

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAKE THE ROAD NEW YORK, *et al.*,

Plaintiffs,

v.

No. 19-07993 (GBD)

KENNETH CUCCINELLI, *et al.*,

Defendants.

STATE OF NEW YORK, *et al.*

Plaintiffs,

v.

No. 19-cv-07777 (GBD)

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*

Defendants.

DECLARATION OF JULIANA BLACKWELL

I, Juliana Blackwell, make the following declaration.

1. I am the Deputy Executive Secretary, within the Office of the Executive Secretary, U.S. Department of Homeland Security (DHS). I have worked in this office since February 2007. I am responsible for maintaining official documents approved or signed by the Secretary and Deputy Secretary of Homeland Security. I also know when a Secretary of Homeland Security vacates the office, and when a new Secretary of Homeland Security begins service as the Secretary. This declaration is based on my personal knowledge and on information that I have obtained in the course of my official duties as an employee of DHS.
2. The document attached as Exhibit 1 is a true and correct copy of a memorandum titled “Designation of an Order of Succession for the Secretary,” issued by then General Counsel John M. Mitnick and dated April 9, 2019, signed by then-Secretary Kirstjen Nielsen on April 9, 2019.

3. The document attached as Exhibit 2 is a true and correct copy of DHS Delegation Number 00106, Revision Number 08.5 titled “DHS ORDERS OF SUCCESSION AND DELEGATIONS OF AUTHORITIES FOR NAMED POSITIONS,” issued December 15, 2016, and updated April 10, 2019.
4. The document attached as Exhibit 3 is a true and correct copy of the “Amendment to the Order of Succession for the Secretary of Homeland Security” issued by then-Acting Secretary Kevin K. McAleenan and dated November 8, 2019.
5. The document attached as Exhibit 4 is a true and correct copy of an internal DHS email from then Secretary Kirstjen Nielsen titled “Farewell Message from Secretary Kirstjen M. Nielsen” announcing that April 10, 2019 was her final day at DHS and announcing that then-U.S. Customs and Border Protection Commissioner Kevin McAleenan would succeed her as Acting Secretary, dated April 10, 2019.
6. The document attached as Exhibit 5 is a true and correct copy of DHS Delegation Number 00106, Revision Number 08 titled “DHS ORDERS OF SUCCESSION AND DELEGATIONS OF AUTHORITIES FOR NAMED POSITIONS,” issued and signed by then-Secretary Jeh Johnson, dated December 15, 2016.
7. The document attached as Exhibit 6 is a true and correct copy of “Ratification of Actions Taken by the Acting Secretary of Homeland Security,” issued by Acting Secretary of Homeland Security Chad F. Wolf on November 16, 2020.
8. The document attached as Exhibit 7 is a true and correct copy of “Ratification of Certain Actions Taken by Former Acting Secretary Kevin McAleenan and One Action Taken by U.S. Citizenship and Immigration Services Deputy Director for Policy Joseph Edlow,” issued by Acting Secretary of Homeland Security Chad F. Wolf on November 16, 2020.
9. Kirsjten Nielsen was confirmed as the Secretary of Homeland Security on December 5, 2017, and remained as the Secretary until she vacated the position on April 10, 2019.
10. Kevin K. McAleenan resigned as Acting Secretary of Homeland Security on November 13, 2019.

In accordance with 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 17th day of November, 2020 in Washington, D.C.

Juliana Blackwell
Deputy Executive Secretary
U.S. Department of Homeland Security



**Homeland
Security**

April 9, 2019

MEMORANDUM FOR THE SECRETARY

FROM:

John M. Mitnick
General Counsel

SUBJECT:

Designation of an Order of Succession for the Secretary

Summary: Pursuant to your authority set forth in section 113 of title 6, United States Code, you have expressed your desire to designate certain officers of the Department of Homeland Security (DHS) in order of succession to serve as Acting Secretary. Your approval of the attached document will accomplish such designation.

Discussion: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The redacted information contains attorney-client communications and attorney work product which is privileged and not subject to disclosure.

Action: By approving the attached document, you will designate your desired order of succession for the Secretary of Homeland Security in accordance with your authority pursuant to Section 113(g)(2) of title 6, United States Code.

Approve/date

Disapprove/date

Modify/date

Needs discussion/date

Attachment: Annex A

Amending the Order of Succession in the Department of Homeland Security

By the authority vested in me as Secretary of Homeland Security, including the Homeland Security Act of 2002, 6 U.S.C. § 113(g)(2), I hereby designate the order of succession for the Secretary of Homeland Security as follows:

Annex A of DHS Orders of Succession and Delegations of Authorities for Named Positions, Delegation No. 00106, is hereby amended by striking the text of such Annex in its entirety and inserting the following in lieu thereof:

Annex A. Order for Delegation of Authority by the Secretary of the Department of Homeland Security.

1. Deputy Secretary of Homeland Security;
2. Under Secretary for Management;
3. Commissioner of U.S. Customs and Border Protection;
4. Administrator of the Federal Emergency Management Agency;
5. Director of the Cybersecurity and Infrastructure Security Agency;
6. Under Secretary for Science and Technology;
7. Under Secretary for Intelligence and Analysis
8. Administrator of the Transportation Security Administration;
9. Director of U.S. Immigration and Customs Enforcement;
10. Director of U.S. Citizenship and Immigration Services;
11. Under Secretary for Strategy, Policy, and Plans;
12. General Counsel;
13. Deputy Under Secretary for Management;
14. Deputy Commissioner of U.S. Customs and Border Protection;
15. Deputy Administrator of the Transportation Security Administration;
16. Deputy Director of U.S. Immigration and Customs Enforcement;
17. Deputy Director of U.S. Citizenship and Immigration Services;
18. Director of the Federal Law Enforcement Training Center.

No individual who is serving in an office herein listed in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this designation.

Department of Homeland Security
DHS Delegation Number: 00106
Revision Number: 08.5
Issue Date: 12/15/2016
Updated Date: 04/10/2019

DHS ORDERS OF SUCCESSION AND DELEGATIONS OF AUTHORITIES FOR NAMED POSITIONS

I. Purpose

This is a succession order for named positions and a delegation of authority for the continuity of essential functions of officials at the Department of Homeland Security (DHS) in case of absence, the inability of the incumbent to act during disasters or catastrophic emergencies, or vacancies in offices.

II. Succession Order/Delegation

- A. In case of the Secretary's death, resignation, or inability to perform the functions of the Office, the orderly succession of officials is governed by Executive Order 13753, amended on December 9, 2016.
- B. I hereby delegate to the officials occupying the identified positions in the order listed (Annex A), my authority to exercise the powers and perform the functions and duties of my office, to the extent not otherwise prohibited by law, in the event I am unavailable to act during a disaster or catastrophic emergency.
- C. The order of succession for the named positions, other than the Office of the Secretary, are provided in Annexes B through AC.
- D. I hereby delegate authority to the officials occupying the identified positions in the orders listed in Annexes B through AC to exercise the powers and perform the functions and duties of the named positions in case of death, resignation, inability to perform, absence, or inability to act during a disaster or catastrophic emergency until that condition ceases.

E. In terms of named positions in which appointment is required to be made by the President, by and with the advice and consent of the Senate (PAS), if positions are vacant as that term is used in the Federal Vacancies Reform Act of 1998, the First Assistant shall act as the incumbent until a successor is appointed, unless otherwise designated by the President. The individual serving in the position identified as the first to succeed is designated the "First Assistant" for the purposes of the Federal Vacancies Reform Act of 1998. If the First Assistant position is vacant, the next designated official in the order of succession may exercise all the powers, duties, authorities, rights, and functions authorized by law to be exercised by the incumbent, but may not perform any function or duty required by law to be performed exclusively by the office holder.

F. For all other positions that are not subject to the Federal Vacancies Reform Act of 1998, any official in the order provided for in the succession order may exercise all the powers, duties, authorities, rights, and functions authorized to be performed by the incumbent, to the extent not otherwise limited by law.

G. Only officials specifically designated in the order of succession for each of the named positions in Annexes B through AC are eligible, subject to modification in accordance with Section II.I. Unless formally appointed by the Secretary, persons appointed on an acting basis, or on some other temporary basis, are ineligible to serve as a successor; therefore, the order of succession would fall to the next designated official in the approved order of succession.

H. The prohibition on any re-delegation of powers, authorities, functions, and duties contained in Departmental Delegations, Directives, Management Directives, Instructions, Manuals, or similar internal documents is not applicable to restrict the authority of any individual who is exercising the authority of a vacant position under this Delegation. Such an individual shall, however, be bound by such Departmental Delegations, Directives, Management Directives, Instructions, Manuals, or similar internal documents, and shall not further re-delegate powers to any individual.

I. Each Annex may be updated separately. A Component Head seeks modification of his/her order of succession by forwarding a proposed updated Annex to the Office of Operations Coordination (OPS), Continuity Division and the Office of the Under Secretary for Management (MGMT), Program Manager, Delegations and Directives; Annexes are processed by MGMT, in consultation with the Office of the General Counsel (OGC), for approval of the Secretary. At a minimum, the Annex is coordinated with OGC and the White House Liaison. Where possible, Component orders of succession should be at least three positions deep and geographically dispersed.

J. The Office of the Executive Secretary, MGMT, and OPS are responsible for maintaining a current list of incumbents holding all positions identified in Annexes B through AC.

K. Nothing in this delegation is intended to limit my discretion as Secretary to depart from this delegation.

III. Authorities

A. Title 5, United States Code (U.S.C.) §§ 3345-49 (Federal Vacancies Reform Act of 1998, as amended)

B. Title 6, U.S.C., § 112 (Secretary; functions)

IV. Office of Primary Interest

OPS and MGMT is the office of primary interest for maintaining and updating the Annexes to this Delegation.



Jeh Charles Johnson
Secretary of Homeland Security

Dec 15 2016
Date

Legend

| | |
|--|---|
| Career | C |
| Limited Term Appointment | L |
| Military Officer | M |
| Non-Career in the Senior Executive Service or Schedule C | N |
| Presidential Appointee | P |
| Presidential Appointee with Senate Confirmation | S |
| Scientific Professional | T |
| First Assistant pursuant to the Federal Vacancies Reform Act | * |

ATTACHMENT 1

**DHS ORDERS OF SUCCESSION AND ORDERS FOR DELEGATIONS
OF AUTHORITIES**

| Annex | Title | Issue Date |
|--------------|---|---------------------------|
| Annex A | Order For Delegation of Authority by the Secretary of the Department of Homeland Security | Revision 08.5, 04/10/2019 |
| Annex B | Deputy Secretary, Office of the | Revision 08.5, 04/10/2019 |
| Annex C | Citizenship and Immigration Service Ombudsman | Revision 06, 09/14/2016 |
| Annex D | Citizenship and Immigration Services, United States | Revision 06, 09/14/2016 |
| Annex E | Civil Rights and Civil Liberties, Office for | Revision 06, 09/14/2016 |
| Annex F | Coast Guard, United States | Revision 06, 09/14/2016 |
| Annex G | Countering Weapons of Mass Destruction Office | Revision 08.2, 05/21/2018 |
| Annex H | Customs and Border Protection, United States | Revision 06, 09/14/2016 |
| Annex I | Executive Secretariat | Revision 06, 09/14/2016 |
| Annex J | Federal Emergency Management Agency | Revision 06, 09/14/2016 |
| Annex K | Federal Law Enforcement Training Center | Revision 06, 09/14/2016 |
| Annex L | General Counsel, Office of the | Revision 06, 09/14/2016 |
| Annex M | Immigration and Customs Enforcement, United States | Revision 06, 09/14/2016 |
| Annex N | Inspector General, Office of | Revision 06, 09/14/2016 |
| Annex O | Intelligence and Analysis, Office of | Revision 06, 09/14/2016 |
| Annex P | Legislative Affairs, Office of | Revision 06, 09/14/2016 |
| Annex Q | Management Directorate | Revision 06, 09/14/2016 |
| Annex R | National Protection and Programs Directorate | Revision 08, 07/11/2017 |
| Annex S | Operations Coordination, Office of | Revision 06, 09/14/2016 |
| Annex T | Partnership and Engagement, Office of | Revision 06, 09/14/2016 |
| Annex U | Strategy, Policy, and Plans, Office of | Revision 08.4, 02/15/2019 |
| Annex V | Privacy Office, Chief | Revision 06, 09/14/2016 |
| Annex W | Public Affairs, Office of | Revision 06, 09/14/2016 |
| Annex X | Science and Technology | Revision 07, 01/19/2017 |
| Annex Y | Secret Service, United States | Revision 06, 09/14/2016 |
| Annex Z | Transportation Security Administration | Revision 08.3, 10/23/2018 |
| Annex AA | Chief Financial Officer (DHS) | Revision 06, 09/14/2016 |
| Annex AB | Deputy Administrator, Federal Emergency Management Agency (FEMA) | Revision 06, 09/14/2016 |
| Annex AC | Protection and National Preparedness (FEMA) | Revision 06, 09/14/2016 |

ANNEX A

**ORDER FOR DELEGATION OF AUTHORITY BY THE
SECRETARY OF THE DEPARTMENT OF HOMELAND
SECURITY**

Pursuant to Title 6, United States Code, Section 113(g)(2)

1. Deputy Secretary of Homeland Security
2. Under Secretary for Management
3. Commissioner of U.S. Customs and Border Protection
4. Administrator of the Federal Emergency Management Agency
5. Director of the Cybersecurity and Infrastructure Security Agency
6. Under Secretary for Science and Technology
7. Under Secretary for Intelligence and Analysis
8. Administrator of the Transportation Security Administration
9. Director of U.S. Immigration and Customs Enforcement
10. Director of U.S. Citizenship and Immigration Services
11. Under Secretary for Strategy, Policy, and Plans
12. General Counsel
13. Deputy Under Secretary for Management
14. Deputy Commissioner of U.S. Customs and Border Protection
15. Deputy Administrator of the Transportation Security Administration
16. Deputy Director of U.S. Immigration and Customs Enforcement
17. Deputy Director of U.S. Citizenship and Immigration Services
18. Director of the Federal Law Enforcement Training Centers

ANNEX B

ISSUE DATE: 04/10/2019

APPROVAL: 04/10/2019

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Deputy Secretary, Office of the | |
| 1 Deputy Secretary | S |
| 2 Under Secretary for Management* | S |
| 3 Administrator, Transportation Security Administration | S |
| 4 Administrator, Federal Emergency Management Agency | S |
| 5 Under Secretary, National Programs and Protection Directorate | S |
| 6 Under Secretary, Science and Technology | S |
| 7 Under Secretary, Intelligence and Analysis | S |
| 8 Commissioner, U.S. Customs and Border Protection | S |
| 9 Director, U.S. Immigration and Customs Enforcement | S |
| 10 Director, U.S. Citizenship and Immigration Services | S |
| 11 Under Secretary, Office of Strategy, Policy, and Plans | S |
| 12 General Counsel | S |
| 13 Deputy Under Secretary for Management | C |
| 14 Deputy Commissioner, U.S. Customs and Border Protection | C |
| 15 Deputy Administrator, Transportation Security Administration | C |
| 16 Deputy Director, U.S. Immigration and Customs Enforcement | C |
| 17 Deputy Director, U.S. Citizenship and Immigration Services | C |
| 18 Director, Federal Law Enforcement Training Centers | C |

ANNEX C

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Citizenship and Immigration Services Ombudsman | |
| 1 Ombudsman | N |
| 2 Deputy Director | C |
| 3 Senior Advisor | L |
| 4 Chief of Staff | C |
| 5 Director of Operations | C |
| 6 Chief of Casework | C |

ANNEX D

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Citizenship and Immigration Services, United States | |
| 1 Director | S |
| 2 Deputy Director* | C |
| 3 Associate Director, Management Directorate | C |
| 4 Associate Director, Refugee Asylum and International Operations Directorate | C |
| 5 Associate Director, Service Center Operations Directorate | C |
| 6 Associate Director, Field Operations Directorate | C |
| 7 Director, National Benefits Center | C |

ANNEX E

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Civil Rights and Civil Liberties, Office for | |
| 1 Civil Rights and Civil Liberties Officer | P |
| 2 Deputy Officer, Programs and Compliance | C |
| 3 Deputy Officer, Equal Employment Opportunity Programs | C |
| 4 Executive Officer | C |

ANNEX F

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Coast Guard, United States | |
| 1 Commandant | M |
| 2 Vice Commandant | M |
| Deputy Commandant for Mission Support or Deputy Commandant for Operations 3-4 in precedence of their grade | M |
| 5-6 Other Vice Admirals in precedence of their grade | M |

ANNEX G

ISSUE DATE: 05/21/2018

APPROVAL: 05/21/2018

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Countering Weapons of Mass Destruction Office | |
| 1 Assistant Secretary | P |
| 2 Deputy Assistant Secretary | C |
| 3 Chief of Staff | C |
| 4 Deputy Director, Domestic Nuclear Detection Office | C |
| 5 Deputy Director, Office of Health Affairs | C |

ANNEX H

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Customs and Border Protection, United States | |
| 1 Commissioner | S |
| 2 Deputy Commissioner* | C |
| 3 Executive Assistant Commissioner, Office of Field Operations | C |
| 4 Chief, U.S. Border Patrol | C |
| 5 Executive Assistant Commissioner, Air and Marine Operations | C |
| 6 Executive Assistant Commissioner, Trade | C |
| 7 Executive Assistant Commissioner, Operations Support | C |
| 8 Executive Assistant Commissioner, Enterprise Services | C |

ANNEX I

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Executive Secretariat | |
| 1 Executive Secretary | N |
| 2 Deputy Executive Secretary | C |
| 3 Assistant Executive Secretary, Briefing Books/Interagency Coordination | C |

ANNEX J

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Federal Emergency Management Agency | |
| 1 Administrator | S |
| 2 Deputy Administrator* | S |
| 3 Deputy Administrator, Protection and National Preparedness | S |
| 4 Associate Administrator, Response and Recovery | N |
| 5 FEMA Region IX Administrator | C |
| 6 FEMA Region VI Administrator | C |

ANNEX K

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Federal Law Enforcement Training Centers | |
| 1 Director | C |
| 2 Deputy Director for Training | C |
| 3 Deputy Director for Management | C |
| 4 Assistant Director, Mission and Readiness Support | C |
| 5 Assistant Director, Regional and International Training | C |
| 6 Assistant Director, Chief Financial Officer | C |
| 7 Assistant Director, Glynco Training | C |
| 8 Assistant Director, Centralized Training Management | C |
| 8 Assistant Director, Washington Operations | C |
| 9 Assistant Director, Chief Information Officer | C |
| 10 Chief of Staff | C |

ANNEX L

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| General Counsel, Office of the | |
| 1 General Counsel | S |
| 2 Principal Deputy General Counsel* | C |
| 3 Deputy General Counsel [Senior ranking by time in position and in DHS] ¹ | N |
| 4 Deputy General Counsel [Senior ranking by time in position and in DHS] | N |
| 5 Deputy General Counsel [Senior ranking by time in position and in DHS] | N |
| 6 Chief of Staff | C |
| 7 Associate General Counsel, Operations and Enforcement | C |
| 8 Associate General Counsel, General Law | C |
| 9 Chief Counsel, Transportation Security Administration | C |
| 10 Chief Counsel, Federal Law Enforcement Training Center | C |

¹ For the Deputy General Counsel positions identified in lines 3-5, seniority is determined by length of time in the position. In the event more than one Deputy General Counsel has the same appointment date, time in service in the Department is the second determining factor for seniority.

ANNEX M

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Immigration and Customs Enforcement, United States | |
| 1 Assistant Secretary | S |
| 2 Deputy Director* | C |
| 3 Executive Associate Director, Homeland Security Investigations | C |
| 4 Executive Associate Director, Enforcement and Removal Operations | C |
| 5 Executive Associate Director, Management and Administration | C |
| 6 Principal Legal Advisor | N |
| 7 Special Agent in Charge – Denver | C |
| 8 Field Officer Director – San Antonio | C |

ANNEX N

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Inspector General, Office of | |
| 1 Inspector General | S |
| 2 Deputy Inspector General* | C |
| 3 Counsel to the Inspector General | C |
| 4 Assistant Inspector General, Audits | C |
| 5 Assistant Inspector General, Inspections | C |
| 6 Assistant Inspector General, Emergency Management Oversight | C |

ANNEX O

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Intelligence and Analysis, Office of | |
| 1 Under Secretary for Intelligence and Analysis/DHS Chief Intelligence Officer | S |
| 2 Principal Deputy Under Secretary for Intelligence and Analysis* | C |
| 3 Deputy Under Secretary for Intelligence Operations | C |
| 4 Deputy Under Secretary for Mission Support | C |
| 5 Associate Deputy Director, El Paso Intelligence Center/ Strategic Analysis Section | C |

ANNEX P

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Legislative Affairs, Office of | |
| 1 Assistant Secretary for Legislative Affairs | P |
| 2 Deputy Assistant Secretary (Senate) | N |
| 3 Deputy Assistant Secretary (House) | N |
| 4 Chief of Staff | C |
| 5 Director, Management Team | C |
| 6 Director, FEMA Team | C |
| 7 Director, Borders and Immigration | C |

ANNEX Q

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Management Directorate | |
| 1 Under Secretary for Management | S |
| 2 Deputy Under Secretary for Management* | C |
| 3 Chief Financial Officer | S |
| 4 Chief Information Officer | P |
| 5 Chief Human Capital Officer | C |
| 6 Chief Procurement Officer | C |
| 7 Chief Readiness Support Officer | C |
| 8 Chief Security Officer | C |
| 9 Chief of Staff | C |
| 10 Deputy Director, Federal Law Enforcement Training Center | C |

ANNEX R

ISSUE DATE: 07/11/2017

APPROVAL: 07/11/2017

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| National Protection and Programs Directorate | |
| 1 Under Secretary | S |
| 2 Deputy Under Secretary for NPPD* | N |
| 3 Assistant Secretary, Office of Infrastructure Protection | P |
| 4 Assistant Secretary, Office of Cybersecurity and Communications | N |
| 5 Deputy Assistant Secretary, Office of Infrastructure Protection | C |
| 6 Deputy Assistant Secretary, Office of Cybersecurity and Communications | C |
| 7 Director, Management | C |
| 8 Office of Infrastructure Protection, Regional Director for Region 8 | C |

ANNEX S

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Operations Coordination, Office of | |
| 1 Director | C |
| 2 Deputy Director | C |
| 3 Director, Current Operations Division | C |
| 4 Director, National Operations Center | C |
| 5 Chief of Staff | C |

ANNEX T

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Partnership and Engagement, Office of | |
| 1 Assistant Secretary | N |
| 2 Assistant Secretary for State and Local Law Enforcement | N |
| 3 Deputy Assistant Secretary, Intergovernmental Affairs | C |
| 4 Deputy Assistant Secretary, Private Sector Office | N |
| 5 Director of Local Affairs | C |

ANNEX U

ISSUE DATE: 2/15/2019

APPROVAL: 2/15/2019

DHS ORDERS OF SUCCESSION AND ORDERS FOR DELEGATIONS OF AUTHORITIES

| Position | Career Status |
|---|---------------|
| Strategy, Policy, & Plans, Office of | |
| 1 Under Secretary | S |
| 2 Assistant Secretary for Strategy, Plans, Analysis, and Risk* | N |
| 3 Deputy Under Secretary | C |
| 4 Assistant Secretary for International Affairs | N |
| 5 Assistant Secretary for Threat Prevention and Security Policy | N |
| 6 Assistant Secretary for Border, Immigration, and Trade | N |
| 7 Assistant Secretary for Cyber, Infrastructure, and Resilience | N |
| 8 Deputy Assistant Secretary for Screening Coordination Office | C |
| 9 Deputy Assistant Secretary for International Affairs | C |

ANNEX V

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---------------------------------------|---------------|
| Privacy Officer, Chief | |
| 1 Chief Privacy Officer | N |
| 2 Deputy Chief Privacy Officer | C |
| 3 Deputy Chief FOIA Officer | C |
| 4 Senior Director, Privacy Compliance | C |
| 5 Chief of Staff | C |

ANNEX W

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Public Affairs, Office of | |
| 1 Assistant Secretary | P |
| 2 Principal Deputy Assistant Secretary | C |
| 3 Deputy Assistant Secretary for Media Operations/Press Secretary | N |
| 4 Deputy Assistant Secretary for Strategic Communications | N |
| 5 Director of Communications | N |
| 6 Chief of Staff | C |
| 7 Director, Incident Communications | C |

ANNEX X

ISSUE DATE: 1/19/2017

APPROVAL: 1/19/2017

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Science and Technology | |
| 1 Under Secretary | S |
| 2 Deputy Under Secretary* | C |
| 3 Chief of Staff | C |
| 4 Director, Homeland Security Advanced Research Projects Agency | C |
| Director, Office of Support to the Homeland Security Enterprise and First | |
| 5 Responders Division | C |
| 6 Director, Capability Development Support Division | C |
| 7 Director, Research and Development Partnerships | C |
| 8 Director, Finance and Budget Division | C |
| 9 Director, Administrative Support Division | C |

ANNEX Y

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Secret Service, United States | |
| 1 Director | P |
| 2 Deputy Director | C |
| 3 Chief Operating Officer | C |
| 4 Assistant Director - Protective Operations | C |
| 5 Assistant Director - Investigations | C |
| 6 Assistant Director - Government and Public Affairs | C |
| 7 Assistant Director - Human Resources | C |
| 8 Assistant Director - Professional Responsibility | C |
| 9 Assistant Director - Strategic Intelligence and Information | C |
| 10 Assistant Director - Training | C |
| 11 Chief - Uniformed Division | C |
| 12 Chief Counsel | C |
| 13 Chief Technology Officer | C |
| 14 Chief Financial Officer | C |
| 15 Chief - Strategic Planning and Policy | C |
| 16 Deputy Assistant Director(s) - Protective Operations | C |
| 17 Deputy Assistant Director(s) - Investigations | C |
| 18 Deputy Assistant Director(s) - Government and Public Affairs | C |
| 19 Deputy Assistant Director(s) - Human Resources | C |
| 20 Deputy Assistant Director(s) - Professional Responsibility | C |
| 21 Deputy Assistant Director(s) - Strategic Intelligence and Information | C |
| 22 Deputy Assistant Director(s) - Training | C |
| 23 Deputy Assistant Director(s) - Technical Development and Mission Support | C |
| 24 Deputy Assistant Director(s) - Strategic Planning and Policy | C |
| 25 Special Agent in Charge - Washington | C |
| 26 Special Agent in Charge - New York | C |
| 27 Special Agent in Charge - Miami | C |
| 28 Special Agent in Charge - Los Angeles | C |

ANNEX Z

ISSUE DATE: 10/23/2018

APPROVAL: 10/23/2018

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Transportation Security Administration | |
| 1 Administrator | S |
| 2 Deputy Administrator | P |
| 3 Chief of Staff | N |
| 4 Executive Assistant Administrator, Security Operations | C |
| 5 Executive Assistant Administrator, Operations Support | C |
| 6 Executive Assistant Administrator, Law Enforcement/Federal Air Marshal Service | C |
| 7 Executive Assistant Administrator, Enterprise Support | C |
| 8 Regional Director, Atlanta, Security Operations | C |
| 9 Regional Director, Dallas, Security Operations | C |

ANNEX AA

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DESIGNATION OF FIRST ASSISTANTS FOR NON-COMPONENT HEAD PRESIDENTIAL
APPOINTEES WITH SENATE CONFIRMATION POSITIONS**

| Position | Career Status |
|--------------------------------------|---------------|
| Chief Financial Officer (DHS) | |
| 1 Chief Financial Officer | S |
| 2 Deputy Chief Financial Officer* | C |

ANNEX AB

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DESIGNATION OF FIRST ASSISTANTS FOR NON-COMPONENT HEAD PRESIDENTIAL
APPOINTEES WITH SENATE CONFIRMATION POSITIONS**

| Position | Career Status |
|---|---------------|
| Deputy Administrator, Federal Emergency Management Agency (FEMA) | |
| 1 Deputy Administrator, FEMA | S |
| 2 Deputy Administrator, Protection and National Preparedness* | S |
| 3 Associate Administrator, Mission Support | C |
| 4 Deputy Associate Administrator, Office of Policy and Program Analysis | C |
| 5 Region IX Administrator | C |
| 6 Region VI Administrator | C |

ANNEX AC

ISSUE DATE: 09/14/2016

APPROVAL: 09/14/2016

**DESIGNATION OF FIRST ASSISTANTS FOR NON-COMPONENT HEAD PRESIDENTIAL
APPOINTEES WITH SENATE CONFIRMATION POSITIONS**

| Position | Career Status |
|---|---------------|
| Protection and National Preparedness (FEMA) | |
| 1 Deputy Administrator, Protection and National Preparedness | S |
| 2 Assistant Administrator, National Preparedness Directorate* | C |
| 3 Assistant Administrator, Grant Programs | P |
| 4 Assistant Administrator, National Continuity Programs | N |

Amendment to the Order of Succession for the Secretary of Homeland Security

Section II.A of DHS Delegation No. 00106, *DHS Orders of Succession and Delegations of Authorities for Named Positions*, is amended hereby to state as follows: "In case of the Secretary's death, resignation, or inability to perform the functions of the Office, the order of succession of officials is governed by Annex A."

By the authority vested in me as Secretary of Homeland Security, including the Homeland Security Act of 2002, 6 U.S.C. § 113(g)(2), I hereby designate the order of succession for the Secretary of Homeland Security by amending Annex A of DHS *Orders of Succession and Delegations of Authorities for Named Positions*, Delegation No. 00106. Annex A is hereby amended by striking the text of such Annex in its entirety and inserting the following in lieu thereof:

Annex A, Order for Delegation of Authority by the Secretary of the Department of Homeland Security
Pursuant to Title 6, United States Code, Section 113(g)(2)

1. Deputy Secretary of Homeland Security;
2. Under Secretary for Management;
3. Commissioner of the U.S. Customs and Border Protection;
4. Under Secretary for Strategy, Policy, and Plans;
5. Administrator and Assistant Secretary of the Transportation Security Administration;
6. Administrator of the Federal Emergency Management Agency;

No individual who is serving in an office herein listed in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this designation.

Dated: 11/08/19



Kevin K. McAleenan
Acting Secretary of Homeland Security

Blackwell, Juliana

From: Office of the Secretary <OfficeoftheSecretary@HQ.DHS.GOV>
Sent: Wednesday, April 10, 2019 4:35 PM
Subject: Farewell Message from Secretary Kirstjen M. Nielsen



**Homeland
Security**

April 10, 2019

Farewell Message from Secretary Kirstjen M. Nielsen

As you know, I submitted my resignation to the President earlier this week. Today is my final day at the Department. For nearly two years, I've had the honor to work alongside a talented, dedicated workforce. You serve with professionalism, respect, and determination in fulfilling DHS' important missions. The commitment you make day in and out – securing the land air and sea domains, preventing terrorism, administrating immigration laws, ensuring disaster resilience, safeguarding our cybersecurity landscape and infrastructure, and so much more – is awe inspiring.

Your work is vital to making every American safer, and as I leave you, know that I'll always admire what you've done to defend our way of life. Customs and Border Protection (CBP) Commissioner Kevin McAleenan will now lead DHS as your Acting Secretary. Kevin has led the Department's largest component for two years and his qualifications and experience will be instrumental in overseeing the crisis at our nation's borders. I have full confidence in Kevin's ability to carry out the DHS mission of safeguarding the American people, our homeland, and our values. Please join me in welcoming Kevin as the Acting Secretary.

To each of you I am eternally grateful for your service and could not be prouder to have served alongside you. Thank you for your devotion and sacrifice. God bless each of you and your families, and God bless this great country.

Warmest regards,

Kirstjen M. Nielsen
Secretary of Homeland Security

With honor and integrity, we will safeguard the American people, our homeland, and our values.

Department of Homeland Security
DHS Delegation Number: 0106
Revision Number: 08
Issue Date: 12/15/2016

DHS ORDERS OF SUCCESSION AND DELEGATIONS OF AUTHORITIES FOR NAMED POSITIONS

I. Purpose

This is a succession order for named positions and a delegation of authority for the continuity of essential functions of officials at the Department of Homeland Security (DHS) in case of absence, the inability of the incumbent to act during disasters or catastrophic emergencies, or vacancies in offices.

II. Succession Order/Delegation

- A. In case of the Secretary's death, resignation, or inability to perform the functions of the Office, the orderly succession of officials is governed by Executive Order 13753, amended on December 9, 2016.
- B. I hereby delegate to the officials occupying the identified positions in the order listed (Annex A), my authority to exercise the powers and perform the functions and duties of my office, to the extent not otherwise prohibited by law, in the event I am unavailable to act during a disaster or catastrophic emergency.
- C. The order of succession for the named positions, other than the Office of the Secretary, are provided in Annexes B through AD.
- D. I hereby delegate authority to the officials occupying the identified positions in the orders listed in Annexes B through AD to exercise the powers and perform the functions and duties of the named positions in case of death, resignation, inability to perform, absence, or inability to act during a disaster or catastrophic emergency until that condition ceases.

E. In terms of named positions in which appointment is required to be made by the President, by and with the advice and consent of the Senate (PAS), if positions are vacant as that term is used in the Federal Vacancies Reform Act of 1998, the First Assistant shall act as the incumbent until a successor is appointed, unless otherwise designated by the President. The individual serving in the position identified as the first to succeed is designated the "First Assistant" for the purposes of the Federal Vacancies Reform Act of 1998. If the First Assistant position is vacant, the next designated official in the order of succession may exercise all the powers, duties, authorities, rights, and functions authorized by law to be exercised by the incumbent, but may not perform any function or duty required by law to be performed exclusively by the office holder.

F. For all other positions that are not subject to the Federal Vacancies Reform Act of 1998, any official in the order provided for in the succession order may exercise all the powers, duties, authorities, rights, and functions authorized to be performed by the incumbent, to the extent not otherwise limited by law.

G. Only officials specifically designated in the order of succession for each of the named positions in Annexes B through AD are eligible, subject to modification in accordance with Section II.I. Unless formally appointed by the Secretary, persons appointed on an acting basis, or on some other temporary basis, are ineligible to serve as a successor; therefore, the order of succession would fall to the next designated official in the approved order of succession.

H. The prohibition on any re-delegation of powers, authorities, functions, and duties contained in Departmental Delegations, Directives, Management Directives, Instructions, Manuals, or similar internal documents is not applicable to restrict the authority of any individual who is exercising the authority of a vacant position under this Delegation. Such an individual shall, however, be bound by such Departmental Delegations, Directives, Management Directives, Instructions, Manuals, or similar internal documents, and shall not further re-delegate powers to any individual.

I. Each Annex may be updated separately. A Component head seeks modification of his/her order of succession by forwarding a proposed updated Annex to the Office of Operations Coordination (OPS), Continuity Division and the Office of the Under Secretary for Management (MGMT), Program Manager, Delegations and Directives; Annexes are processed by MGMT, in consultation with the Office of the General Counsel (OGC), for approval of the Secretary. At a minimum, the Annex is coordinated with OGC and the White House Liaison. Where possible, Component orders of succession should be at least three positions deep and geographically dispersed.

J. The Office of the Executive Secretary, MGMT, and OPS are responsible for maintaining a current list of incumbents holding all positions identified in Annexes B through AD.

K. Nothing in this delegation is intended to limit my discretion as Secretary to depart from this delegation.

III. Authorities

A. Title 5, United States Code (U.S.C.) §§ 3345-49 (Federal Vacancies Reform Act of 1998, as amended)

B. Title 6, U.S.C., § 112 (Secretary; functions)

IV. Office of Primary Interest

OPS and MGMT is the office of primary interest for maintaining and updating the Annexes to this Delegation.



Jeh Charles Johnson
Secretary of Homeland Security

Dec 15 2016
Date

Legend

| | |
|--|---|
| Career | C |
| Limited Term Appointment | L |
| Military Officer | M |
| Non-Career in the Senior Executive Service or Schedule C | N |
| Presidential Appointee | P |
| Presidential Appointee with Senate Confirmation | S |
| Scientific Professional | T |
| First Assistant pursuant to the Federal Vacancies Reform Act | * |

ATTACHMENT 1

**DHS ORDERS OF SUCCESSION AND ORDERS FOR DELEGATIONS
OF AUTHORITIES**

| Annex | Title | Issue Date |
|--------------|---|-------------------------|
| Annex A | Order For Delegation of Authority by the Secretary of the Department of Homeland Security | Revision 06, 12/15/2016 |
| Annex B | Deputy Secretary, Office of the | Revision 06, 09/14/2016 |
| Annex C | Citizenship and Immigration Service Ombudsman | Revision 06, 09/14/2016 |
| Annex D | Citizenship and Immigration Services, United States | Revision 06, 09/14/2016 |
| Annex E | Civil Rights and Civil Liberties, Office for | Revision 06, 09/14/2016 |
| Annex F | Coast Guard, United States | Revision 06, 09/14/2016 |
| Annex G | Customs and Border Protection, United States | Revision 06, 09/14/2016 |
| Annex H | Domestic Nuclear Detection Office | Revision 06, 09/14/2016 |
| Annex I | Executive Secretariat | Revision 06, 09/14/2016 |
| Annex J | Federal Emergency Management Agency | Revision 06, 09/14/2016 |
| Annex K | Federal Law Enforcement Training Center | Revision 06, 09/14/2016 |
| Annex L | General Counsel, Office of the | Revision 06, 09/14/2016 |
| Annex M | Health Affairs, Office of | Revision 06, 09/14/2016 |
| Annex N | Immigration and Customs Enforcement, United States | Revision 06, 09/14/2016 |
| Annex O | Inspector General, Office of | Revision 06, 09/14/2016 |
| Annex P | Intelligence and Analysis, Office of | Revision 06, 09/14/2016 |
| Annex Q | Legislative Affairs, Office of | Revision 06, 09/14/2016 |
| Annex R | Management Directorate | Revision 06, 09/14/2016 |
| Annex S | National Protection and Programs Directorate | Revision 08, 07/11/2017 |
| Annex T | Operations Coordination, Office of | Revision 06, 09/14/2016 |
| Annex U | Partnership and Engagement, Office of | Revision 06, 09/14/2016 |
| Annex V | Policy, Office of | Revision 06, 09/14/2016 |
| Annex W | Privacy Office, Chief | Revision 06, 09/14/2016 |
| Annex X | Public Affairs, Office of | Revision 06, 09/14/2016 |
| Annex Y | Science and Technology | Revision 07, 01/19/2017 |
| Annex Z | Secret Service, United States | Revision 06, 09/14/2016 |
| Annex AA | Transportation Security Administration | Revision 08, 07/11/2017 |
| Annex AB | Chief Financial Officer (DHS) | Revision 06, 09/14/2016 |
| Annex AC | Deputy Administrator, Federal Emergency Management Agency (FEMA) | Revision 06, 09/14/2016 |
| Annex AD | Protection and National Preparedness (FEMA) | Revision 06, 09/14/2016 |

ANNEX A

**ORDER FOR DELEGATION OF AUTHORITY BY THE
SECRETARY OF THE DEPARTMENT OF HOMELAND
SECURITY**

Pursuant to Executive Order 13753 (December 9, 2016)

1. Deputy Secretary of Homeland Security
2. Under Secretary for Management
3. Administrator of the Federal Emergency Management Agency
4. Under Secretary for National Protection and Programs
5. Under Secretary for Science and Technology
6. Under Secretary for Intelligence and Analysis
7. Commissioner of U.S. Customs and Border Protection
8. Administrator of the Transportation Security Administration
9. Director of U.S. Immigration and Customs Enforcement
10. Director of U.S. Citizenship and Immigration Services
11. Assistant Secretary for Policy
12. General Counsel
13. Deputy Under Secretary for Management
14. Deputy Commissioner of U.S. Customs and Border Protection
15. Deputy Administrator of the Transportation Security Administration
16. Deputy Director of U.S. Immigration and Customs Enforcement
17. Deputy Director of U.S. Citizenship and Immigration Services
18. Director of the Federal Law Enforcement Training Center

ANNEX B

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Deputy Secretary, Office of the | |
| 1 Deputy Secretary | S |
| 2 Under Secretary for Management* | S |
| 3 Administrator, Federal Emergency Management Agency | S |
| 4 Under Secretary, National Programs and Protection Directorate | S |
| 5 Under Secretary, Science and Technology | S |
| 6 Under Secretary, Intelligence and Analysis | S |
| 7 Commissioner, U.S. Customs and Border Protection | S |
| 8 Assistant Secretary/Administrator, Transportation Security Administration | S |
| 9 Assistant Secretary, U.S. Immigration and Customs Enforcement | S |
| 10 Director, U.S. Citizenship and Immigration Services | S |
| 11 Assistant Secretary, Office of Policy | S |
| 12 General Counsel | S |
| 13 Deputy Under Secretary for Management | C |
| 14 Deputy Commissioner, U.S. Customs and Border Protection | C |
| 15 Deputy Administrator, Transportation Security Administration | C |
| 16 Deputy Director, U.S. Immigration and Customs Enforcement | C |
| 17 Deputy Director, U.S. Citizenship and Immigration Services | C |
| 18 Director, Federal Law Enforcement Training Center | C |

ANNEX C

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Citizenship and Immigration Services Ombudsman | |
| 1 Ombudsman | N |
| 2 Deputy Director | C |
| 3 Senior Advisor | L |
| 4 Chief of Staff | C |
| 5 Director of Operations | C |
| 6 Chief of Casework | C |

ANNEX D

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Citizenship and Immigration Services, United States | |
| 1 Director | S |
| 2 Deputy Director* | C |
| 3 Associate Director, Management Directorate | C |
| 4 Associate Director, Refugee Asylum and International Operations Directorate | C |
| 5 Associate Director, Service Center Operations Directorate | C |
| 6 Associate Director, Field Operations Directorate | C |
| 7 Director, National Benefits Center | C |

ANNEX E

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Civil Rights and Civil Liberties, Office for | |
| 1 Civil Rights and Civil Liberties Officer | P |
| 2 Deputy Officer, Programs and Compliance | C |
| 3 Deputy Officer, Equal Employment Opportunity Programs | C |
| 4 Executive Officer | C |

ANNEX F

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Coast Guard, United States | |
| 1 Commandant | M |
| 2 Vice Commandant | M |
| Deputy Commandant for Mission Support or Deputy Commandant for Operations 3-4 in precedence of their grade | M |
| 5-6 Other Vice Admirals in precedence of their grade | M |

ANNEX G

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Customs and Border Protection, United States | |
| 1 Commissioner | S |
| 2 Deputy Commissioner* | C |
| 3 Executive Assistant Commissioner, Office of Field Operations | C |
| 4 Chief, U.S. Border Patrol | C |
| 5 Executive Assistant Commissioner, Air and Marine Operations | C |
| 6 Executive Assistant Commissioner, Trade | C |
| 7 Executive Assistant Commissioner, Operations Support | C |
| 8 Executive Assistant Commissioner, Enterprise Services | C |

ANNEX H

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Domestic Nuclear Detection Office | |
| 1 Director | P |
| 2 Deputy Director | C |
| 3 Assistant Director, Assessments Directorate | C |
| 4 Assistant Director, Operations Support Directorate | C |
| 5 Chief of Staff | C |
| 6 Assistant Director, Transformational and Applied Research | C |

ANNEX I

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Executive Secretariat | |
| 1 Executive Secretary | N |
| 2 Deputy Executive Secretary | C |
| 3 Assistant Executive Secretary, Briefing Books/Interagency Coordination | C |

ANNEX J

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Federal Emergency Management Agency | |
| 1 Administrator | S |
| 2 Deputy Administrator* | S |
| 3 Deputy Administrator, Protection and National Preparedness | S |
| 4 Associate Administrator, Response and Recovery | N |
| 5 FEMA Region IX Administrator | C |
| 6 FEMA Region VI Administrator | C |

ANNEX K

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Federal Law Enforcement Training Center | |
| 1 Director | C |
| 2 Deputy Director for Training | C |
| 3 Deputy Director for Management | C |
| 4 Assistant Director, Mission and Readiness Support | C |
| 5 Assistant Director, Regional and International Training | C |
| 6 Assistant Director, Chief Financial Officer | C |
| 7 Assistant Director, Glynco Training | C |
| 8 Assistant Director, Centralized Training Management | C |
| 8 Assistant Director, Washington Operations | C |
| 9 Assistant Director, Chief Information Officer | C |
| 10 Chief of Staff | C |

ANNEX L

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| General Counsel, Office of the | |
| 1 General Counsel | S |
| 2 Principal Deputy General Counsel* | C |
| 3 Deputy General Counsel [Senior ranking by time in position and in DHS] ¹ | N |
| 4 Deputy General Counsel [Senior ranking by time in position and in DHS] | N |
| 5 Deputy General Counsel [Senior ranking by time in position and in DHS] | N |
| 6 Chief of Staff | C |
| 7 Associate General Counsel, Operations and Enforcement | C |
| 8 Associate General Counsel, General Law | C |
| 9 Chief Counsel, Transportation Security Administration | C |
| 10 Chief Counsel, Federal Law Enforcement Training Center | C |

¹ For the Deputy General Counsel positions identified in lines 3-5, seniority is determined by length of time in the position. In the event more than one Deputy General Counsel has the same appointment date, time in service in the Department is the second determining factor for seniority.

ANNEX M

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Health Affairs, Office of | |
| 1 Assistant Secretary for Health Affairs and Chief Medical Officer | P |
| 2 Principal Deputy Assistant Secretary and Deputy Chief Medical Officer | C |
| 3 Associate Chief Medical Officer and Division Director, Workforce Health and Medical Support | C |
| 4 Deputy Assistant Secretary and Division Director, Health Threats Resilience | C |

ANNEX N

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Immigration and Customs Enforcement, United States | |
| 1 Assistant Secretary | S |
| 2 Deputy Director* | C |
| 3 Executive Associate Director, Homeland Security Investigations | C |
| 4 Executive Associate Director, Enforcement and Removal Operations | C |
| 5 Executive Associate Director, Management and Administration | C |
| 6 Principal Legal Advisor | N |
| 7 Special Agent in Charge – Denver | C |
| 8 Field Officer Director – San Antonio | C |

ANNEX O

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Inspector General, Office of | |
| 1 Inspector General | S |
| 2 Deputy Inspector General* | C |
| 3 Counsel to the Inspector General | C |
| 4 Assistant Inspector General, Audits | C |
| 5 Assistant Inspector General, Inspections | C |
| 6 Assistant Inspector General, Emergency Management Oversight | C |

ANNEX P

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Intelligence and Analysis, Office of | |
| 1 Under Secretary for Intelligence and Analysis/DHS Chief Intelligence Officer | S |
| 2 Principal Deputy Under Secretary for Intelligence and Analysis* | C |
| 3 Deputy Under Secretary for Intelligence Operations | C |
| 4 Deputy Under Secretary for Mission Support | C |
| 5 Associate Deputy Director, El Paso Intelligence Center/ Strategic Analysis Section | C |

ANNEX Q

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Legislative Affairs, Office of | |
| 1 Assistant Secretary for Legislative Affairs | P |
| 2 Deputy Assistant Secretary (Senate) | N |
| 3 Deputy Assistant Secretary (House) | N |
| 4 Chief of Staff | C |
| 5 Director, Management Team | C |
| 6 Director, FEMA Team | C |
| 7 Director, Borders and Immigration | C |

ANNEX R

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Management Directorate | |
| 1 Under Secretary for Management | S |
| 2 Deputy Under Secretary for Management* | C |
| 3 Chief Financial Officer | S |
| 4 Chief Information Officer | P |
| 5 Chief Human Capital Officer | C |
| 6 Chief Procurement Officer | C |
| 7 Chief Readiness Support Officer | C |
| 8 Chief Security Officer | C |
| 9 Chief of Staff | C |
| 10 Deputy Director, Federal Law Enforcement Training Center | C |

ANNEX S

ISSUE DATE: 07/11/2017

APPROVAL: 07/11/2017

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| National Protection and Programs Directorate | |
| 1 Under Secretary | S |
| 2 Deputy Under Secretary for NPPD* | N |
| 3 Assistant Secretary, Office of Infrastructure Protection | P |
| 4 Assistant Secretary, Office of Cybersecurity and Communications | N |
| 5 Deputy Assistant Secretary, Office of Infrastructure Protection | C |
| 6 Deputy Assistant Secretary, Office of Cybersecurity and Communications | C |
| 7 Director, Management | C |
| 8 Office of Infrastructure Protection, Regional Director for Region 8 | C |

ANNEX T

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Operations Coordination, Office of | |
| 1 Director | C |
| 2 Deputy Director | C |
| 3 Director, Current Operations Division | C |
| 4 Director, National Operations Center | C |
| 5 Chief of Staff | C |

ANNEX U

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Partnership and Engagement, Office of | |
| 1 Assistant Secretary | N |
| 2 Assistant Secretary for State and Local Law Enforcement | N |
| 3 Deputy Assistant Secretary, Intergovernmental Affairs | C |
| 4 Deputy Assistant Secretary, Private Sector Office | N |
| 5 Director of Local Affairs | C |

ANNEX V

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Policy, Office of | |
| 1 Assistant Secretary | S |
| 2 Assistant Secretary for International Affairs and Chief Diplomatic Officer* | N |
| 3 Principal Deputy Assistant Secretary | N |
| 4 Assistant Secretary for Threat Prevention and Security Policy | N |
| 5 Assistant Secretary for Border, Immigration, and Trade | N |
| 6 Assistant Secretary for Cyber, Infrastructure, and Resilience | N |
| 7 Assistant Secretary for Strategy, Plans, Analysis, and Risk | C |
| 8 Deputy Assistant Secretary for Screening Coordination Office | C |
| 9 Deputy Assistant Secretary for International Affairs | C |

ANNEX W

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---------------------------------------|---------------|
| Privacy Officer, Chief | |
| 1 Chief Privacy Officer | N |
| 2 Deputy Chief Privacy Officer | C |
| 3 Deputy Chief FOIA Officer | C |
| 4 Senior Director, Privacy Compliance | C |
| 5 Chief of Staff | C |

ANNEX X

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Public Affairs, Office of | |
| 1 Assistant Secretary | P |
| 2 Principal Deputy Assistant Secretary | C |
| 3 Deputy Assistant Secretary for Media Operations/Press Secretary | N |
| 4 Deputy Assistant Secretary for Strategic Communications | N |
| 5 Director of Communications | N |
| 6 Chief of Staff | C |
| 7 Director, Incident Communications | C |

ANNEX Y

ISSUE DATE: 1/19/2017

APPROVAL: 1/19/2017

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Science and Technology | |
| 1 Under Secretary | S |
| 2 Deputy Under Secretary* | C |
| 3 Chief of Staff | C |
| 4 Director, Homeland Security Advanced Research Projects Agency | C |
| Director, Office of Support to the Homeland Security Enterprise and First | |
| 5 Responders Division | C |
| 6 Director, Capability Development Support Division | C |
| 7 Director, Research and Development Partnerships | C |
| 8 Director, Finance and Budget Division | C |
| 9 Director, Administrative Support Division | C |

ANNEX Z

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|---|---------------|
| Secret Service, United States | |
| 1 Director | P |
| 2 Deputy Director | C |
| 3 Chief Operating Officer | C |
| 4 Assistant Director - Protective Operations | C |
| 5 Assistant Director - Investigations | C |
| 6 Assistant Director - Government and Public Affairs | C |
| 7 Assistant Director - Human Resources | C |
| 8 Assistant Director - Professional Responsibility | C |
| 9 Assistant Director - Strategic Intelligence and Information | C |
| 10 Assistant Director - Training | C |
| 11 Chief - Uniformed Division | C |
| 12 Chief Counsel | C |
| 13 Chief Technology Officer | C |
| 14 Chief Financial Officer | C |
| 15 Chief - Strategic Planning and Policy | C |
| 16 Deputy Assistant Director(s) - Protective Operations | C |
| 17 Deputy Assistant Director(s) - Investigations | C |
| 18 Deputy Assistant Director(s) - Government and Public Affairs | C |
| 19 Deputy Assistant Director(s) - Human Resources | C |
| 20 Deputy Assistant Director(s) - Professional Responsibility | C |
| 21 Deputy Assistant Director(s) - Strategic Intelligence and Information | C |
| 22 Deputy Assistant Director(s) - Training | C |
| 23 Deputy Assistant Director(s) - Technical Development and Mission Support | C |
| 24 Deputy Assistant Director(s) - Strategic Planning and Policy | C |
| 25 Special Agent in Charge - Washington | C |
| 26 Special Agent in Charge - New York | C |
| 27 Special Agent in Charge - Miami | C |
| 28 Special Agent in Charge - Los Angeles | C |

ANNEX AA

ISSUE DATE: 07/11/2017

APPROVAL: 07/11/2017

**DHS ORDERS OF SUCCESSION AND
ORDERS FOR DELEGATIONS OF AUTHORITIES**

| Position | Career Status |
|--|---------------|
| Transportation Security Administration | |
| 1 Assistant Secretary/ Administrator | S |
| 2 Deputy Administrator* | C |
| 3 Chief of Staff | C |
| 4 Chief of Operations | C |
| 5 Assistant Administrator, Office of Security Operations | C |
| 6 Assistant Administrator, Office of Law Enforcement/Federal Air Marshal Service | C |
| 7 Assistant Administrator, Office of Global Strategies | C |
| 8 Regional Director, Atlanta, Office of Security Operations | C |
| 9 Regional Director, Dallas, Office of Security Operations | C |
| 10 Federal Security Director, Denver International Airport | C |
| 11 Federal Air Marshal/Supervisory Air Marshal in Charge, Los Angeles | C |

ANNEX AB

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DESIGNATION OF FIRST ASSISTANTS FOR NON-COMPONENT HEAD PRESIDENTIAL
APPOINTEES WITH SENATE CONFIRMATION POSITIONS**

| Position | Career Status |
|--------------------------------------|---------------|
| Chief Financial Officer (DHS) | |
| 1 Chief Financial Officer | S |
| 2 Deputy Chief Financial Officer* | C |

ANNEX AC

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DESIGNATION OF FIRST ASSISTANTS FOR NON-COMPONENT HEAD PRESIDENTIAL
APPOINTEES WITH SENATE CONFIRMATION POSITIONS**

| Position | Career Status |
|---|---------------|
| Deputy Administrator, Federal Emergency Management Agency (FEMA) | |
| 1 Deputy Administrator, FEMA | S |
| 2 Deputy Administrator, Protection and National Preparedness* | S |
| 3 Associate Administrator, Mission Support | C |
| 4 Deputy Associate Administrator, Office of Policy and Program Analysis | C |
| 5 Region IX Administrator | C |
| 6 Region VI Administrator | C |

ANNEX AD

ISSUE DATE: 9/14/2016

APPROVAL: 9/14/2016

**DESIGNATION OF FIRST ASSISTANTS FOR NON-COMPONENT HEAD PRESIDENTIAL
APPOINTEES WITH SENATE CONFIRMATION POSITIONS**

| Position | Career Status |
|---|---------------|
| Protection and National Preparedness (FEMA) | |
| 1 Deputy Administrator, Protection and National Preparedness | S |
| 2 Assistant Administrator, National Preparedness Directorate* | C |
| 3 Assistant Administrator, Grant Programs | P |
| 4 Assistant Administrator, National Continuity Programs | N |

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

RATIFICATION OF ACTIONS TAKEN BY THE ACTING SECRETARY OF HOMELAND SECURITY

I am affirming and ratifying each of my delegable prior actions as Acting Secretary, *see* 5 U.S.C. § 3348(a)(2), (d)(2), out of an abundance of caution because of a recent Government Accountability Office (GAO) opinion, *see* B-331650 (Comp. Gen., Aug. 14, 2020), and recent actions filed in federal court alleging that the November 8, 2019, order of succession issued by former Acting Secretary Kevin McAleenan was not valid. *See, e.g., Guedes v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 920 F.3d 1, (D.C. Cir. 2019) (“We have repeatedly held that a properly appointed official’s ratification of an allegedly improper official’s prior action . . . resolves the claim on the merits by remedy[ing] the defect (if any) from the initial appointment” (quote marks omitted) (second alteration in original)).

When former Acting Secretary McAleenan resigned on November 13, 2019, I began serving as Acting Secretary in accordance with the order of succession former Acting Secretary McAleenan designated on November 8, 2019, under the Homeland Security Act (HSA), 6 U.S.C. § 113(g)(2) (enacted on Dec. 23, 2016, Pub. L. 114–328, div. A, title XIX, § 1903(a), 130 Stat. 2672). That designation of the order of succession followed former Secretary Kirstjen Nielsen’s April 9, 2019, designation of the order of succession, also pursuant to section 113(g)(2), which resulted in Mr. McAleenan serving as Acting Secretary when former Secretary Nielsen resigned.

The Secretary of Homeland Security’s authority to designate the order of succession under section 113(g)(2) is an alternative means to the authority of the Federal Vacancies Reform Act (FVRA) to designate an Acting Secretary of Homeland Security. Section 113(g)(2) provides that it applies “notwithstanding” the FVRA; thus, when there is an operative section 113(g)(2) order of succession, it alone governs which official shall serve as Acting Secretary. Accordingly, I properly began serving as Acting Secretary on November 13, 2019. Because section 113(g)(2) authorizes the designation of an Acting Secretary “notwithstanding chapter 33 of title 5” in its entirety, section 113(g)(2) orders addressing the line of succession for the Secretary of Homeland Security are subject to neither the FVRA provisions governing which officials may serve in an acting position, *see* 5 U.S.C. § 3345, nor FVRA time constraints, *see id.* § 3346.

On September 10, 2020, President Donald J. Trump nominated me to serve as Secretary of Homeland Security. Because I have been serving as the Acting Secretary pursuant to a section 113(g)(2) order of succession, the FVRA’s prohibition on a nominee’s acting service while his or her nomination is pending does not apply, and I remain the Acting Secretary notwithstanding my nomination. *Compare* 6 U.S.C. § 113(a)(1)(A) (cross-referencing the FVRA without the “notwithstanding” caveat), *with id.* § 113(g)(1)–(2) (noting the FVRA

RATIFICATION OF ACTIONS TAKEN BY THE ACTING SECRETARY OF HOMELAND SECURITY
 Page 2 of 3

provisions and specifying, in contrast, that section 113(g) provides for acting secretary service “notwithstanding” those provisions); *see also* 5 U.S.C. § 3345(b)(1)(B) (restricting acting officer service under section 3345(a) by an official whose nomination has been submitted to the Senate for permanent service in that position).

That said, there have been recent challenges contending that my service is invalid, resting on the erroneous contentions that the orders of succession issued by former Secretary Nielsen and former Acting Secretary McAleenan were invalid. If those contentions were legally correct—meaning that neither former Secretary Nielsen nor former Acting Secretary McAleenan would have issued a valid section 113(g)(2) order of succession—then the FVRA would apply and Executive Order 13753 (published on December 14, 2016, under the FVRA) would continue to govern the order of succession for the Secretary of Homeland Security.

The FVRA provides an alternative basis for an official to exercise the functions and duties of the Secretary temporarily in an acting capacity. In that alternate scenario, under the authority of the FVRA, 5 U.S.C. § 3345(a)(2), when the President submitted my nomination, Peter Gaynor, the Administrator of the Federal Emergency Management Agency (FEMA), would have become eligible to exercise the authority of the Secretary temporarily in an acting capacity. This is because Executive Order 13753 pre-established the President’s succession order for the Department when the FVRA applies,¹ Mr. Gaynor would be the most senior official eligible to serve as the Acting Secretary under that succession order, and my nomination restarted the FVRA’s time limits, 5 U.S.C. § 3346(a)(2).

Out of an abundance of caution and to minimize any disruption to the Department of Homeland Security and to the Administration’s Homeland Security mission, on November 14, 2020, after the President submitted my nomination to the Senate on September 10, 2020, Mr. Gaynor exercised any authority of the position of Acting Secretary that he had to designate an order of succession under 6 U.S.C. § 113(g)(2) (the “Gaynor Order”).² Mr. Gaynor re-issued the order of succession established by former Acting Secretary McAleenan on November 8, 2019, and placed the Under Secretary for Strategy, Policy, and Plans above the FEMA Administrator in the order of succession. Once the Gaynor Order was executed, it superseded any authority Mr. Gaynor may have had under the FVRA and confirmed my authority to continue to serve as the Acting Secretary. Thus, in addition to the authority I possess pursuant to the November 8, 2019, order

¹ Executive Order 13753, Amending the Order of Succession in the Department of Homeland Security, 81 Fed. Reg. 90667 (Dec. 14, 2016).

² Mr. Gaynor signed an initial succession order to this effect on September 10, 2020. Out of caution, due to uncertainties related to the timing of the signing of that order on the date of my nomination to the U.S. Senate, Administrator Gaynor has issued the November 14, 2020, order. Further, I previously issued a ratification order on September 17, 2020, similar to this present order, *see* Ratification, 85 Fed. Reg. 59651 (Sept. 23, 2020), but I am issuing this order today to eliminate any potential question about whether, assuming that the orders issued by Secretary Nielsen and Acting Secretary McAleenan were insufficient to make me Acting Secretary under section 113(g)(2), my ratification has occurred subsequent to the proper signing and issuance of a succession order that has the effect of making me Acting Secretary.

RATIFICATION OF ACTIONS TAKEN BY THE ACTING SECRETARY OF HOMELAND SECURITY
Page 3 of 3

of succession effectuated by former Acting Secretary McAleenan, the Gaynor Order alternatively removes any doubt that I am currently serving as the Acting Secretary.

I have full and complete knowledge of the contents and purpose of any and all actions taken by me since November 13, 2019. Among my prior actions that I am ratifying is a Final Rule I approved and issued in the Federal Register at 85 Fed. Reg. 46,788 (Aug. 3, 2020). Former Acting Secretary McAleenan issued a Notice of Proposed Rulemaking (NPRM) for that Final Rule at 84 Fed. Reg. 62,280 (Nov. 14, 2019), and I am familiar with that NPRM having previously approved the Final Rule. I believe that all of the aforementioned actions as Acting Secretary since November 13, 2019, were legally authorized and entirely proper. However, to avoid any possible uncertainty and out of an abundance of caution, pursuant to the Secretary of Homeland Security's authorities under, *inter alia*, the Homeland Security Act of 2002, Pub. L. No 207-296, as amended, and 5 U.S.C. §§ 301-302, I hereby affirm and ratify any and all actions involving delegable duties that I have taken from November 13, 2019, through November 14, 2020, the date of the execution of the Gaynor Order, and I hereby affirm and ratify the above noted November 14, 2019 NPRM originally approved by former Acting Secretary McAleenan.



Chad F. Wolf
Acting Secretary

11/16/2020
Date

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

**Ratification of Certain Actions Taken by Former Acting Secretary Kevin McAleenan and
One Action Taken by U.S. Citizenship and Immigration Services Deputy Director for
Policy Joseph Edlow**

I am affirming and ratifying certain delegable actions taken by Acting Secretary McAleenan, *see* 5 U.S.C. § 3348(a)(2), (d)(2), and one delegable action taken by U.S. Citizenship and Immigration Services (USCIS) Deputy Director for Policy, Edlow, as listed below, out of an abundance of caution because of a recent Government Accountability Office (GAO) opinion, *see* B-331650 (Comp. Gen., Aug. 14, 2020), and recent actions filed in federal court alleging that the November 8, 2019, order of succession issued by former Acting Secretary Kevin McAleenan was not valid. *See, e.g., Guedes v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 920 F.3d 1, 13 (D.C. Cir. 2019) (“We have repeatedly held that a properly appointed official’s ratification of an allegedly improper official’s prior action . . . resolves the claim on the merits by remedy[ing] the defect (if any) from the initial appointment.”) (internal quotation marks and citation omitted).

When former Acting Secretary McAleenan resigned on November 13, 2019, I began serving as Acting Secretary in accordance with the order of succession former Acting Secretary McAleenan had designated on November 8, 2019, under the Homeland Security Act (HSA), 6 U.S.C. § 113(g)(2) (enacted on Dec. 23, 2016, Pub. L. 114–328, div. A, title XIX, § 1903(a), 130 Stat. 2672). That designation of the order of succession followed former Secretary Kirstjen Nielsen’s April 9, 2019, designation of the order of succession, also pursuant to § 113(g)(2), which resulted in Mr. McAleenan’s serving as Acting Secretary when former Secretary Nielsen resigned.

The Secretary of Homeland Security’s authority to designate the order of succession under § 113(g)(2) is an alternative means to the authority of the Federal Vacancies Reform Act (FVRA) to designate an Acting Secretary of Homeland Security. Section 113(g)(2) provides that it applies “notwithstanding” the FVRA; thus, when there is an operative § 113(g)(2) order of succession, it alone governs which official shall serve as Acting Secretary. Accordingly, I properly began serving as Acting Secretary on November 13, 2019. Because § 113(g)(2) authorizes the designation of an Acting Secretary “notwithstanding chapter 33 of title 5” in its entirety, § 113(g)(2) orders addressing the line of succession for the Secretary of Homeland Security are subject to neither the FVRA provisions governing which officials may serve in an acting position, *see* 5 U.S.C. § 3345, nor FVRA time constraints, *see id.* § 3346.

On September 10, 2020, President Donald J. Trump nominated me to serve as Secretary of Homeland Security. Because I have been serving as the Acting Secretary pursuant to a

Ratification of Certain Actions Taken by Former Acting Secretary Kevin McAleenan and One Action Taken by U.S. Citizenship and Immigration Services Deputy Director for Policy Joseph Edlow

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§ 113(g)(2) order of succession, the FVRA’s prohibition on a nominee’s acting service while his or her nomination is pending does not apply, and I remain the Acting Secretary notwithstanding my nomination. *Compare* 6 U.S.C. § 113(a)(1)(A) (cross-referencing the FVRA without the “notwithstanding” caveat), *with id.* § 113(g)(1)–(2) (noting the FVRA provisions and specifying, in contrast, that § 113(g) provides for acting secretary service “notwithstanding” those provisions); *see also* 5 U.S.C. § 3345(b)(1)(B) (restricting acting officer service under § 3345(a) by an official whose nomination has been submitted to the Senate for permanent service in that position).

That said, there have been recent challenges contending that my service is invalid, resting on the erroneous contentions that the orders of succession issued by former Secretary Nielsen and former Acting Secretary McAleenan were invalid. If those contentions were legally correct—meaning that neither former Secretary Nielsen nor former Acting Secretary McAleenan issued a valid § 113(g)(2) order of succession—then the FVRA would have applied and Executive Order 13753 (published on December 14, 2016, under the FVRA)¹ would have governed the order of succession for the Secretary of Homeland Security from the date of Nielsen’s resignation.

The FVRA provides an alternative basis for an official to exercise the functions and duties of the Secretary temporarily in an acting capacity. In that alternate scenario, under the authority of the FVRA, 5 U.S.C. § 3345(a)(2), when the President submitted my nomination, Peter Gaynor, the Administrator of the Federal Emergency Management Agency (FEMA), would have become eligible to exercise the functions and duties of the Secretary temporarily in an acting capacity. This is because Executive Order 13753 pre-established the President’s succession order for the Department when the FVRA applies, Mr. Gaynor would have been the most senior official eligible to exercise the functions and duties of the Secretary under that succession order, and my nomination would have restarted the FVRA’s time limits, 5 U.S.C. § 3346(a)(2).

Out of an abundance of caution and to minimize any disruption to the Department of Homeland Security and to the Administration’s Homeland Security mission, on November 14, 2020, after the President submitted my nomination to the Senate on September 10, 2020, Mr. Gaynor exercised any authority of the position of Acting Secretary that he had to designate an order of succession under 6 U.S.C. § 113(g)(2) (the “Gaynor Order”).² Mr. Gaynor re-issued the order of succession established by former Acting Secretary McAleenan on November 8, 2019, and placed

¹ Executive Order 13753, Amending the Order of Succession in the Department of Homeland Security, 81 Fed. Reg. 90667 (Dec. 14, 2016).

² Mr. Gaynor signed an initial succession order to this effect on September 10, 2020. Out of caution, due to uncertainties related to the timing of the signing of that order on the date of my nomination to the U.S. Senate, Administrator Gaynor has issued the November 14, 2020, order. Further, I previously issued a ratification order on October 7, 2020, similar to this present order, *see* Ratification, 85 Fed. Reg. 65653 (Oct. 16, 2020), but I am issuing this order today to eliminate any potential question about whether, assuming that the orders issued by Secretary Nielsen and Acting Secretary McAleenan were insufficient to make me Acting Secretary under section 113(g)(2), my ratification has occurred subsequent to the proper signing and issuance of a succession order that has the effect of making me Acting Secretary.

Ratification of Certain Actions Taken by Former Acting Secretary Kevin McAleenan and One Action Taken by U.S. Citizenship and Immigration Services Deputy Director for Policy Joseph Edlow

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the Under Secretary for Strategy, Policy, and Plans above the FEMA Administrator in the order of succession. Once the Gaynor Order was executed, it superseded any authority Mr. Gaynor may have had under the FVRA and confirmed my authority to continue to serve as the Acting Secretary. Thus, in addition to the authority I possess pursuant to the November 8, 2019, order of succession effectuated by former Acting Secretary McAleenan, the Gaynor Order alternatively removes any doubt that I am currently serving as the Acting Secretary.

I have full knowledge of the following actions taken by former Acting Secretary McAleenan and USCIS Deputy Director for Policy Edlow, and believe that these actions were legally authorized and entirely proper:

1. Asylum Eligibility. Interim Final Rule. 84 Fed. Reg. 33,829 (July 16, 2019) issued by Former Acting Secretary McAleenan.
2. U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements. Notice of Proposed Rulemaking. 84 Fed. Reg. 62,280 (November 14, 2019) issued by Former Acting Secretary McAleenan.
3. Designating Aliens for Expedited Removal. Federal Register Notice. 84 Fed. Reg. 35,409 (July 23, 2019) issued by Former Acting Secretary McAleenan.
4. Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications. Notice of Proposed Rulemaking. 84 Fed. Reg. 47,148 (Sept. 9, 2019) issued by Former Acting Secretary McAleenan.
5. Asylum Application, Interview, and Employment Authorization for Applicants. Notice of Proposed Rulemaking. 84 Fed. Reg. 62,374 (Nov. 14, 2019) issued by Former Acting Secretary McAleenan.
6. Inadmissibility on Public Charge Grounds. Final Rule. 84 Fed. Reg. 41,292 (Aug. 14, 2019) issued by Former Acting Secretary McAleenan. Final rule correction. 84 Fed. Reg. 52,357 (Oct. 2, 2019) issued by Former Acting Secretary McAleenan.
7. Guatemala Refugee Protection. Former Acting Secretary McAleenan's October 16, 2019 determination issued by Former Acting Secretary McAleenan.
8. USCIS Deputy Director for Policy, Joseph Edlow's memorandum "Implementing Acting Secretary Chad Wolf's July 28, 2020 Memorandum" (August 21, 2020) issued by USCIS Deputy Director for Policy, Joseph Edlow.
9. Acting Secretary Kevin McAleenan's memorandum, "Information Regarding First Amendment Protected Activities" (May 17, 2019) issued by Former Acting Secretary McAleenan.

Ratification of Certain Actions Taken by Former Acting Secretary Kevin McAleenan and One Action Taken by U.S. Citizenship and Immigration Services Deputy Director for Policy Joseph Edlow

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To avoid any possible uncertainty and out of an abundance of caution, pursuant to the Secretary of Homeland Security's authorities under, *inter alia*, the Homeland Security Act of 2002, Pub. L. No 207-296, as amended, and 5 U.S.C. §§ 301-302, I hereby make a detached and considered affirmation and ratification of the above noted actions originally taken and approved by former Acting Secretary McAleenan and USCIS Deputy Director for Policy Edlow.



Chad F. Wolf
Acting Secretary

11/16/2020
Date