offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General; Department of Justice employees appointed to a position under Schedule C or meeting Schedule C criteria; and non-career Senior Executive Service positions. *See* 28 C.F.R. §§ 0.15(h), 0.19(d). To satisfy the requirements of the Appointments Clause, the proposed Order would provide that personnel actions related to "inferior officers" shall be presented to the Attorney General (individually or in groups) for approval, and that the appointment or removal of "inferior officers" shall be made in the name of the Attorney General. *See* U.S. Const., art. II, § 2, cl. 2.

The proposed Attorney General Order is approved as to form and legality.

A handwritten signature in black ink, appearing to read "Steven G. Bradbury".

Steven G. Bradbury
Acting Assistant Attorney General

5-1-06

Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET

EXPEDITE

DATE OF DOCUMENT: 02/24/2006 **WORKFLOW ID:** 960066
DATE RECEIVED: 02/27/2006 **DUE DATE:** 03/01/2006

FROM: Paul R. Corts
Assistant Attorney General for Administration
U.S. Department of Justice
Justice Management Division
950 Pennsylvania Ave., NW, Suite 1111
Washington, DC 20530

TO: AG

MAIL TYPE: Action Memorandum

SUBJECT: Memo requesting the AG's approval and signature on the attached AG order delegating certain personnel authorities to the Chief of Staff to the AG and the White House Liaison to DOJ. See WF 871551. (Note: JMD requests EXPEDITIOUS consideration.) (J960065)

DATE ASSIGNED **ACTION COMPONENT & ACTION REQUESTED**
02/28/2006 For AG signature.
Office of the Attorney General

INFO COMPONENT:

COMMENTS: 2/28/06: OLC submitted memo to the AG dated 2/28/06 approving w/respect to form and legality.
2/27/06: Per instructions received from JMD, ODAG is to be bypassed on this package.

FILE CODE:

EXECSEC POC: Barbara Wells: 202-616-0025

Memorandum



Subject: AG Order ES Workflow 960066	Date:
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To: Director
DOJ Executive Secretariat

From: Office of the
Attorney General

KS

I request that the signature of the Attorney General be affixed to the document(s) identified below:

Title of Document: _____

Number of Documents: _____

Date of Document: _____

Other Instructions (if any): _____

Jmm
3/11/06

RECEIVED
MAR 11 2006
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Washington, D.C. 20530

February 24, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM:

for

Paul R. Corts
Assistant Attorney General
for Administration

Michael B. Allen

SUBJECT:

Delegation of Certain Personnel Authorities to the Chief of Staff to the Attorney General and the White House Liaison to the Department of Justice

PURPOSE:

To obtain the Attorney General's approval of an order delegating certain reserved personnel authorities to his Chief of Staff and to the White House Liaison.

TIMETABLE:

As soon as possible.

SYNOPSIS:

The attached delegation would authorize the Chief of Staff to the Attorney General and the White House Liaison to exercise personnel administration authority reserved to the Attorney General in 28 C.F.R. §§ 0.15(h) and 0.19(d).

DISCUSSION:

On January 31, 2006, the Attorney General approved amendments to the Department's organizational regulations reserving certain personnel administration authorities to him. These regulations were published in the *Federal Register* on February 7, 2006. Under the new regulations, final authority is reserved to the Attorney General in matters pertaining the appointment, employment, pay, separation, and general administration of the following Department employees:

- (1) employees in the Offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General;
- (2) employees in the Department of Justice appointed to a Schedule C position established under 5 C.F.R. Part 213, or to a position which meets the same criteria as a Schedule C position; and
- (3) Any Senior Executive Service position in the Department of Justice in which the incumbent serves under other than a career appointment.

28 C.F.R. §§ 0.15(h) and 0.19(d).

Subject: Delegation of Certain Personnel Authorities to the Chief of Staff to the Attorney General and the White House Liaison to the Department of Justice

In order to implement these new regulations, the Attorney General's staff requested that I prepare a delegation from the Attorney General to the Chief of Staff and the White House Liaison (the "delegates") to exercise these personnel administration authorities newly reserved to the Attorney General. It is important for the delegates to obtain the Attorney General's imprimatur for all appointments or removals of constitutionally "inferior officers" made under authority of this delegation, however.

The Excepting Clause of the Constitution provides that "Congress may by law vest the appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." U.S. Const. art. II, § 2, cl. 2. The Office of Legal Counsel (OLC) advises that permitting the Attorney General's delegates to approve appointments (or removals) of constitutionally "inferior officers," which may include some appointed offices such as U.S. Trustees and certain Deputy Assistant Attorneys General, would be inconsistent with this Clause. OLC recommends that the delegates exercising the authority of this delegation submit appointments or removals to the Attorney General (individually or in groups) and that each appointment or removal be made in the Attorney General's name (whether the document evidencing the appointment be signed by the Attorney General or a delegate). See Memorandum for Jennifer G. Newstead, General Counsel, Office of Management and Budget, Assignment of Functions Related to Certain Military Appointments, at 3-4 (July 28, 2005).

The Attorney General's imprimatur is not necessary in order for the delegates to appoint or remove non-inferior officers within the scope of the delegation, such as administrative staff in a leadership office.

RECOMMENDATION: That the Attorney General approve and sign the proposed delegation order.

APPROVE

March 1, 2006

Concurring component:

OLC 2/28/06

DISAPPROVE

Non-concurring components:

None

OTHER

Attachment



Office of the Attorney General
Washington, D.C.

ORDER NO.

DELEGATION OF CERTAIN PERSONNEL AUTHORITIES TO THE
CHIEF OF STAFF TO THE ATTORNEY GENERAL AND THE
WHITE HOUSE LIAISON OF THE DEPARTMENT OF JUSTICE

By virtue of the authority vested in me as Attorney General of the United States, I hereby delegate to the Chief of Staff to the Attorney General and to the White House Liaison of the Department of Justice the authority, with the approval of the Attorney General, to take final action in matters pertaining to the appointment, employment, pay, separation, and general administration of:

- (1) employees in the Offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General;
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- (3) Any Senior Executive Service position in the Department of Justice in which the incumbent serves under other than a career appointment.

Under authority of this delegation, any proposed appointments or removals of personnel who are "inferior officers" within the meaning of Excepting Clause of the Constitution shall be

presented to the Attorney General (individually or in groups) for approval, and each appointment or removal shall be made in the name of the Attorney General.

This authority may not be redelegated.

March 1, 2006

Date



Alberto R. Gonzales
Attorney General

Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET

DATE OF DOCUMENT: 02/24/2006 **WORKFLOW ID:** 960066
DATE RECEIVED: 02/27/2006 **DUE DATE:** 03/01/2006

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Assistant Attorney General for Administration
U.S. Department of Justice
Justice Management Division
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DATE ASSIGNED
02/28/2006

ACTION COMPONENT & ACTION REQUESTED
For AG signature.
Office of the Attorney General

INFO COMPONENT:

COMMENTS: 3/2/2006: AG approved recommendation and signed Order dated 3/1/06. Original Order w/disk handcarried to OLC for appropriate handling and dispatch. 2/28/2006: OLC submitted memo to the AG dated 2/28/06 approving w/respect to form and legality. 2/27/2006: Per instructions received from JMD, ODAG is to be bypassed on this package.

FILE CODE: AG FILE: AG ORDERS AND RULES Order, AG Chron AS-03-01-06

EXECSEC POC: Barbara Wells: 202-616-0025