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Department of Labor

Office of the Secretary

Secretary's Order 1-2011

Delegation of Authority and Assignment of Responsibilities to the Employee Benefits Security Administration

1. **Purpose.** To delegate authority and assign responsibilities for the administration of the Department of Labor's responsibilities under the Employee Retirement Income Security Act of 1974, (ERISA), Federal Employees' Retirement System Act of 1986 (FERSA), and certain other statutes.
2. **Authority and Directives Affected.** This Order supersedes Secretary's Order 3-2010 (September 2, 2010).
3. **Background.** ERISA places responsibility in the Department of Labor for the administration of a comprehensive program to protect the interests of participants and beneficiaries of private sector employee benefit plans. This Order delegates the Secretary of Labor's authority and assigns responsibility for ERISA and for specified other laws to the Assistant Secretary for Employee Benefits Security.

In particular, this Order delegates the Secretary's authority and assigns responsibility under sections 45R and 4980H of the Internal Revenue Code, as added by sections 1421 and 1513, respectively, of Public Law 111-148, the Patient Protection and Affordable Care Act, 124 Stat. 119 (2010). The duties delegated to the Assistant Secretary include authority and responsibility to define the term "seasonal worker" under 26 U.S.C. 45R(d)(5)(B) and 4980H(c)(2)(B)(ii).

All other authorities and responsibilities set forth in this Order were delegated or assigned previously to the Assistant Secretary for EBSA in Secretary's Order 3-2010, and this Order continues those delegations and assignments in full force and effect, except as expressly modified herein.

4. Delegation of Authority and Assignment of Responsibilities

A. Except as hereinafter provided, the Assistant Secretary for Employee Benefits Security is delegated the authority and assigned the responsibilities of the Secretary of Labor —

(1) under the following statutes, including any amendments:

(a) the Employee Retirement Income Security Act of 1974, as amended, except for subtitle C of Title III and Title IV (29 U.S.C. 1001-1232);

- (b) the Welfare and Pension Plans Disclosure Act of 1958, as amended Pub. L. 85-836, 72 Stat. 997; Pub. Law 86-624, 74 Stat. 417; Pub. Law 87-420, 76 Stat. 35.
- (c) the Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8401-8479);
- (d) the Health Insurance Portability and Accountability Act of 1996, Pub. Law 104-191, 110 Stat. 1936;
- (e) section 311(b) the Children's Health Insurance Program Reauthorization Act of 2009, Pub L. 111-3, 123 Stat. 65;
- (f) section 3001 of the American Recovery and Reinvestment Act of 2009 Pub. L. 111-5;
- (g) sections 18A and 18B of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. sections 218A and 218B, and the associated FLSA authorities in sections 9 and 11 (29 U.S.C. 209 and 211) to issue subpoenas and conduct investigations under sections 18A and 18B, and any other authority and responsibilities granted the Secretary to enforce sections 18A and 18B of the FLSA;

(h) sections 45R and 4980H of the Internal Revenue Code, 26 U.S.C. 45R and 4980H; and

(i) as directed by the Secretary, such additional Federal acts similar to or related to those listed in paragraphs (a) through (h), above, that from time to time may assign additional authority or responsibilities to the Department or the Secretary.

(2) to request information the Internal Revenue Service (IRS) possesses for use in connection with the administration of Title I of ERISA of 1974.

B. The Solicitor of Labor is responsible for providing legal advice and assistance to all officials of the Department relating to the administration of the statutes listed in paragraph 4.A.(1) of this Order, for bringing appropriate legal actions on behalf of the Secretary, and representing the Secretary in all civil proceedings. The Solicitor of Labor is also authorized to request information the IRS possesses for use in connection with the administration of Title I of ERISA.

C. The Inspector General is authorized to request information the IRS possesses for use in connection with the administration of Title I of ERISA.

5. **Reservation of Authority.**

A. The submission of reports and recommendations to the President and the Congress concerning the administration of the statutes listed in paragraph 4.A.(1) of this Order and responsibilities under Subtitle C of Title III of ERISA are reserved to the Secretary.

B. The Pension Benefit Guaranty Corporation carries out responsibilities under Title IV of ERISA.

C. Except as expressly provided, nothing in this Order limits or modifies the provisions of any other Order, including Secretary's Order 4-2006 (Office of Inspector General).

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

HILDA L. SOLIS
Secretary of Labor

December 21, 2011

Date

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